

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
MISCELLANEOUS APPLICATION NO.....2024
ORIGINAL APPLICATION NO.11 of 2022/EZ**

IN THE MATTER OF

Z1 RESIDENTS' WELFARE ASSOCIATION Applicant

Versus

Z ESTATES PRIVATE LIMITED and Others ..Respondents

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PLACE: Bhubaneswar

DATE: 20/01/2024

SANKAR PRASAD PANI,

ASHUTOSH PADHY



ADVOCATES

Plot 2132/4814, NageswarTangi, Bhubaneswar 751002 Cell-9437279278,
Email: sankarprasadpani@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

(Under Section 26 read with Section 18 of the National Green Tribunal Act, 2010)

MISCELLANEOUS APPLICATION2024

**ARISING OUT OF Original Application No 11 OF 2022/EZ DISPOSED
ON 01/05/2023**

IN THE MATTER OF:

1. Z1 RESIDENT'S WELFARE ASSOCIATION Through its Secretary,
Bidhubhusan Nayak.

Tower 1, Flat No. 1304, Z1 Estate,
Nadankanan Road, Kalarhanga, Patia,
Bhubaneswar, Odisha. 751024

APPLICANT

VERSUS

1. Z ESTATES PRIVATE LIMITED,

Registered office at M/4 - 34

Acharya Vihar, Bhubaneswar Odisha -751013. Email- z1@zestates.in

2. SHRI TAPAN KUMAR MOHANTY, Managing Director

Z ESTATES PRIVATE LIMITED, at M/4 – 34

Acharya Vihar, Bhubaneswar, Odisha -751013, Email- N/A

3. MEMBER SECRETARY

Odisha State Environment Impact Assessment Authority (SEIAA) ,

Qr. No. 5RF-2/1, Unit-IX, Bhubaneswar-751022, seiaaorissa@gmail.com

4. MEMBER SECRETARY

Odisha State Pollution Control Board, A -118,
Nilakantha Nagar, Unit-VIII, Bhubaneswar-751012
Email: paribesh1@ospcboard.org

5. MEMBER SECRETARY

Central Ground Water Authority, 18/11
Jamnagar House, ManSingh Road, New Delhi-110011
Email: cgwa@nic.in

**6. Regional Director, Central Ground Water Board, South Eastern
Region, Bhubaneswar Bhujal Bhawan, Khandagiri, Bhubaneswar**
Email: rdser-cgwb@nic.in

7. Deputy Director General of Forests (C),
Ministry of Env., Forest and Climate Change, Integrated Regional Office,
A/3, Chandersekharpur, Bhubaneswar – 751023 roez.bsr-mef@nic.in

MOST RESPECTFULLY SHOWETH:

- I. The address of the Applicant's is given above for the service of notices of this Application.
- II. The addresses of the Respondents are given above for the service of notices of this Application.

FACTS

1. That the original application was filed Challenging the continuing Non-Compliances of several conditions of Environment Clearance letter dated 16/08/2011 and 17/03/2020 granted in favour of the private

respondent no 1, the Builder/Developer namely Z Estate Pvt Ltd engaged in construction of housing projects in an area of **141590.23 sqmtre and built up area of 395,865.09 sqmtre**. The Environment clearance has been granted based on a undertaking on affidavit to comply the required norms by 31/10/2020 but same has not been complied and no action has been taken by SEIAA Odisha to revoke the environment clearance.

2. That the Original Application No 11 was disposed of on 1st May 2023 with direction's to the respondents

“Para48. A) The SEIAA, Odisha, shall inspect the site in question within one month and verify whether installation of Solar Power Generation System for Phase-I and installation of Solar Water Heater which was required to be completed by 31.08.2022 as stated by the Project Proponent, has been completed and if not, appropriate penalty shall be imposed against the Project Proponent and the same shall be recovered within two months after giving him an opportunity of being heard.

(B) The SEIAA, Odisha, is further directed to determine Environmental Compensation against the Project Proponent for failure to install the Solar System for energy conservation to the extent of 5% of total power as required by the Environmental Clearance conditions dated 16.08.2011 and action in this regard

shall be taken within two months after giving the Project Proponent an opportunity of being heard.

