

MAHARASHTRA POLLUTION CONTROL BOARD

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Mumbai-400 022.

No. *mpcb/p2L/B-295*

Date: *21/10/2013*

CIRCULAR

Sub : Requirement of Environmental Clearance for building Projects-Clarification regarding.

Ref : Office Memorandum issued by the Environment Department, Government of Maharashtra vide No.ENV-2013/CR-39/TC-3, Dtd.31/10/2013.

Find enclosed herewith a copy of the Office Memorandum dtd.31/10/2013 issued by the Environment Department, Govt. of Maharashtra regd. requirement of Environment Clearance for building projects, for information and necessary action.

Devale

(D. T. Devale)
Sr. Law Officer

Encl: As above.

Copy submitted to: Hon'ble Member Secretary, MPCB, Mumbai – for favour of information.

Copy to : Joint Director(WPC)/Joint Director(APC)/ Principal Scientific Officer/Asstt. Secretary (Tech.)/ Regional Officer(HQ), MPCB, Mumbai – for information and necessary action.

Copy to:

- 1) Regional Officer, MPCB, Mumbai/Navi Mumbai/ Thane/ Kalyan/Raigad/Pune/ Aurangabad/ Nagpur/Nashik/Kolhapur/ Amravati/ Chandrapur, MPCB – for information and necessary action.
- 2) Law Officer/I/c Law Officer, MPCB, Mumbai – for information and necessary action.
- 3) Sub-Regional Officer –HQ/Mumbai-I/Mumbai-II/Mumbai-III/Thane-I/Thane-II/Tarapur-1/Tarapur-II/ Navi Mumbai-I/Navi Mumbai-II/Taloja/Kalyan-I/Kalyan-II/Kalyan-III/Raigad-I/Raigad-II/ Raigad-III/Mahad/Kolhapur/Sangli/Ratnagiri/Chiplune/Pune-I/Pune-II/Pimpri-Chinchwad/ Satara/ Solapur/Aurangabad-I/Aurangabad-II/ Aurangabad-III/Nanded/Nashik/ Ahmednagar/ Jalgaon-I/Jalgaon-II/Nagpur-I/Nagpur-II/Nagpur-III/Chandrapur/Amravati-I/ Amravati-II/ Akola/ Parbhani/ Latur/Bhandara, MPCB – for information and necessary action.
- 4) All Asstt. Law Officers (P&L Divn.), MPCB, Mumbai - for information and necessary action.
- 5) Asstt. System Officer, MPCB, Mumbai – for information and necessary action. He is instructed to place the said circular on the website of the Board.

GOVERNMENT OF MAHARASHTRA

Tel No. : 2279 3132
Fax No. : 2281 3947

No. ENV-2013/CR- 39/TC-3
Environment Department
217- Annex , Mantralaya ,
Madam Cama Road, Mumbai - 400 032
Date : 31 /10/ 2013

OFFICE MEMORANDUM

Subject :- Requirement of Environmental Clearance for building projects –
Clarification, regarding.

Environment Department, Government of Maharashtra had issued a Circular No. ENV-2013/CR-39/TC-3 dtd. 29.6.2013 to appraise the applications of the Project Proponents in the light of relief granted by the Hon'ble High Court in different Writ Petitions mentioned below. The said Circular was issued subject to further orders of the Hon'ble High Court.

The National Green Tribunal, Bench at Pune have passed Orders dtd. 26.9.2013 in Appeal No. 72/2013 filed by Virani Construction Co. V/s the SEAC and Appeal No. 73/2013 filed by Aadi Properties (P) Ltd. wherein stating following points :-

