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IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4803 OF 2025

1. CREDAI Pune Metro
Through its secretary Mr. Ashwin .
Trimal Having its office at T-1, T-2
and T-3, 3rd Floor, Nucleus
Jeejeebhoy Towers Church Road,
Pune 411 011.

2. Shakuntal Developers A.
partnership firm Having their
address: Office 110 111 112, Jai
Ganesh Samrajya H Wing, Spine
Road, Bhosari, Pune 411 039

3. M/s Meridian (Association of
Persons) Having address at:
S.No. 37/1/1, 37/1/1 (P) + 37/1/1,
37/1/1/ (P) Plot No.1, Village
Baner, Taluka Haveli, District Pune

... Petitioners

Versus

1. The State of Maharashtra
Through its Secretary Ministry of
Environment and Climate Change,
having office at Mantralaya,
Mumbai 400 020.

2. State Environment Impact
Assessment Authority,
Maharashtra Through its
Secretary Having address at
Mantralaya, Mumbai 400 020.

3. Union of India, Through the
Secretary Ministry of Environment,
Forest and Climate Change Having

address at Indira Paryavaran
Bhawan, Jorbagh Road, New Delhi. 110 003.

4. Maharashtra Pollution Control Board
Through the Secretary
Having address at Kalpataru Point,
3rd and 4th Floor, Sion Circle,
Mumbai 400 022

.... Respondents

Mr. Nikhil Sakhardande, Senior Advocate with Mr. Pralhad Paranjpe a/w
Mr. Aditya Mhase with Mr. Ativ Patel and Viloma Shah i/b. AVP
Partners for the Petitioner.

Mr. O.A. Chandurkar, Addl.G.P. with Mrs. G.R. Raghuwanshi, AGP for
Respondent No.1.

Ms. Jaya Bagwe for Respondent No.2 (SEIAA. and Respondent No. 4
(MPCB.

**CORAM : ALOK ARADHE, CJ &
M.S.KARNIK, J.**

DATE : 30th APRIL, 2025

ORDER [PER M.S. KARNIK, J.] :

1. The petitioner–CREDAI Pune Metro and others invoke the jurisdiction of this Court under Article 226 of the Constitution of India seeking directions to respondent no.2-State Environment Impact Assessment Authority, Maharashtra to decide upon the proposals received by it for seeking Environmental Clearance (“EC”) in Pimpri-Chinchwad area by considering the present day Comprehensive

Environmental Pollution Index (“CEPI”) scores as updated/published by respondent no.4- Maharashtra Pollution Control Board (“MPCB”) in accordance with Email dated 02/09/2024 issued by Central Pollution Control Board (“CPCB”), independent of and without relying upon the notification dated 29/01/2025 issued by respondent no.3.

2. We have heard Shri Sakhardande learned Senior Advocate for the petitioners, Shri Chandurkar learned Additional Government Pleader for respondent no.1 and Ms. Jaya Bagwe for respondents no. 2 and 4. Few facts necessary to be stated are thus:

3. Respondent No. 3 issued a notification stating that for construction projects mentioned in Category 'B' of the schedule to the EIA Notification, 2006, prior EC from relevant State Environment Impact Assessment Authority (“SEIAA”) (in the present case Respondent No. 2) was necessary, before commencement of the said construction project. Under EIA Notification, 2006, Entry 8(a) provides that building and construction projects with a built-up area of 20,000 sq. meters to 1,50,000 sq. meters are classified as Category 'B' and Entry 8(b) provides that township projects covering over 50 hectares or with a built-up area exceeding 1,50,000 sq.meters are classified as Category ‘B1’. Category

B1 project requires more detailed environmental assessment.

4. Respondent No. 3 vide office memorandum dated 24/05/2011 clarified that EIA Notification, 2006, as amended on 04/04/2011 for entry 8(a) & 8(b) of schedule to EIA Notification, 2006 the 'General Condition' as mentioned hereinabove would not apply. Respondent No. 3, through a notification dated 22/12/2014 further amended the EIA Notification, 2006. The amendment substituted Entry 8 relating to Building/Construction Projects, Area Development Projects, and Townships in the schedule. It was clarified that the 'General Conditions' would not apply to the projects listed under Entry 8(a) and 8(b).

5. The validity of the Notification dated 22/12/2014 issued by respondent no. 3 came up for consideration before the Kerala High Court which came to a conclusion that Notification dated 22/12/2014 had not been issued by following due process of law and therefore quashed and set it aside by granting liberty to respondent no. 3 to issue a fresh Notification by following due process of law. The Notification dated 22/12/2014 was set aside by Kerala High Court on 06/03/2024 which was almost after 10 years of the said Notification being in existence. Respondent No.2 – SEIAA in its 279th meeting held on 13/08/2024 deferred the proposal seeking EC of many members.

