

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI**

**OA No.7 of 2022**

Meenava Thanthai R.Selvaraj Kumar

Meenava Nala Sangam ,Chennai-13

--- Applicant

Vs

Tamil Nadu state Environment Impact

Assessment Authority ,Chennai-15

and 3 others

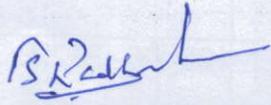
--- Respondents

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Dated at Chennai on this 11<sup>th</sup> day of Dec 2023

  
**B. RADHAKRISHNAN**  
 Counsel for 4<sup>th</sup> Respondent

(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)  
MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi 14<sup>th</sup> September, 2006

Notification

S.O. 1533 Whereas, a draft notification under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India<sup>1</sup>, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy as approved by the Union Cabinet on 18<sup>th</sup> May, 2006 and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15<sup>th</sup> September, 2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15<sup>th</sup> September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27<sup>th</sup> January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

<sup>1</sup>Includes the territorial waters



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(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;

#### 5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs (hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEAC's shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

(c) The EAC and SEAC shall be reconstituted after every three years;

(d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;

(e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

#### 6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.

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**7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-**

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

**I. Stage (1) - Screening:**

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

**II. Stage (2) - Scoping:**

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies..The approved Terms of

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Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

### III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

- (a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).
  - (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
  - (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
  - (d) all Building /Construction projects/Area Development projects and Townships (item 8).
  - (e) all Category 'B2' projects and activities.
  - (f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.
- (ii) The Public Consultation shall ordinarily have two components comprising of:-
- (a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;
  - (b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.
- (iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five ) of a request to the effect from the applicant.
- (iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period

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directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days..

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

#### IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant

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validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form I and Form I A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V ;

**7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:**

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product -mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

**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

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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.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

#### 9. Validity of Environmental Clearance (EC):

The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

#### 10. Post Environmental Clearance Monitoring:

(i) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1<sup>st</sup> June and 1<sup>st</sup> December of each calendar year.

(ii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

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**SCHEDULE**

(See paragraph 2 and 7)

**LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE**

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
<b>1</b>		<b>Mining, extraction of natural resources and power generation (for a specified production capacity)</b>		
(1)	(2)	(3)	(4)	(5)
1(a)	Mining of minerals	<p>≥ 50 ha. of mining lease area</p> <p>Asbestos mining irrespective of mining area</p>	<p>&lt;50 ha</p> <p>≥ 5 ha .of mining lease area.</p>	<p>General Condition shall apply</p> <p><u>Note</u> Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(b)	Offshore and onshore oil and gas exploration, development & production	All projects		<p><u>Note</u> Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(c)	River Valley projects	<p>(i) ≥ 50 MW hydroelectric power generation;</p> <p>(ii) ≥ 10,000 ha. of culturable command area</p>	<p>(i) &lt; 50 MW ≥ 25 MW hydroelectric power generation;</p> <p>(ii) &lt; 10,000 ha. of culturable command area</p>	General Condition shall apply
1(d)	Thermal Power Plants	<p>≥ 500 MW (coal/lignite/naphta &amp; gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels )</p>	<p>&lt; 500 MW (coal/lignite/naptha &amp; gas based);</p> <p>&lt;50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels )</p>	General Condition shall apply

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(1)	(2)	(3)	(4)	(5)
8		<b>Building /Construction projects/Area Development projects and Townships</b>		
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 the 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

**Note:-**

**General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

**Specific Condition (SC):**

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre -defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).

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**MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE**

**NOTIFICATION**

New Delhi, the 22nd December, 2014

S.O. 3252(E).—Whereas, a draft notification further to amend the notification number S.O 1555(E), dated the 14th September, 2006 (hereinafter referred to as the principal notification), was published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 in the Gazette of India ,Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 2319, (E) dated the 11th September, 2014 (hereinafter referred to as the said notification), inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 11th September, 2014;

And whereas, no objections or suggestions have been received in response to the said notification within the specified period of sixty days;

Now, therefore, in exercise of the powers conferred by Sub-section (1) and clause (v) of Sub-section (2) of Section 3 of the said Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:—

In the principal notification, in the Schedule, under Column (1), for item 8 relating to Building/Construction Projects/Area Development Projects and Townships and sub-items 8 (a) and 8 (b) and the entries relating thereto, specified there under, the following item, sub-items and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)	(5)
"8				<b>Building or Construction projects or Area Development projects and Townships</b>
8 (a)	Building and Construction projects		>20000 sq.mtrs and < 1,50,000 sq. mtrs. of built up area	<p>The term "built up area" for the purpose of this notification the built up or covered area on all floors put together, including its basement and other service areas, which are proposed in the building or construction projects.</p> <p>Note 1.- The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks.</p> <p>Note 2.- "General Conditions" shall not apply.</p>
8	Townships and Area Development Projects		Covering an area of > 50 ha and or built up area > 1,50,000 sq. mtrs	<p>A project of Township and Area Development Projects covered under this item shall require an Environment Assessment report and be appraised as Category 'B1' Project.</p> <p>Note.- "General Conditions" shall not apply.</p>

[F. No. 19-2/2013-IA-III]

MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* Notification Number S.O. 1533(E), dated the 14th September, 2006 and was subsequently amended as follows:—

1. S.O. 1737 (E), dated the 11th October, 2007;
2. S.O. 3067 (E), dated the 1st December, 2009;
3. S.O. 695 (E), dated the 4th April, 2011;
4. S.O. 2896 (E), dated the 13th December, 2012;
5. S.O. 674(E), dated the 13th March, 2013;
6. S.O. 2559 (E), dated the 22nd August, 2013 ;
7. S. O. 2731 (E), dated the 9th September, 2013;
8. S. O. 562(E), dated the 26th February 2014; and
9. S. O. 1599(E), dated the 25th June, 2014.

(14)

F.No.22-65/2017-IA.III  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division

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Indira Paryavaran Bhawan  
Jor Bagh Road, Aliganj  
New Delhi - 110003

Dated: 1<sup>st</sup> May, 2018

**Office Memorandum**

**Sub: Corporate Environment Responsibility (CER) - reg.**

The Environment Impact Assessment (EIA) Notification, 2006, issued under the Environment (Protection) Act, 1986, as amended from time to time, prescribes the process for granting prior environment clearance (EC) in respect of certain development projects/activities listed out in the Schedule to the Notification.

2. Sustainable development has many important facets/components like social, economic, environmental, etc. All these components are closely inter-related and mutually re-enforcing. Therefore, the general structure of EIA document, under Appendix-III to the notification, prescribes inter-alia public consultation, social impact assessment and R&R action plan besides environment management plan (EMP).

3. Section 135 of the Companies Act, 2013 deals with Corporate Social Responsibility (CSR) and Schedule-VII of the Act lists out the activities which may be included by companies in their CSR Policies. The concept of CSR as provided for in the Companies Act, 2013 and covered under the Companies (Corporate Social Responsibility Policy) Rules, 2014 comes into effect only in case of companies having operating projects and making net profit as also subject to other stipulations contained in the aforesaid Act and Rules. The environment clearance given to a project may involve a situation where the concerned company is yet to make any net profit and/or is not covered under the purview of the aforesaid Act and Rules. In such cases, the provisions of aforesaid act and Rules will not apply.

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4. In the past, it has been observed that different Expert Appraisal Committees / State Expert Appraisal Committees (EACs/SEACs) have been prescribing different formulation of the Corporate Environment Responsibility (CER) and no common principles are followed. Several suggestions have also been received in this regard which inter-alia states that Greenfield projects and Brownfield projects should be treated differently; no CER should be prescribed whereas there is no increase in air pollution load, R&R, etc., besides streamlining percentage of CER.

5. The Ministry has carried out a detailed stakeholder consultation which inter-alia included meeting with Ministry of Petroleum & Natural Gas, Ministry of Power, Chairmen EACs, FICCI, ASSOCHAM, Gujarat Chamber of Commerce and Industry amongst others.

6. In order to have transparency and uniformity while recommending CER by Expert Appraisal Committee (EAC) / State level Expert Appraisal Committee (SEAC) / District level Expert Appraisal Committee (DEAC), the following guidelines are issued:

- (I) The cost of CER is to be in addition to the cost envisaged for the implementation of the EIA/EMP which includes the measures for the pollution control, environmental protection and conservation, R&R, wildlife and forest conservation/protection measures including the NPV and Compensatory Aforestation, required, if any, and any other activities, to be derived as part of the EIA process.
- (II) The fund allocation for the CER shall be deliberated in the EAC or SEAC or DEAC, as the case may be, with a due diligence subject to **maximum percentage** as prescribed below for different cases:

S.No	Capital Investment / Additional Capital Investment (in Rs)	Greenfield Project - % of Capital Investment	Brownfield Project - % of Additional Capital Investment
I	II	III	IV
1.	≤ 100 crores	2.0%	1.0%
2.	> 100 crores to ≤ 500 crores	1.5%	0.75%
3.	> 500 crores to ≤ 1000 crores	1.0%	0.50%
4.	> From 1000 crores to ≤ 10000 crores	0.5%	0.25%
5.	> 10000 crores	0.25%	0.125%

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- (III) The activities proposed under CER shall be worked out based on the issues raised during the public hearing, social need assessment, R&R plan, EMP, etc.
  - (IV) The proposed activities shall be restricted to the affected area around the project.
  - (V) Some of the activities which can be carried out in CER, are infrastructure creation for drinking water supply, sanitation, health, education, skill development, roads, cross drains, electrification including solar power, solid waste management facilities, scientific support and awareness to local farmers to increase yield of crop and fodder, rain water harvesting, soil moisture conservation works, avenue plantation, plantation in community areas, etc.
  - (VI) The entire activities proposed under the CER shall be treated as project and shall be monitored. The monitoring report shall be submitted to the regional office as a part of half-yearly compliance report, and to the District Collector. It should be posted on the website of the project proponent.
  - (VII) The District Collector may add or delete the activities as per the requirement of the District.
  - (VIII) The EAC can vary the above percentage of CER subject to proper diligence, quantification and justification. The EAC based on appraisal, should clearly suggest the activities to be carried out under CER.
  - (IX) This CER is not applicable in name change, transfer and amendment involving no additional project investment. In case of amendment in EC involving additional expenditure, CER will be applicable only on the additional expenditure as per column-IV of the table given in para 6(II) above.

7. This issues in supersession of all earlier OMs and guidelines issued in this regard.
8. This issues with the approval of competent authority.

*Sharath*  
11/5/18  
(Sharath Kumar Pallerla)  
Director (IA-III-Policy)

1. Chairman, CPCB
2. Chairmen of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAA/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the officers of IA Division

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4. PPS to AS(AKJ) / AS(AKM)
5. PPS to JS(GB) / JS(JT)
6. Website, MoEF&CC
7. Guard File.

25. का.आ. 2572(अ), तारीख 14 सितम्बर, 2015, 30. का.आ. 3518(अ), तारीख 23 नवम्बर, 2016 ;  
 26. का.आ. 141(अ) 15 जनवरी, 2016, 31. का.आ. 3999(अ), तारीख 9 दिसम्बर, 2016 ;  
 27. का.आ. 648(अ) तारीख 3 मार्च, 2016 ; 32. का.आ. 4241(अ) तारीख 30 दिसम्बर, 2016 ; और  
 28. का.आ. 2269(अ) तारीख 1 जुलाई, 2016 ; 33. का.आ. 3611(अ) तारीख 25 जुलाई, 2018 ।  
 29. का.आ. 2944(अ) तारीख 14 सितम्बर, 2016 ;

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE  
 NOTIFICATION**

New Delhi, the 15th November, 2018

S.O. 5736(E).—Whereas, a draft notification further to amend the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533(E) dated the 14<sup>th</sup> September 2006 was published in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 vide S.O. 1132(E) dated the 13th March, 2018, inviting objections and suggestions from all the persons likely to be affected there by, within a period of 60 days from the date of publication of the said notification in the Gazette of India;

And whereas, all objections and suggestions received in response to the said draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the said notification, namely: -

(i) in the said notification, for paragraph 14, the following shall be substituted, namely:-

"14 Local bodies such as Municipalities, Development Authorities and District Panchayats, shall stipulate environmental conditions while granting building permission, for the Building or Construction projects with built-up area  $\geq 20,000$  sq. mtrs and  $< 50,000$  sq. mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions from built-up area  $\geq 20,000$  sqm to  $< 1,50,000$  sq.m as specified in Notification S.O. 5733(E) dated 14<sup>th</sup> November, 2018".

(ii) in the Schedule, for item 8 and the entries relating thereto, the following item and entries shall be substituted, namely: -

(1)	(2)	(3)	(4)	(5)
"8	Building or Construction projects or Area Development projects and Townships as well as for industrial sheds, educational institutions, hospitals and hostels for educational institutions			
8 (a)	Building or Construction projects		$\geq 50,000$ sq. mtrs. and $< 1,50,000$ sq. mtrs. of built-up area	Note-1: The term "built-up area" for the purpose of this notification is the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the buildings or construction projects. Note 2: The projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions. Note 3: General Conditions shall not apply.
8 (b)	Townships and Area Development projects as well as industrial sheds,		$\geq 1,50,000$ sq. mtrs. of built-up area and or covering an area $\geq 50$ ha.	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category 'B <sub>1</sub> ' Project. Note: - General Conditions shall not apply.

	educational institutions, hospitals and hostels for educational institutions			
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[F. No. 3-49/2017-IA.III-Pt.]

JIGMET TAKPA, Jr. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers:-

1. S.O. 1949 (E) dated the 13th November, 2006
2. S.O. 1737 (E) dated the 11th October, 2007;
3. S.O. 3067 (E) dated the 1st December, 2009;
4. S.O. 695 (E) dated the 4th April, 2011;
5. S.O. 156 (E) dated the 25th January, 2012;
6. S.O. 2896 (E) dated the 13th December, 2012;
7. S.O. 674 (E) dated the 13th March, 2013;
8. S.O. 2204 (E) dated the 19th July 2013;
9. S.O. 2555 (E) dated the 21st August, 2013;
10. S.O. 2559 (E) dated the 22nd August, 2013;
11. S.O. 2731 (E) dated the 9th September, 2013;
12. S.O. 562 (E) dated the 26th February, 2014;
13. S.O. 637 (E) dated the 28th February, 2014;
14. S.O. 1599 (E) dated the 25th June, 2014;
15. S.O. 2601 (E) dated the 7th October, 2014;
16. S.O. 2600 (E) dated the 9th October, 2014
17. S.O. 3252 (E) dated the 22nd December, 2014;
18. S.O. 382 (E) dated the 3rd February, 2015;
19. S.O. 811 (E) dated the 23rd March, 2015;
20. S.O. 996 (E) dated the 10th April, 2015;
21. S.O. 1142 (E) dated the 17th April, 2015;
22. S.O. 1141 (E) dated the 29th April, 2015;
23. S.O. 1834 (E) dated the 6th July, 2015;
24. S.O. 2571 (E) dated the 31st August, 2015;
25. S.O. 2572 (E) dated the 14th September, 2015;
26. S.O. 141 (E) dated the 15th January, 2016;
27. S.O. 648 (E) dated the 3rd March, 2016;
28. S.O. 2269(E) dated the 1st July, 2016;
29. S.O. 2944(E) dated the 14th September, 2016;
30. S.O. 3518 (E) dated 23rd November 2016;
31. S.O. 3999 (E) dated the 9th December, 2016;
32. S.O. 4241(E) dated the 30th December, 2016; and
33. S.O. 3611(E) dated the 25th July, 2018.

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F. No. 22-21/2020-IA.III  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division

\*\*\*\*\*

Indira Paryavaran Bhawan  
Jor Bagh Road, Aliganj  
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Date: 7<sup>th</sup> July, 2021

Office Memorandum

**Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.**

The Ministry had issued a notification number S.O.804(E), dated the 14<sup>th</sup> March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., vide order dated 03.06.2021 held that "(...) *for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process*".

4. Further, the Hon'ble National Green Tribunal in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24.05.2021 has directed that "*...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country*".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been

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pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

7. **Relevant Court Cases on the issue:** It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, the Hon'ble courts have, *inter-alia*, deliberated on various facets involving 'violation' cases and have enunciated principles of 'Proportionality' and 'Polluter Pays' in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014). The salient extracts of the judgements are as under:

**Issue 1: Proposal for grant of Environmental Clearance in violation cases - to be considered on merits:**

**i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014**

*Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."*

*"(...) the proposal of the petitioner company for environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws."*

**ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017**

*Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating*

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*pollution laws or the pollution, if any, can conveniently and effectively be checked. The answer necessarily has to be in the negative."*

*"29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms."*

**Issue 2: Environmental Clearance – Prospective & not ex-post facto:**

**Hon'ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017**

*Held: "(...) an EC will come into force not earlier than the date of its grant."*

**Issue 3: 'Principles of Proportionality' – to be applied:**

**Hon'ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020**

*Held: "(...) this Court must take a balanced approach which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord with the principle of proportionality"*

**Issue 4: 'Polluter pays' principle &  
&**

**Issue 5: Costs for remedial measures implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.**

**Hon'ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)**

**Held:**

*a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will include giving directions ... and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures.....*

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b) *Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5 which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.*

c) *The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the "Polluter Pays" Principle. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution."*

#### **8. Legal provisions:**

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes 'such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

#### **9. Definition of Violation and Non-compliance:**

The Standard Operating Procedure (SoP) considers 'Violation' & Non-compliance' from the following perspective:

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i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

**10. Standard Operating Procedure – Guiding Principles:**

i. Without prejudice to any other consequences, action has to be initiated under section 15 read with section 19 of The Environment (Protection) Act, 1986 against all violations.

ii. Projects not allowable/permissible, for grant of EC, as per extant regulations: **To be demolished.**

iii. Projects allowable/permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted).**

iv. **Polluter pays:** Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

**11. SOP for dealing with the violation cases:**

**Step 1: Closure or Revision**

Sl no.	Status of EC	Actions
1	If no prior EC has been taken	Order to close its operation
2.	If prior EC is available for existing/old unit	Order to revert the activity/production to permissible limits.
3.	If prior EC was not required for earlier production level but is now required	Restrict the activity/production to the extent to which prior EC was not required.

**Step 2: Action under Environment (Projection) Act, 1986**

Action under section 15 read with section 19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

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**Step: 3: Appraisal under EIA Notification, 2006**

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

**A. If not permissible:**

i. The project shall be ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing.

*Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be closed & demolished.*

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

**B. If permissible:**

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued which shall be effective from the date of issue.

v. However, during appraisal after examination if it is found that even though the project may be permissible but not environmentally sustainable in its present

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form/configuration/features then the project shall be directed to be modified so that the project would be environmentally sustainable.

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be demolished/ closed. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to submit a bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA). The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan.

**Note** - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, shall be effective only from the date of issuance of such clearance and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

## 12. Penalty provisions for Violation cases and applications:

### a. For new projects:

- i. **Where operation has not commenced:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]
- ii. **Where operations have commenced without EC:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs.1.25 Cr]

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**b. For expansion projects:**

- i. **Where operation/production with expanded capacity has not commenced:**  
1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.
- ii. **Where operation/ production with expanded capacity have commenced:**  
1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

**13. Identification of Violation cases:**

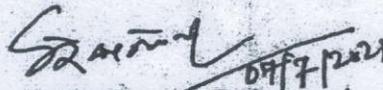
With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment. Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

- i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention& Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
- iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.