(C) The State Pollution Control Board, Odisha, shall verify as to whether the vent height of the D.G. set stack which is at present 6.06 meters for the ground level is adequate, considering that the Environmental Clearance requires the same to be more than the highest building height.

(F) The Central Ground Water Board shall determine the penalty for violations with regard to recharge of borewells and their pits as committed by the Project Proponent and thereafter recover the same from the Project Proponent within two months after giving him an opportunity of being heard.

(G) With regard to completion of Green Belt and Avenue Plantation over at least 20% of the site area as required by the Environmental Clearance conditions dated 16.08.2011, the Committee constituted by the Tribunal is directed to re-visit the premises of the Project Proponent and verify whether at least 20% of the Green Belt has been achieved by the Project Proponent and if not, appropriate Environmental Compensation shall be determined against the Project Proponent and the same shall be recovered within two months after giving him an opportunity of being heard. (H) The Ministry of Environment, Forests and Climate Change, shall verify

as to how the Central Ground Water Board granted the NOC to the Project Proponent for extraction of ground water in violation of the Special Conditions laid down in the Environmental Clearance dated 16.08.2011 that no ground water shall be extracted for the project work at any stage during the construction phase and if the concerned officers of the Central Ground Water Board are found to have acted in violation of the Environmental Clearance conditions in granting the NOC to the Project Proponent for extraction of ground water, appropriate disciplinary action shall be taken against the concerned officers of the Central Ground Water Board by the Appointing Authority.

(I) The Ministry of Environment, Forests and Climate Change, shall also verify the conduct of the officers of SEIAA, Odisha, who were in position at the relevant point of time with regard to strict enforcement of the conditions laid down in the Environmental Clearance prior to granting subsequent Environmental Clearances and if dereliction in discharge of their duties is found, appropriate adverse entries shall be given to the concerned officers of SEIAA, Odisha, in their ACRs by the Appointing Authority. Copy of Final Order dated 1/05/2023 is annexed here with as ANNEXURE-1.

3. That the state pollution control board has sought a response from the applicant society on quantum of environment compensation and the

applicant society has already replied and sought more information from board. Hence in the present MA the applicant is not raising the issue of directions of the Honble NGT in respect of para 48 D & E of the order dated 01/05/2023.

4. That Section 26 in The National Green Tribunal Act, 2010 prescribes for Penalty for failure to comply with orders of Tribunal and same is reproduced as follows

“(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention: Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crores of rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

5. Similarly Section 28 in The National Green Tribunal Act, 2010 prescribes for Offences by Government Department. And same is reproduced as follows

“(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that

offence and shall be liable to be proceeded against and punished accordingly”.

6. That since the Respondents has not executed the order of the Honble Tribunal and deliberately violating the same, appropriated action deemed under section 26 and 28 of the National Green Tribunal Act 2010.

Grounds

That, the applicant is therefore approaching this Hon’ble Tribunal in view of the of the Non-Compliance of order of Hon’ble NGT dated 1st May2023

- a) That the non-implementation of the order invokes section 26 and 28 of the NGT Act 2010 where in stricter punishment such as 3years imprisonment or 10crores rupees penalty or both has been prescribed and knowing the same the respondents are willfully violating the order.

LIMITATION

That there is a subsisting cause of action because of the continuing violation of Hon’ble order of NGT dated 01/05/2023 and the respondents

did nothing within 8months of the order as per the deadline in the order, hence this Miscellaneous application is not barred by limitation.

PRAYER

In light of the present facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be please to

- a) Direct the Respondents to show cause why the criminal proceedings shall not be initiated for violation of the Order of the Hon'ble Tribunal dated 1st may 2023 paragraph 48 (except point D&E).
- b) Direct the Respondent to show cause what steps they have taken to implement the order of Hon'ble NGT dated 1st May 2023 paragraph 48 (except point D&E).
- c) Direct SEIAA and CGWA to file their compliance report.
- d) Failure to provide satisfactory explanation the Hon'ble Tribunal may direct for the appropriate proceedings as provided under Section 26 and 28 of NGT Act 2010.
- e) Pass such order/s as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case.

