

**BEFORE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 137/2025
(I.A. Nos. 567/2025, 613/2025 & 716/2025)

Renu Bala

Applicant

Versus

MoEF&CC & Ors.

Respondent(s)

Date of completion of hearing and reserving of order: 23.03.2026

Date of pronouncement of order: 22.04.2026

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Ravi Agrawal, Adv. for Applicant (Through VC)

Respondents: Mr. Sanjay Upadhyay, Senior Advocate with Mr. Sameer Sodhi, Ms. Vanshika Jhamb, MR. Hardeek Goyal, Ms. Eisha Krishn, Ms. Mansi Bachani, Mr. Surya Gupta & Ms. Neha Chaturvedi, Advs. for R - 7 & 8
Ms. Suhasini Sen & Ms. Supraja V., Advs. for MoEF & CC
Ms. Deeksha L. Kakar, Mr. Rashneet Singh & Ms. Sana Parveen, Advs. for DDA
Ms. Jyoti Mendirattta & Ms. Ananya Basudha, Advs. for DCF (West), GNCTD
Mr. Gigi. C. George, Adv. for R - 6
Mr. Kush Sharma, Adv. for DPCC (Through VC)

ORDER

1. In this Original Application (OA), the applicant has alleged that the respondent no. 7- Real Estate Developer Company which is a subsidiary of the respondent no. 8 has indulged in a massive illegal tree felling and construction activities without requisite permission in violation of environmental norms in the project "The Omaxe State" in Sector 19B, Dwarka, New Delhi. The applicant alleges that a large number of trees have been cut by the respondent no. 7 and illegal construction has been started over a land admeasuring 61.43 acres (built-up area 268474.922 sqm) without obtaining proper authorization. The stand of the applicant is that this project falls in category 8(b) of Schedule to the EIA Notification, 2006 and Environmental Clearance (EC) has not been issued to the project, therefore, the respondent no. 7 could not have undertaken the

construction activities in the project. The applicant further alleges that the construction activities have been started without obtaining Consent to Establish (CTE) under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and 21 of the Air (Prevention and Control of Pollution) Act, 1981.

2. The Tribunal by the order dated 05.05.2025 had issued notice in this OA and had also passed an interim order directing the parties as follows:

“xxx

xxx

xxx

5. Till the next date of hearing, the official respondents will ensure that no illegal felling of trees takes place in the area concerned and the Respondents No. 7 and 8 do not indulge in raising any illegal construction thereon.”

3. The response on behalf of the concerned respondents have been filed.

4. During the course of the hearing, the applicant has raised the issue that the construction activities have been started by respondent no. 7 without obtaining the EC and without obtaining the CTE. Further issue has been raised that the respondent no. 7 has indulged in illegal felling of trees. As against this, the respondent no. 7 has challenged the locus of the applicant and has raised the plea of deemed EC and referred to the CTE issued by the DPCC and denied the illegal felling of trees.

5. Having heard the Learned counsel for the parties and on perusal of the records, it is noticed that Delhi Development Authority (DDA) had taken a decision to develop an integrated multi-sports arena at Sector 19-B Delhi comprising an outdoor stadium and indoor stadium sports club and sport commercial facilities.

6. The Concession Agreement dated 18.07.2022 was executed by the DDA with the respondent no. 7 and possession of land admeasuring 203961.50 sqm situated at Sector-19B Dwarka, New Delhi was handed

over to the respondent no. 7 granting development rights for implementation of the integrated multi-sports arena and commercial facilities on Design, Build, Finance, Operate and Transfer (DBFOT) basis. The stand of the DDA is that in terms of the Concession Agreement, the respondent no. 7 is under an obligation to comply with all the applicable laws and permits while undertaking the developmental project awarded to him. Such a stipulation is contained in clause 5.1.4(e) of the Concession Agreement.

Locus issue:

7. The respondent no. 7 has questioned the locus of the applicant by raising the plea that the present OA is the outcome of personal vendetta of the applicant who had submitted the Expression of Interest (EoI) to the respondent no. 7 on 27.12.2024 expressing the interest and requesting reservation of a commercial built-up unit in the project, in question, by paying the EoI reservation amount of Rs. 3,00,000/- (Rupees Three Lakhs). In spite of the communication the further amount was not paid and no action was initiated by the applicant for execution and registration of agreement for sale. Hence, the respondent no. 7 had cancelled the application for EoI for reservation of commercial built-up unit vide letter dated 26.03.2025. Such a stand will not make any difference because substantial issue of violation of environmental norms in the project has been raised in the OA, therefore, we do not deem it proper to reject the OA on the ground of locus but we intend to examine the issue of compliance and violation of environmental norms by the respondent no. 7.

Status of Environmental Clearance

8. So far as the issue of environmental clearance is concerned, the undisputed position on record is that no EC has been issued by the competent authority to the project in terms of EIA Notification dated 14.09.2006. Clause 2 of the EIA Notification provides for prior EC for the

projects falling in Category A and Category B in the Schedule. Clause 2 of the EIA Notification says as under: -

“2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category ‘A’ in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category ‘B’ in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

(i) All new projects or activities listed in the Schedule to this notification;

(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

(iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.”

9. Clause 4 of the Notification relates to categorization of the projects and activities and reiterates the prior EC by stipulating as under:

“4. Categorization of projects and activities: -

(i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and manmade resources.

(ii) All projects or activities included as Category ‘A’ in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;

(iii) All projects or activities included as Category ‘B’ in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category ‘B’ project shall be treated as a Category ‘A’ project.”

10. Clause 7 of the Notification provides for stages in the prior EC process for new projects. Clauses 8(a) and 8(b) of Schedule to the Notification cover building and construction project and provide as under:-

8 Building/ Construction projects/ Area Development projects and Township				
(1)	(2)	(3)	(4)	(5)
8(a)	Building and Construction projects		≥20000 sq. mtrs. and <1,50,000 sq. mtrs. Of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built-up area ≥1,50,000 sq. mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

11. It is not in dispute that the present project is covered under Item No. 8(b) as “Township and Area Development Projects” of Schedule-II to the amended EIA Notification, 2006. The total plot area of the project is 2,48,610.53 sq.m. and the net plot area for development is 2,03,961.50 sq.m. and total built up area is 2,55,051.42 sq.m. The SEIAA, Delhi had issued the Terms of Reference (ToR) to the project proponent on 03.01.2024. The SEAC, Delhi had made the recommendation on 07.03.2024. Thereafter, the tenure of SEIAA and SEAC, Delhi had expired on 05.09.2024 and the matter was transferred to the concerned Central Expert Appraisal Committee (CEAC) for approval. The CEAC had examined the proposal in its 131st meeting on 30.09.2024 and 01.10.2024 wherein the CEAC had noted the existence of total green area of 62,997.77 sq.m. and existence of 2191 trees at the site and it was also noted that though 2000 trees will be cut but there was no permission from the Forest Department. Therefore, it was noted that no trees will be cut without the permission from the Forest Department.