14. This is issued with the approval of the Competent Authority.

  
(Dr. Sujit Kumar Bajpayee)  
Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

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4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Special Original Jurisdiction )

Friday, the Fifteenth day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice T.S.SIVAGNANAM  
and  
The Hon`ble Mrs.Justice S.ANANTHI

WP(MD) No.11757 of 2021

and

WMP(MD) No. 9241 of 2021

FATIMA

... PETITIONER

Vs.

THE UNION OF INDIA  
REP BY ITS SECRETARY TO THE GOVERNMENT,  
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE ,  
PARYAVARAN BHAWAN, JOR BAGH,  
NEW DELHI - 110003.

... RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a writ of Certiorari calling for the records of the respondent culminating in Office memorandum dated 07/07/2021 bearing number F.No.22-21/2020-IA.III, Quash the same.

**Prayer in WMP(MD). 9241/ 2021 :**

To stay the operation of the impugned office memorandum issued by the respondent dated 07/07/2021 bearing number F.No.22-21/2020/--IA.III, pending disposal of the writ petition and thus render justice.

**ORDER :** This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.YOGESHWARAN, Advocate for the petitioner the court made the following order:-

This writ petition has been filed as a public interest litigation challenging the validity of the office memorandum dated 07.07.2021, issued by the respondent.

2.We have heard Mr.A.Yogeshwaran, learned counsel appearing for the writ petitioner and Mr.L.Victoria Gowri, learned Assistant Solicitor General of India, accepts notice for the respondent.

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WP(MD) No.11757



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3. The impugned office memorandum is challenged as being wholly without jurisdiction, contrary to the Environment Impact Assessment Notification, 2006, ultra vires the powers of the respondent under the Environment (Protection) Act, 1986 and violative of the various principles enunciated by the Hon'ble Supreme Court, while interpreting Article 21 and Article 48-A of the Constitution of India.

4. Further, it is submitted that the impugned notification is in gross violation of the undertaking given before the Hon'ble Full Bench of this Court in W.P.No.11189 of 2017, wherein, the Court took note of the submissions made on behalf of the Government of India, that the notification impugned therein is only a one-time measure. Further, it is submitted that the respondent failed to see that concept of *ex-post facto* approval is alien to environment jurisprudence and it is anathema to the Environment Impact Assessment Notification, 2006.

5. Further, it is submitted that the impugned notification is in gross violation of the judgment of the Hon'ble Supreme Court in the case of **Alembic Pharmaceuticals Ltd. vs Rohit Prajapati, 2020 SCC Online SC 347** and the orders passed by the National Green Tribunal, Principal Bench, New Delhi, in the case of **S.P.Muthuraman vs. Union of India & Another, 2015 SCC Online NGT 169**.

6. Identical grounds were considered by us in a challenge to an office memorandum dated 19.02.2021, which provided a procedure for granting *post facto* clearance under Coastal Regulation Zone (CRZ) Notification 2011, on the ground that despite no such provisions in the notification and being contrary to the earlier judgments and undertaking. The said writ petition in W.P(MD).No.8866 of 2021 was admitted and by order dated 30.04.2021, the said office memorandum dated 19.02.2021 has been stayed.

7. The core issue in this writ petition is whether the Government of India could have issued the office memorandum and brought about the Standard Operating Procedure for dealing with violators, who failed to comply with the mandatory condition of obtaining prior environment clearance under the Environment Impact Assessment Notification 2006, read with the provisions of Environment (Protection) Act, 1986. This issue was considered by the Hon'ble Supreme Court in **Alembic Pharmaceuticals Ltd (cited supra)** and it was held that such office memorandum in the nature of circular is without jurisdiction. The operative portion of the judgment reads as follows:

"...What is sought to be achieved by the administrative circular dated 14 May 2002 is contrary to the statutory notification dated 27 January 1994. The circular dated 14 May 2002 does not stipulate how the detrimental effects on the environment would be

<https://hcservices.ecourts.gov.in/hcservices/>

being who...  
under...  
DI No. 11757



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of if the project proponent is granted an ex post facto EIA notification of 1994 mandates a prior environmental clearance. The circular substantially amends or alters the application of the EIA notification of 1994. The mandate of not commencing a new project or expanding or modernising an existing one unless an environmental clearance has been obtained stands dilute and is rendered ineffective by the issuance of the administrative circular dated 14 May 2002. This discussion leads us to the conclusion that the administrative circular is not a measure protected by Section 3. Hence there was no jurisdictional bar on the NGT to enquire into its legitimacy or vires. Moreover, the administrative circular is contrary to the EIA Notification 1994 which has a statutory character. The circular is unsustainable in law."

8. Despite the above decision, once again the Government of India, Ministry of Environment, Forest and Climate Change have chosen to adopt the route of issuing the office memorandum and virtually setting at naught the provisions of the Environment Impact Assessment Notification and the Environment (Protection) Act.

9. Before the Hon'ble First Bench, a public interest litigation was filed by the Puducherry Environment Protection Association challenging the notification dated 14.03.2017, on identical ground and the Hon'ble First Bench by judgment dated 13.10.2017, recorded the submissions of the learned Assistant Solicitor General of India that the said notification was a one-time measure and accordingly disposed of the writ petition.

10. Once again, the Ministry of Environment, Forest and Climate Change have issued the impugned office memorandum. Thus, from what we have noted above, we are of the clear view that the petitioner has made out a prima facie case for entertaining the writ petition. Accordingly, the writ petition is admitted and there shall be an order of interim stay.

11. List the matter after twelve weeks.

sd/-  
15/07/2021

/ TRUE COPY /

/ /2021  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court  
Madurai - 625 023.

Note :  
<https://hcservices.ecourts.gov.in/hcservices/>



of the present lock down owing to COVID-19 pandemic, a web  
the order may be utilized for official purposes, but,  
that the copy of the order that is presented is the  
correct copy, shall be the responsibility of the advocate /  
particant concerned

**WEB COPY**  
TO

THE UNION OF INDIA  
REP BY ITS SECRETARY TO THE GOVERNMENT,  
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE ,  
PARYAVARAN BHAWAN, JOR BAGH,  
NEW DELHI - 110003.

+1 CC to Mr.S.YOGESHWARAN, Advocate ( SR-4657[I] dated 16/07/2021 )  
ORDER  
IN  
WP(MD) No.11757 of 2021  
and  
WMP(MD) No. 9241 of 2021  
Date :15/07/2021

PKN  
RT/VR/SAR-II/20.07.2021/4P/3C

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10/4

F. No. 19-131/2019-IA-III [128798]  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division  
\*\*\*

Indira Paryavaran Bhawan  
3rd Floor, Vayu Wing, JorBagh Road  
Ali Ganj, New Delhi-3

19th May, 2022

OFFICE MEMORANDUM

**Subject: Clarification on the applicability of EIA Notification 2006 for Educational Institutions - regarding.**

Ministry of Environment, Forest and Climate Change vide Notification No. S.O. 3252 (E) dated 22.12.2014, amended the schedule 8 of EIA Notification 2006 to state that Industrial shed, school, college, hostel for educational institution shall be exempted from requirement of Environmental Clearance (EC) but shall ensure sustainable environmental management etc.

2. Further, Ministry has issued an OM dated 9th June 2015 clarifying that Notification dated 22.12.2014 provides exemption to buildings of educational institutions including universities from obtaining prior EC under the provisions of EIA Notification 2006 subject to sustainable environmental management and provided a set of guidelines to be followed for building projects to ensure sustainable environment management.

3. In this regard, the Ministry is in receipt of request for clarification on the definition of 'educational institution' for which the above mentioned exemption is applicable. The matter was referred to the sectoral Expert Appraisal Committee (EAC) of the Ministry and based on their recommendation the matter was further referred to the Ministry of Education for seeking clarification regarding the definition of Educational Institution.

4. In this regard, Department of Higher Education, Ministry of Education has informed that different types of education institutions in terms of school, college, university, technical institutions, etc., have been defined in various statutes for the purpose of recognition, affiliation, accreditation etc. However, there is no specific definition of the term 'educational institutions'. Further, Department of Higher Education informed that as per Noise Pollution (Regulation and Control) Rules, 2000 under the Environment Protection Act, 1986, the term 'educational institutions' has been defined, as:

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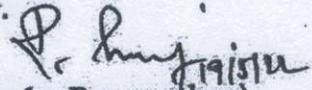
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*"educational institution" means a school, seminary, college, university, professional academies, training institutes or other educational establishment, not necessarily a chartered institution and includes not only buildings, but also all grounds necessary for the accomplishment of the full scope of educational instruction, including those things essential to mental, moral and physical development."*

5. The matter has been examined in the Ministry and it has been decided that the exemption provided for educational institutions vide Ministry's Notification No. S.O. 3252 (E) dated 22.12.2014 shall be applicable to all educational institutions covered under the definition of educational institution as mentioned in Noise Pollution (Regulation and Control) Rules, 2000. However, these educational institutions shall strictly implement the guidelines issued vide OM dated 9<sup>th</sup> June 2015 to ensure sustainable environment management.
6. This is issued with the approval of the competent authority.

  
(Sundar Ramanathan)  
Scientist E

To

1. The Chairman, CPCB, New Delhi.
2. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
3. The Chairman of all the Expert Appraisal Committees
4. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
5. All the officers of IA Division

Copy for information to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/ JS(SKB)
5. Website, MoEF&CC /Guard file

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F. No. 19-131/2019-IA-III [128798]  
Government of India  
Ministry of Environment, Forest and Climate Change  
Impact Assessment Division  
\*\*\*

Indira Paryavaran Bhawan  
3rd Floor, Vayu Wing, JorBagh Road  
Ali Ganj, New Delhi-3

28th June, 2022

OFFICE MEMORANDUM

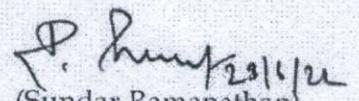
**Subject:** Addendum to the clarification dated 19th May 2022 on the applicability of EIA Notification 2006 for Educational Institutions - regarding.

Ministry of Environment, Forest and Climate Change vide Office Memorandum of even number dated 19th May 2022 issued a clarification on the applicability of EIA Notification 2006 for Educational Institutions.

2. In this regard, taking into account the Writ Petition no. 3097/2016 pending before the Hon'ble High Court of Kerala and the recent order of Hon'ble Supreme Court dated 9th December 2021 in the matter of Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs Union of India and Ors., the following para has been incorporated in para 5 of the above mentioned OM dated 19th May 2022:

*"In view of the interim Order of the High Court of Kerala at Ernakulum [in writ petition W.P. (C) No. 3097 of 2016 (S)] dated 17.09.2020 and 23.11.2020 against the amendment to the EIA Notification, 2006 dated 22.12.2014, the aforesaid clarification is applicable within the territorial jurisdiction of High Court of Kerala subject to the outcome of the aforementioned Writ Petition pending in the High Court of Kerala at Ernakulum"*

3. This issues with the approval of the Competent Authority.

  
(Sundar Ramanathan)  
Scientist E

To

1. The Chairman, CPCB, New Delhi.
2. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
3. The Chairman of all the Expert Appraisal Committees
4. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
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Ref :- 971

FTD

**MINUTES**

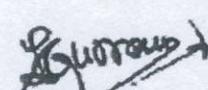
**565<sup>th</sup> MEETING**

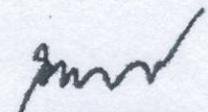
**STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY-TAMIL NADU**

**Date: 31.10.2022**

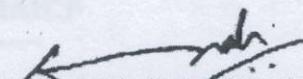
2.	Proposed Constructed Medical College & Hospital Buildings at S.F. No. 35/1,2,3,63/2,64/1A & 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu by M/s. A.C.S. Medical College & Hospital - Environmental clearance under violation notification dated: 08.03.2018 of MoEF & CC - Regarding	226	<p>proponent.</p> <p>The authority noted that the subject was appraised in 320<sup>th</sup> SEAC meeting held on 13.10.2022. SEAC has furnished its recommendations for granting Environmental Clearance subject to the conditions stated therein.</p> <p>After detailed discussion, the Authority decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 320<sup>th</sup> SEAC Meeting held on 13.10.2022.</p> <ol style="list-style-type: none"> <li>1. Accordingly, the amount prescribed for Ecological remediation (Rs.35.86 lakhs), Natural resource augmentation (14.344 lakhs) &amp; Community resource augmentation (Rs.21.516 lakhs), totaling Rs.71.72 Lakhs. Hence the SEAC decided to direct the project proponent to remit the amount of Rs.71.72 Lakhs in the form of a bank guarantee to</li> </ol>
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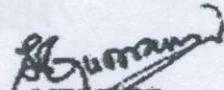
  
MEMBER SECRETARY

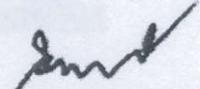
  
MEMBER

  
CHAIRMAN

			<p>Tamilnadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The funds shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan &amp; Community resource augmentation plan as indicated in the EIA/EMP report.</p> <p>2. The proposed CER amount of Rs. 121.72 lakhs shall be spent as committed before the issue of Environmental Clearance and the proof for the same shall be submitted to SEIAA-TN.</p> <p>3. The project proponent shall submit proof of the action taken by the state Government/TNPCB against the project proponent under the provisions of section - 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.</p> <p>On receipt of the above details, the Member Secretary is requested to place the proposal before the Authority for further course of action.</p>
3.	Expansion of Existing Information Technology Park at S.F.Nos.240(P), 248(P) & 249(P) of Siruseri Village, Chengalpattu Taluk, Kancheepuram District, Tamil Nadu by M/s. Hexaware	3162	The authority noted that the subject was appraised in 320 <sup>th</sup> SEAC meeting held on 13.10.2022. SEAC has reiterated its recommendations already made in 217 <sup>th</sup> SEAC meeting held on 6.7.2021.

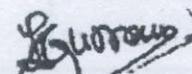
  
MEMBER SECRETARY

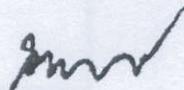
  
MEMBER

  
CHAIRMAN

2.	<p>Proposed Constructed Medical College &amp; Hospital Buildings at S.F. No. 35/1,2,3,63/2,64/1A &amp; 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu by M/s. A.C.S. Medical College &amp; Hospital - Environmental clearance under violation notification dated: 08.03.2018 of MoEF &amp; CC - Regarding</p>	226	<p>proponent.</p> <p>The authority noted that the subject was appraised in 320<sup>th</sup> SEAC meeting held on 13.10.2022. SEAC has furnished its recommendations for granting Environmental Clearance subject to the conditions stated therein.</p> <p>After detailed discussion, the Authority decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 320<sup>th</sup> SEAC Meeting held on 13.10.2022.</p> <ol style="list-style-type: none"> <li>1. Accordingly, the amount prescribed for Ecological remediation (Rs.35.86 lakhs), Natural resource augmentation (14.344 lakhs) &amp; Community resource augmentation (Rs.21.516 lakhs), totaling Rs.71.72 Lakhs. Hence the SEAC decided to direct the project proponent to remit the amount of Rs.71.72 Lakhs in the form of a bank guarantee to</li> </ol>
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MEMBER SECRETARY

  
MEMBER

  
CHAIRMAN



**Dr. M.G.R.** (39)  
**EDUCATIONAL AND RESEARCH INSTITUTE**  
DEEMED TO BE UNIVERSITY  
**UNIVERSITY WITH GRADED AUTONOMY STATUS**



(39)

**A.C.S. MEDICAL COLLEGE AND HOSPITAL**

(A Constituent Unit of Dr. M.G.R. Educational and Research Institute)  
MHRD G.O. No. F.10-9/2007-u.3(A) dt. 23.05.13 F.No. 10-9/2007-U3(A) dt.25.09.2014  
Periyar EVR High Road, NH-4 Chennai - Bangalore Highways Velappanchavadi, Chennai - 600 077.  
Phone : 91 44 26802133 / 155 Website : www.acsmch.ac.in

To

Date: 31-1-2023

**State Level Environment Impact Assessment Authority,**

Tamil Nadu

Panagal buildings, Saidapet, Chennai 600015.

Through

The Member Secretary

Sirs,

**Sub :** Environmental Clearance/Consent to Operate for the Proponent of M/s ACS Medical College its Hospital and Hostels, Educational Institutions Constructed at Numbal Village, Ambattur Taluk, Thiruvallur District under the ambit of Dr.MGR Educational and Research Institute [Deemed to be University]-Regarding

**Reference :** 1.State Environment Impact Assessment Authority Minutes of 565 Meeting dated 31-10-2022

2. State Expert Appraisal Committee Report dated 13-10-2022.

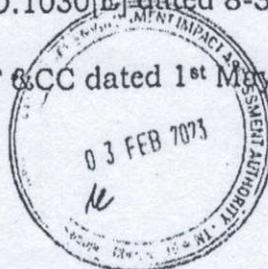
3. Notification of MOEF&CC S.O.[E] 3252 dated 22-12-2014

4. Notification of MOEF&CC S.O.[E] 5736 dated 15 th November 2018

5. Notification of MOEF &CC S.O.804[E] dated 14 th March 2017

6. Notification of MOEF &CC S.O.1030[E] dated 8-3-2018

7. Office Memorandum of MOEF &CC dated 1<sup>st</sup> May 2018 towards CER



University Office :  
Periyar EVR Satal (NH4 Highway), Maduravoyal, Chennai - 600095.  
Ph : 91 44 2378 2176 / 2186 /2085 | Fax : 91 44 2378 3165  
Email : registrar@drmgrdu.ac.in | www.drmgrdu.ac.in

Corporate Office :  
No.22, G.N. Chetty Road, T.Nagar, Chennai - 600017  
Ph : 91 44 2834 5166 / 3696  
Fax : 91 44 2834 1186 | Email : drmgr.corporate@gmail.com

8. Order of the Hon'ble High Court of Madras in WP 467 of 2022 dated 14-12-2022

We wish to bring to your kind notice that the ACS Medical college & Hospital and its Hostel provides various under graduate and post graduate medical courses and allied courses situated at Numbal Village, Ambattur Taluk, Velappanchavadi, Periyar EVR High Road, Chennai- 77 is the project proponent herein. We obtained Consent to establish from Tamil Nadu Pollution Control Board on 14-02-2008 and submitted EIA Report in Form I on 25-03-2009 to SEIAA for obtaining Environmental clearance based on the applicable provisions as on that date. Now the application is currently before the State Level Environment Impact Assessment Authority [SEIAA-TN] due to various amendments and directions from MOEF&CC.

The Ministry of Environment and Forests, Government of India has originally prescribed procedure of restrictions and prohibition on the projects and activities being undertaken in any part of India for getting Prior Environment Clearance vide notification S.O1533 dated 14-09-2006 [herein after EIA 2006] as per power conferred under the provisions of Environment (Protection) Act 1986. The said Notification specifies the project and activities require Prior Environment clearance (EC) ; Schedule of list of projects requiring Prior environmental clearance ; Categorization of projects and activities ; Application for prior EC; Stages in Process for projects such as Screening, Scoping and Appraisal committees ; State Level environment Impact assessment authority etc. In the 'schedule' annexed to the said notification prescribes for List of projects or Activities requiring Prior Environmental clearance. In Item 8, 8(a) of the schedule, prescribes for Building and Construction projects for >20000 Sq.Mtr and < 1,50,000 Sq.Mtr of built up area requires for prior environmental clearance. In 8(b) of the schedule prescribes for Townships and Area Development projects covering an area >50ha and or built up area >1,50,000 sq.mtrs. All projects under item 8(b) shall be appraised as category B1. The said notification and

its schedule is amended subsequently many times during the course of time.

