

**MAHARASHTRA POLLUTION CONTROL BOARD
POLICY AND LAW DIVISION**

Sub : Before the National Environment Appellate Authority
New Delhi ,Appeal No.44/2009
Devendra Kamble and Ors.
v/s
The State Environment Impact Assessment Authority and Ors.
.....

Shri Devendra Kamble and Ors have filed an Appeal No.44/2009 against the State Environment Impact Assessment Authority and Ors. against the order No.SEAC-2008/CR-32/TC-3, dtd.27/11/2009 of Respondent No.1 i.e. Environment Department, Govt. of Maharashtra conveying Environment Clearance for SRA Scheme on plot bearing C.T.S. No.629(pt), Village: Bandra, At Kherwadi, Bandra (E), Mumbai by M/s.Shree Gajaraj Hosing Nirman Pvt.Ltd. with prayer to call for the records and proceedings of the Respondent No.1 and also set aside the impugned order dated 27/11/2009.

Hon'ble National Environment Appellate Authority has perused all the relevant records in this regard including the submissions of the Respondents. The only grievance of the Appellants in the Appeal regarding violation of other laws does not relate to the environment. The Authority finds no grounds to entertain the appeal. Therefore the appeal is not admitted vide its order dtd.17/3/2010.

BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI

DATED 17TH MARCH, 2010

PRESENT:

HON'BLE MEMBER J.C. KALA

APPEAL No. 44 OF 2009

IN THE MATTER OF :

1. Mr. Devendra Kamble
Adult, business, residing at C.T.S No.629
At Kherwadi, Bandra (E), Mumbai - 400051
2. Mr. Zahiruddin Shaikh
Adult, Business residing at C.T.S No.629 (pt)
At Kherwadi, Bandra (E), Mumbai - 400051
3. Shree Abdul Gafoor K. Hunshyal
Adult, Business residing at C.T.S No.629 (pt)
At Kherwadi, Bandra (E), Mumbai - 400051
4. Mohd. Arif Siddique
Adult, Business residing at C.T.S No.629 (pt)
At Kherwadi, Bandra (E), Mumbai - 400051



.... APPELLANTS

VERSUS

1. The State Environment Impact Assessment Authority (SEIAA),
Environment Department,
Govt. of Maharashtra,
Room No. 217, Mantralaya Annexe,
Mumbai - 400 051.
2. Slum Rehabilitation Authority,
Through Chief Executive Officer,
5th Floor, Griha Nirman Bhavan,
Bandra (E), Mumbai - 400051
3. Shree Gajraj Housing Nirman Pvt. Ltd.,
229/231, Perin Nariman Street,
(Bazar Gate Street), 101 -1st floor,
Fort, Mumbai - 400 001

The Secretary,
Ministry of Environment and Forests,
Paryavaran Bhawan, C.G.O Complex,
Lodhi Road, New Delhi - 110 003

.....
RESPONDENT'S

Counsel for Appellants	:	Shri Arif Siddiqui Shri Prakash G Marathe, Advocate
Counsel for Respondents :	:	
Respondent-1 (SEIAA, Maharashtra)	:	Not Present
Respondent - 2 (SRA)	:	Not Present
Respondent - 3 Gajraj Housing Ltd.	:	Shri Ajoy Khorana, Advocate
Respondent-4 (MoEF)	:	Not Present

ORDER

This is an Appeal preferred under section 11(1) of the National Environment Appellate Authority Act, 1997 against order No. SEAC-2008/CR-32/TC-3 dated 27th November, 2009 of Respondent-1 (Govt. of Maharashtra, Environment Department) conveying Environmental Clearance for SRA scheme on plot bearing C.T.S No.629 (pt) village Bandra at Kherwadi, Bandra (E), Mumbai by Shree Gajaraj Housing Nirman Pvt. Ltd., with prayer to call for the records and proceedings of the Respondent -1 and also set aside the impugned order dated 27th November, 2009.

2. The said Appeal was preferred on 21st December 2009 before the National Environment Appellate Authority (NEAA). The Appeal was registered and listed for hearing on admission on 09.02.2010. The counsel for Appellants, Respondents 2, 3 and 4 were heard on admission. Counsel for the Appellants sought permission to file rejoinder to the reply of Respondent-1 and Respondent-3 (Gajraj Housing Ltd). The Authority vide its order dated 9th February, 2010 directed the Appellants to file submission by 26th February



2010 only on locus standi by listing out the grievance in terms of Section 11(1) of the NEAA Act 1997.

3. Counsel for the Respondent -3 argued that (i) the Appellants have not indicated in the appeal as to how they are aggrieved by the impugned order dated 27.11.2009 of the Respondent-1 and the Appellants have not shown any cause for to call for the records of the proceedings of the Respondent-1, (ii) the Appellants has not raised any new issue other than those brought before the Respondent-1 or SEAC which have been considered by the Respondent-1 and the SEAC before issuing the EC and (iii) the cause to agitate the violation of others laws by the Respondent-3 before this Authority does not arise.

4. Appellant's written submission was gone through and discussed in the succeeding paragraphs.

5. Section 11(1) of the NEAA Act 1997 reads as under: -

"Any person aggrieved by an order granting environmental clearance in the areas in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards may, within thirty days from the date of such order, prefer an appeal to the Authority in such form as may be prescribed"

According to the statute, the appellant is expected to indicate from environmental angle, as to how he is aggrieved by setting up of this project.

6. In the written submission, the appellant, referring to the date of LOI, has questioned the applicability of Notification of 2006 as against 1994. The only other grievance is referred in submission para 10, which reads as below:

"The Appellants are likely to be affected by the grant of Environmental Clearance as the Respondent-2 has sanctioned the project for new construction on the plot of land where they were residing in favour of Respondent-3 and after completion of the project they are going to be accommodated in the building constructed by the Respondent-3. If the construction is in



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violation of provisions of any laws the Appellants have to suffer and therefore they are aggrieved".

No grievance relating to the environment has been raised either in the Appeal or in the written submission even the presumption of new construction violating the laws has not been explained.

7. The Authority has perused all the relevant records in this regards including the submission of Respondents. The only grievance of the Appellants in the Appeal regarding violation of other laws does not relate to environment. Authority finds no grounds to entertain the Appeal. Therefore the Appeal is not admitted.



J.C. Kala
(J.C. Kala)
Member, NEAA

"True copy"

Court Master
National Environment Appellate Authority
Trikot-1 2nd Floor, Bhikaji Cama Pla
New Delhi-110066

26/3/2010