

**MUNICIPAL CORPORATION OF GREATER MUMBAI
LEGAL DEPARTMENT**

Date :-16.05.2016

Sub :- Application to delete/amend condition No.41 as stipulated in the intimation of Disapproval issued for purpose of development of Property bearing CS No.464,4/464, Lower Parel Division, Senapati Bapat Marg, Mumbai-400013

Ref :- EB/1342/GS/A DATED 05.05.2016

Kind reference is requested to the copy of order dtd. 04.04.2016 passed by Division Bench of Hon'ble High Court in PIL NO. 15 of 2016 filed by Yash Foundation as seen at page C/151. By the said order the Hon'ble Court has observed that as per condition No. 41 issued to Respondent No. 5 for the work of construction states that the construction is not required to be carried out between 7 pm to 7 am. The Hon'ble Court has also observed the statement of Respondent No. 5 i.e. M/s. Jawala Real Estate Pvt. Ltd. that they have applied for modification of the said condition. The Hon'ble Court has granted ad-interim relief stating that the condition No. 41 stands as of today i.e. date of order and therefore Respondent Nbo. 5 is restrained from carried out any work in breach of condition No. 41 in between 7pm to 7 am.

At page C/1 is application of M/s Jawala Real Estate Pvt. Ltd; PEATA both dtd. 22.04.2016 and NARDECO dated 25th April 2016 whereby it is contended by the applicants that as per condition prescribed by MPCB in the "Consent to Establish" issued to developers inter alia permits carrying out construction activities between 6 am to 10 pm and also defines night time between 10 pm to 6 am. It is further contended that neither MMC Act 1888 nor MRTP Act 1966 neither DCR 1991 prohibits or restricts or limits construction activities between 7 pm to 7 am. It is submitted by the applicant that the restrictions on movement on heavy vehicles within the city limits permit plying of vehicles only between 9 am and 11.30 am in the morning and 5 pm to 9 pm in the evening. Thus, loading and un-loading of material at site generally takes place in the evening after 9 pm only. Reference is also made to the sound systems permitted till 10 pm. Under the circumstances in view of the said submissions condition No. 41 of IOD is requested for deletion.

By the referred note this department is requested to opined on the representation of PEATA/NARDECO/The Developer to modify the condition No. 41 of IOD and to allow the construction activity between 6 am to 10 pm inconsonance with rule 5A (3) of Noise Pollution (Regulation and Control) Rules 2000.

On perusal of the referred order dtd. 04.04.2016 in PIL No. 15 of 2016, it is clear that the Hon'ble Court though recorded the statement of the developer M/s. Jawala Real Estate Pvt. Ltd. has not restrained any of the Authorities including MCGM from modifying or deleting the said general condition No. 41 of IOD issued for construction of work. However, the Hon'ble Court has directed to comply with the said condition No. 41 as the same stand as of the date of order.

In view of the aforesaid, MCGM as Planning Authority and Local Authority can consider the application of PEATA/NARDECO/The Developer to modify the general condition No. 41 of IOD and to allow the construction activity in

consonance with Rule 5A (3) of Noise Pollution (Regulation and Control) Rules 2000, during day time i.e between 6 am to 10 pm (Day time - as mentioned in Schedule note under Rule 8) as the said Rules are framed by Central Government under the statutory provisions in exercise of the powers conferred by Sec.3,6 & 25 of the Environment (Protection) Act,1986 and therefore can be considered as basis for modifying the said general condition no.41 of the IOD.

Submitted please,

Ruandare

Dy. Law Officer
(Conveyance-I)

100/2133/mc
17.5.2016
Municipal Commissioner
Sir,

As proposed.
Hj Malb
1/5/16

Municipal Commissioner

CHES (DP)

बृहन्मुंबई महानगरपालिका आयुक्तांचे कार्यालय 17 MAY 2016 समय ११, १२, १३, १४ १५, १६, १७, १८ कमांक <i>M/2637</i>
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21/6/2016