The project proponent's project of ACS Medical college and its Hospital and Hostels of educational institutions covered under the schedule 8,- 8(a) of Building and Construction projects of the schedule to the EIA Notification 2006.

By Notification No S.O.3252 (E) of MOEF&CC dated 22-12-2014, amended the schedule for projects in Item 8 [a] for Building or construction Projects for getting prior Environment clearance of EIA 2006 and thus the built up area of construction covered on all floors put together including its basement and other service areas, which are proposed in the building or construction projects. >20,000Sq.Mtrs and < 1,50,000 Sq.Mtrs . However as per **Note 1** to the said amendment specifically prescribed that "The projects or activities shall not include industrial shed, school, college, hostel for educational institutions, but such buildings shall ensure sustainable environment management, solid and liquid waste management ,rain water harvesting and may use recycled materials such fly ash bricks and in **Note 2** says "General conditions shall not apply"

Based on the above said amended notification dated 22-12-2014, our project of the Medical college its hospital as educational institution and its hostel buildings of educational does not include to get prior environmental clearance. Accordingly we have claimed exemption to our project and the same is pending quite some years and requested us to approach State level authority for getting EC. Hence as far as educational institutions and hostels thereon concerned the said notification would applicable.

Further through the office Memorandum issued by Ministry of Environment Forest and climate change dated 9-6-2015 it was clarified that Medical Universities/Institutions are exempted from prior EC except the hospitals that are attached to the said universities /institutions. It is cloud to clear

that without hospital a Medical college cannot be function and it is part and parcel of the institutions.

Therefore we have persuaded the application in the year 2018 to the state Authority and after getting Terms of Reference TOR in the year 2020 for the Environmental Impact Assessment Report and the same was submitted for all complying defects and fulfilling the conditions stipulated to ensure sustainable environment management, solid and liquid waste management, rain water harvesting and may use recycled materials etc for our project.

By notification S.O.5736 (E) dated 15 th November 2018 issued by the MOEF&CC further amended the schedule of EIA 2006 [categorising activities/projects requiring prior environmental clearance] of original notification S.O1533 (E) dated 14-9-2006 for the conditions for item 8 of the schedule and its entries relating thereto for "Building or construction projects or Area Development projects and town ships as well as for industrial sheds, educational institutions, hospitals for educational institutions " as follows

8 (a) Building or construction projects ranging >50 000 Sq.mtrs and < 1,50,000 Sq.Mtrs of build-up area with a Note1: The build-up area covered area on all floors put together including its basement and other service areas which are proposed in the buildings or construction projects. **Note 2: the projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions.** And **Note3:** General conditions shall not apply.

8(b)- Townships and Area development as well as industrial sheds, educational institutions, hospitals and hostel for educational institutions >150,000 Sq.Mtrs of built-up area requires an environment assessment Report and be appraised as category B1 Project with a Note -General conditions shall not apply.

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By both Notifications of MOEF&CC S.O.[E] 3252 dated 22-12-2014 and S.O.[E] 5736 dated 15 th November 2018 amended original notification S.O.1533 dated 14-09-2006, it is crystal clear that >20000 sq.ft and <1,50,000 sq.mtr of built up area of Educational institutions, College, Hospital and hostels thereon, expressly no need [ it is exempted] from getting Prior Environmental clearance for operation of the same. Therefore the project proponent of Medical college its hospital and hostels comprised of Educational institutions ,Hospital and Hostel need not obtain Prior environmental clearance from state authority for its Operation .

In the above said scenario of various amendments of MOEF&CC notifications regarding the requirement of obtaining Prior Environmental clearance for Educational institutions, Hospital and Hostels, We would like to submit the following for consideration.

We have originally obtained consent to establish for our medical college& its hospital and hostel under Air and water Act was obtained during the year 2008 after obtained the necessary approvals from the concerned authorities construction was started and subsequently completed. Thereafter during the nearing completion of the construction we have applied for consent to Operate during the year 2009 itself.

The said application for consent to Operate is pending originally with Central Government authorities and thereafter we had instructed to apply before the state authority. When our application is pending for quite long years from 2009, as per notification S.O.3253(E) of Ministry of Environment and Climate change dated 22-12-2014 and as per notification S.O 5736 (E) dated 15 th November 2018 of Ministry of Environment and Climate change further amended the original notification for schedule 8[a] -Building and construction category -for getting prior Environment clearance the projects of college, educational institutions and hostel built-up area of >50000 Sq.Mtrs and <1,50,000 Sq.Mtrs are not included to get prior environment

clearance and only ensure sustainable environment management and not even require an Environment Assessment Report .

Though our medical college and hospital with hostel, Educational institutions, hospitals and hostels with 78,000 Sq.Mtrs of built-up area as evident from the inspection and the report of SEAC subcommittee ,the project need not get prior environment clearance from state authority as insisted and only to ensure sustainable environment management alone. The proponent's built up area does not fall under the category which requires prior Environmental Clearance.

However without considering the said amended notification S.O.3253(E) of Ministry of Environment and Climate change dated 22-12-2014 and S. O.5736[E]dated 15th November 2018 of MOEF&CC, the project proponent's application for environment clearance/Consent to Operate is considered under Notification S.O.804[E] of Ministry of Environment and Climate change dated 14th March 2017 given under the power of SEAC for finalising the process for appraisal of projects without obtaining prior environmental clearance under the EIA Notification 2006 and as per Notification S.O.1030[E] dated 8-3-2018 of MOEF&CC for implementation of various plans as treated as violation category. The said notifications purports that the projects or activities or expansion/modification of existing projects requiring prior environmental clearance shall be dealt as per procedure laid down in the said notifications.

Since the project proponent of Medical college & hospital and hostel of educational institutions which are exempted from obtaining Environmental clearance as discussed above, the Notifications of 804[E] dated 14-3-2017 and 1030[E] dated 8-3-2018 are not all applicable to this project proponent as narrated above.

The State Level Expert Appraisal Committee [SEAC] during its 130 th meeting held on 11-06-2019 and its 320th meeting dated 13-10-2022

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considered our project under schedule 8(b) & category B2 -Area and township development under violation notification dated 8-3-2018 is unwarranted .The recommendation and observation made in the 320 th meeting of SEAC accepted in the 565 th meeting of State Environment Impact Assessment authority [SEIAA] held on 31-10-2022 only rely on the above said notifications 804 dated 14-3-2017 and 1030 dated 8-3-2018 is not correct and cannot be acceptable.

The project proponent's Educational Institutions - Building and construction projects under schedule 8(a) category of EIA Notification 2006 and its exemption not even consider or any whisper about the exempted Notification of the S.O3252 dated 22-12-2014 and Notification S.O5736 dated 15th November 2018.

The minutes of the SEAC meeting dated 13-10-2022 recommended for levy of total cost of 1% of Project cost ie, 71.72 lacs towards various plans of Ecological remediation, Natural Resource augmentation and Community Resource Augmentation plans. Also recommended for 1% of project cost of additional 71.72 lakhs towards Corporate Environment Responsibility [CER] and further a sum of Rs.50 Lakhs for earmarked for constructing a community Hall [not known under which provisions].The said recommendation of SEAC is fully accepted its 565 the meeting of SEIAA dated 31-10-22 through which informed the proponent that based on the recommendation as per meeting held on 13-10-2022 requested us to furnish the following recommendations for further course of action for issuing Environmental clearance.

1. Proof to remit an amount of 71.72 lakhs in the form of Bank Guarantee to Tamil Nadu Pollution Control Board towards Ecological remediation [35.86 lakhs, Natural resource augmentation [14.344 lakhs, community resource augmentation [21.516 lakhs ] totally 71.72 lakhs and the same shall be utilised for Ecological remediation, Natural resource augmentation Community resource augmentation.

2. Proof to pay the proposed CER amount of Rs.121.72 lakhs [Rs.71.72 lakhs towards CER and additional Rs.50 lakhs towards construction of Community Hall] shall be spent as committed before issue of environmental clearance.

3. Proof of the action taken by the state government/TNPSCB under the provisions of Sec-19 of Environment Act 1986 as per EIA Notification dated 14-3-2017 and 8-3-2028.

In this regard we would like to submit our response by way of reply as follows:

The project proponent of Medical college, its Hospital and Hostel for educational institutions is expressly exempted under schedule 8(a) - Building and construction category for getting prior environmental clearance as per clear notification as discussed above, the insistence to provide for proofs for the above the 3 items shown in the minutes of meeting dated 31-10-2022 does not attracted and required and not at all applicable for project proponent of educational and Hospital building constructed.

1. The project proponent of ACS Medical college & Hospital and its hospital of Educational institutions does not require to obtain prior environmental clearance under item 8[a] to the schedule to the MOEF&CC notifications as per Notification S.5736 [E] of MOEF&CC dated 15-11-2018 and cannot be treated as violation category as specified and not even to obtain EIA report. Therefore the request to comply towards Ecological Remediation, Natural Resource Augmentation, Community Resource Augmentation plans does not arise at all to the present project proponent.

2. As far as the levy of CER -Corporate Environment Responsibility concerned as per MOEF &CC office Memorandum dated 1<sup>st</sup> May 2018 the concept of CER as provided for in the Companies Act 2013 and covered under the [Companies Corporate Social responsibility Policy] Rules 2014 comes into effect only in the case of companies that require prior

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environmental clearance and having operating projects under the companies Act and Rules. Project proponents educational institutions run by the Dr.MGR Educational Research and Institute Trust does not require an environmental clearance is entirely different and not come under the Companies Act and Rules. The project proponent presently before the SEIAA does not attracted for CER and therefore the claim under CER also not applicable to the project proponent.

3. Pertinently third item of compliance to give proof for the action taken by the State Government /TNPCB against us not at all binding on us. So far no action taken by the authorities against us even after sending the show cause notice during the year 2019 by TNPCB and the reply send by the proponent herein stating that since it is pending before SEIAA, the authorities concerned not taken action under Section 19 of the Environment(Protection) Act 1986 and no fault on our side and it is unwarranted. Thus the project proponent has no proof for the action taken by state Government or TNPCB to submit under section 19 of the Act. In that case we are unable to give proof for the same.

As far as this proponent of Medical college, Hospital and Hostels of Educational institutions concerned so far no action taken against us by the State or TNPCB in view of our application for environmental clearance/ consent to Operate is pending with authorities concerned all along from the year 2009 and not considered and under the exempted notifications of MOEF&CC as narrated above.

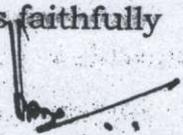
On legal advice it is stated that whatever rules prescribed and amended, the same will be applicable as on the date of considering the application and on retrospectively in the event of no bar. As per law of the legal verdict of the Hon'ble Division Bench of the Hon'ble High Court of Madras in WP 467 of 2022 gated 14-12-2022 towards exemption for environmental clearance/ Consent to operate for educational institutions and its retrospective effect

based on the Notification dated 22-12-2014 would apply to this project proponent also.

Therefore we kindly request your good office to consider our environmental clearance/ Consent to Operate for our Educational Institutions in the name of ACS Medical college its Hospital, and Hostel having built-up area of 78,103 Sq.Mtrs under schedule 8(a) to NIA notification 2006, constructed based on the notification S.O.5736[E] dated 15th November 2018 of MOEF &CC as exempted category to get prior environmental clearance at an early date and do the needful.

Thanking You

Yours faithfully



For **ACS MEDICAL COLLEGE**

Dr.MGR Educational and Research Institute

[Deemed to be University]



**FORM III**  
(See Rule 10)

**AUTHORISATION No: 23BAZ43072627 Dated 09/03/2023**

**Proceeding No: JCEE-M/CHZ/TNPCB/F.2876MMN/BWA/RS/MMN/2023 dated 09/03/2023**

**Sub:** Tamil Nadu Pollution Control Board – Bio-Medical Waste Authorization - Fresh-CBMWTF- M/s.RE SUSTAINABILITY IWM SOLUTIONS LIMITED (FORMERLY KNOWN AS TAMILNADU WASTE MANAGEMENT LIMITED), S.F.No.R.S.No. 29/3, KINNAR village, MADURANTHAGAM Taluk, Chengalpattu District - Authorization under Rule 10 of the Bio-Medical Waste Management Rules, 2016 enacted under Environment (Protection) Act, 1986 – Issued- Reg.

**Ref:** 1. OCMMS application No. 43072627 dated: 16-02-2022  
2. PROC.NO.F.2876MMN/RS/DEE/TNPCB/MMN/W&A/2022 dated: 19/12/2022  
3. BMW-IR.No: F.2876MMN/BWA/RS/DEE/MMN/2023 dated 08/03/2023

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**AUTHORISATION FOR OPERATING A FACILITY FOR GENERATION, COLLECTION, RECEPTION, TREATMENT, STORAGE, TRANSPORT AND DISPOSAL OF BIO-MEDICAL WASTES**

1. File number of authorization: 23BAZ43072627 and Date of issue: 09/03/2023
2. Regional Manager of M/s. RE SUSTAINABILITY IWM SOLUTIONS LIMITED (FORMERLY KNOWN AS TAMILNADU WASTE MANAGEMENT LIMITED) an occupier or operator of the facility located at S.F.No.R.S.No. 29/3, KINNAR Village, MADURANTHAGAM Taluk, Chengalpattu District is hereby granted an Authorisation for Collection, Reception, Transportation, Treatment or Processing or Conversion, Recycling, Disposal or destruction use, Offering for sale, Transfer of Bio-Medical Waste
3. M/s. RE SUSTAINABILITY IWM SOLUTIONS LIMITED (FORMERLY KNOWN AS TAMILNADU WASTE MANAGEMENT LIMITED) is hereby authorized for handling of Bio-Medical waste as per the capacity given below.

i)	Number of HCFs covered by the CBMWTF	537	Nos
ii)	Installed treatment and disposal capacity of CBMWTF	4500	Kg/day
iii)	Jurisdictional area and distance covered by the CBMWTF	North Chennai, Tiruvallur, Part of Kancheepuram, Cuddalore and Villupuram	

(50)

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iv) Quantity of Bio-Medical Waste handled, treated or disposed			
Category	Type of Waste	Quantity permitted for handling	Unit
Yellow	a) Human Anatomical Waste	2280	Kg/day
	b) Animal Anatomical Waste	275	Kg/day
	c) Soiled Waste	300	Kg/day
	d) Expired or Discarded Medicines	20	Kg/day
	e) Chemical Solid Waste	0	Kg/day
	f) Chemical Liquid Waste in KLD	0	KLD
	g) Discarded linen, mattresses, beddings contaminated with blood or body fluid routine mask and gown	20	Kg/day
	h) Microbiology, Biotechnology and other clinical laboratory waste	50	Kg/day
Red	Contaminated waste (Recyclable)	175	Kg/day
White(Translucent)	Waste sharps including Metals	50	Kg/day
Blue	Glassware	100	Kg/day
	Glassware Metallic Body Implants	0	Kg/day

4. The authorization shall be in force for a period up to 31/03/2027
5. The authorization is issued subject to the conditions stated below and to such other conditions as may be specified in the rules for the time being in force under the Environment (Protection) Act, 1986.

Joint Chief Environmental Engineer-Monitoring  
Tamil Nadu Pollution Control Board  
Chennai

**TERMS AND CONDITIONS OF AUTHORIZATION**

1. The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rules made there under.
2. The authorization or its renewal shall be produced for inspection at the request of an officer authorized by the Tamil Nadu State Pollution Control Board.
3. The person authorized shall not rent, lend, sell, transfer or otherwise transport the Bio-Medical wastes without obtaining prior permission of Tamil Nadu State Pollution Control Board.
4. Any unauthorized change in personnel, equipment or working conditions as mentioned in the application by the person authorized shall constitute a breach of this authorization.

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5. It is the duty of the authorized person to take prior permission of the Tamil Nadu Pollution Control Board to close down the facility and such other terms and conditions may be stipulated by Tamil Nadu Pollution Control Board.
  6. Any other conditions for compliance as per the Guidelines issued by the MoEF&CC or CPCB from time to time.

#### **ADDITIONAL CONDITIONS**

1. The Common Bio-medical Waste Treatment and Disposal Facility (CBMWTDF) shall comply with the provisions of the Bio Medical Waste Management Rules, 2016.
2. The CBMWTF shall maintain the records of collection, reception, storage, transportation, treatment and disposal and or any form of handling bio medical waste in accordance with the rules and records shall be subject to inspection and verification by the Board at any time.
3. The CBMWTDF shall take all necessary steps to ensure that the bio-medical waste collected from the HCFs is transported, handled, stored, treated and disposed of, without any adverse effect to the human health and the environment, in accordance with these rules and guidelines issued by the Central Government from time to time.
4. The CBMWTDF shall ensure timely collection of bio-medical waste from the HCFs as prescribed under these rules that in no case the waste shall be kept in the health care facility beyond 48 Hours and also ensure collection of biomedical waste on holidays.
5. The operator of CBMWTDF shall transport the bio-medical waste from the premises of HCFs to any off-site bio-medical waste treatment facility only in the vehicles having label as provided in part 'A' of the Schedule IV along with necessary information as specified in part 'B' of the Schedule IV.
6. Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards provided in Schedule-II by the health care facilities and common bio-medical waste treatment facility.
7. The CBMWTDF shall maintain a log book for each of its treatment equipment according to weight of batch; categories of waste treated; time, date and duration of treatment cycle and total hours of operation.
8. After ensuring treatment by autoclaving followed by shredding, the CBMWTF shall dispose the shredded plastics only through the authorized recycling facility having valid consent orders under the Water and Air Acts.
9. The CBMWTF shall operate and maintain the automatic computer recording arrangements in autoclave to monitor the pressure and temperature.
10. The CBMWTDF shall maintain all record for operation of incineration, autoclaving, shredding etc for a period of five years and made available for inspecting officer at all time.
11. The CBMWTDF shall maintain the details such as quantity of bio-medical waste collected from HCF in various categories, treated in the facility, quantity of generation of recyclable wastes, agency to whom disposed, quantity of generation of HWs & disposal of the same and provide in the web site and report regularly to TNPCB.
12. The CBMWTDF shall operate and maintain the ETP effectively and continuously so that the treated water is recycled for wet scrubber.
13. Hazardous wastes such as Incineration Ash shall be collected, stored properly and dispose the same regularly to the CHWTDF without accumulation within the premises with valid authorization obtained under HWM Rules, 2016.
14. The CBMWTDF shall ensure that the incinerator achieves the standards for retention time (2 seconds) in secondary chamber to attain the desired level of emission control with respect to volatile

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organic compounds, especially dioxins and furans.

15. The emissions from incinerator shall comply with standards prescribed for PM (50 mg/Nm<sup>3</sup>), NO<sub>2</sub> (400 mg/Nm<sup>3</sup>), HCL (50 mg/Nm<sup>3</sup>), Total Dioxins and Furans (0.1ngTEQ/Nm<sup>3</sup> (at 11%O<sub>2</sub>) and Hg & its compounds (0.05 mg/Nm<sup>3</sup>).

16. The CBMWTDF shall provide non-chlorinated plastic bags to HCFs, so as to phase out the use of chlorinated plastic bags and gloves.