12. The MoEF&CC had entered into the communication on 02.01.2025 with the Principal Secretary and PCCF of Department of Environment and Forest, Govt. of Delhi as also with the Deputy Conservator of Forests dated 07.02.2025 to obtain the details of the process to be followed in cases of tree cutting in pursuance to the various directions of the Courts. The MoEF&CC had raised another ADS in respect of permission of tree felling

in the project on 23.09.2025 and as per the stand of the MoEF&CC the same has not been submitted yet. The MoEF&CC has taken a categorical stand that the project has not been granted environmental clearance and status of the project shown in the PARIVESH Portal as on date is “ADS Raised”. The plea raised by the Respondent No. 7 relating to deemed clearance under Clause-8(iii) of the EIA Notification, 2006 needs to be examined in the aforesaid background. The relevant part of the Clause-8(iii) of the EIA Notification, 2006 is as under:

“8. *Grant or Rejection of Prior Environmental Clearance (EC):*

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.*
- (ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.*
- (iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the*

Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.”

13. In terms of clause 8(i) the regulatory authority is required to consider the recommendation of SEAC and convey its decision to the applicant within 45 days of the receipt of recommendation of SEAC or within 105 days of receipt of the final EIA report. As per clause 8(iii) above, if the decision of regulatory authority is not communicated to the Applicant in terms of clauses 8(i) or (ii), Applicant can proceed in terms of the final recommendation of EAC/SEAC. In this case, the issue of deemed EC arose in view of the fact that the project was recommended for grant of EC by SEAC on 07.03.2024 and the tenure of SEIAA and SEAC had expired on 05.09.2024 and no subsequent notification constituting SEIAA was issued by the Government of India, therefore, from 06.09.2024 such applications were considered and decided by the MoEF&CC but the application for grant of EC of PP was not decided within time as the ADS was raised by the MoEF&CC in respect of permission of felling of trees in the project and the same was not submitted.

14. The Respondent - MoEF&CC, in its reply has given complete chain of events and has taken the stand that EC has not been issued to the respondent no. 7-PP. The reply of MoEF&CC in this regard, is as under: -

“Details of the project

12. It is respectfully submitted that in the present case, the project/activity is covered under item 8(b) 'Township and Area Development Projects' of the Schedule to the EIA Notification, 2006 as amended, and requires appraisal at the State level. The project is for development of 'Integrated Multi-Sports Arena' at Sector 19-B, Dwarka, New Delhi by M/s. World Street Sports Limited. The total plot area is 2,48,610.53 sq.m and the net plot area for development is 2,03,961.50 sq.m and total built-up area of 2,55,051.42 sq.m.

13. It is further respectfully submitted that the SEAC, Delhi has recommended the instant project for grant of Environmental Clearance to SEIAA. However, due to the temporary absence of SEIAA/SEAC in Delhi. This proposal was transferred by SEIAA, Delhi to the Ministry as per the provisions of the OM No. IA3-22/10/2022-UA.III [E 177258] dated 02.08.2023 for appraisal at the Central level by sectoral EAC. In this regard, the relevant facts are as follows:

i. On 03.01.2024, the SEIAA, Delhi issued Terms of Reference to the Project Proponent vide letter number DPCC/SEIAA-IV/C-464(ToR)/DI/2023/1822-1825 dated 03.01.2024. Thereafter, the EIA Report has been submitted along the EMP by the Project Proponent. It is further submitted that the tenure of the SEIAA and SEAC, Delhi had expired on 5.09.2024, and accordingly the matter was transferred to the concerned Central Expert Appraisal Committee for appraisal.

ii. On 30.09-1.10.2024 the proposal was examined by the Expert Appraisal Committee (Infra-2) in its 131st meeting wherein after detailed deliberations, the EAC recommended the aforesaid proposal for grant of EC subject to specific and standard conditions. The minutes of the 131st EAC meeting specifically note as follows:

"xviii. Total green area of 62,997.77 sq.m (30.95 of net plot area). At present, 2191 no. of trees are present at the site out of which 1953 no. of kikar trees & 12 no of subabul trees which are invasive species which will be removed, 158 no. of trees will be transplanted & 68 no. of trees will be retained at the site. No. of trees proposed at the site are 2600 nos."

"v. The committee has noted that 1,965 trees are to be cut due to the proposed project. The project proponent has submitted the undertaking in this regard and stated that no tree cutting will be done without permission from the State Forest Department.

.....
131.28.4 The EAC, after deliberation observed that instant project is a greenfield area development project wherein EIA/EMP report has been recommended by SEAC/SEIAA, Delhi earlier after due appraisal process. EAC observed that approx. 2000 nos. of trees shall be cut for the instant project. However, permission for cutting of trees has not been granted by forest department as of now.

.....
Specific Condition

1. No trees cutting shall be done without permission from the State Forest Department, 60 nos. of trees shall be retained and 158 nos. shall be transplanted before the start of construction. Further, PP shall ensure that maximum number of trees will be tried to transplant within the site if feasibility permits"

iii. On 2.01.2025, the Respondent No.1, MoEFCC vide letter, which was copied to the Project Proponent requested the Principal Secretary and PCCF, Department of Environment and Forest, Govt. of Delhi about the tree cutting procedure / standard operating procedure followed by Delhi Government in accordance with directions issued by Hon'ble Court of Delhi and accordingly raised additional document to project proponent. It is submitted that the letter inter-alia states as follows:

"4. It was observed that the project proponent has proposed 1,965 trees to be cut for the aforesaid project and also submitted the undertaking that no tree-cutting will be done without permission from the State Forest Department.

