

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO.17 OF 2006

Bombay Environmental Action Group & Anr. : Petitioners

V/s.

The State of Maharashtra & Ors. : Respondents

...

Mr.Gautam Patel with Mr.Sharan Jagtiani i/b.  
M/s.M.V.Jayakar & Co., for the petitioners.

Mr.N.P.Pandit, Assistant Government Pleader for respondent  
nos.1 & 4.

Ms S. Ajithkumar for respondent no.2.

Mr.B.A.Desai, Additional Solicitor General i/b. Dr.T.C.  
Kaushik for respondent nos.5 & 6.

Mr.R.V.Govilkar with Mr.A.L. Patki for respondent no.7.

Mr.P.K.Shroff with Mr.Subodh Joshi and Ms Radhika  
Kalpatrai i/b. M/s.P.K.Shroff & Co., for applicant in  
Chamber Summons No.240 of 2005.

Mr.D.S.Mishra i/b. Mr.A.R.Pande for applicant in Chamber  
Summons No.293 of 2005.

...

**CORAM : R.M.LODHA & S.A.BOBDE, JJ.**

**DATE : OCTOBER 11, 2006.**

**P.C.**

1. Heard counsel for the parties. We perused the two affidavits filed by Mr.Ganpat Namdeo Mohite, Sub-Regional Officer, Maharashtra Pollution Control Board, both dated 3.10.2006 and the documents annexed thereto.

2. Before we deal with the affidavits of Mr.Ganpat Namdeo Mohite afore-referred, we record the statement of Mr.P.K.Shroff, Advocate for the intervenor, M/s.Hiranandani Builders, that no quarrying operation of any nature whatsoever is being carried on by M/s.Hiranandani Builders in the area known as 'Hiranandani Gardens' referred to in para (A) at page 12.

3. In his affidavit dated 3.10.2006, the Sub-Regional Officer, Maharashtra Pollution Control Board, has stated that he visited Powai and Vikhroli to ascertain the status of quarrying activities. He found that M/s.Supreme Infrastructure (India) Pvt. Ltd., Powai, was engaged in the activity of quarrying, stone crushing and also having a ready mix concrete (RMC) plant. The said company is said to have been given permission for excavation in the piece of land bearing no.13/2 C.T.S. nos.23A, 26 and 27, Powai, for a period of two months on 27.4.2005. It is stated that in CTS nos.29 and 30, the said M/s.Supreme Infrastructure (India) Pvt. Ltd. has sought excavation permission on 7.7.2005, but no permission has been given. He also noticed that at the time of inspection, quarrying activities were going on with the help of explosives. In the Vikhroli area, the Sub-Regional Officer found quarrying and stone crushing activities going on at the

site operated by M/s. Godrej & Boyce Co. Ltd. The said company is said to have obtained permission from the revenue authorities. He has stated that in none of the cases, the companies have obtained consent from the Maharashtra Pollution Control Board nor the office of the Collector before granting any permission approached the Maharashtra Pollution Control Board.

4. M/s. Supreme Infrastructure (India) Pvt. Ltd. took out Chamber Summons no.293 of 2005 which was granted by us on 13.9.2006 by permitting them to intervene in the matter. Mr.D.S.Mishra, Advocate appears for M/s.Supreme Infrastructure (India) Pvt. Ltd. and submits that M/s.Supreme Infrastructure (India) Pvt. Ltd. desires to withdraw the Chamber summons. The prayer is wholly misconceived as the Chamber Summons has already been disposed of and M/s.Supreme Infrastructure (India) Pvt. Ltd. has been permitted to intervene in the matter.

5. Be that as it may, it is clear from the affidavit of the Sub-Regional Officer, Maharashtra Pollution Control Board, that M/s.Supreme Infrastructure (India) Pvt. Ltd. are carrying on unauthorised and illegal quarrying activities with the help of explosives in Powai area, particularly CTS nos.23A, 26, 27, 29 and 30. There is nothing on record to show that environmental impact study

has been carried out for such quarrying activities by M/s.Supreme Infrastructure (India) Pvt. Ltd. in the Powai area is concerned.

6. As regards the quarrying and stone crushing in Vikhroli at the site operated by M/s.Godrej & Boyce Co. Ltd., though in the affidavit of the Sub-Regional Officer, it is stated that the company has obtained permission for excavation from the revenue authorities, there is nothing to indicate that while granting such permission, the revenue authorities carried out environmental impact assessment. Even the period for which such permission has been granted is not stated. M/s.Godrej & Boyce Co. Ltd. is not a party to the proceedings.

7. Taking the aforesaid aspects into consideration, we pass the following order:-

(i) We direct the petitioner to implead M/s.Godrej & Boyce Co. Ltd. as a party-respondent to this petition.

(ii) M/s.Supreme Infrastructure (India) Pvt. Ltd. is restrained from carrying on the activities of quarrying, stone crushing and from running ready mix concrete (RMC) plant in CTS nos.23A, 26, 27, 29

and 30 of village Powai, taluka Kurla, Mumbai Suburb.

(iii) M/s.Godrej & Boyce Co. Ltd. is restrained from quarrying and stone crushing in Vikhroli at the site operated by them in case the permission for excavation given by the revenue authorities has expired and while granting such permission by the revenue authorities, no environmental impact assessment was carried out.

(iv) The Maharashtra Pollution Control Board is directed to take suitable action, including launching of prosecution against the persons who are engaged in unauthorised quarrying and stone crushing in Powai and Vikhroli area.

(v) The Secretary, Maharashtra Pollution Control Board shall submit the Action Taken Report within two months from today.

8. Let the matter come up for further consideration on 14.12.2006.

Sd/-

R.M. LODHA, J.

Sd/-

S.A. BOBDE, J.

Bombay High Court