17. The CBMWTDF shall ensure continuous transmission of data of emission parameters (PM, NO<sub>x</sub>, HCL, CO, CO<sub>2</sub>, O<sub>2</sub>, and Temperature) from stack of incinerator to CAC of TNPCB without any interruption. It shall be explored the possibility of connectivity of GPS tracking system to CAC, TNPCB with the help of service providers.

18. The CBMWTDF shall maintain continuous emission monitoring systems (OCEMS) and ensure that the data is transmitted to both the state Board website and CPCB.

19. The CBMWTDF shall display details of authorization, treatment of bio medical waste, annual report etc on its web-site.

20. The operator of CBMWTDF shall submit an annual report to the prescribed authority in Form-IV, on or before the 30th June of every year.

21. The operator of CBMWTDF shall follow good housekeeping practices within the premises of the facility.

22. The operator of CBMWTDF shall apply for revised/fresh authorization under BWM Rules, 2016 when there is an increase in the quantity of bio-medical waste handling against the present authorized quantity.

23. The operator of CBMWTDF shall be liable for all the damages caused to the environment or the public due to improper handling of bio- medical waste and shall be liable for action under section 5 and section 15 of the EP Act, in case of any violation.

24. The CBMWTF shall carry out third party evaluation done by reputed institutions and furnish the report once in every year.

25. The CBMWTF shall operate and maintain the surveillance cameras (CCTV) in the vulnerable location of the facilities (Waste storage, waste feeding, PLC attached with the treatment equipment (incinerator and autoclave).

26. The CBMWTF shall maintain good housekeeping with no odour nuisance.

27. The CBMWTF shall continue to develop green belt within the premises of the unit.

28. The CBMWTF shall not install additional treatment equipments and shall not go for any expansion more than the existing installed capacity without obtaining EC under EIA Notification amendment dated 17.04.2015.

<b>SPECIAL CONDITIONS - CBMWTF</b>	
<b>1</b>	All the provisions of the Biomedical Waste Management Rules, 2016 must be complied with.
<b>2</b>	The CBMWTF shall take all necessary steps to ensure that the bio-medical wastes collected from the HCF occupiers are transported, handled, stored, treated and disposed of without any adverse effect to the human health and the environment, in accordance with the BMW Management Rules, 2016 and guidelines issued by the Central Government or as the case may be, the Central Pollution Control Board from time to time.

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3	The CBMWTF shall ensure timely collection of bio-medical waste from the HCF - occupiers as prescribed under the BMW Management Rules, 2016.
4	The CBMWTF shall ensure the collection of biomedical waste on holidays also.
5	The CBMWTF shall inform to TNPCB immediately regarding the occupiers which are not handing over the segregated bio-medical waste in accordance with the BMW Management Rules, 2016.
6	The CBMWTF shall supply non-chlorinated plastic coloured bags to the HCF - occupiers on chargeable basis (if required) for proper collection & storage of bio-medical wastes at source.
7	All plastic bags shall be as per BIS standards as and when published, till then the prevailing Plastic Waste Management Rules shall be applicable.
8	The CBMWTF shall establish bar coding and global positioning system for handling of bio-medical waste within one year.
9	The operator of common bio-medical waste treatment facility shall transport the bio-medical waste from the premises of an occupier to any off-site bio-medical waste treatment facility only in the vehicles having label as provided in part 'A' of the Schedule IV along with necessary information as specified in part 'B' of the Schedule IV of BMW Management Rules, 2016.
10	The vehicles used for transportation of bio-medical waste shall comply with the conditions if any stipulated by the State Pollution Control Board or Pollution Control Committee in addition to the requirement contained in the Motor Vehicles Act, 1988 (59 of 1988), if any or the rules made there under for transportation of such infectious waste.
11	Bio-medical wastes shall be treated and disposed of in accordance with Schedule I and in compliance with the standards provided in Schedule-II of the BMW Management Rules, 2016 by the health care facilities (HCFs) and common bio-medical waste treatment facility (CBMWTF).
12	The CBMWTF after ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as plastics and glass, shall be given to recyclers having valid consent or authorisation or registration from TNPCB.
13	The Operator of a common bio-medical waste treatment facility shall maintain a record of recyclable wastes referred to in sub-rule (9) which are auctioned or sold and the same shall be submitted to TNPCB as part of its annual report. The record shall be open for inspection by TNPCB.
14	The CBMWTF shall maintain all record for operation of incineration, hydro or autoclaving for a period of five years. The CBMWTF shall upgrade existing incinerators to achieve the standards for retention time in secondary chamber and Dioxin and Furans within two years from the date of the Notification of BMW Management Rules, 2016.
15	The CBMWTF shall maintain a log book for each of its treatment equipment according to weight of batch; categories of waste treated; time, date and duration of treatment cycle and total hours of operation.
16	The CBMWTF shall submit an Annual Report to TNPCB in Form-IV, on or before the 30th June of every year for the period from January to December of the preceding year.
17	The CBMWTF shall make available the annual report on its web-site within a period of two years from the date of publication of Bio-Medical Waste Management(Amendment) Rules,2018
18	The CBMWTF shall display details of authorisation, treatment, annual report etc on its web-site.

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19	The CBMWTF shall allow occupier, who are giving waste for treatment to the operator to see whether the treatment is carried out as per the BMW Management Rules, 2016.
20	In case of any major accident at any institution or facility or any other site while handling bio-medical waste, the authorised person shall intimate immediately to TNPCB about such accident and forward a report within twenty-four hours in writing regarding the remedial steps taken in Form I.
21	Information regarding all other accidents and remedial steps taken shall be provided in the annual report in accordance with Rule 13 by the occupier.
22	In case of any change in the bio-medical waste generation, handling, treatment and disposal for which authorization was earlier granted, the occupier or operator of HCF shall intimate to TNPCB about the change or variation in the activity and shall submit a fresh application in Form II for modification of the conditions of Authorization.
23	<p>The CBMWTF shall adopt the following treatment and disposal methods as described in the BMW Management Rules, 2016</p> <ul style="list-style-type: none"> <li>i. Chemical treatment using at least 1% to 2% Sodium Hypochlorite having 30% residual chlorine for twenty minutes or any other equivalent chemical reagent that should demonstrate Log104 reduction efficiency for microorganisms as given in Schedule- III.</li> <li>ii. Mutilation or shredding must be to an extent to prevent unauthorized reuse.</li> <li>iii. There will be no chemical pretreatment before incineration, except for microbiological, lab and highly infectious waste.</li> <li>iv. Incineration ash (ash from incineration of any bio-medical waste) shall be disposed through hazardous waste treatment, storage and disposal facility, if toxic or hazardous constituents are present beyond the prescribed limits as given in the Hazardous and Other Wastes (Management &amp; Transboundary Movement) Rules, 2016 or as revised from time to time.</li> </ul>
24	<p>The CBMWTF shall comply with the following standards for treatment and disposal of Bio-Medical wastes as prescribed in Schedule-II of BMW Management Rules, 2016.</p> <p><b>I. STANDARDS FOR INCINERATION</b></p> <p>All incinerators shall meet the following operating and emission standards.</p> <p><b>A. Operating Standards</b></p> <ul style="list-style-type: none"> <li>i). Combustion efficiency (CE) shall be at least 99.00%.</li> <li>ii). The Combustion efficiency is computed as follows: <math display="block">\text{C.E.} = \frac{\% \text{CO}_2}{\% \text{CO}_2 + \% \text{CO}} \times 100</math> </li> <li>iii) The temperature of the primary chamber shall be a minimum of 800<sup>0</sup>C and the secondary chamber shall be minimum of 1050<sup>0</sup>C + or - 50<sup>0</sup>C.</li> <li>iv). The secondary chamber gas residence time shall be at least two seconds.</li> </ul> <p><b>B. Emission Standards</b></p>

SI NO	Parameter	Standards	
(1)	(2)	(3)	(4)
		Limiting concentration in mg/Nm <sup>3</sup> unless stated	Sampling Duration in minutes, unless stated
1.	Particulate matter	50	30 or 1NM <sup>3</sup> of sample volume, whichever is more
2.	Nitrogen Oxides NO and NO <sub>2</sub> expressed as NO <sub>2</sub>	400	30 for online sampling or grab sample
3.	HCl	50	30 or 1NM <sup>3</sup> of sample volume, whichever is more
4.	Total Dioxins and Furans	0.1ngTEQ/Nm <sup>3</sup> (at 11% O <sub>2</sub> )	8 hours or 5NM <sup>3</sup> of sample volume, whichever is more
5.	Hg and its compounds	0.05	2 hours or 1NM <sup>3</sup> of sample volume, whichever is more

C. Stack Height: Minimum stack height shall be 30 meters above the ground and shall be attached with the necessary monitoring facilities as per requirement of monitoring of 'general parameters' as notified under the Environment (Protection) Act, 1986 and in accordance with the Central Pollution Control Board Guidelines of Emission Regulation Part-III.

**Note:**

- a) The existing incinerators shall comply with the above within a period of two years from the date of the notification.
- b) The existing incinerators shall comply with the standards for Dioxins and Furans of 0.1ngTEQ/Nm<sup>3</sup> as given below within two years from the date of commencement of these rules.
- c) All upcoming common bio-medical waste treatment facilities having incineration facility or captive incinerator shall comply with standards for Dioxins and Furans.
- d) The existing secondary combustion chambers of the incinerator and the pollution control devices shall be suitably retrofitted, if necessary, to achieve the emission limits.
- e) Wastes to be incinerated shall not be chemically treated with any chlorinated disinfectants.
- f) Ash from incineration of biomedical waste shall be disposed of at common hazardous waste treatment and disposal facility. However, it may be disposed of in municipal landfill, if the toxic metals in incineration ash are within the regulatory quantities as defined under the Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016 or as amended from time to time.
- g) Only low Sulphur fuel like Light Diesel Oil or Low Sulphur Heavy Stock or Diesel, Compressed Natural Gas, Liquefied Natural Gas or Liquefied Petroleum Gas shall be used as fuel in the incinerator.
- h) The occupier or operator of a common bio-medical waste treatment facility shall monitor the stack gaseous emissions (under optimum capacity of the incinerator) once in three months through a laboratory approved under the Environment (Protection) Act, 1986 and record of such analysis results shall be maintained and submitted to TNPCB. In case of dioxins and furans, monitoring should be done once in a year.
- i) The occupier or operator of the common bio-medical waste treatment facility shall install continuous emission monitoring system for the parameters as stipulated by TNPCB in authorisation and transmit the data real time to the servers at TNPCB.
- j) All monitored values shall be corrected to 11% Oxygen on dry basis.
- k) Incinerators (combustion chambers) shall be operated with such temperature, retention time and turbulence, as to achieve Total Organic Carbon content in the slag and bottom ashes less than 3% or their loss on ignition shall be less than 5% of the dry weight.
- l) The occupier or operator of a common bio-medical waste incinerator shall use combustion gas analyzer to measure CO<sub>2</sub>, CO and O<sub>2</sub>

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25 **STANDARDS FOR AUTOCLAVING OF BIO-MEDICAL WASTE:**  
 The autoclave should be dedicated for the purposes of disinfecting and treating bio-medical waste.

1) When operating a gravity flow autoclave, medical waste shall be subjected to :

- i) a temperature of not less than 121° C and pressure of 15 pounds per square inch (psi) for an autoclave residence time of not less than 60 minutes; or
- ii) a temperature of not less than 135° C and a pressure of 31 psi for an autoclave residence time of not less than 45 minutes; or
- iii) a temperature of not less than 149° C and a pressure of 52 psi for an autoclave residence time of not less than 30 minutes.

2) When operating a vacuum autoclave, medical waste shall be subjected to a minimum of three pre-vacuum pulse to purge the autoclave of all air. The air removed during the pre-vacuum, cycle should be decontaminated by means of HEPA and activated carbon filtration, steam treatment, or any other method to prevent release of pathogen. The waste shall be subjected to the following:

- i) a temperature of not less than 121°C and pressure of 15 psi per an autoclave residence time of not less than 45 minutes; or
- ii) a temperature of not less than 135°C and a pressure of 31 psi for an autoclave residence time of not less than 30 minutes.

3) Recording of operational parameters: Each autoclave shall have graphic or computer recording devices which will automatically and continuously monitor and record dates, time of day, load identification number and operating parameters throughout the entire length of the autoclave cycle.

26 **STANDARDS FOR DEEP BURIAL.-**

- (a) A pit or trench should be dug about two meters deep. It should be half filled with waste, then covered with lime within 50 cm of the surface, before filling the rest of the pit with soil.
- b) It must be ensured that animals do not have any access to burial sites. Covers of galvanised iron or wire meshes may be used.
- c) On each occasion, when wastes are added to the pit, a layer of 10 cm of soil shall be added to cover the wastes.
- d) Burial must be performed under close and dedicated supervision.
- e) The deep burial site should be relatively impermeable and no shallow well should be close to the site.
- f) The pits should be distant from habitation, and located so as to ensure that no contamination occurs to surface water or ground water. The area should not be prone to flooding or erosion.
- g) The location of the deep burial site shall be authorised by the prescribed authority.
- h) The institution shall maintain a record of all pits used for deep burial.
- i) The ground water table level should be a minimum of six meters below the lower level of deep burial pit.

27 **STANDARDS FOR LIQUID WASTE**

1. The effluent generated or treated from the premises of occupier or operator of a common bio medical waste treatment and disposal facility, before discharge into the sewer should conform to the following limits

PARAMETERS	PERMISSIBLE LIMITS
pH	6.5-9.0
Suspended solids	100 mg/l
Oil and grease	10 mg/l
BOD	30 mg/l
COD	250 mg/l
Bio-assay test	90% survival of fish after 96 hours in 100% effluent

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	2. Sludge from Effluent Treatment Plant shall be given to common bio-medical waste treatment facility for incineration or to hazardous waste treatment, storage and disposal facility for disposal.
28	The CBMWTF shall provide training for all its workers involved in handling of bio-medical waste at the time of induction and at least once a year thereafter.
29	The CBMWTF shall ensure occupational safety of all its health care workers and others involved in handling of bio-medical waste by providing appropriate and adequate personal protective equipments.
30	The operator of a common bio-medical waste treatment facility shall be liable for all the damages caused to the environment or the public due to improper handling of bio- medical wastes. The occupier or operator of common bio-medical waste treatment facility shall be liable for action under section 5 and section 15 of the Act, in case of any violation.

**Joint Chief Environmental Engineer-Monitoring  
Tamil Nadu Pollution Control Board  
Chennai**

To

Regional Manager

RE SUSTAINABILITY IWM SOLUTIONS LIMITED (FORMERLY KNOWN AS TAMILNADU WASTE MANAGEMENT LIMITED)

RE SUSTAINABILITY IWM SOLUTIONS LIMITED (FORMERLY KNOWN AS TAMILNADU WASTE MANAGEMENT LIMITED)

Level 4, Diamond Dune, No. 323, Poonamallee High Road, Chennai, Tamil Nadu.

Pin: 600029

Copy to:

1. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information

2. The District Environmental Engineer, Tamil Nadu Pollution Control Board, MARAIMALAI NAGAR

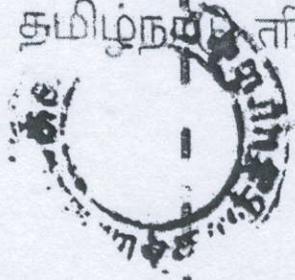
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தமிழ்நாடு தமில்நாடு TAMIL NADU



21 APR 2023.

20AC 203143  
S. Vijayalakshmi

**S. VIJAYALAKSHMI**  
 STAMP VENDOR  
 L.NO:16/UGL/2008  
 South Mada Street,  
 Thirupporur - 603110.  
 Call: 9884881885

AGREEMENT

This agreement is entered into on the 01<sup>th</sup> of April 2023

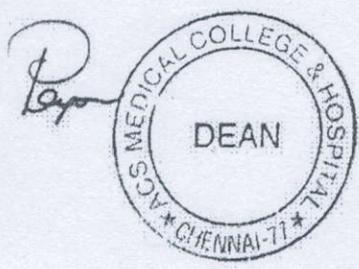
Between

M/s. Re Sustainability IWM Solutions Limited (Formerly known as TamilNadu Waste Management Ltd)., functioning at Level 4, 'Diamond Dune' 323, Poonamalle High Road, Chennai – 600 029, and having its registered office at Leve11(B) Aurobindo Galaxy, Hyderabad Knowledge City Hitech City Road, Hyderabad-50 081 here after called as RESISL represented by Mr. M. Sridhar Reddy, Regional Head.

And

M/s. A C S Medical College & Hospital, Velappanchavadi, Chennai – 600 077 Whereas RESISL has setup a common facility in accordance with the Bio-Medical Wastes (Management and Handling) Rules, 2016, for collection, transportation, treatment and disposal of the bio-medical waste generated by the "Health Care Establishments" (Hospitals, Nursing clinics, Medical Colleges, Diagnostic Centers, Dental Clinic

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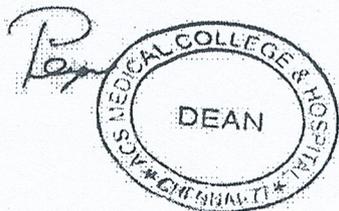
Whereas M/s. A C S Medical College & Hospital is generating biomedical waste which is need to be managed in accordance with the Bio – Medical waste (Management and Handling) Rules, 2016, of Govt. of India;

Whereas RESISL offers to provide the services required for Bio-Medical waste Management to be compliance with the above said rules on a user-pay principle at Rs.1,00,000 (One Lakhs Rupees) Per month plus 12% GST is applicable.

Whereas M/s. A C S Medical College & Hospital agrees to utilize the services of RESISL for disposal of Bio-Medical Waste on the terms and conditions set forth herein;

1. M/s. A C S Medical College & Hospital Should segregate properly & store the waste in Non – chlorinated color codedbags as trained by RESISL in accordance with the Bio-Medical waste (Management and Handling) Rules, 2016, Govt of India
2. M/s. A C S Medical College & Hospital will give its Bio-Medical wastes including all the disposable plastic material (i.e Gloves, Tubes, IV Sets, plastic Iv Sets, Plastic IV Bottles and urine bags etc), with properly packed in color coded bags as per Tamil Nadu Pollution Control Board Regulation for treatment and disposal to RESISL. The waste should be given at one single point by M/s. A C S Medical College & Hospital to RESISL's Vehicle.
3. Whereas RESISL offer to provide the services required to M/s. A C S Medical College & Hospital be complied with the above said rules, on a 'user-pay-principle at Rs.1,00,000/- (One Lakhs Rupees) per Month to be paid on Monthly basis plus 12% GST is applicable. This charge will be fixed for a period from date of this agreement and thereafter subject to mutually agreed terms and conditions.
4. M/s A C S Medical College & Hospital shall pay Rs.590/- (Rupees Five Hundred Ninety only) yearly as Membership fees while renewal. (Nonrefundable)
5. RESISL & TNPCB will make periodic inspections M/s. A C S Medical College & Hospital regarding collection and segregation of Bio-Medical wastes etc.
6. RESISL shall provide the initial training, free of cost, about segregation of waste, collection of waste in color coded bags as well as occupational safety in management and handling of Bio-Medical Waste.
7. RESISL shall distribute puncture proof container (PPC) Rs. 135/- each (one time purchase) and non-chlorinated color-coded bags with Bar code strikers as per your requirement of Bags sizes "18X24", "26X30" and "30X36" (Inches) with extra cost – color (Yellow & red) RESISL not collect the other bags (i.e., chlorinated bags) – Bags rete are (18X24 Rs.6.50/-, 26X30 Rs.9.50/- and 30X36 Rs.13.50/- each) plus GST as applicable.
8. RESISL shall collect the waste from M/s. A C S Medical College & Hospital daily or mutually agreed by both the parties. RESISL will not collect the bio- medical wastes which are not segregated or properly packed. RESISL will not collect General garbage waste.