5. *In view of the above, it is requested to provide the details of procedure/SOPs being followed by the Government of Delhi in pursuance of directions of Hon'ble Court in Delhi"*

A true copy of the Additional Document Sought ("ADS") letter dated 2.01.2025 is annexed hereto as ANNEXURE - R3.

iv. *It is submitted that Deputy Conservator of Forests (Protection & Monitoring), Department of Forests and Wildlife, Government of NCT of Delhi vide letter dated 30.01.2025 through its email to the Ministry has informed the procedure, for permission for tree transplantation felling for non-forest area. It is submitted that in terms of the said letter, the Deputy Conservator of Forests has stated inter-alia that: "As the project site falls in the jurisdiction of the Tree Officer/DCF (West). He may be contact for further information on this matter." A true copy of the letter dated 30.01.2025 received from the DCF (P&M) is annexed hereto as ANNEXURE - R4.*

v. *Accordingly, on 7.02.2025 the Respondent No.1 wrote the concerned DCF(West) seeking requisite information of the process to be followed by the Delhi Government in cases of tree cutting pursuant to the various directions of the Hon'ble Courts. A true copy of the letter dated 7.02.2025 is annexed hereto as ANNEXURE - R5.*

vi. *On 13.02.2025, the DCF (West) sent an email to the Respondent No.1 reiterating the contents of the email dated 30.01.2025.*

vii. *On 15.02.2025, the Project Proponent addressed a letter to the Respondent No.1 wherein it was inter-alia stated as follows: "In this regard, we are hereby submit that No tree cutting shall be done at the project site without taking prior permission from the Forest Department as per law. We shall be thankful if Environmental Clearance be issued to us at the earliest as per the approved Minutes of Meeting date 10 of October 2025." A true copy of the letter dated 15.02.2025 is annexed hereto as ANNEXURE -R6.*

viii. *It is submitted that the Respondent No.1 has raised another ADS with respect to permission of tree felling in the project on 23.09.2025. The same has not been submitted yet.*

14. *In this regard, it is most respectfully submitted that the Environmental Clearance for the said project has not been granted by the Respondent No. 1, Ministry of Environment, Forest & Climate Change. Further, the status of the project as reflected in the PARIVESH portal as on date is "ADS Raised". A true copy of the screenshot of the PARIVESH portal is annexed hereto as ANNEXURE-R7.*

15. *It is further respectfully submitted that the Hon'ble Supreme Court vide order dated 19.12.2024 passed in WP(C) 4677/1985 'MC Mehta v. Union of India' has held that any application made to the Tree Officer under Section 9 of the Delhi Preservation of Trees Act, 1994 seeking permission for felling or transplantation of fifty (50) trees or more, shall be placed before the Central Empowered Committee ("CEC") for consideration. The final order in such matters would be passed by the CEC after conducting a site visit and undertaking a detailed examination, thereby ensuring that the felling of trees, if any, should only be through the proper permission as per the Delhi Preservation of*

Trees Act, 1994. A true copy of the order of the Hon'ble Supreme Court of India dated 19.12.2024 is annexed hereto as ANNEXURE-R-8.”

15. The above reply and sequence of events reveal that the EAC in its 131st meeting on 30.09.2024 - 01.10.2024 had recommended the proposal for grant of environmental clearance with the specific condition restraining cutting of trees without permission from the State Forest Department.

16. The Five Members Bench of the Tribunal in the matters of *S.P. Muthuraman vs. Union of India*, OA No. 37/2015 and *Manoj Mishra vs. Union of India*, OA No. 213/2014 vide judgment dated 07.07.2015 had considered the issue of deemed clearance under Clause-8(iii) of the EIA Notification and had held that for invoking Clause-8(iii) all the requisite proceedings such as preparation of Terms of Reference and submission of final EIA report in terms of the EIA Notification, 2006 must be completed and there should be unambiguous recommendation by the SEAC and EAC for granting or refusing to grant the environmental clearance. The Tribunal in this order has considered in detail the issue of “deemed clearance” under Clause-8(iii) as follows:

“Discussion on Issue No. 4

4. Are the private Respondents entitled to claim any benefit on the strength of deeming provisions as contained in Para 8 (iii) of the Notification of 2006 and if so, to what effect?

95. *The submission on behalf of Respondent no. 7, 8 and 9 that they would be deemed to have been granted Environmental Clearance in relation to their projects on the strength of Para 8, of the Notification of 2006, can be bifurcated into two distinct classes. The first being with reference to the projects of Respondent no. 7 and 8 where the contention is that they had applied for obtaining Environmental Clearance for their project and the same had been recommended by the SEAC in its meeting dated 17th June, 2014 and 30th September, 2013 respectively. Despite such recommendation being in their favour, the SEIAA did not grant or refuse Environmental Clearance within 45 days of such recommendation as per Para 8(i) of the Notification of 2006. Therefore, as per Respondent 7 and 8 since the period of 45 days has lapsed, therefore, they would be entitled to the ‘deemed sanction’ of Environmental Clearance in terms of Para 8 of the Notification of 2006, the regulatory authority having failed to take any final view on the Project Proponent’s application. It is their case that the ‘deemed sanction’ would follow in terms of Para 8(iii) and the view expressed by the SEAC would be deemed to have been*

accepted by the regulatory authority and therefore, the Applicant is entitled to be conveyed the said order in terms thereof.

The second class of contention would be with reference to the contention of Respondent no. 9 that it had applied for obtaining Environmental Clearance for its project in the year 2012, which application was re-filed in the year 2013. The SEIAA had failed to act within the time limit provided in Clause 8 (i) of the Notification of 2006, i.e. 105 days. This failure on the part of the SEIAA would result in grant of Environmental Clearance in favour of the Project Proponent on the principle of 'deeming fiction'. It is the case of Respondent no. 9 that SEIAA had only responded after two years by communicating that the operation of the impugned Office Memoranda has been stayed by the National Green Tribunal and therefore their application for Environmental Clearance has been delisted till further order by the Tribunal.

96. Contrary to the above, the Applicant contends that there is nothing in Para 8 of the Notification of 2006, which is remotely suggestive of any deeming fiction. It is a provision that merely prescribes a period within which certain acts are required to be done without specifying any consequences thereof. Furthermore, none of the Respondents have filed applications with all the relevant documents as required under law. They have not even filed their applications for Environmental Clearance complete in all respects. They have played a fraud with law and in any case misrepresented facts before SEIAA. Even after filing the application for Environmental Clearance, they have violated their undertakings to SEIAA and carried on with the constructions of their projects. This firstly would disentitle them from claiming any relief on the premise of 'deeming fiction' contained under Para 8 of the Notification of 2006, and in any case their acts and deeds would vitiate their entire application for grant of Environmental Clearance. The effect of 'deeming fiction' would thus never accrue in their favour. Once the provisions of the Notification of 2006 are not strictly complied with, the question of invoking 'deeming fiction' in terms of Para 8 of the Notification of 2006 would not even arise as these Project Proponents have not complied with the basic ingredients of these provisions.