6. The CPCB vide its email dated 02/09/2024 clarified the position of the petitioners wherein it has stated that CEPI scores are dynamic and cannot be static. Since there was no positive response to the representations, the petitioners were constrained to approach this Court by preferring Writ Petition No. 501 of 2025. During the hearing held on 03/02/2025, respondent no.3 placed on record a Notification dated 29/01/2025 issued by respondent no.3 i.e. Ministry of Environment Forest and Climate Change. Respondent no.3 vide the said Notification amended the schedule to the erstwhile Notification dated 14/09/2006 excluding the applicability of General Conditions to Projects falling under category 8(a) and 8(b). In view of above, Writ Petition No. 501 of 2025 was disposed of.

7. Thereafter the Hon'ble Supreme Court of India in WP(C) No. 166 of 2025 preferred by one Vanashakti, vide its order dated 24/02/2025 stayed the operation and implementation of the Notification dated 29/01/2025.

8. Learned Senior Advocate for the petitioners submitted as under:-
That the petitioners addressed a representation dated 17/03/2025 to respondent no.2 pointing out that the area of Pimpri-Chinchwad is

neither severely nor critically polluted which is evident from the CEPI score communicated by CPCB via Email dated 02/09/2024. CPCB clarified that a sub-index score alone (air, land or water) cannot determine pollution status; only the overall CEPI score is determinative. The latest CEPI score for Pimpri-Chinchwad (December 2023) as per MPCB is 32.52, which is well below the threshold for “critically/severely polluted” classification. The proposals of CREDAI members were deferred again by SEIAA on an erroneous assumption that Pimpri-Chinchwad is critically/severely polluted, contrary to the CPCB clarification. In view of the High Court’s directions dated 03/02/2025 and the clarifications, respondent no. 2 SEIAA was bound to take a decision expeditiously on the pending EC proposals. That deferring of the proposals for grant of environmental clearance by respondent no,2- SCIAA is arbitrary and contrary to the Notification, 2006. That CPCB itself in its reply dated 02/09/2024 has clarified that Pimri-Chinchwad area is not critically polluted or severely polluted and the latest CEPI score for 2024 was 32.52 as per MPCB report dated 23/01/2024 which is significantly below the threshold required for such classification. The deferral is not only arbitrary but also contrary to the express provisions of EIA notification. That the SEIAA has erred in concluding that the project falls within 5 km of Critically Polluted Areas

and Severely Polluted Areas as identified by CPCB while deferring the proposals. It is submitted that SEIAA has failed to exercise its jurisdiction under the EIA notification, 2006. As per the scheme of EIA Notification, 2006, projects must be appraised by the authority having jurisdiction based on their category and location. Since the petitioner's project is a Category B project located in an area that is not Critically Polluted or Severely Polluted, respondent no. 2 SEIAA is the appropriate authority for its appraisal. That the deferral of the petitioners's project, without lawful jurisdiction and in contravention of statutory provisions, amounts to a failure on the part of SEIAA to exercise its jurisdiction.

9. Learned counsel Ms.Bagwe appearing for respondents no. 2 and 4 opposes the petition. It is submitted that respondent no.2 has to obtain necessary clarification from CPCB and response of CPCB is awaited. It is submitted that it is only after that necessary clarifications are forthcoming from the CPCB that the proposals made by the member of petitioner can be considered.

10. In our opinion, consideration of the proposals received by respondent no. 2 from the member of the petitioner cannot be indefinitely deferred. The deferment of the consideration of the

proposals of the petitioners in this manner is not justified. The petitioners have right to have its proposals considered in accordance with law within a reasonable time. We are inclined to grant reasonable time to the respondent no.2 to obtain necessary clarification from CPCB. However, we are not inclined to accede to the request made by learned counsel Ms.Bagwe that respondent no.2 will consider the proposal after the necessary clarification are forthcoming from the CPCB.

11. The Hon'ble Supreme Court vide order dated 24/02/2025 has stayed the operation and implementation of the Notification dated 29/01/2025. According to the petitioners, proposals made by the member of the petitioner seeking EC need to be considered on the basis of present day CEPI scores as updated /published by respondent no,4-MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB.

12. In such view of the matter, we are inclined to dispose of this petition by issuing the following direction.

The proposals made by the petitioner seeking EC from the respondent no, 2-SCIAA be considered in accordance with law on the basis of the present day CEPI scores as updated

/published by respondent no.4- MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB or in accordance with the clarification if received from CPCB, within a period of eight weeks from the date of uploading of the order.

13. We may not be understood to have made any observations on merits of the rival contentions.

14. The writ petition is disposed of in the above terms.

(M.S.KARNIK, J.)

(CHIEF JUSTICE)