In Appeal No. 72/2013 :-

- 1) At para 13 & 14 of the Order it is stated that, " Hon'ble Tribunal is of the opinion that the relief granted by the Hon'ble High Court to other Project Proponents like M/s Saumya Buildcon Pvt. Ltd., M/s Tridhatu Ventures Ltd and M/s Nahur Vivekanand Co-op. Housing Society Ltd. and another , having regard to the facts of particular cases. The Judgments of the Hon'ble High Court of Bombay are rendered in peculiar circumstances of each case. The said judgments do not give a go-by to the requirements as enumerated vide MoEF Notification dtd. 14.9.2006 nor OM dtd. 12.12.12, issued by the Ministry of Environment & Forests (i.e. MoEF), has been quashed or held ultra vires. In fact, OM dtd. 12.12.12, brings about internal instructions given by the MoEF to the State Authority. The Appellant cannot, as a matter of right, challenge the impugned decision of SEAC"

In Appeal No. 73/2013 :-

- 1) At para 15 of the Order it is stated that "So far as the requirement to obtain EC is concerned, it is essential to note that the proposed construction of the Appellant, even after excluding amenity building, will be more than 20000 m² . Hence, the EC is essential requirement."
- 2) At para 17 of the Order it is stated that "In the opinion of the Hon'ble Tribunal, the Judgment of Hon'ble High Court at Bombay, cannot be read in the manner as canvassed by the learned Counsel for the Appellant. The said Judgment cannot give a go-by to the requirements of the MoEF Notification dtd. 14.9.2006 nor O.M. dtd. 12.12.12 issued by the MoEF, has been quashed or held as ultra vires."

In view of the above Orders passed by Hon'ble National Green Tribunal, Pune Bench, the Circular No. ENV-2013/CR-39/TC-3 dtd. 29.6.2013 is hereby reviewed and taken back.

It may be further noted that, if any construction plan above 20000 m2 is approved (for Residential / Commercial / Rental Housing Scheme / SRA / Industrial construction etc.) by the Planning Authority and part Commencement Certificate below 20000 m2 issued for commencement of the construction work to the Project Proponent without making mandatory to obtain prior EC, then such construction will be treated as a violation of the provisions of the EIA Notification 2006 read with Office Memorandum No. J-11013/41/2006-IA.II (I) dated 12.12.12.

(R.A. Rajeev)
Principal Secretary
Environment Department

Copy to :

- 1) Additional Chief Secretary, Revenue Department – for information – It is requested to forward the above Office Memorandum to the Concerned Authorities comes under your jurisdiction.
- 2) Principal Secretary – I / II, Urban Development Department – for information – It is requested to forward the above Office Memorandum to the Planning Authorities comes under your jurisdiction.
- 3) Divisional Commissioner – Konkan / Nashik / Pune / Aurangabad / Amravati / Nagpur – for information and necessary action
- 4) Municipal Commissioner – Municipal Corporation of Greater Mumbai / Navi Mumbai Municipal Corporation / Thane Municipal Corporation / Pune Municipal Corporation / Pimpri-Chinchwad Municipal Corporation / Solapur Municipal Corporation / Sangli-Miraj-Kupwad Municipal Corporation / Kolhapur Municipal Corporation / Nashik Municipal Corporation / Aurangabad Municipal Corporation / Nagpur Municipal Corporation / Amravati Municipal Corporation / Ulhasnagar Municipal Corporation / Kalyan Dombivali Municipal Corporation / Nanded – Waghala Municipal Corporation / Bhivandi-Nijampur Municipal Corporation / Akola Municipal Corporation / Malegaon Municipal Corporation / Mira-Bhyandar Municipal Corporation / Jalgaon Municipal Corporation / Dhule Municipal Corporation / Ahamadnagar Municipal Corporation / Vasai-Virar Municipal Corporation / Parabhani Municipal Corporation / Chandrapur Municipal Corporation / Latur Municipal Corporation – for information and necessary action
- 5) Managing Director, CIDCO – for information and necessary action
- 6) Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority – for information and necessary action
- 7) Vice-Chairman & Managing Director, Maharashtra State Road Development Corporation - for information and necessary action
- 8) Chief Executive Officer, Slum Rehabilitation Authority, Anant Kanekar Marg, Bandra (E), Mumbai – 400 051 – for information and necessary action
- 9) Member Secretary, Maharashtra Pollution Control Board, Sion (E), Mumbai – for information
- 10) Member Secretary, State Level Expert Appraisal Committee –II / III – for information and necessary action

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