97. We must make a note of the fact that none of the other parties, including the MoEF or SEIAA had raised the plea of 'deeming fiction' either in their oral or written submissions. Before adverting to the discussion on merits of these contentions, it will be appropriate to refer to Para 8 of the Notification of 2006 which reads as under:

"8. Grant or Rejection of Prior Environmental Clearance (EC):

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the Applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.*

- (ii) *The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the Applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the Applicant by the regulatory authority concerned within the next thirty days.*
- (iii) *In the event that the decision of the regulatory authority is not communicated to the Applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the Applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.”*

98. *First and foremost we have to examine what is a deeming fiction, when it operates and what are its ingredients? The expressions ‘deemed’ and ‘deeming fiction’ have been described in P RAMANATHA AIYAR’S Law Lexicon 3rd edition, 2012 as follows:*

“Deemed: The word ‘deemed’ is used to impose an artificial construction of a word or phrase in a statute that would not otherwise prevail. Sometimes it is used to put beyond doubt a particular construction that might otherwise be uncertain. Sometimes it is used to give a comprehensive description that includes what is obvious, what is uncertain and what is impossible. St. Aubyn (L.M.) v. A.G., 1952 AC 15

Deeming fiction: A supposition of law that a thing is true without inquiring whether it be so or not, that it may have the effect of truth so far as it is consistent with justice.

The word "deemed" is used in various senses. Sometimes, it means "generally regarded". At other time, it signifies 'taken prima facie to be', while in other case, it means, 'taken conclusively'. Its various meanings are, - 'to deem' is 'to hold in belief, estimation or opinion'; to judge; adjudge; decide; considered to be; to have or to be of an opinion; to esteem; to suppose, to think, decide or believe on considerations.”

99. Deeming fiction in a provision of a statute is indicative of the intention of the framers of law that they expect compliance to the requirements of the provision in a prescribed time frame. In some cases, it may prescribe proper consequences of default while in others it may be just require compliance simplicitor. When such words are used in a statute, they would provide the meaning for some matters or things and the way in which it is to be adopted. Furthermore, every provision of a statute is brought into by legislature with a particular object in mind; no word used by the legislature is therefore futile. Normally, such words should be interpreted with the aid of examining the whole scheme of an enactment, like the Notification of 2006 in the present case. Therefore, impact of the expression used under paragraph 8 should be examined and interpreted in light of the entire scheme of the Notification of 2006. The concept of 'deeming fiction' should be understood and interpreted by applying the principle of strict construction. Every requirement preceding the stage from which 'deeming fiction' operates must be specified in all respects and the principle of substantial compliance would have no application for determining the controversy in issue. A Bench of this Tribunal in the case of *M/s Laxmi Suiting v. State of Rajasthan and Ors.*, 2014 ALL (I) NGT REPORTER (2) DELHI 1, while dealing with the essentials and ingredients of 'deeming fiction' contained in Section 25(7) of the Water (Prevention and Control of Pollution) Act, 1974 (for short 'Water Act') held as under:

“33. A deeming provision creates a legal fiction. When a statute enacts that something shall be deemed to have been done, which in fact and in truth has not been done, the court is entitled and bound to ascertain for what purpose and between what persons the statutory fiction is to be resorted to. After ascertaining the purpose, full effect must be given to the statutory fiction and it should be carried out to its logical conclusion and to that end, it would be proper and even necessary to assume all those facts on which alone the fiction can operate. In other words, the facts and requirements of the fiction must be satisfied. It has, in fact, also been held by some courts that the word 'deemed' when used in a statute establishes a conclusive or rebuttal presumption, depending upon the context.

34. Another legal principle of construing the legal fiction is that the law cannot be extended beyond its purpose.

The Supreme Court, in the case of *Bengal Immunity Co. Ltd. v. State of Bihar* (AIR 1955 SC 661) stated that the legal fictions are created only for some definite purpose. A legal fiction is to be limited to that purpose for which it was created and should not be extended beyond that legitimate field. This approach was reiterated by the Supreme Court of India in the case of *Union of India v. Sampat Raj Dugar* (AIR 1992 SC 1417), wherein while dealing with Clause 5(3)(ii) of the Import (Control) Order, held that fiction created was for the proper implementation of the Import and Export (Control) Act, 1947 and to hold the licensee responsible for anything and everything that happens from the time of import till the goods are cleared through Customs and it was also held that the fiction cannot be employed to attribute ownership of imported goods to the importer in a case where he abandons them i.e. in a situation where the importer does not

pay or receive the documents of title. Reference can also be made to the case of Rajkumar Khurana v. State of NCT of Delhi [(2009) 6 SCC 72].

35. Section 25(7) is intended to provide for the deemed fiction only where the law is complied with. The obvious reason for providing the deeming fiction under Section 25 of the Water Act is to ensure that the Board does not unduly withhold the application of an industry or a unit which has acted in accordance with the law and has moved the application for establishment/operation complete in all respects to the Board. The intention of the framers of law is to balance the relationship between the industry and the Board. It is not intended to give any undue or unlawful advantage to either of the two. The Board must not be able to frustrate the establishment of a project merely by delaying its decision on the application. It is also not intended to give any right to the industry to start its operation without obtaining consent of the Board or even making an application for that purpose. On the principle aforesaid, it will not be permissible to stretch the provisions of Section 25 of the Water Act to give protection to the class of persons who are polluters and are even covered under the specified category contemplated under Section 25(5) supra.

36. In view of the above discussion, we are of the considered view that the Applicants are not entitled to the benefit or advantage of the deeming fiction of law contemplated under Section 25(7) of the Water Act inter alia but specifically for the following reasons:

(i) The Applicants did not submit applications, as contemplated under Section 25(2) of the Water Act, complete in all respects to the Board.”