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9. In case RESISL fails to collect waste within 24 hours of previous collection M/s. A C S Medical College & Hospital shall inform RESISL and the same shall be cleared within the next 24 hours.
10. RESISL shall be liable for violation under the Bio - Medical waste (management and Handling) Rules, 2016 from the time waste is handed over to RESISL at the premises of M/s. A C S Medical College & Hospital and shall meet all the rules and regulations stipulated by the TamilNadu Pollution Control Board.
11. In case M/s. A C S Medical College & Hospital found any irregularities in collection of waste they can send a notice in writing to RESISL for immediate action. All complaints (if any) shall be attended to in the shortest possible time, (48 hours)
12. RESISL shall send the bill for the preceding month by the 3<sup>rd</sup> of the next month and the same shall be paid by D.D or cheque drawn in favor of "Re Sustainability IWM Solutions Limited" payable at Chennai.
  - (i) M/s. A C S Medical College & Hospital will ensure timely payment to RESISL before 15<sup>th</sup> of every month.
  - (ii) Payment made after 15<sup>th</sup>, will attract an additional levy of Rs.10 per day till the payment is made.
13. In case of non-receipt of payment on the agreed date from the M/s. A C S Medical College & Hospital, RESISL will stop the collection of waste immediately with intimation to TamilNadu Pollution Control Board. The delayed payment will be collected as per item 12(ii) above.
14. Agreement can be terminated by giving one month notice from either side or will be automatically terminated if the service is not started within a month by either side from the date of this agreement.

All the above points will have legal binding for a minimum period from date of this agreement.

This Agreement is Effective from 01.04.2023 to 31.03.2024

FOR ACSMCH

*Pey*  
 AUTHORIZED SIGNATORY  
 DEAN  
 A C S MEDICAL COLLEGE & HOSPITAL  
 CHENNAI - 71

FOR RESISL

Re Sustainability IWM Solutions  
 Chennai  
 600 029  
*[Signature]*  
 AUTHORIZED SIGNATORY



**Dr. M.G.R.**  
**EDUCATIONAL AND RESEARCH INSTITUTE**  
 DEEMED TO BE UNIVERSITY  
**UNIVERSITY WITH GRADED AUTONOMY STATUS**



**A.C.S. MEDICAL COLLEGE AND HOSPITAL**

(A Constituent Unit of Dr. M.G.R. Educational and Research Institute)

MHRD G.O. No. F.10-9/2007-U3(A) dt. 23.05.13 F.No. 10-9/2007-U3(A) dt. 25.09.2014

Periyar-EVR-High Road, NH-4 Chennai - Bangalore Highways-Velappanchavadi, Chennai - 600 077.

Phone : 91 44 26802133 / 155 Website : www.acsmch.ac.in

File No. 226/2021

To

Date: 17-5-2023

**State Level Environment Impact Assessment Authority,**  
 Tamil Nadu  
 Panagal buildings, Saidapet, Chennai 600015.  
 Through  
 The Member Secretary

Sir,

**Sub :** Environmental Clearance/Consent to Operate for the Project of M/s ACS Medical College its Hospital and Hostels, Educational Institutions Constructed at Numbal Village, Ambattur Taluk, Thiruvallur District under the ambit of Dr.MGR Educational and Research Institute [Deemed to be University]-Regarding

Ref: 1. MOEF&CC Notification SO 804 (E) dated 14-3-2017

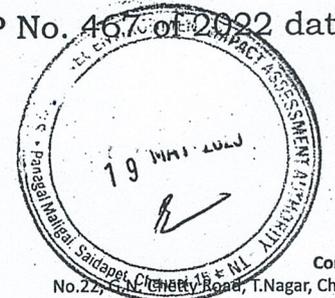
2.MOEF&CC Notification SO 5736 dated 15-11-2028

3.Our Representation dated 31-01-2023

4. Interim Order in WP Nos.12517 and 12570 of 2018 by the Hon'ble High court of Delhi

5. Order of Hon'ble Supreme Court of India in Civil Appeal Nos 7576-7577 of 2021 dated 9-12-2021 in Electro steels Limited Vs Union of India

6. Judgement of Hon'ble High Court of Madras in WP No. 467 of 2022 dated 14-12-2022 in Isha foundation Vs Union Of India



7. MOEF &CC office memorandum dated 28-6-2022 in a similar circumstances on the applicability of order of stay granted by the Hon'ble High Court of Kerala only in state of Kerala based on the Hon'ble Supreme court order dated 9-12-2021

8. MOEF& CC Office Memorandum dated 7-7-2021 -F.No.22-21/2020-IA.III issued for SOP based on notification SO 804 dated 14-3-2017

9. Order of Interim stay granted by the Hon'ble High Court of Madras Madurai Bench dated 15-7-2021 in WMP (MD) No.9241 of 2021 in WP (MD)No.11757 of 2021.

The subject mentioned Project to get environment clearance/consent to Operate is pending long time before the concerned Authority from 2009.

Later the application is treated as violation category as per SO 804 dated 14-3-2027 and after fulfilling all conditions issued Terms of Reference (TOR)in the year 2020 .

By Minutes of 565 th Meeting of SEIAA dated 31-10-2022 we have been requested to comply the conditions to arrive the amount of quantification in Ecological damage, Remedial Plan and Community Augmentation plan and Corporate Environmental Responsibility etc as per MOEF&CC notification SO 804 (E)dated 14-3-2017.

By our Representation dated 31-01-2023 citing the MOEF&CC Notification SO 5736 dated 15-11-2028 (2<sup>nd</sup> cited above) and its applicability and maintainability of other MOEF&CC office Memorandum relating to CER dated 1-5-2018 etc explaining the non applicability of various remedial measures as arrived in the SEIAA meeting and requested to consider our Environmental clearance/Consent to Operate.

In this regard of exemption notification SO 5736 (E) dated 15-11-2018, it is learned that an order of Interim order of stay passed by the Hon'ble High

Court of Delhi dated 26-11-2018 in WP (C) 12517 of 2018 and 12570 of 2018 (as cited 4<sup>th</sup> above) is relied on by your office and for that we would like to submit that as per Hon'ble Supreme court judgement in civil appeals in 7576 -7577 of 2021 dated 9-12-2021 (5<sup>th</sup> cited above) and as per Division bench of the Hon'ble High court of Madras in WP No. 467 of 2022 dated 14-12-2022,(6<sup>th</sup> cited above), the question of territorial jurisdiction arises relating to the order of the High court of Delhi relied and the order passed by High Court of Delhi is only applicable to that state and not applicable for state of Tamilnadu as per Hon'ble Supreme order and as per order of the Hon'ble High court dated 14-12-2022 in Isha Foundation case as referred above.

The Hon'ble High court order dated 14-12-2022 held that and confirms the applicability of any amendment to original notification is having retrospective validity of original notification and the jurisdictional validity of the order passed by the other High court.

The MOEF &CC office Memorandum dated 28-6-2022 (7<sup>th</sup> cited above) on the applicability of EIA Notification dated 9-12-2014 amendment to original notification 2006 for Educational Institutions relating to order of Hon'ble High court of Kerala, clarified for the order of Kerala High court is applicable within the territorial jurisdictional of Kerala alone.

Even otherwise in the case violation category based on the Notification 804 dated 14-3-2017 MOEF&CC prescribes for taking measures for violation category in the non obtaining of prior environmental clearance as per Standard Operating Procedure (SoP) in office memorandum dated 7-7-2021 (8<sup>th</sup> cited above )in the case of permissible project activity for issuance of Terms of Reference with directions to complete the EIA, EMP and appropriate various remedial measures and to initiate proceedings such violation etc.

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The said SoP dated 7-7-2021 office memorandum was challenged before the High court of Madras Madurai Bench in WP (MD)No.11757 of 2021 and the Hon'ble High court in its order dated 15-07-2021 in WMP No.9241 of 2021 in WPNo 11757 of 2021 granted order of Interim Stay for the operation of saidSOP dated 7-7-2021 issued based on notification 804 dated 14-3-2017 and the said order is valid and in force.(9<sup>th</sup> cited above)

As far as initiating proceedings for alleged violation category also dealt with by the Hon'ble High Court of Jharkand in WP 2364 of 2014 "that action for alleged violation would be an independent and separate proceedings and therefore consideration of proposal for environmental clearance cannot await initiation of action against the project proponent"

Therefore in continuation of our representation dated 31-01-2023 we would submit this further submissions towards our project of building construction of Educational institution of Medical college ,Hostels and Hospital etc to impose and to comply the conditions as per SEIAA minutes of Meeting dated 31-10-2022 cannot be insisted and based on our earlier representation and this submissions consider our project Environmental clearance/ consent to Operate without insisting remedial measures and action against alleged violation as mentioned in the 565 th Minutes of Meeting of SEIAA and do the needful.

Thanking you

Yours faithfully

*Aseval*  
12/5/23

For Dr.MGR Educational &Research Institute Trust  
Authorised signatory

Encl: As above



**Dr. M.G.R.**  
**EDUCATIONAL AND RESEARCH INSTITUTE**  
**DEEMED TO BE UNIVERSITY**



**UNIVERSITY WITH GRADED AUTONOMY STATUS**

**A.C.S. MEDICAL COLLEGE AND HOSPITAL**

(A Constituent Unit of Dr. M.G.R. Educational and Research Institute)

MHRD G.O. No. F.10-9/2007-u.3(A) dt. 23.05.13 F.No. 10-9/2007-U3(A) dt.25.09.2014

Periyar EVR High Road, NH-4 Chennai - Bangalore Highways Velappanchavadi, Chennai - 600 077.

Phone : 91 44 26802133 / 155 Website : www.acsmch.ac.in

To

Date:15-6-2023

**The Chairman,**

**State Expert Appraisal Committee,**

Tamil Nadu

Panagal buildings, Saidapet, Chennai 600015.

Sirs,

**Sub** : Schedule of 383 rd Meeting of State Expert Appraisal Committee on 15-06-2023 regarding the Environmental Clearance/Consent to Operate for the Proponent of M/s ACS Medical College its Hospital and Hostels, Educational Institutions Constructed at S.No.35/1,2,3;63/2;64/1A Numbal Village, Ambattur Taluk, Thiruvallur District under the Faculty of Dr.MGR Educational and Research Institute [Deemed to be University]- submissions -Regarding

**Reference** : 1.Order of Direction from Hon'ble National Green Tribunal (SZ) dated 17-05-2023

2.State Environment Impact Assessment Authority Minutes of 565 Meeting dated 31-10-2022

3. State Expert Appraisal Committee Report dated 13-10-2022.

4. Notification of MOEF&CC S.O.[E] 3252 dated 22-12-2014

5. Notification of MOEF&CC S.O.[E] 5736 dated 15 th November 2018

6. Notification of MOEF &CC S.O.804[E] dated 14 th March 2017

7. Notification of MOEF &CC S.O.1030[E] dated 8-3-2018

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8. Office Memorandum of MOEF &CC dated 1<sup>st</sup> May 2018 towards CER
9. Order of the Hon'ble High Court of Madras in WP 467 of 2022 dated 14-12-2022
10. Interim Order in WP Nos.12517 and 12570 of 2018 by the Hon'ble High Court of Delhi
11. Order of Hon'ble Supreme Court of India in Civil Appeal Nos 7576-7577 of 2021 dated 9-12-2021 in Electro steels Limited Vs Union of India
12. MOEF &CC office memorandum dated 28-6-2022 in a similar circumstances on the applicability of order of stay granted by the Hon'ble High Court of Kerala only in state of Kerala based on the Hon'ble Supreme court order dated 9-12-2021
13. MOEF& CC Office Memorandum dated 7-7-2021 -F.No.22-21/2020-IA.III issued for SOP based on Notification SO 804 dated 14-3-2017
14. Order of Interim stay granted for the SOP office Memorandum by the Hon'ble High Court of Madras Madurai Bench dated 15-7-2021 in WMP (MD) No.9241 of 2021 in WP. (MD)No.11757 of 2021.
15. Our Representation dated 31-01-2023
16. Our further Representation dated 17-05-2023

We wish to bring to your kind notice that the ACS Medical college &Hospital and its Hostel provides various under graduate and post graduate medical courses and allied courses situated at Numbal Village, Ambattur Taluk, Velappanchavadi, Periyar EVR High Road, Chennai- 77 is the project proponent herein. We obtained Consent to establish from Tamil Nadu Pollution Control Board on 14-02-2008 and submitted EIA Report in Form I on 25-03-2009 to SEIAA for obtaining Environmental clearance based on the applicable provisions as on that date. Now the application is currently before the State Level Environment Impact Assessment Authority [SEIAA-TN] due to various amendments and directions from MOEF&CC.

The Ministry of Environment and Forests, Government of India has originally prescribed procedure of restrictions and prohibition on the projects and activities being undertaken in any part of India for getting Prior Environment Clearance vide notification S.O1533 dated 14-09-2006 [herein after EIA 2006] as per power conferred under the provisions of Environment (Protection) Act 1986. The said Notification specifies the project and activities require Prior Environment clearance (EC) ; Schedule of list of projects requiring Prior environmental clearance ; Categorization of projects and activities ; Application for prior EC; Stages in Process for projects such as Screening, Scoping and Appraisal committees ; State Level environment Impact assessment authority etc.

In the 'schedule' annexed to the said notification prescribes for List of projects or Activities requiring Prior Environmental clearance. In Item 8, 8(a) of the schedule, prescribes for Building and Construction projects for >20000 Sq.Mtr and < 1,50,000 Sq.Mtr of built up area requires for prior environmental clearance. In 8(b) of the schedule prescribes for Townships and Area Development projects covering an area >50ha and or built up area >1,50,000 sq.mtrs. All projects under item 8(b) shall be appraised as category B1. The said notification and its schedule is amended subsequently many times during the course of time.

The project proponent's project of ACS Medical college and its Hospital and Hostels of educational institutions covered under the schedule 8, - 8(a) of Building and Construction projects of the schedule to the EIA Notification 2006.

By Notification No S.O.3252 (E) of MOEF&CC dated 22-12-2014, amended the schedule for projects in Item 8 [a] for Building or construction Projects for getting prior Environment clearance of EIA 2006 and thus the built up area of construction covered on all floors put together including its basement

and other service areas, which are proposed in the building or construction projects. >20,000Sq.Mtrs and < 1,50,000 Sq.Mtrs . However as per **Note 1** to the said amendment specifically prescribed that “The projects or activities shall not include industrial shed, school, college, hostel for educational institutions, but such buildings shall ensure sustainable environment management, solid and liquid waste management ,rain water harvesting and may use recycled materials such fly ash bricks and in **Note 2** says “General conditions shall not apply”

Based on the above said amended notification dated 22-12-2014, our project of the Medical college its hospital as educational institution and its hostel buildings of educational does not include to get prior environmental clearance. Accordingly we have claimed exemption to our project and the same is pending quite some years and requested us to approach State level authority for getting EC. Hence as far as educational institutions and hostels thereon concerned the said notification would applicable.

Further through the office Memorandum issued by Ministry of Environment Forest and climate change dated 9-6-2015 it was clarified that Medical Universities/Institutions are exempted from prior EC except the hospitals that are attached to the said universities /institutions. It is cloud to clear that without hospital a Medical college cannot be function and it is part and parcel of the institutions.

Therefore we have persuaded the application in the year 2018 to the state Authority as if violation category and after getting Terms of Reference TOR in the year 2020 for the Environmental Impact Assessment Report and the same was submitted for all complying defects and fulfilling the conditions stipulated to ensure sustainable environment management, solid and liquid waste management ,rain water harvesting and may use recycled materials, removal of Bio medical waste etc for our project. Also carried out STP

management study through Anna University and submitted its report as instructed.

By notification S.O.5736 (E) dated 15 th November 2018 issued by the MOEF&CC further amended the schedule of EIA 2006 [categorising activities/projects requiring prior environmental clearance] of original notification S.O.1533 (E) dated 14-9-2006 for the conditions for item 8 of the schedule and its entries relating thereto for "Building or construction projects or Area Development projects and town ships as well as for industrial sheds, educational institutions, hospitals for educational institutions " as follows

8 (a) Building or construction projects ranging >50 000 Sq.mtrs and < 1,50,000 Sq.Mtrs of build-up area with a Note1: The build-up area covered area on all floors put together including its basement and other service areas which are proposed in the buildings or construction projects. **Note 2: the projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions.** And **Note3:** General conditions shall not apply.

8(b)- Townships and Area development as well as industrial sheds, educational institutions, hospitals and hostel for educational institutions >150,000 Sq.Mtrs of built-up area requires an environment assessment Report and be appraised as category B1 Project with a Note -General conditions shall not apply.

By both Notifications of MOEF&CC S.O.[E] 3252 dated 22-12-2014 and S.O.[E] 5736 dated 15 th November 2018 amended original notification S.O.1533 dated 14-09-2006, it is crystal clear that >20000 sq.ft and <1,50,000 sq.mtr of built up area of Educational institutions, College, Hospital and hostels thereon, expressly no need [ it is exempted] from getting Prior Environmental clearance for operation of the same. Therefore the project proponent of Medical college its hospital and hostels comprised

of Educational institutions ,Hospital and Hostel need not obtain Prior environmental clearance from state authority for its Operation .

In the above said scenario of various amendments of MOEF&CC notifications regarding the requirement of obtaining Prior Environmental clearance for Educational institutions, Hospital and Hostels, We would like to submit the following for consideration.

We have originally applied for consent to Operate during the year 2009 itself. However without considering the said amended notification S.O.3253(E) of Ministry of Environment and Climate change dated 22-12-2014 and S. O.5736[E]dated 15th November 2018 of MOEF&CC, the project proponent's application for environment clearance/Consent to Operate is considered under Notification S.O.804[E] of Ministry of Environment and Climate change dated 14th March 2017 and 1030[E] dated 8-3-2018 are not all applicable to this project proponent as narrated above.

Later the application is treated as violation category as per SO 804 dated 14-3-2027 and after fulfilling all conditions issued Terms of Reference (TOR) in the year 2020 .

The State Level Expert Appraisal Committee [SEAC] during its 130 th meeting held on 11-06-2019 and its 320th meeting dated 13-10-2022 considered our project under schedule 8(b) &category B2 -Area and township development under violation notification dated 8-3-2018 is unwarranted .The recommendation and observation made in the 320 th meeting of SEAC to arrive the amount of quantification in Ecological damage, Remedial Plan and Community Augmentation plan and Corporate Environmental Responsibility etc is accepted in the 565 th meeting of State Environment Impact Assessment authority [SEIAA] held on 31-10-2022 only rely on the above said notifications 804 dated 14-3-2017 and 1030 dated 8-3-2018 is not correct and cannot be acceptable.

The said recommendation of SEAC is fully accepted its 565 the meeting of SEIAA dated 31-10-22 through which informed the proponent that based on the recommendation as per meeting held on 13-10-2022 requested us to furnish the following recommendations for further course of action for issuing Environmental clearance.

