

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****REVIEW PETITION NO. 20 OF 2025****IN****WRIT PETITION NO. 269 OF 2025**

Gera Developments Pvt. Ltd. & Anr.

... Petitioners

V/s.

The Maharashtra Pollution Control Board & Ors.

... Respondents

Mr. Nikhil Sakhardande, Senior Advocate a/w Adv. Pralhad Paranjape, Adv. Shubhra Paranjape Adv. Manish Kelkar and Adv. Tirtha Pawar for Petitioners.
Adv. Jaya Bagwe for Respondent Nos. 1 to 3.

**CORAM : A. S. GADKARI AND
AMIT BORKAR, JJ.**

DATE : 13th February 2025.

P.C. :

1) Heard Mr. Sakhardande, learned senior counsel appearing for Petitioners and Ms. Bagwe, learned Advocate appearing for Respondent Nos. 1 to 3.

2) After due deliberation, we are of the considered view that, Rule 34 of the Water (Prevention and Control of Pollution) Rules, 1975 applies to the Central Board in relation to Union Territory and may not be applicable to any State. Therefore in the present case, the said Rule is not applicable to the case of the Petitioners.

3) The sentence in para No. 15 of Order dated 10th January 2025 is reproduced herein-below.

“15. and it is at this stage that in case the Board decides to take action under the Enforcement Policy that the procedure as prescribed in Clause 4 (a), (b), (c), (d) and (e) of the Enforcement Policy is to be adhered to.”

3.1) According to us, it creates ambiguity for Application of the Enforcement Policy of 2016.

3.2) In view thereof, we replace the said sentence with the following sentence:-

“.....the Respondent No.1 Board will take necessary action against the violators as contemplated under the provisions of the Environment (Protection) Act and the Rules framed thereunder. The Board may also consider to apply the Rules of the Enforcement Policy of 2016, if necessary and as may be required in view of the facts of each and every case.”

3.3) After replacing the said sentence, para No. 15, would read as under:-

“15. We are of the opinion that once reply or explanation to the notice referable to Rule 34 of the Rules of 1975 is issued by the person concerned, the matter is to be considered by the Board at its level to conclude as to what action needs to be

taken. On consideration of the explanation submitted by the party concerned to the show cause notice issued under Rule 34 of the Rules of 1975, an opinion is to be formed by the Board as to the nature of action to be taken in case non-compliances are found the Respondent No.1 Board will take necessary action against the violators as contemplated under the provisions of the Environment (Protection) Act and the Rules framed thereunder. The Board may also consider to apply the Rules of the Enforcement Policy of 2016, if necessary and as may be required in view of the facts of each and every case.”

- 4) Review Petition is partly allowed in the aforesaid terms.

(AMIT BORKAR, J.)

(A.S. GADKARI, J.)