In the above backdrop, let us now examine as to what is the object and essential features contained in Para 8 of the Notification of 2006. The Notification of 2006 has been issued by the Ministry in exercise of the statutory powers vested in it under Section 3 of the Act of 1986 and Rule 5 of the Rules of 1986. The Notification has been issued for the purposes of effectively ensuring environmental protection and for implementing the provisions contained in the Principal Act. The purpose is to ensure that the project and the activities as stated in the Schedule to the Notification of 2006 only and only commence construction after the Project Proponent has obtained the Environmental Clearance and that is why Para 2 of the Notification of 2006 requires prior Environmental Clearance from the regulatory authority. The whole scheme of the Notification of 2006 does not postulate any relaxation of this mandatory requirement. Thus, there is unquestionable and undisputable legal obligation upon the Project Proponent to seek prior Environmental Clearance before the commencement of any activity in relation to the project in question. Such obligation is to be complied with as per Form 1 or supplementary Form 1A, as the case may be, to be submitted to the concerned regulatory authority. Form 1 has various columns which would be incapable of being filled and it will be impracticable, if not impossible, for an applicant to furnish the requisite data supported by appropriate analysis, as contemplated in the various columns of Form 1. Still further, the requirement on the part of the Project Proponent would be to have a complete EIA report on the basis of ToR

which again is relatable to the application (Form 1) submitted by the Project Proponent. The authorities are neither required under any law nor under any memorandum of practice to conduct any inspection to verify the contents of the application or the physical situation existing on the site. The averments in the application are normally taken to be correct. It is evident from the record before us that Project Proponents have violated the law and because of their intentional violation and illegal acts of the private Respondents, compliance to the provisions of Notification of the 2006, has been rendered impracticable. The provisions of Para 8(i) to 8(iii) would come into play only when an Applicant complies with his statutory obligations and satisfies the essential requirements of this provision strictly. Indisputably these private Respondents have not done so. Until and unless a complete, comprehensive application in accordance with Form 1 and supplementary Form 1A as per Appendix I and II of the Notification of 2006 respectively, complete in all respects, is submitted, nothing contained in these provisions would come into play much less than it would enable the Project Proponents to claim any advantage or benefit on the plea of deemed fiction.

*100. There is a definite process required to be followed, i.e., Screening, Scoping and Appraisal, in addition to Public Consultation, which would lead to passing of an order granting or refusing Environmental Clearance in terms of the Notification of 2006, in cases where SEAC has recommended grant or refusal of Environmental Clearance. The matter then has to be placed before the regulatory authority, i.e. SEIAA, which is empowered to alter such recommendation of SEAC, agree with the same or take completely contra view. However, where it proposes to disagree with the recommendations of SEAC, the SEAC would be required to give its views within 60 days from the date when the file was returned to it by SEIAA for reconsideration and intimation would also be given to the Project Proponent before it takes the final view. It is only when the requirements of Para 8(i) and (ii) have been complied with that any 'deeming fiction' in terms of Para 8(iii) can come into play. After the view of SEAC is considered by the regulatory authority, then it would convey its decision within next 30 days to the Project Proponent. It is only if the decision of the regulatory authority is not intimated that the Project Proponent may proceed as if the Environmental Clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the EAC or the SEAC as the case may be. The word 'deemed' has to be construed differently with reference to the provisions of the Act where it is so used. When a statute enacts that something shall be deemed to have been done, which in fact and in reality was not done, the court is entitled and in fact bound to ascertain for what purposes and between what persons such statutory fiction is to be resorted to and full effect must then be given to the statutory fiction and it should be carried to its logical conclusion. It has been time and again emphasized in various judgments of various courts, including that of the Supreme Court, that the Court has to ascertain the purpose of the legal fiction, as the term 'deemed' has been used for manifold purposes (Refer: *The State of Bombay v. Pandurang Vinayak Chaphalkar and Ors.*, AIR 1953 SC 244 and *B.B. Chibber v. Anand Lok Cooperative GRP Housing Society Ltd.*, AIR 2001 Delhi 348). These Principles were also reiterated by the Supreme Court in the case of *Aneeta Hada v. Godfather Travels and Tours Pvt. Ltd.*, (2012) 5 SCC 661, where the Court held as under:*

“29. In The Bengal Immunity Company Ltd. v. State of Bihar and Ors. MANU/SC/0083/1955: AIR 1955 SC 661, the majority in the Constitution Bench have opined that legal fictions are created only for some definite purpose.”

101. ‘Deeming fiction’ as an established concept of law, has to be construed strictly and completely according to the facts and circumstances of a case. The dimension of its application would depend upon the language of the provisions where ‘deeming fiction’ is contained, its purpose and the object sought to be achieved under those provisions and the attendant circumstances of a particular case. It is neither possible nor permissible to prescribe a strait-jacket formula for applicability of this fiction in law. Upon a bare reading of Para 8(i) of the Notification 2006, it is evident that it does not contain any ‘deeming fiction’. On the contrary, it only prescribes a time period within which the application for grant of Environmental Clearance should be decided and order is to be communicated to the Project Proponent. This clause does not provide for any consequences if the said decision was not taken within the prescribed time.

102. Para 8 (i) provides that the regulatory authority has to convey its decision to the Applicant within 45 days of the receipt of the recommendation of the EAC or SEAC, as the case may be, or convey its decision within 105 days of the receipt of the final Environment Impact Assessment report. In case where Environment Impact Assessment is not required, then, within 105 days of the receipt of the complete application with requisite document (emphasis supplied). Para 8 (ii) further provides that the regulatory authority shall normally accept the recommendation of the EAC or SEAC but wherever it decides to disagree with such recommendations, regulatory authority shall request reconsideration by the EAC or SEAC as the case may be, within 45 days of the receipt of the recommendations made to it, along with reason for its disagreement. Such intimation of decision is also to be conveyed to the Applicant.

103. EAC or SEAC as the case may be, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of 60 days. Whereupon, the regulatory authority, after considering the view as furnished by the EAC or SEAC as the case may be, should take its decision, which shall be final and which would be conveyed to the Applicant within the next 30 days. In other words this entire exercise has to be completed within 135 days. Both these Paras i.e. 8(i) and 8(ii) do not provide for any consequences of default. It is Para 8(iii) of the Notification of 2006, which provides for a kind of deeming fiction. In terms of this Para, if the decision of the regulatory authority is not communicated to the Applicant within the period specified in Para 8 (i) & (ii), the Applicant may proceed as if the Environmental Clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the EAC or SEAC as the case may be. For the provision of Para 8(iii) to become effective the following conditions are required to be satisfied:-

- (1) The application submitted by the Applicant to the SEIAA or the MoEF as the case may be, should be complete in all respects along with requisite documents.*
- (2) All the requisite proceedings contemplated under the Notification of 2006 must be completed, i.e. preparation of*

Terms of Reference (ToR) and submission of final EIA report.