1. Proof to remit an amount of 71.72 lakhs in the form of Bank Guarantee to Tamil Nadu Pollution Control Board towards Ecological remediation [35.86 lakhs, Natural resource augmentation [14.344 lakhs, community resource augmentation [21.516 lakhs ] totally 71.72 lakhs and the same shall be utilised for Ecological remediation, Natural resource augmentation Community resource augmentation.
2. Proof to pay the proposed CER amount of Rs.121.72 lakhs [Rs.71.72 lakhs towards CER and additional Rs.50 lakhs towards construction of Community Hall] shall be spent as committed before issue of environmental clearance.
3. Proof of the action taken by the state government/TNPSCB under the provisions of Sec-19 of Environment Act 1986 as per EIA Notification dated 14-3-2017 and 8-3-2028.

In this regard we had submitted our response by way of reply on 31-01-2023 as follows:

The project proponent of Medical college, its Hospital and Hostel for educational institutions is expressly exempted under schedule 8(a) – Building and construction category for getting prior environmental clearance as per clear notification as discussed above , the insistence to provide for proofs for the above the 3 items shown in the minutes of meeting dated 31-10-2022 does not attracted and required and not at all applicable for project proponent of educational and Hospital building constructed. Our representation dated 31-01-2023 with enclosures is self explanatory. The same may be treated as part and parcel of this submissions.

It is submitted that that whatever rules prescribed and amended, the same will be applicable as on the date of considering the application and on retrospectively in the event of no bar. As per law of the legal verdict of the Hon'ble Division Bench of the Hon'ble High Court of Madras in WP 467 of 2022 gated 14-12-2022 towards exemption for environmental clearance/ Consent to operate for educational institutions and its retrospective effect based on the Notification dated 22-12-2014 and the acceptance of submission by counter filed for retrospective effect to the date of original notification 2006 by the learned Solicitor General appeared for Ministry of environment and Forest and the said ratio would apply to this project proponent also.

It is submitted that in the Original Application No.7 of 2022 filed by the third party before the National Green Tribunal (SZ) questioning the non obtaining of Prior Environmental clearance to our medical college as per EIA Notification 2006 and after filing counter, report by all the parties concerned including SEIAA, TNPCB and after hearing of our submissions the Hon'ble NGT on 17-5-2023 passed orders of direction to consider our representations and pass orders to grant environmental clearance to our project.

It is submitted that during the course of arguments before the Hon'ble NGT regarding the exemption notification SO 5736 (E) dated 15-11-2018, the counsel appeared on behalf of SEIAA submitted that an order of Interim order of stay passed by the Hon'ble High Court of Delhi dated 26-11-2018 in WP (C) 12517 of 2018 and 12570 of 2018 is relied on and for that we have counter submitted as per Hon'ble Supreme court judgement in civil appeals in 7576 -7577 of 2021 dated 9-12-2021 and as per Division bench of the Hon'ble High court of Madras in WP No. 467 of 2022 dated 14-12-2022, the question of territorial jurisdiction arises relating to the order of the High court of Delhi relied and the order passed by High Court of Delhi is only applicable to that state and not applicable for state of Tamilnadu as per

Hon'ble Supreme order and as per order of the Hon'ble High court dated 14-12-2022 in Isha Foundation case as referred above.

The Hon'ble High court order dated 14-12-2022 held that and confirms the applicability of any amendment to original notification is having retrospective validity of original notification and the jurisdictional validity of the order passed by the other High court.

Also submitted that the MOEF &CC office Memorandum dated 28-6-2022 on the applicability of EIA Notification dated 9-12-2014 amendment to original notification 2006 for Educational Institutions relating to order of Hon'ble High court of Kerala, clarified for the order of Kerala High court is applicable within the territorial jurisdictional of Kerala alone.

Even otherwise in the case violation category based on the Notification 804 dated 14-3-2017 MOEF&CC prescribes for taking measures for violation category in the non obtaining of prior environmental clearance as per Standard Operating Procedure (SoP) in office memorandum dated 7-7-2021 (8<sup>th</sup> cited above )in the case of permissible project activity for issuance of Terms of Reference with directions to complete the EIA, EMP and appropriate various remedial measures and to initiate proceedings such violation etc.

The said SoP dated 7-7-2021 office memorandum was challenged before the High court of Madras Madurai Bench in WP (MD)No.11757 of 2021 and the Hon'ble High court in its order dated 15-07-2021in WMP No.9241 of2021 in WPN0 11757 of 2021 granted order of Interim Stay for the operation of saidSOP dated 7-7-2021 issued based on notification 804 dated 14-3-2017 and the said order is valid and in force.

As far as initiating proceedings for alleged violation category also dealt with by the Hon'ble High Court of Jharkand in WP 2364 of 2014 "that action for alleged violation would be an independent and separate proceedings and

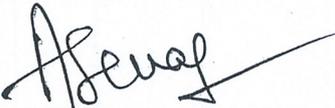
therefore consideration of proposal for environmental clearance cannot await initiation of action against the project proponent”

Therefore in continuation of our representation dated 31-01-2023 we also had submitted further submissions on 17-05-2023 in which narrating the applicability of Hon’ble Dehi High Court interim order and our Hon’ble Madras High Court interim order etc. The same also to be treated as part and parcel of this submissions towards our project of building construction of Educational institution of Medical college ,Hostels and Hospital etc to impose and to comply the conditions as per SEIAA minutes of Meeting dated 31-10-2022 cannot be insisted and based on our representations consider our project Environmental clearance/ consent to Operate without insisting remedial measures and action against alleged violation as mentioned in the 565 th Minutes of Meeting of SEIAA and do the needful.

Therefore we kindly request your good office to consider our environmental clearance/ Consent to Operate for our Educational Institutions in the name of ACS Medical college its Hospital, and Hostel at an early date and do the needful.

Thanking You

Yours faithfully



For **ACS MEDICAL COLLEGE**

Dr.MGR Educational and Research Institute

[Deemed to be University]

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Agenda No: 385-16  
(File No: 9540/2023)

Existing IT Tower Building by M/s. Electronics Corporation of Tamil Nadu Limited (ELCOT) at S.F.Nos. 602/3A of Sholinganallur Village, Sholinganallur, Chennai District, Tamil Nadu - For Environmental Clearance under violation category. (SIA/TN/INFRA2/402960/2022, Dated: 14.10.2022)

The proposal was placed in 385<sup>th</sup> SEAC meeting held on 22.06.2023. The details of the project furnished by the proponent are given in the website (parivesh.nic.in).

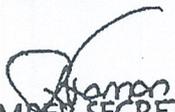
The SEAC noted the following:

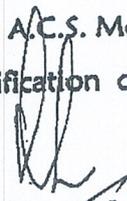
1. The Project Proponent, M/s. Electronics Corporation of Tamil Nadu Limited (ELCOT) has applied for Environmental Clearance for the existing IT Tower Building at S.F. Nos. 602/3A of Sholinganallur Village, Sholinganallur, Chennai District, Tamil Nadu.
2. The project/activity is covered under Category "B2" of Item 8(a) "Building & Construction Projects" of the Schedule to the EIA Notification, 2006.
3. Total plot area is 32,376 Sq.m & the built - up area is 23,675.03 Sq.m.
4. The proposal comes under violation category.
5. ToR under violation category issued vide Letter No. SEIAA-TN/F.No.9540/Violation/ToR- 1384/2023, dated: 27.02.2023.

The proposal was placed in 385<sup>th</sup> SEAC meeting held on 22.06.2023. Based on the presentation made by the proponent, SEAC decided to constitute a sub-committee to make on-site inspection to assess the present status of the proposed project, environmental settings and to assess ecological damage assessment, remediation plan, natural resource augmentation and community resource augmentation. After the receipt of the evaluation report by the Sub-committee, the SEAC will deliberate on the issue of Environmental Clearance under violation category.

Agenda No. 385-17  
(File No: 226/2021)

Existing Medical College & Hospital Buildings at S.F. No. 35/1,2,3,63/2,64/1A & 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu by M/s. A.C.S. Medical College & Hospital - Environmental clearance under violation notification dated:

  
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08.03.2018 of MoEF & CC – Regarding. (SIA/TN/MIS/225908/2021 Dt. 22.8.2021)

The subject is to consider the representation made by the proponent in his letters dated.31.01.2023 & 17.05.2023 addressed to the SEIAA. In his representation, the PP has claimed – quoting medical judgements and notifications – that (1) his project “of building construction of educational institution of Medical college, hostels and Hospital etc to impose and to comply the conditions as per SEIAA minutes of Meeting dated 31.10.2022 cannot be insisted”. SEIAA has forwarded the representation to SEAC for its consideration. The subject was placed in this 385<sup>th</sup> SEAC Meeting held on 22.06.2023. The details of the project furnished by the proponent are available in the website (parivesh.nic.in).

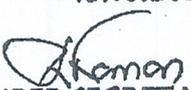
The SEAC noted the following:

1. The Proponent, M/s. A.C.S. Medical College & Hospital has applied for Environmental Clearance (violation category) for the Existing Medical College & Hospital in S.F. No. 35/1,2,3,63/2.64/1A & 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu.
2. The project/activity is covered under Category “B” of Item 8(a) “Building and Construction projects” of the Schedule to the EIA Notification, 2006.
3. The Proponent was issued with ToR under violation category vide Letter No. SEIAA-TN/F.No.226/Violation/ToR-821/2020 dated: 23.11.2020.
4. Earlier, the proposal was placed in the 622<sup>nd</sup> Authority meeting held on 26.05.2023.

The authority noted the following:

- i) Earlier, the proposal was placed in 565<sup>th</sup> authority meeting held on 31.10.2022. The authority noted that the subject was appraised in 320<sup>th</sup> SEAC meeting held on 13.10.2022. SEAC has furnished its recommendations for granting Environmental Clearance subject to the conditions stated therein.

After detailed discussion, the Authority decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 320<sup>th</sup> SEAC Meeting held on 13.10.2022.

  
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1. Accordingly, the amount prescribed for Ecological remediation (Rs.35.86 lakhs), Natural resource augmentation (14.344 lakhs) & Community resource augmentation (Rs.21.516 lakhs), totaling Rs.71.72 Lakhs. Hence the SEAC decided to direct the project proponent to remit the amount of Rs.71.72 Lakhs in the form of a bank guarantee to Tamilnadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The funds shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated in the EIA/VEMP report.
  2. The proposed CER amount of Rs. 121.72 lakhs shall be spent as committed before the issue of Environmental Clearance and the proof for the same shall be submitted to SEIAA-TN.
  3. The project proponent shall submit proof of the action taken by the state Government/TNPCB against the project proponent under the provisions of section - 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.
- ii) The project proponent is yet to submit the above details mentioned in the 565<sup>th</sup> SEIAA meeting.
- iii) Meanwhile, the project proponent vide letter dated.31.01.2023 has requested as follows:
- "..... Therefore, we kindly request your good office to consider our environmental clearance/ Consent to operate for our Educational Institutions in the name of ACS Medical College its Hospital and Hostel having built-up area of 78.103 sq.m under schedule 8(a) to EIA Notification 2006, constructed based on the notification S.O.5736 (E) dated.15.11.2018 of MoEF&CC as exempted category to get prior environmental clearance at an early date and do the needful...."*
- iv) Further, the project proponent has again submitted a request letter dated.17.05.2023 to the O/o SEIAA-TN on 19.05.2023 stating as follows:

  
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"..... Therefore in continuation of our representation dated.31.01.2023 we would submit this further submissions towards our project of building construction of Educational Institution of Medical College, Hostels, and Hospital, etc to impose and to comply the conditions as per SEIAA minutes of meeting dated.31.10.2022 cannot be insisted and based on our earlier representation and this submissions consider our project Environmental Clearance/ Consent to operate without insisting remedial measures and action against alleged violation as mentioned in the 565<sup>th</sup> minutes of meeting of SEIAA and do the needful.."

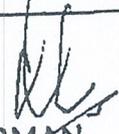
In view of the above, the authority after detailed discussions decided to forward the request to SEAC for seeking remarks on the above request of the proponent.

In this regard, the proposal was again placed in this 385<sup>th</sup> SEAC meeting. During deliberations, the Committee noted the following:

- 1 The chronology of the events pertaining to processing the file at SEIAA-TN is as follows:

S.No	DATE	DESCRIPTION
1	02.04.2009	The Project Proponent submitted hard copies of application for EC at the office of SEIAA-TN.
2	13.12.2012	Letter from SEIAA to Project Proponent informing the Project Proponent not to commence any activity without EC other than cleaning the site, fencing & putting up temporary structure for accommodation guard, along with basic facilities like toilets & water supply, made as temporary arrangement. If other activities are carried out, the proposal will fall under violation category. Also, the proponent was reminded to circulate additional particulars as per the Letter dated.07.09.2012.
3	17.04.2013	Letter from Project Proponent to SEIAA stating that they have started the construction activity in the site while the

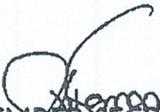
  
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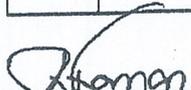
		EC proposal was pending. And hence apologized for the same.
4	23.04.2013	Letter from SEIAA to Additional Secretary to Govt, requesting to take action against Section 19 of the EP Act, for the violation committed By Project Proponent without obtaining EC
5	19.11.2014	Letter from SEIAA to Project Proponent stating that the proposal cannot be processed at SEIAA-TN as it is listed under Violation case and the orders regarding App.No.135/2014 (pertaining to violation cases) is awaited in the Hon'ble NGT, Southern Region.
6	19.06.2017	Letter from SEIAA to Project Proponent stating that the proposal cannot be processed at SEIAA-TN & he has to apply at MoEF&CC as per MoEF&CC Notification dated.14.03.2017 and application submitted to SEIAA is closed and recorded.
7	28.03.2018	Letter from SEIAA to Project Proponent communicating the MoEF&CC O.M dated.16.03.2018 regarding compliance of directions of Hon'ble Madras High Court order dated 14 <sup>th</sup> March 2018 in WMP Nos.33612, 3362 & 3721 of 2018 in WP.No.11189 of 2017 - Cases of violation
8	12.04.2018	The proponent submitted an online proposal (Violation category) vide Proposal No.SIA/TN/NCP/24686/2018 dated.12.04.2018
9	23.11.2020	ToR under violation issued vide Letter.No.SEIAA-TN/F.226/Violation/ToR-821/2020 dated.23.11.2020.

  
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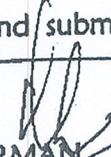
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10	22.08.2021	Application for EC was submitted by the project proponent vide Proposal No. SIA/TN/MIS/225908/2021 dated.22.08.2021
11	18.02.2022	The proposal was placed in the 247 <sup>th</sup> SEAC meeting held on 18.02.2022 for appraisal. Some additional details were called from the proponent & also SEAC decided to constitute a subcommittee for onsite inspection and decided that upon the receipt of subcommittee's report and additional details sought, this subject will be taken up for consideration.
12	18.05.2022	Sub Committee inspected the project site
13	13.10.2022	The inspection report of the Sub-Committee was placed in the 320 <sup>th</sup> SEAC meeting held on 13.10.2022 & SEAC recommended the proposal for grant of Environmental Clearance under violation category subject to the conditions stated therein.
14	31.10.2022	<p>The proposal was placed for appraisal in the 565<sup>th</sup> SEIAA meeting held on 31.10.2022. After detailed discussion, the Authority decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 320<sup>th</sup> SEAC Meeting held on 13.10.2022.</p> <ol style="list-style-type: none"> <li>1. Accordingly, the amount prescribed for Ecological remediation (Rs.35.86 lakhs), Natural resource augmentation (14.344 lakhs) &amp; Community resource augmentation (Rs.21.516 lakhs), totaling Rs.71.72 Lakhs. Hence the SEAC decided to direct the project proponent to remit the amount of Rs.71.72 Lakhs in the form of a bank guarantee to Tamilnadu Pollution Control Board and submit</li> </ol>

  
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		<p>acknowledgment of the same to SEIAA-TN. The funds shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan &amp; Community resource augmentation plan as indicated in the EIA/EMP report.</p> <p>2. The proposed CER amount of Rs. 121.72 lakhs shall be spent as committed before the issue of Environmental Clearance and the proof for the same shall be submitted to SEIAA-TN.</p> <p>3. The project proponent shall submit proof of the action taken by the state Government/TNPCB against the project proponent under the provisions of section - 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.</p> <p>On receipt of the above details, the Member Secretary is requested to place the proposal before the Authority for further course of action.</p>
15	Till date	The project proponent has not submitted the additional details called above till date.

2 Subsequently, the proponent vide letter dated.31.01.2023 & 15.06.2023 has requested to exempt from obtaining prior Environmental Clearance by relying upon the MoEF&CC notifications S.O.5733(E) dated.14.11.2018 & S.O.5736(E) dated.15.11.2018.

Further, the proponent claims that the notifications issued by MoEF&CC have retrospective effects as indicated in the Order/Judgement dated.14.12.2022 in W.P.467 of 2022 by the Hon'ble High Court of Madras in the case of Isha Foundation Vs Union of India & others.

  
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Further, the proponent claims that the stay order issued to the notifications S.O.5733(E) dated.14.11.2018 & S.O.5736(E) dated.15.11.2018 by the Hon'ble High Court of Delhi is applicable within the territorial jurisdiction of Delhi by quoting the Hon'ble Supreme Court in the matter of Civil Appeal nos. 7576-7577 of 2021 in Electro Steel Vs Union Of India And Ors.

The Committee carefully examined the representation made by the PP.

1. The PP does not deny the fact that the construction of the hospital – subject matter of this proposal – was started in the year 2008 and the construction was carried on without obtaining EC, which was mandatory as per the EIA Notification 2006. (Vide PP's letter dated 22.06.2023.)
2. The PP has submitted online application for ToR, under violation category, vide Proposal No. SIA/TN/NCP/24686/2018 dated 12.04.2018. PP appeared before SEAC and made presentation and submitted documents based on which, SEAC issued ToR under violation category and again this was accepted by the PP. The PP prepared the EIA report in compliance with the ToR conditions and submitted application for EC vide Proposal No. SIA/TN/MIS/225908/2021 dated 22.08.2021. The PP appeared before SEAC for appraisal of his application. As the proposal was considered under violation category, a Sub-Committee of SEAC visited the project and made its recommendations. All along the PP had no doubt that his proposal was being considered under violation category and only now suddenly changed his stance. Nevertheless, disregarding the 'principle of Estoppel', the Committee decided to examine the case on merits.
3. The Committee observed the following provisions contained in the Notifications & O.Ms issued by MoEF&CC & also the Judgements/Orders issued from time to time:
  - i) As per Schedule 8(a) of EIA Notification S.O.1533 (E) dated.14.09.2006,

  
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(1)	(2)	(3)	(4)	(5)
8		Building /Construction projects/Area Development projects and Townships		
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 the 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

All Building & Construction Projects of area ≥20,000 sq.m has to obtain Environmental Clearance under the provisions of EIA Notification 2006.

- ii) The proponent has submitted an application seeking Environmental Clearance for the construction of ACS Medical College and Hospital for a built-up area of 85079.69 sq.m vide offline proposal F.No.226 dated.02.04.2009.

