

MUNICIPAL CORPORATION OF GREATER MUMBAI

No. DyChE/BP/10878/ES dated 29/01/2020

Sub.: Issuance of approvals for various developments within the vicinity of Naval Civilian Colony at Kanjur (West) in 'S' Ward of Eastern Suburbs.

Ref: Detailed note submitted to Hon'ble M.C. at page N/9 to N/17.

Reference is please requested to the detailed notes submitted to Chief Engineer (DP) / Hon'ble M.C. Sir as per the endorsement on representation of M/s. Kanakia Spaces Realty Pvt.Ltd at pg. C 3 to C/11. Hon'ble M.C. Sir has instructed to "Process as per the High Court Order" under no. MCP/246 dated 24.01.2020.

Details of the Court cases & A.G Opinion :-

As instructed by Navy, MCGM had issued stop work notice to the building on going work of redevelopment of Tirandaz Subha Niketan CHS. Being aggrieved by the notice Society (Petitioner) had filed W.P No. 3013 of 2018 in the Hon'ble High Court.

Hon'ble High Court has issued orders vide order dated 27.02.2019 in the said petition quashing and set aside the impugned letter dtd 09-08-2017, 27-10-2017 & 09-03-2018 issued by the Ministry of Defence referring to grant NOC in favour of the Petitioner and also quash & set aside the letter dtd 14-11-2017 issued by Ex. Engineer of MCGM, directing petitioner to stop work at the subject property.

Directed to issue No Objection Certificate for construction of the subject property (Shubh Niketan CHS) to the Petitioner and further direct the MCGM to permit the petitioners to continue with the construction of the building in accordance with the permissions accorded by it.

Further, vide point no 31 of the order dtd 27-02-2019, the Hon'ble High Court has observed that the action of the respondents is also discriminatory in so far as it has permitted structures within the restricted zone whereas there is denial of the No Objection to the petitioner.

Further, in Notice of Motion filed by the applicant Shri Narattam C. Sharma in Writ Petition under no.3013 of 2018 the Hon'ble High Court issued orders on 27.09.2019 : Specific paragraphs of the said order are as follows :-

5 *Our judgement is clear, elaborate and binding on the Respondents for the project in the same vicinity of naval residential colony at Kanjur Marg. Once the judgement is delivered by this Court on a particular issue, all identical matters are to be dealt with by the executive in the light of the said decision; they cannot relegate the citizens to the Court for seeking similar orders by abdicating their executive functions.*

6 *As a matter of fact, this Court while setting aside the objection raised by Navy and Mumbai Municipal Corporation has not granted any relaxation from conditions imposed by the planning authority in terms of its regulation. It goes without saying that our judgement is binding on all the similarly placed projects in the same vicinity.*

8. *In that view of the matter, notice of motion is disposed of. "*

Meantime, Navy has filed Special Leave Petition against the order dated 27th February, 2019 in Writ Petition no.3013 passed by High court referred above. The Supreme Court of India has heard the matter on 25th October, 2019 and dismissed the SLP filed by Navy on the ground of delay (Copy is enclosed at Pg. C/611).

MCGM has forwarded the proposal for the opinion of Adv. General, Maharashtra for applicability of above said orders for allowing development within 500 m from Kanjur Naval Civilian Colony as well as the interpretation of sidelined para marked 'A' & 'B' on page N/4 for deciding exact identical cases (Projects) placed in the same vicinity as mentioned and specified in Hon'ble High Court order dtd 27-09-2019 & U.D. Letter dtd 20-09-2019. As per the concluding opinion of Adv. Gen. dated 18.12.2019 for the queries raised by Law Officer of MCGM in the Affirmative. Law Officer vide her note dtd 21-12-2019 as at pg. N/7 ststed that "Advocate General has opined that the orders passed by the Hon'ble High Court dtd 27-09-2019 in Writ Petition No 3013 of 2018 is applicable to all the development /projects that area being carried out only and only in the vicinity of the Naval Civilian Housing Colony situated at Kanjur Marg, Mumbai."

Based on the above said order of the Hon'ble High Court, Supreme Court and opinion of Adv. General, the Law officer (MCGM) vide note dtd 21-12-2019 has informed that, the proposal for development by Kanakia Spaces Realty Pvt.Ltd of its land falls within the vicinity of Naval Civilian Housing Colony, Kanjur Marg and is to be processed without insisting NOC from Naval Authority.

As per the orders of Hon'ble High Court & opinion of Adv. General it is felt that all the proposals situated in the vicinity of Naval Civilian Housing Colony, Kanjur Marg, Mumbai, may be processed treating the identical and similarly placed projects and NOC from the Navy will not be insisted.

Submitted please,

[Signature]
Dy. Ch. Eng. (BP) ES

CHE/27200/DPB
31/1/2020

Chief Engineer (DP)

Hon'ble M.C.
Sir

Reference is requested to earlier report at P N 5 to N-15 and subsequent report at P N 17 to N-18 and Hon. mc's orders there on at P N-18 to process the proposal as per Hon'ble H.C. order.

Now, the specific para in one of the case whose Hon'ble H.C. has mentioned that the order of court is binding on all respondents. Also the similarly placed projects in the vicinity are governed by the said order. Adv. General's memorandum opinion is also submitted vide para A' on P-20.

बृहन्मुंबई महानगर पालिका			
प्रमुख अभियंता (विकास नियोजन)			
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मा.अधि.	टिडीआर	लेखा	आस्था

In view of B and A' the report is submitted for perusal please. further the Navy has filed SLP against the order of Hon'ble H.C. dt: 21/12/19 which is now disposed off by Hon'ble S.C. C.P.C-611. In view of above & similar proposals will be processed as per the directions of Hon'ble H.C. submitted please.

[Signature]
31/1/2020
Ch. Engineer (D.P)
& Dir. (E.S.&P)

[Signature]

3071
Municipal Commissioner

Ch. E (D.P) & Dir. (E.S.&P)

बृहन्मुंबई महानगरपालिका
आयुक्तांचे कार्यालय

31 JAN 2020

समय ११, १२, १३, १४,
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क्रमांक MCP/671

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CHE/27517/DPES dt 11/2/2020

DP (E.S.&P) Es.

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31/01/2020

Ch. Engineer (D.P)
& Dir. (E.S.&P)

बृहन्मुंबई महानगर पालिका
प्रमुख अभियंता (विकास नियोजन)
यांचे कार्यालय

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साधारण	शहर	पूर्व. उप	प. उप
मा. अधि.	टिडीआर	लेखा	आस्था

बृहन्मुंबई महानगर पालिका
उप प्रमुख अभियंता इमारत निस्ताव
(पूर्व उपनगरे) यांचे कार्यालय

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वेळ:- 11:50 नाई
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कार्य. अभि. (इ.प्र.) पू. उप. I/II

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उप प्रमुख अभि. (इ.प्र.) पू. उप

- १) सहा. अभि (इ.प्र) एल/एन
- २) सहा. अभि (इ.प्र) एस/टी
- ३) सहा. अभि (इ.प्र) एम/पू.प्र
- ४) मु. लि. (इ.प्र) पू. उप
- ५) मु. लि. (आस्था) पू. उप

कार्य अभि (इ.प्र) पू. उपनगरे १/२

वि. नं. १८५
COSTS

Ch. Engineer (D.P)
& Dir. (E.S.&P)