- (3) *There should be unambiguous recommendation by the SEAC or EAC, for granting or refusing to grant the Environmental Clearance. After submission of the final EIA report (wherever required) and upon completing the procedure prescribed under Clause 8(ii), the matter should remain pending and the Applicant uninformed of the order, for the period of 105 days or 135 days, as the case may be.*

104. It is only thereafter that the deeming fiction contained in Para 8(iii) can operate, but even then the clear mandate of the Legislature is that the Environmental Clearance to a Project should not be deemed to have been granted to the Project Proponent. It will only be the recommendation of the EAC or SEAC that would enable the Applicant to proceed with his project in terms of the said recommendations. The limited operation of the deeming fiction under Para 8, is only the final recommendation of the EAC or the SEAC, as the case may be, that would operate by fiction of law as the order of the regulatory authority. It is because of the default on the part of the regulatory authority to pass the final order that results in invoking the principle of 'deeming fiction' as contemplated under Para 8(iii) of the Notification of 2006.

105. The Project Proponent has to mandatorily comply with the requirements of Para 8(i) and 8(ii) strictly. The principle of substantial compliance and/or inability on the part of the Applicant to file an application, complete in all respects, would not be a relevant consideration for invoking deeming fiction under Para 8 (iii) of the 2006 Notification. Like in economics, other things must remain the same for application of any principle of economics. Similarly, filling up details of Form-A completely and accurately is as essential before consideration of an application for grant of Environmental Clearance.

106. Now, let us examine whether any of the three Project Proponents, claiming advantage of the principle of 'deeming fiction' have satisfied the above stated requirements of law or not. It must be noticed here that any Applicant who seeks benefit under the law of deeming fiction has to satisfy the twin requirements of firstly doing the acts/activities which are lawful and secondly, he must comply with requirements of the provisions stricto sensu. In the present case all the three Project Proponents i.e. Respondent nos. 7, 8 & 9 have commenced construction activity of their Projects without even submitting the application for grant of Environmental Clearance. The Project Proponents have obviously not submitted an application complete in all respects and with requisite documents. We have already noticed that there are large numbers of columns in Form 1 and supplementary Form 1A under the Notification of 2006, which these Project Proponents have not and in fact could not have filled appropriately in the corresponding forms to be accompanied with the application for Environmental Clearance. These columns require them to submit data and analysis reports, which it was not possible for them to provide, having already raised huge constructions. Furthermore, all the three Project Proponents were sent different letters from SEIAA, asking them for additional documents and information in respect of their projects which their respective applications lacked. In this regard reference could be made to letters

dated 22nd August, 2013, 28th April, 2014, 20th June, 2014, 19th May, 2014 and 17th June, 2014 to SPR & RG, letters dated 21st June, 2013, 08th August, 2013 and 10th September, 2013 to M/s Dugar Housing and letter dated 21st May, 2013 to SAS Realtors Ltd. In the letters addressed by SEIAA to these Project Proponents acknowledging receipt of their application for Environmental Clearance, it had clearly indicated that this does not vest any right in the Project Proponent and they should not start or carry on any construction activity until and unless Environmental Clearance was granted to them. The Project Proponents were permitted only to clear the site and raise temporary structures for accommodation of labour along with basic facilities, as temporary arrangements. The Project Proponents violated the requirements of law and the undertaking given by them to SEIAA at the time of submission of application for Environmental Clearance. The Notification of 2006 contemplates prior Environmental Clearance to any structure or project activity. The Project Proponents having violated the law cannot be permitted to take advantage of their own wrong under the shelter of 'deeming fiction'. The conduct of these Project Proponents and serious violation of law committed by them inter alia disables them from claiming the benefit of 'deeming fiction' under Para 8 of the Notification of 2006 in the facts and circumstances of the case. Furthermore, it is not the case of anybody before us that SEAC had recommended the grant of Environmental Clearance to Project Proponents unconditionally. The recommendation was conditional and it was not grant of Environmental Clearance in fact and in substance. The Project Proponent was to first satisfy the regulatory authority that it had fulfilled the conditions that had been imposed in the recommendation of the concerned authority. In other words, it was not a case of clear recommendation for grant of Environmental Clearance which could have become operative upon expiry of the prescribed period. In the case of M/s. SPR & RG Construction Private Limited (Respondent No. 7) the SEAC in its meeting on 30th September, 2013 decided to recommend proposal only for grant of standard ToR and to conduct EIA study in addition to compliance to the conditions which were to be incorporated in the ToR. One out of them related to NOC from Chief Controller of Explosives, adequacy feasibility and functionality of STP to be verified by the Tamil Nadu Pollution Control Board.

However, in its meeting on 17th June, 2014, the proposal of Respondent no. 7 was recommended for issue of Environmental Clearance, but only after considering the conditions imposed on the project. These conditions were as follows:-

- 1. "Project land area excluding landscape area not less than 15% shall be earmarked for green belt development.*
- 2. The adequacy and feasibility of the STP proposed for the project shall be verified by Tamil Nadu Pollution Control Board as per the ToR condition.*
- 3. Design of the rain water harvesting facility shall be done based on soil lithology study and the same shall be consulted with any Academic Institution.*
- 4. Plan of solid waste management including disposal, in tie-up with local NGO shall be furnished.*

5. *Revised Budget Allocation (0.5% of the project outlay) & detailed work plan for the CSR Activities shall be furnished in an AFFIDAVIT Form.”*

107. There is nothing on record to show and is not even the case of the Project Proponent that the above conditions have been complied with and the Authorities referred herein further confirm noncompliance thereto. Thus, there was no unambiguous and unequivocal grant of Environmental Clearance recommendation to the Regulatory Authority by the SEAC.

From the above discussion it is clear that none of the Project Proponents satisfied the basic essentials or requirements of Para 8 of the Notification of 2006. Non-compliance to law, intentional violation of law and further, the illegal conduct of the Project Proponent would disentitle them from getting any relief under Para 8 of the Notification of 2006.”

17. In the present case, the recommendation made by the EAC was conditional specifically noting that 1965 trees will be cut in the proposed project and imposing the specific condition that no tree will be cut without permission from the State Forest Department. No permission from the Forest Department before cutting the trees has been placed on record by the project proponent. On the contrary, the material on record indicates illegal felling of trees by the project proponent. Hence, the project proponent has violated the EAC recommendation. Therefore, it may not be entitled to claim the benefit of deemed clearance.