The proponent vide mail dated.22.06.2023 has furnished the details of the building constructed by ACS Medical College & Hospital and their period of construction as follows:

S.No.	Block Name	Floors	Built-up area (Sq.m)	Year of construction
1	College Block	G+3 Floors	20,364.06	2007 & 2010
2	Hospital Block 1	G + 2 floors	10479.37	2008 & 2010
3	Hospital Block II	G + 2 floors	10249.17	2008 & 2010
4	Girls Hostel	G+3 Floors	3132.4	2008
5	Nurse Quarters	G+3 Floors	2241.64	2008
6	Staff Quarters	G+3 Floors	1769.04	2008
7	Canteen Shed	Ground floor	509.58	2008

  
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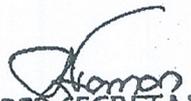
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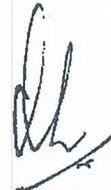
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8	Residential Quarters	G+3 Floors	3257.04	2009
9	Auditorium	Ground Floor	5040	2009
10	Mortuary Block	G+3 Floors	1563.88	2010
11	Boys Hostel	G+3 Floors	6724.44	2011
12	Watchmen shed, Store, Connecting Corridor, Temple 1 & 2, Staff Toilet & EB shed 1 & 2	Ground floor	273.31	2011
13	Dental Block	B+G+2 Floors	12499.65	2012

Hence, based on the above construction details furnished by the proponent, it is ascertained that the proponent commenced the construction work in the year 2007 prior to applying for EC at SEIAA-TN as per EIA notification, 2006 as amended.

- iii) Further, it is ascertained that after the submission of the proposal for obtaining Environmental Clearance, the proponent had carried out the construction activity in the year 2010, 2011 & 2012 and has achieved a built-up area of 78,103.58 Sq.m as on 2012 without valid Environmental Clearance.
- iv) As per MoEF&CC Notification S.O.3252 (E) dated.22.12.2014,

  
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(1)	(2)	(3)	(4)	(5)
<b>Building or Construction projects or Area Development projects and Townships</b>				
8 (a)	Building and Construction projects		>20000 sq.mtrs and < 1,50,000 sq. mtrs. of built up area	The term "built up area" for the purpose of this notification the built up or covered area on all floors put together, including its basement and other service areas, which are proposed in the building or construction projects.  Note 1.- The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks.  Note 2.- "General Conditions" shall not apply.
8	Townships and Area Development Projects		Covering an area of > 50 ha and or built up area > 1,50,000 sq. mtrs	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment report and be appraised as Category 'B1' Project.  Note.- "General Conditions" shall not apply.

Industrial sheds, Schools, Colleges, Hostel for educational institutions of area upto 1,50,000 sq.m are exempted from obtaining Environmental Clearances subject to the condition that they shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks.

v) As per MoEF&CC O.M dated.09.06.2015, regarding Clarification of S.O.3252 (E) dated.22.12.2014,

*"The Ministry is in receipt of representation from various educational institutions regarding issuing clarification on status of universities, and other educational institutions. The matter has been further examined in the Ministry and it is clarified that the Notification No. S.O. 3252 (E) dated 22.12.2014 provides exemption to buildings of educational institutions including universities from obtaining prior Environment Clearance under the provisions of the EIA Notification, 2006 subject to sustainable environmental Management. In the case of medical universities/institutes the component of Hospitals will continue to require prior Environment Clearance".*

From the above O.M dated.22.12.2014, it is ascertained that the hospitals have to obtain Environmental Clearance under the provisions of EIA Notification, 2006, as amended.

  
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vi) Subsequently, as per MoEF&CC S.O.5733 (E) dated.14.11.2018.

*" In exercise of the powers conferred by section 23 of the Environment Protection Act. 1986 (29 of 1986), the Central Government hereby delegates the power to local bodies such as Municipalities, Development Authorities, District Panchayats, the case may be, to ensure the compliance of the environmental conditions as specified in the Appendix in respect of building or construction projects with built-up area ≥ 20,000 sq.mtrs to 50,000 sq.mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions ≥ 20,000 sq.m upto 1,50,0000 sq.m along with building permission and to ensure that the conditions specified in Appendix are complied with, before granting the compliance certificate/ completion certificate".*

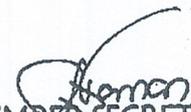
vii) Subsequently, as per MoEF&CC S.O.5736 (E) dated.15.11.2018.

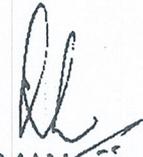
*"(i) in the said notification, for paragraph 14, the following shall be substituted, namely:*

*14 Local bodies such as Municipalities, Development Authorities and District Panchayats, shall stipulate environmental conditions while granting building permission, for the Building or Construction projects with built-up area ≥20,000 sq.mtrs and <50,000 sq.mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions from built-up area ≥ 20,000 sqm to <1,50,000 sq.m as specified in Notification S.O. 5733(E) dated 14th November, 2018*

*(ii) in the Schedule, for item 8 and the entries relating thereto, the following item and entries shall be substituted, namely: -*

<b>8</b>	<i>Building or Construction projects or Area Development projects and Townships as well as for industrial sheds, educational institutions, hospitals and hostels for educational Institutions</i>
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8 (a)	Building or Construction projects	≥50,000 sq. mtrs. And <1,50,000 sq. mtrs. of built-up area	<p>Note-1: The term "built-up area" for the purpose of this notification is the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the buildings or construction projects. Note 2: The projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions.</p> <p>Note 3: General Conditions shall not apply.</p>
8 (b)	Townships and Area Development projects as well as industrial sheds, educational institutions, hospitals and hostels for educational institutions	≥1,50,000 sq. mtrs. of built-up area and or covering an area ≥ 50 ha.	<p>A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category 'B1' Project. Note: - General Conditions shall not apply.</p>

  
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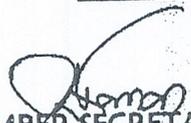
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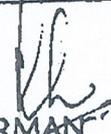
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From the above notifications S.O.5733 (E) dated.14.11.2018 & S.O.5736 (E) dated.15.11.2018, it is ascertained that buildings and construction projects upto 50,000 sq.m are exempted from obtaining prior Environmental Clearances. Also, industrial sheds, educational institutions, hospitals and hostels for educational institutions of area upto 1,50,000 sq.m are exempted from obtaining Environmental Clearances.

viii) However, the operation of both the aforesaid notifications (S.O.5733 (E) & S.O.5736 (E)) has been stayed by the Hon'ble High Court of Delhi and the Hon'ble NGT, Principal bench. The various ongoing and disposed court cases pertaining to the operation of MoEF&CC Notification dated.14.11.2018 and 15.11.2018 are as below:

S. No.	Case No.	Title	Court	Status
1	Writ Petition (Civil) No. 12517 of 2018	Social Action for Forest and Environment Vs. Union of India	High Court of Delhi	Stay order has continued
2	Writ Petition (Civil) No. 12570 of 2018	Society for Protection of Environment & Biodiversity (SPENBIO) Vs. Union of India	High Court of Delhi	Stay order has continued
3	Original Application No. 1017 of 2018	Shashikant Vithal Kamble Vs. Union of India & Ors	National Green Tribunal, Principal Bench	Was disposed of vide order dated 22.01.2019 by stating that: "...We note that even though stay granted by

  
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				<p><i>this Tribunal and Delhi High Court has been operative for the last more than four years and the impugned Notification has not been acted upon, no steps have been taken by the MoEF&amp;CC either to file any reply or to seek variation of the order by this Tribunal or by Delhi High Court and none appears to contest the matter. Thus, there will be no prejudice if such stay continues till any further step is taken in the matter after an expert study and conscious decision, as per law..."</i></p>
4	Contempt Case (Civil) No. 872 of 2018	Social Action for Forest & Environment vs. C. K. Mishra, Secretary & Another	High Court of Delhi	Case pending

  
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- ix) Further, MoEF&CC vide O.M dated.19.05.2022 has furnished clarification on the applicability of EIA notification, 2006 for Educational Institutions.

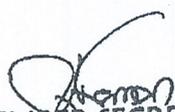
Para 5 of the O.M states that:

*"...The matter has been examined in the Ministry and it has been decided that the exemption provided for educational institutions vide Ministry's Notification No. S.O.3252(E) dated.22.12.2014 shall be applicable to all educational institutions covered under the definition of educational institutions as mentioned in Noise Pollution (regulation & Control) Rules, 2000. However, these educational institutions shall strictly implement the guidelines issued vide O.M dated 9<sup>th</sup> June 2015 to ensure sustainable environment management"*

The Ministry vide O.M dated.19.05.2022 once again mandates the strict implementation of O.M dated.09.06.2015 which states that

*"...In the case of medical universities/institutes, the component of Hospitals will continue to require prior Environment Clearance..."*

4. The PP's case rests on two arguments, namely, (1) the Notifications of MoEF&CC S.O.5733 (E) dated.14.11.2018 & S.O.5736 (E) dated.15.11.2018 exempt Hospitals up to 1,50,000 Sq. M from obtaining EC and the exemption will have retrospective effect and (2) the stay issued by the Hon'ble Delhi High Court does not have jurisdiction in the State of Tamilnadu.
5. As far as the 'retrospective effect of amendments of Act, Rules, etc, in Case No: CA 5815 OF 2009, the Hon'ble Supreme Court of India in its order dated 6<sup>th</sup> September, 2021, has observed that *"There is profusion of judicial authority on the proposition that a rule or law cannot be construed as retrospective unless it expresses a clear or manifest intention, to the contrary...Another equally important principle applies: in the absence of express statutory authorization, delegated legislation in the form of rules or regulations, cannot operate retrospectively"* In this case, the impugned Notification do not mention about the Notifications having retrospective effect. Even if one concedes that the Notifications will have retrospective effect, then the contents of O.M issued by

  
MEMBER SECRETARY  
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MoEF&CC vide O.M dated.19.05.2022 - removing the exemption to hospitals  
- will also have retrospective effect, nullifying the case of PP.

6. On the point of jurisdiction of stay order issued by the Hon'ble Delhi High Court, the impugned Notifications have been stayed not only by the Hon'ble Delhi High Court but also by the Hon'ble Principal Bench of National Green Tribunal, vide table above, which has jurisdiction over the entire country.
7. Thus, on both scores, the PP has no case. The PP may, therefore, be asked to comply with the directions already issued by SEIAA within a specified period, failing which stringent penal provisions of the Act may be invoked which may include shutting down the operations of Hospital.

Agenda No. 385-18

File No: 6440/2017

proposed construction of Tuna Fishing Harbour with net fish handling capacity of 69,000TPA at S.F.No. 7/4, 39, 40, 41, 42 & 49, Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District, Tamil Nadu by Department of Fisheries, Government of Tamil Nadu, Fishing Harbour Project Division SIA/TN/MIS/43388/2015, dated: 27.09.2019 – For amendment in Environmental Clearance

Earlier, this proposal was placed in this 383<sup>rd</sup> meeting of SEAC held on 15.06.2023. The details of the project furnished by the proponent are available on the PARIVESH web portal (parivesh.nic.in). The SEAC noted the following:

- The SEIAA has issued the Terms of Reference (ToR) to carryout Environment Impact Assessment (EIA) and Public hearing meeting, vide their Lr. No.SEIAA-TN/F.No.6440/SEAC-C/7(e) ToR-301/2017 dated:22.01.2018.
- SEIAA has granted Environmental Clearance (EC) vide their Letter No. SEIAA-TN/F.No.6440/EC/7(e)/75/ 2020 dated 05.08.2020.
- In the meantime, anticipating the Environmental Clearance and considering the importance of Welfare schemes, only casting of Tetra pods and placing of Granite stones on the existing groynes were started by the PP.
- Subsequently, in Hon'ble NGT one Original Application OA N o.28/2020 was filled by the Meenava Thanthai K.R. Selvaraj Kumar, Meenava Nala Sangam rep. by its President M.R. Thiyagarajan against the Construction of Tuna Fishing

  
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**MINUTES**

**635<sup>th</sup> MEETING**

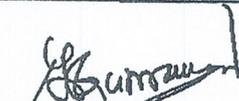
**STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY-TAMIL NADU**

**Date: 05.07.2023**

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	<p>Sholinganallur, Chennai District, Tamil Nadu - For Environmental Clearance under violation</p>		<p>make on-site inspection to assess the present status of the proposed project, environmental settings and to assess ecological damage assessment, remediation plan, natural resource augmentation and community resource augmentation.</p> <p>After the receipt of the evaluation report by the Subcommittee, the SEAC will deliberate on the issue of Environmental Clearance under violation category. In the view of the above, SEIAA accepts the decision of SEAC and decided to request Member Secretary to communicate the minutes of 385<sup>th</sup> SEAC held on 22.06.2023 to the project proponent.</p>
<p>17.</p>	<p>Existing Medical College &amp; Hospital Buildings at S.F. No. 35/1,2,3,63/2.64/1A &amp; 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu by M/s. A.C.S. Medical College &amp; Hospital - Environmental clearance under violation</p>	<p>226</p>	<p>The authority noted that this proposal was placed for appraisal in 385<sup>th</sup> meeting of SEAC held on 22.06.2023. The subject was to consider the representation made by the proponent in his letters dated.31.01.2023 &amp; 17.05.2023 addressed to the SEIAA. In his representation, the PP has claimed – quoting medical judgements and notifications – that (1) his project <i>“of building construction of educational institution of Medical college, hostels and Hospital etc to impose and to comply the conditions as per SEIAA minutes of Meeting dated 31.10,2022 cannot be insisted”</i>.</p> <p>The Committee carefully examined the representation made by the PP.</p> <p>1. The PP does not deny the fact that the construction of the hospital – subject matter of this proposal – was started in the year 2008 and the construction was carried on without obtaining EC, which was mandatory as per the EIA Notification</p>

  
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MEMBER

  
CHAIRMAN  
SEIAA-TN

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2006. (Vide PP's letter dated 22.06.2023.)

2. The PP has submitted online application for ToR, under violation category, vide Proposal No. SIA/TN/NCP/24686/2018 dated 12.04.2018. PP appeared before SEAC and made presentation and submitted documents based on which, SEAC issued ToR under violation category and again this was accepted by the PP. The PP prepared the EIA report in compliance with the ToR conditions and submitted application for EC vide Proposal No. SIA/TN/MIS/225908/2021 dated 22.08.2021. The PP appeared before SEAC for appraisal of his application. As the proposal was considered under violation category, a Sub-Committee of SEAC visited the project and made its recommendations. All along, the PP had no doubt that his proposal was being considered under violation category and only now suddenly changed his stance. Nevertheless, disregarding the 'principle of Estoppel', the Committee decided to examine the case on merits.
3. The Committee observed the various provisions contained in the Notifications & O.Ms issued by MoEF&CC & also the Judgements/Orders issued from time to time.
4. The Committed noted that The PP's case rests on two arguments, namely. (1) the Notifications of MoEF&CC S.O.5733 (E)

  
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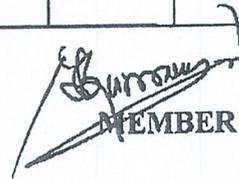
  
CHAIRMAN  
SEIAA-TN

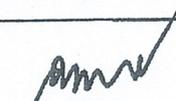
dated.14.11.2018 & S.O.5736 (E) dated.15.11.2018 exempt Hospitals up to 1,50,000 Sq. M from obtaining EC and the exemption will have retrospective effect and (2) the stay issued by the Hon'ble Delhi High Court does not have jurisdiction in the State of Tamilnadu.

5. As far as the 'retrospective effect of amendments of Act, Rules, etc, in Case No: CA 5815 OF 2009, the Hon'ble Supreme Court of India in its order dated 6<sup>th</sup> September, 2021, has observed that "*There is profusion of judicial authority on the proposition that a rule or law cannot be construed as retrospective unless it expresses a clear or manifest intention, to the contrary...Another equally important principle applies: in the absence of express statutory authorization, delegated legislation in the form of rules or regulations, cannot operate retrospectively*" In this case, the impugned Notification do not mention about the Notifications having retrospective effect. Even if one concedes that the Notifications will have retrospective effect, then the contents of O.M issued by MoEF&CC vide O.M dated.19.05.2022 - removing the exemption to hospitals - will also have retrospective effect, nullifying the case of PP.

6. On the point of jurisdiction of the stay order issued by the Hon'ble Delhi High Court, the

  
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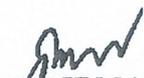
  
MEMBER

  
CHAIRMAN  
SEIAA-TN

			<p>impugned Notifications have been 'stayed not only by the Hon'ble Delhi High Court but also by the Hon'ble Principal Bench of National Green Tribunal, vide table above, which has jurisdiction over the entire country.</p> <p>7. Thus, on both scores, the PP has no case. The PP may, therefore, be asked to comply with the directions already issued by SEIAA within a specified period, failing which stringent penal provisions of the Act may be invoked which may include shutting down the operations of the Hospital.</p> <p>The Authority, after detailed deliberations, accepts the remarks made by SEAC and decided to request Member Secretary, SEIAA to write a letter addressed to the proponent to comply with the directions issued by SEIAA in its 565<sup>th</sup> meeting held on 31.10.2022 within a period of two weeks and communicate the minutes of the 385<sup>th</sup> SEAC meeting to the proponent.</p>
18.	<p>proposed construction of Tuna Fishing Harbour with net fish handling capacity of 69,000TPA at S.F.No. 7/4, 39, 40, 41, 42 &amp; 49, Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District, Tamil Nadu by Department of Fisheries, Government of Tamil Nadu, Fishing Harbour Project Division- For amendment in Environmental Clearance</p>	6440	<p>The authority noted that this subject was placed for appraisal in 385<sup>th</sup> meeting of SEAC held on 22.06.2023. Based on the presentation made by the proponent SEAC decided to defer the proposal, since the PP has requested more time to furnish the additional details.</p> <p>In view of the above, the Authority decided to request Member Secretary, SEIAA to communicate the SEAC minutes to the project proponent.</p>

  
MEMBER SECRETARY

  
MEMBER

  
CHAIRMAN  
SEIAA-TN

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**THIRU.DEEPAK S. BILGI, I.F.S**  
**MEMBER SECRETARY**



**STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY-TAMILNADU**

3rd Floor, PanagalMaaligai,  
No.1, Jeenis Road, Saidapet  
Chennai-600015

Phone No.044-24359973

Fax No. 044-24359975

**Letter. No. SEIAA-TN/F.No.226/2023 dated:12.07.2023**

**To**

M/s. ACS Medical College & Hospital,  
No.22, G.N.Chetty Road,  
T.Nagar,  
Chennai – 600017.

**Sir/Madam,**

**Sub:** SEIAA-TN – An application seeking Environmental Clearance under violation category for the Constructed Medical College & Hospital Buildings at S.F. No. 35/1,2,3,63/2,64/1A & 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu – Reply to representation- Regarding.

- Ref:**
1. Application for EC submitted at SEIAA-TN on 02.04.2009.
  2. Your apology letter dated.17.04.2013 for having started construction activity without prior EC.
  3. MoEF&CC Notification S.O.804(E) dated.14.03.2017.
  4. MoEF&CC Notification S.O.1030(E) dated.08.03.2018.
  5. ToR under violation category issued vide Letter.No.SEIAA-TN/F.226/Violation/ToR-821/2020 dated.23.11.2020.
  6. EIA Report submitted by you vide Proposal No. SIA/TN/MIS/225908/2021 dated. 22.08.2021.
  7. Minutes of 247<sup>th</sup> SEAC meeting held on 18.02.2022.
  8. Sub-Committee inspected the project site on 18.05.2022.
  9. Minutes of 320<sup>th</sup> SEAC meeting held on 13.10.2022.

~~2023~~  
~~2023~~

10. Minutes of 565<sup>th</sup> SEIAA meeting held on 31.10.2022.
11. Your representation vide letter dated.31.01.2023.
12. NGT order dated.17.05.2023 in O:A.No.07 of 2022.
13. Your representation vide letter dated.17.05.2023.
14. Minutes of 622<sup>nd</sup> SEIAA meeting held on 26.05.2023.
15. Minutes of 385<sup>th</sup> SEAC meeting held on 22.06.2023.
16. Minutes of 635<sup>th</sup> SEIAA meeting held on 05.07.2023.

XXXXXXX

This is regarding your representations received by this office vide ref.11<sup>th</sup> & 13<sup>th</sup> cited above wherein you have put forth two arguments namely,

- a) The Notifications of MoEF&CC S.O.5733 (E) dated.14.11.2018 & S.O.5736 (E) dated.15.11.2018 exempt Hospitals up to 1,50,000 Sq. M from obtaining EC and the exemption will have a retrospective effect and
- b) The stay issued to the above-mentioned Notifications by the Hon'ble Delhi High Court does not have jurisdiction in the State of Tamil Nadu.

In this regard, various provisions contained in the Notifications & O.Ms issued by MoEF&CC and also the Judgements/Orders issued from time to time were examined and ascertained as below:

1. As far as the 'retrospective effect of amendments of Act, Rules, etc, in Case No: CA 5815 OF 2009, the Hon'ble Supreme Court of India in its order dated 6<sup>th</sup> September, 2021, has observed that *"There is profusion of judicial authority on the proposition that a rule or law cannot be construed as retrospective unless it expresses a clear or manifest intention, to the contrary...Another equally important principle applies: in the absence of express statutory authorization, delegated legislation in the form of rules or regulations, cannot operate retrospectively"*.

In this case, the impugned Notifications do not mention about the Notifications having retrospective effect. Even if one concedes that the Notifications will have retrospective effect, then the contents of O.M issued by MoEF&CC vide O.M dated.19.05.2022 - removing the exemption to hospitals - will also have retrospective effect, nullifying your case.

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2. Further, on the point of jurisdiction of the stay order issued by the Hon'ble Delhi High Court, the impugned Notifications have been stayed not only by the Hon'ble Delhi High Court but also by the Hon'ble Principal Bench of National Green Tribunal in Original Application No. 1017 of 2018 which has jurisdiction over the entire country.

**Thus, on both scores, you have no case. Therefore, you are requested to comply with the directions already issued by SEIAA vide ref.10<sup>th</sup> cited above within a period of two weeks from the date of receipt of this letter, failing which stringent penal provisions of the Act may be invoked which may include shutting down the operations of the Hospital.**

The receipt of the letter may be acknowledged.

  
MEMBER SECRETARY

SEIAA-TN



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**Dr. M.G.R.**

**EDUCATIONAL AND RESEARCH INSTITUTE**  
**DEEMED TO BE UNIVERSITY**

**UNIVERSITY WITH GRADED AUTONOMY STATUS**

**A.C.S. MEDICAL COLLEGE AND HOSPITAL**

(A Constituent Unit of Dr. M.G.R. Educational and Research Institute)

MHRD G.O. No. F.10-9/2007-u.3(A) dt. 23.05.13 F.No. 10-9/2007-U3(A) dt.25.09.2014

Periyar EVR High Road, NH-4 Chennai - Bangalore Highways Velappanchavadi, Chennai - 600 077.

Phone : 91 44 26802133 / 155 Website : www.acsmch.ac.in



F. No. 226/2023

To

Date: 17-7-2023

**State Level Environment Impact Assessment Authority,**

Tamil Nadu

Panagal buildings, Saidapet, Chennai 600015.

Through

The Member Secretary

Sirs,

**Sub :** Environmental Clearance/Consent to Operate for the Proponent of M/s ACS Medical College its Hospital and Hostels, Educational Institutions Constructed at Numbal Village, Ambattur Taluk, Thiruvallur District under the ambit of Dr.MGR Educational and Research Institute [Deemed to be University]—Regarding

**Reference :**

1. Order of National Green Tribunal (SZ) dated 17-5-2023 in OA 7 of 2022
2. Letter No. SEIAA-TN/F.No.226/2023 dated 12-7-2023 received on 15-7-2023.
3. State Environment Impact Assessment Authority Minutes of 635 Meeting dated 5-07-2023
4. SEAC Minutes of 385 th Meeting dated 22-06-2023
5. State Environment Impact Assessment Authority Minutes of 565 Meeting dated 31-10-2022
6. Our Representation dated 31-01-2023



University Office :

Periyar EVR Salai (NH4 Highway), Maduravoyal, Chennai - 600095.

Ph : 91 44 2378 2176 / 2186 / 2085 | Fax : 91 44 2378 3165

Email : registrar@drmgrdu.ac.in | www.drmgrdu.ac.in

Corporate Office :

No.22, G.N. Chetty Road, T.Nagar, Chennai - 600017

Ph : 91 44 2834 5166 / 3696

Fax : 91 44 2834 1186 | Email : drmgr.corporate@gmail.com

7. Our Representation dated 17-05-2023
8. Our written submission before SEAC dated 15-06-2023
9. Notification of MOEF&CC S.O.[E] 3252 dated 22-12-2014
10. Notification of MOEF&CC S.O.[E] 5736 dated 15 th November 2018
11. Office Memorandum of MOEF &CC dated 1<sup>st</sup> May 2018 towards CER
12. Judgement of Hon'ble High Court of Madras in WP No. 467 of 2022 dated 14-12-2022 in Isha foundation Vs Union Of India
13. Order of Hon'ble Supreme Court of India in Civil Appeal Nos 7576-7577 of 2021 dated 9-12-2021 in Electro steels Limited Vs Union of India
14. MOEF &CC office memorandum dated 28-6-2022 in a similar circumstances on the applicability of order of stay granted by the Hon'ble High Court of Kerala only in state of Kerala based on the Hon'ble Supreme court order dated 9-12-2021
15. MOEF&CC Office Memorandum dated 7-7-2021 -F.No.22-21/2020-IA.III issued for SOP based on notification SO 804 dated 14-3-2017
16. Order of Interim stay granted by the Hon'ble High Court of Madras Madurai Bench dated 15-7-2021 in WMP (MD) No.9241 of 2021 in WP (MD)No.11757 of 2021.

We would like to submit the following towards your non considering of our request to consider EC to our project of Educational buildings of College, Hostel , Hospital etc buildings and constructions under exemption category.

1. In your letter 2<sup>nd</sup> cited dated 12-7-2023 you have communicated your reply on our representations dated 31-01-2023 and 17-5-2023 before SEIAA and on 15-06-2023 before SEAC for issuance of EC without considering the order of direction by the Hon'ble NGT (S) dated 17-5-2023 in OA No.7 of 2022 which says :

“ Let the SEIAA Tamilnadu consider the response ( reply dated 31-1-2023 of this proponent to the 3 conditions imposed to comply and report on the minutes of 565 th SEIAA meeting dated 31-10-2023) and pass appropriate orders before the date of next hearing which would decide the issuance of EC infavour of proponent ”

2. The letter dated 12-7-2023 and the minutes of 635 th meeting dated 5-7-2023 of SEIAA after fully accepting the minutes of 385 th meeting of SEAC dated 22-6-2023 is not correct and misconstrued our stand and mis interrupted the legal position in getting Prior Environment clearance for our college and hospital project.

3. It is submitted that when the two notifications MOEF&CC notifications 3252 dated 9-12-2014 and 5736 dated 15-11-2018 in granting exemption for building project of 50,000 to 1,50,000 sq.mtre area on industrial shed, Educational institutions including Hospitals, Hostels etc by the MOEF&CC are prevailing as on the date of considering our application during the year 2022 the same ought to have been considered. The non consideration of the same towards our college building and hospital is not known for the best reasons known to them.

4. The minutes of SEIAA 635<sup>th</sup> meeting dated 5-7-2023 and the minutes of 385 the meeting of SEAC dated 22-6-2023 states only that our claim and arguments related to 2 points only namely 1)exemption for prior environment clearance as per MOEF&CC Notification No 5736 (E) dated 15-11-2018 and its retrospective effect 2) the stay issued to the said notification 5733 dated 14-11-2018 and 5736 dated 15-11-2018 granted by the Hon'ble high court of Delhi does not applicable for state of Tamilnadu .

5. The Authority had completely misconstrued our claim in our representations dated 31-1-2023 and 17-5-2023 and on 15-6-2023 only on two points is not correct and not accepted. we have claimed the exemption

category for our projects of College and hospital buildings only under Notification SO5736 (E) dated 15-11-2018 and not under Notification S O 5733 (E) dated 14-11-2018 as stated in the minutes of meetings and in your letter and its applicability to state of Tamilnadu . Also raised other points for consideration and legal aspects towards the imposing of conditions on ecological measures and its compliance in the case of treated as violation category in the minutes of 565 th meetings of SEIAA.

6. In our representations as mentioned above we have claimed the following:

a. Exemption category under Notification SO5736 (E) dated 15-11-2018 which is a clarification to the schedule 8(a) for 'building and construction' activities under original MOEF&CC Notification SO 1553 (E) dated 14- 9- 2006 which is having retrospective effect to the original notification in the year 2006. Towards the same we relied on the Hon'ble High Court of Madras **Judgment in WP 467 of 2022 dated 14-12-2022 in Isha foundation Vs Union of India** .The judgment have categorically discussed and given finding on the retrospective effect of MOEF&CC notification dated 9-12-2014 to exemption granted to the educational college buildings having retrospective effect of operation to the original notification dated 14-12 - 2006. The said finding was given by the Hon'ble Court after considering the counter affidavit on behalf of the MOEF&CC and accepted by the Additional Solicitor General who appeared on behalf of MOEF&CC.

Also as per settled legal position when an amendment given to be considered a clarification to the original provision, and not alter the scope of the original provision and that the original must be sufficiently vague or ambiguous as to require such clarification, It must be applicable retrospectively. The said legal position as per citation **2023 SCC online SC 640 decided on 16-5-2023 by the Hon'ble Supreme court in Sree Sankaracharya University of Sanskrit case.**

b. In our case the amendment notification 3252 dated 14-12-2014 and 5736 dated 15-11-2028 issued to clarify of built up area between 20,000 sq mtr to 1,50,000 sq.mtr of industrial shed, educational, college building, hospital, hostel etc is exempted to get prior EC from the original notification 1553 dated 14-9-2006 is needless to say and definitely having retrospective effect of operation .

c. It is submitted that the stay granted in any matter by one Hon'ble High court cannot be treated as pan India order and it applies to the all states in India but only applies to the concerned state only. As per clause (2) of Article 226 of the constitution of India, the state High court can exercise its jurisdiction in relation to the territories within which the cause of action arises for the exercise of power.

d. The said principle is followed in our cited case law of Civil appeal no.7576 -7577 of 2021 in Electro steel Limited Vs Union of India of order dated 9-12-2021 in considering the Environmental issues. Followed by the said judgment MOEF&CC itself issued Office Memorandum dated 28-6-2022 issued addendum to the notification dated 19-5-2022 for clarification on the applicability of EIA notifications 2006 for educational Institutions as follows:

“ In view of the interim order of stay of the high court of Kerala in WP 3097 of 2016 dated 17-9-2020 and 23-11-2020 against the notification dated 22-12-2014, the aforesaid notification is applicable within the territorial jurisdiction of the High court of Kerala”

e. The said principle also followed in the case of Union of India and others Vs R.Thiagarajan by the Hon'ble supreme court 2020 5 SCC as follows “ We also are of the view that the High court exceeded its jurisdiction in matters like this. The High court exercise its jurisdiction only over the state (s) of which it is the High court. It has no jurisdiction for the rest of the country. and further ... it could not have passed such an order in the case where pan India repercussions would be involved.”

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f. Therefore the stay issued by the Delhi High court in WP No.12517 of 2018 and 12570 of 2018 dated 26-11-2018 on the notification dated 15-11-2018 when the matter is not been contested by MOEF&CC is not at all applicable to the state of TamilNadu in our case.

g) The SOP (Standing Operation Procedure) issued under MOEF&CC OM dated 7-7-21 under Notification 804 dated 14-3-2017 to follow the various ecological measures and conditions imposed under violation category is stayed by the Hon'ble High court of Madras in WP No. (MD) 11757 of 2021 dated 15-7-2021.

h). As per MOEF &CC office Memorandum dated 1-5-2018 the condition to impose CER (Corporate Environmental Responsibility) not at all applicable for educational institutions and hospital run by a Trust. CER is applicable only to corporate under violation constituted under Indian companies Act and Rules.

i) Since no action under section 19 of environment Act 1986 initiated in the past, The said action cannot be initiated now against our project since our project comes under exemption category and also we are unable to produce the action taken report by the government /TNSCB. The said action cannot be the reason for considering the EC as per High court judgment.

7. It is submitted that without considering and traverse the above settled legal position now citing the reference of CA 5815 Of 2009 and the judgement dated 6-9-2021 in which amendment given to the statutory provisions in the case of recovery under Excise matter discussed is not the clarification to the statutory provision which is not applicable to our present case for the reasons as discussed above. Also our cited judgment dated 9-12-2021 is the latest judgment which prevails over the situation and directly applicable to our case.

8. Also reliance of Office Memorandum issued by MOEF&CC dated 19-05-2022 to nullify our claim of retrospective effect of Exemption notification is not correct and denied. The said OM is issued to clarify the definition of "educational institution" building as per notification SO 3252 (E) dated 14-12-2014 to grant exemption to educational, college building under Schedule 8(a) of original notification dated 14-12-2006 and instructed to ensure sustainable environment management as per OM dated 9-6-2015 towards educational buildings. The said OM dated 19-5-2022 never remove the exemption granted to either educational buildings of college and hospitals under notification 5736 dated 15-11-2018 as contended. The Authority's own interpretation of OM is strongly denied and disputed.

In fact MOEF&CC in OM dated 28-6-2022 as cited above by us issued addendum to the notification dated 19-5-2022 on the applicability of EIA notification 2006 for educational institutions in the state of Kerala when the stay was issued by Kerala High court.

9. The other reliance of order of NGT Principal bench in OA 1017 of 2018 in which stayed the notification No 5736 (E) dated 15-11-2018 is also absolutely not correct. The Hon'ble NGT only issued stay for the notification No 5733 (E) dated 14-11-2018 in which delegated the power to the development and local authority in considering E C and not for the notification 5736 dated 15-11-2018 related to educational building, hospitals etc. The cited OM never discussed about the notification 5736 dated 15-11-2018 in the said order cited. Hence the decision of the SEIAA cannot be acceptable.

10. The authority not even considered our college buildings under educational building area as admitted for exemption as per Notification 3252 dated 14-12-2014 with retrospective effect.

11. Though our original application made for EC in the year 2009 is pending and delayed due to various reasons and as instructed applied under already

constructed project in the year 2018 and after inspection and study ,Terms of Reference ,TOR dated 23-11-2020 had been issued. That itself proved that we have fulfilled all the requirements and ensure sustainable environment management.

12. At the time of considering our application in the year 2022 by SEIAA during the meeting on 31-10-2022 the prevailing exemption Notification of MOEF&CC S.O.[E] 3252 dated 22-12-2014 for educational institutions of our college buildings and Notification of MOEF&CC S.O.[E] 5736 dated 15<sup>th</sup> November 2018 exemption for both educational institutions including Hospital buildings up to 1,50,000 sq.mtre for getting Environment clearance ought to be considered by the authorities. Therefore question of doctrine of Estoppel does not arise to our case .

13. However the authority only considering our application under notification SO (E) 804 dated 14-3-2027 and S O (E) 1030 dated 8-3-2018 for violation category and imposed conditions under ecological measure to be complied is not correct.

14. Therefore trying to nullify our genuine claim of exemption to our project of educational college building and hospital building with retrospective effect in operation and citing the order of stay by the Hon'ble High court of Delhi and MOEF&CC Office Memorandum dated 19-05-2022 trying to justify its applicability to our case is not at all correct and acceptable and it is only on misconception and therefore we are still unable to comply the conditions of ecological measures including CER and action under section 19 of Environment Act as suggested in the 565<sup>th</sup> meeting of SEIAA.

17. The Authority not at all considered our claim and accept the recommendation of SEAC fully without any valid reason and discussion cannot be compel to comply the conditions of ecological measures as suggested by SEIAA in Minutes of 565<sup>th</sup> Meeting dated 31-10-2022 which cannot be under the prevailing legal positions.

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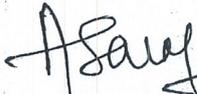
18. It is submitted that the Authority constituted by the Government of India itself not following their own notifications and other legal obligations prescribed under the various notifications of MOEF&CC and Office memorandum and its applicability to the project proponent of us in the public and even submitted on its meetings and argued before SEAC , rather threatening to close down the project of educational institution and hospital if the illegal conditions not complied with cannot be accepted and needs further consideration on the prospective manner.

Therefore we once again requested the SEIAA to consider our project for E C under exemption category with retrospective effect in operation without insisting any condition under violation category as insisted earlier 565 th meeting and do the needful at the earliest.

Awaiting your clearance for our future activities.

Thanking You

Yours faithfully

  
12/12/2023

For **ACS MEDICAL COLLEGE**

Dr.MGR Educational and Research Institute

[Deemed to be University]

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**MINUTES**

**641<sup>st</sup> MEETING**

**STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY-TAMIL NADU**

**Date: 27.07.2023 & 28.07.2023**

31.	Proposed Constructed Medical College & Hospital Buildings at S.F. No. 35/1,2,3,63/2,64/1A & 1B2 in Numbal village, Ambattur Taluk, Tiruvallur District Tamil Nadu by M/s. A.C.S. Medical College & Hospital Environmental clearance under violation	226	<p>The representation of the proponent vide letter dated.17.07.2023 was placed in the 641<sup>st</sup> authority meeting held on 27.07.2023 &amp; 28.07.2023.</p> <p>The authority noted that a letter was addressed to the proponent from SEIAA as recommended by SEAC requesting him to comply with the directions as indicated in 565<sup>th</sup> SEIAA meeting within a period of two weeks from the date of receipt of the letter failing which stringent penal provision of the Act may be invoked which may include shutting down the operations of the hospital.</p> <p>The proponent has given a representation vide letter dated.17.07.2023.</p> <p>The authority reviewed the contents of the representation in detail. The authority noted that the proponent has not complied with any conditions indicated in 565<sup>th</sup> Authority meeting. Hence, the authority, after detailed deliberations decided that the Member Secretary, SEIAA shall address TNPCB to issue a show cause notice to the project proponent for violating the provisions of EP Act, 1986.</p>
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Annexure-'A'

EC Compliance

1. The Environmental Clearance is accorded based on the assurance from the project proponent that there will be full and effective implementation of all the undertakings given in the Application Form, Pre-feasibility Report, mitigation measures as assured in the Environmental Impact Assessment/ Environment Management Plan and the mining features including Progressive Mine Closure Plan as submitted with the application.
2. All the conditions as presented by the proponent in the PPT during SEAC appraisal should be addressed in Full.
3. The proponent shall submit Compliance Reports on the status of compliance of the stipulated EC conditions including results of monitored data. It shall be sent to the

  
MEMBER SECRETARY

  
MEMBER

  
CHAIRMAN  
SEIAA-TN