18. That apart, the material discussed in the later part of this order will also indicate that the plea taken by the project proponent that he has not commenced the permanent construction and the construction is confined to the permissible construction under the O.M. dated 29.03.2022 is incorrect. Therefore, if the Respondent No. 7 - Project Proponent had commenced permanent construction prior to expiry of 105 days of the receipt of the final environmental impact assessment report by the regulatory authority then also it would be a case of clear violation and the project proponent would not be entitled to invoke the deemed clearance clause.

19. That apart, it is not a case where the MoEF&CC has delayed the decision due to inaction, but the decision is pending as ADS were raised. Hence, its impact is also required to be seen.

20. The plea of the respondent no. 7 about deemed EC was supported by the SEIAA, Delhi before the Real Estate Appellate Tribunal (REAT) which is recorded by the Appellate Authority in its order dated 06.09.2024 but such a concession will not change the legal position. A bare reading of Para 8(iii) of EIA notification, 2006 shows that in case of the regulatory authority does not convey its decision within the timeline prescribed as per para 8 of EIA Notification, 2006 the project proponent may proceed with his project. It is for the project proponent to ensure compliance with all the relevant environmental laws before proceeding with construction. There is no provision empowering a regulatory authority to convey/recommend any “deemed clearance”. Hence, we are of the opinion that the stand of deemed clearance by SEIAA to REAT cannot be the basis to proceed with construction in violation of norms/laws.

21. The division bench of the High Court of Gujarat at Ahmedabad in Writ Petition (PIL) No. 21/2013 in the matter of **Gajubha (Gajendrasinh) Bhimaji Jadeja & Ors. v. Union of India through Joint Secretary & Ors.** has examined the issue of deemed permission under clause 8(iii) of the EIA Notification 2006 and has held that deemed permission cannot be inconsistent with the Rules and Regulation and no deemed permission can be against the relevant Rules and Regulations.

22. Thus, the Respondent No. 7 even while invoking the provisions of Clause-8(iii) of the EIA Notification was required to follow all the conditions imposed by EAC and in any case the project proponent was bound by law and it was not permissible to cut the trees without requisite permissions.

23. Thus, in the facts of the present case, the respondent no. 7 was required to have the prior EC and he could not have proceeded with the construction by cutting the trees without the EC.

24. So far as the order dated 13.09.2022 of High Court of Karnataka at Bengaluru in Writ Petition No. 52207/2019 in the matter of **M/s. Yatin Stone Crushers v. State of Karnataka & Ors.**, relied upon by respondent no. 7 is concerned, that was a case of environmental clearance for quarry lease, where the recommendation of the District Environment Impact Assessment Authority (DEIAA) was not hedged with any condition. The respondent no. 7 has also relied upon the order of High Court of Karnataka at Bengaluru dated 21.08.2024 passed in Writ Petition No. 10181/2024 in the matter of **M/s. Siddhasiri Souharda Sahakari Nivamitha v. Karnataka State Pollution Control Board & Anr.**, in that case no reason could be assigned for inaction on the recommendation of EAC within 45 days. Accordingly, the Division Bench of the High Court had held as follows: -

“21. The respondent Board has not taken any viable defence before the Court as to why recommendation by Expert Appraisal Committee is not acceptable. The Board is unable to point out any other view possible on the recommendation of Expert Appraisal Committee. The Board has not assigned any reasons for its inaction on the recommendation of Expert Appraisal Committee within 45 days. In such circumstances, it is not open to the Board to contend that EC is not automatic on expiry of 45 days of Expert Appraisal Committee recommendation.

*22. Once statute or the notification mandates time bound action, any compliance required is to be within the time frame. This requirement is observed by the Hon’ble Supreme Court in the case of **Electrosteel Steels Limited Vs. Union of India and Others** reported in **(2023) 6 SCC 615**.*

23. Even before the Court, Board has not pointed out any impactable concern in the recommendation of Expert Appraisal Committee disentitling the petitioner to EC. Board has not pointed out any violation under any statute by the petitioner thereby disentitling either EC or CFO.”

Construction without Environmental Clearance:

25. Alongwith plea of deemed environmental clearance, Respondent No. 7 has also taken the stand in its reply dated 19.08.2025 that it has not

constructed any permanent structure at the project site and only temporary structure functioning as sales office, gallery and refuge area is set up for marketing purpose and such construction is limited as per the Office Memorandum (O.M.) dated 29.03.2022. The Applicant has alleged that Respondent No. 7 has carried out the construction at the project site which are of permanent nature.

26. The OM dated 29.03.2022 permits only limited construction activity such as boundary wall, temporary sheds etc. by providing as under: -

“3. Over a period of time, various options other than conventional barbed wire and wall fencing, have come into existence, viz., use of pre-fabricated structures, pre-cast compound wall etc. Further, in order to secure the land, the project proponent may need to have water and electricity connection. In view of the same, it has been decided by the Competent Authority in the Ministry to explicitly clarify that following activities can be undertaken by the project proponent for securing the land.

- i. Fencing of the project site by boundary wall using civil construction, barbed wire or precast/prefabricated components.*
- ii. Construction of temporary sheds using pre-fabricated/modular structure, for site office/guards and storing material and machinery.*
- iii. Provision of temporary electricity and water supply for site office/guards only.”*

27. Relying upon the aforesaid OM, the stand of the respondent no. 7 in its reply dated 19.08.2025 is as under: -

“56. With respect to the Office Memorandum (hereinafter, ‘OM’) dated 29.03.2022 issued by MoEF&CC, it is submitted that the same is squarely applicable in the present case. The answering Respondent has a right and duty to protect the land which has been provided by the DDA for construction of the stadium and allied activities project.

57. It is submitted that the Respondent No. 7 has not constructed any permanent structure at the Project site. The Respondent No. 7 is undertaking marketing, advertising and sale of the saleable units in the Project in question. For the purpose of attending to prospective purchasers, visitors, and real estate agents visiting the Project site, Respondent No. 7 required a Marketing office therein. Accordingly, a temporary structure in nature, functioning as a sales gallery and refuge area, was set up at the site exclusively for marketing purposes, without felling any trees and after duly intimating DDA, which is the competent authority for granting sanctions/approvals for the Project. Further, the

said temporary structure will be dismantled by the Promoter and may be relocated to an alternative location during the course of the Project's development.

58. Additionally, the Respondent No. 7 already has the benefit of a deemed EC under Clause 8(iii) of EIA Notification, 2006 as well as CTE from the DPCC.”

28. Such a stand cannot be accepted in view of the photographs placed on record by the applicant from page 1255 onwards dated 25.09.2025, 29.09.2025 and 04.10.2025 showing that the concrete columns have been erected at the sites, the site had been dug up.

29. Hence, the DPCC is required to give an opportunity of hearing to the respondent no. 7 and levy environmental compensation after reaching to the conclusion about raising of construction in violation of the EIA Notification, 2006.

Consent to Establish:

30. It has been disclosed by the respondent no. 7 that a common application under Sections 25 and 26 of the Water Act, 1974 and under Section 21 of the Air Act, 1981 was submitted on 06.07.2024 for grant of CTE and the respondent no. 3-DPCC had granted CTE on 22.07.2025 having validity from 09.07.2024 to 08.07.2025.

Tree felling:

31. It has already been noted that the EAC in its 131st Meeting had recorded the presence of 2191 trees at the site and requirement of cutting of approximately 2000 trees for the project and further that no permission for cutting of the trees was granted by the Forest Department.

32. The MoEF&CC in its reply dated 20.09.2025 had disclosed the applicable provision relating to the felling of trees and has further disclosed that in terms of the order of the Hon'ble Supreme Court dated 19.12.2024 passed in *WP(C) No. 4677/1985*, in the matter of **MC Mehta v. Union of India & Ors.**, the application made to the Tree Officer under Section 9 of the Delhi Preservation of Tree Act, 1994 seeking permission to fell or

transplant 50 or more trees was required to be placed before the Central Empowered Committee (CEC) for consideration.

33. The applicant has alleged that the respondent no. 7 had illegally cut the trees at the project site but this allegation was denied by the respondent no. 7 by taking the following plea in its reply dated 18.08.2025:-

“49. With respect to the allegations regarding illegal felling of trees at the project in question, it is submitted that Respondent No. 7 has not undertaken any tree cutting whatsoever till date. On 21.11.2024/ 28.02.2025, the Respondent No. 7 submitted an application bearing No. 24894 for obtaining permission for tree felling permission in accordance with Delhi Preservation of Trees Act, 1994, which is pending consideration. As per the survey conducted at the project site, a total of 2,266 trees have been enumerated, out of which:

(i) 1,769 trees are under the category of cutting (1761 Kikar trees and 8 dry trees)

(ii) 266 trees are proposed for transplantation

(iii) 231 trees are retained at Project site

50. The answering Respondents submit that some of the branches of Kikar trees fell and sustained damaged as a consequence of heavy rain, strong winds/storm and bad weather conditions. The Respondent No. 7 had duly informed the Forest Department forthwith regarding such falling of trees.”

34. It is worth noting that the respondent no. 7 in its reply dated 19.08.2025 had taken the plea that it had not cut any tree. The record also does not reflect that at that stage any permission was granted in terms of the Delhi Preservation of Tree Act, 1994 to the respondent no. 7 to cut the trees but the photographs/satellite imagery placed on record by the respondent no. 7 giving the comparative status of the site on 23.10.2021 and 12.12.2024 (page 106&107), on 07.07.2021 and 13.05.2024 (page 108) and 16.04.2023 and 12.12.2024 (page 109) indicate illegal felling of trees.

35. The subsequent approval of Central Empowered Committee (CEC) dated 17.02.2026 placed on record by the respondent no. 7 is of no consequence because the alleged tree felling has taken place much prior to

that. Even the permission of the CEC stipulates the conditions and additionally requires the respondent no. 7 to comply with the conditions stipulated under the Delhi Preservation of Trees Act, 1994 and all the conditions imposed by the Hon'ble Supreme Court of India *vide* order dated 19.12.2024 in Writ Petition (Civil) No. 4677/1985.

36. Hence, the Tree Officer is required to immediately carry out the spot inspection and take into account the satellite imagery which has been placed on record by the applicant and find out the extent of illegal felling of trees by the respondent no. 7 and take appropriate remedial and punitive action in accordance with law. Let this exercise be completed within a period of six weeks.

37. In view of the above analysis, we find that the illegal felling of trees has taken place at the project site. Such a felling has taken place in contravention of the EAC recommendation in its 131st meeting. Law does not permit the project proponent to contravene the conditions imposed by the EAC and act in violation of the provisions of law even in the cases of deemed clearances, therefore, the action is required to be taken against the project proponent in this regard.

38. That apart, we have also found in the earlier paragraph that the plea of the Respondent No. 7 that no permanent construction has been raised at the site is found to be incorrect. Therefore, action is also required to be taken in this regard. In the PARIVESH Portal, the status of the project is shown to be as "ADS Raised". Therefore, the final decision is yet to be taken by the Respondent No. 1 – MoEF&CC.

39. In view of the above analysis, we dispose of the OA directing as under:

- (i) The concerned DFO/Tree Officer under The Delhi Preservation of Trees Act, 1994 is directed to carry out the spot inspection

immediately and ascertain the number of trees which were illegally cut/felled by the project proponent before CEC approval dated 17.02.2026. The DFO/Tree Officer will ascertain the status after taking into account the satellite imagery placed on record by the Applicant and noted above in this order and take appropriate remedial and punitive action against the project proponent within eight weeks.

- (ii) Since the issue relating to grant of environmental clearance in terms of the EIA Notification is still pending before the Respondent No. 1, therefore, the Respondent No. 1 will take an appropriate decision in this regard in accordance with law taking into account the violations by the project proponent as noted in this order.
- (iii) The DPCC will also get the site visit done and ascertain the violation of environmental norms including OM dated 29.03.2022 by the Respondent No. 7 and take appropriate punitive and remedial measures within eight weeks.
- (iv) The Tree Officer and Member Secretary, DPCC will submit the action taken report before the Registrar General of the Tribunal within three months by e-mail at judicial-ngt@gov.in, preferably in the form of a searchable PDF/OCR-supported PDF and not in the form of an Image PDF. If deemed necessary, the matter will be listed for consideration before the bench again.

40. The OA is accordingly disposed of. All the pending I.A's also stand disposed of.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

April 22, 2026
Original Application No. 137/2025
(I.A. Nos. 567/2025, 613/2025 & 716/2025)
avt & dv