For this act of kindness the applicant shall remain grateful for ever

APPLICANT THROUGH

 APathy

ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

Misc. application no.....of 2024

ORIGINAL APPLICATION NO -11 OF 2022/EZ

IN THE MATTER OF:

Z1 RESIDENTS' WELFARE ASSOCIATION APPLICANT

VERSUS

Z ESTATES PRIVATE LIMITED and Others RESPONDENTS

AFFIDAVIT 20 JAN 2024

I. Bidhubhusan Nayak, aged about 47 years, Son of Shri Bishnucharan Nayak presently serving as Secretary of the Z1 RESIDENTS' WELFARE ASSOCIATION having its registered office at Tower 3, Ground Floor, Z1 Housing Complex, Advait, Po-Kalarahanga, Patia, Nandankanan Road, PS-Infocity Police Station, Bhubaneswar, Dist- Khurda, Odisha -751024, hereby solemnly affirm, and declare as under:

- 1. That I am the Secretary of Applicant Organization in the abovementioned Misc. application AND authorized by the applicant society to swear this affidavit
- 2. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit
- 3. That I have read over the contents of the accompanying Misc. application and the same is true and correct and drafted on my instruction. **For Z1RWA**

Bidhubhusan Nayak
**SECRETARY
DEPONENT**

VERIFICATION

Verified on this 20 JAN 2024 at2024 atthat the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By

The above named deponent(s) being duly identified by Sri.....
Advocate Bhubaneswar

For Z1RWA

Bidhubhusan Nayak
SECRETARY

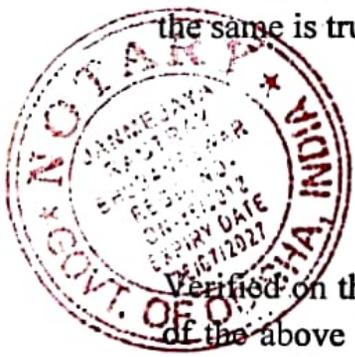
Advocate

Appears before me on oath that the contents of the above affidavit are true to the best of his/her knowledge and belief

JANMEJAYA RAUTRAY
DEPONENT
NOTARY, GOVT OF ODISHA

Deponent(s) Notary, Bhubaneswar

BHUBANESWAR
REGD. NO-ON-86/2012
Mob No. -9337121273



**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.11/2022/EZ

IN THE MATTER OF:

Z1 RESIDENTS' WELFARE ASSOCIATION,
Through its General Secretary, Bidhubhusan Nayak,
Tower 1, Flat No. 1304, Z1 Estate,
Nadankanan Road, Kalarhanga, Patia,
Bhubaneswar, Odisha-751024

.....Applicant(s)

Versus

- 1. Z ESTATES PRIVATE LIMITED,**
Registered office at M/4-34 Acharya Vihar,
Bhubaneswar, Odisha-751013;
- 2. SHRI TAPAN KUMAR MOHANTY,**
Managing Director,
Z Estates Private Limited,
At M/4-34, Acharya Vihar, Bhubaneswar,
Odisha-751013;
- 3. MEMBER SECRETARY,**
Odisha State Environment Impact Assessment Authority, (SEIAA),
Qr. No.5RF-2/1, Unit-IX,
Bhubaneswar-751022,
- 4. MEMBER SECRETARY,**
Odisha State Pollution Control Board,
A-118, Nilakantha Nagar,
Unit-VIII, Bhubaneswar-751012,
- 5. MEMBER SECRETARY,**
Central Ground Water Authority,
18/11, Jamnagar House, Mansingh Road,
New Delhi-110011,
- 6. REGIONAL DIRECTOR,**
Central Ground Water Board,
South Eastern Region, Bhubaneswar Bhujal Bhawan,
Khandagiri, Bhubaneswar,
- 7. DEPUTY DIRECTOR GENERAL OF FORESTS (C),**
Ministry of Environment, Forest & Climate Change,
Integrated Regional Office,
A/3, Chandersekharpur,
Bhubaneswar-751023,

.....Respondent(s)

Date of hearing: 01.05.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Adv. (in Virtual Mode)

For Respondent(s) : Mr. Kallol Basu, Advocate a/w Mr. Nilanjan Pal, Adv.
and Ms. Radhika Mishra, Adv. for R-1&2,(in Virtual Mode),
Mr. Apurba Ghosh, Advocate for R-3,
Ms. Papiya Banerjee Bihani, Adv. for R-4 (in Virtual Mode),
Mr. Ashok Prasad, Adv. for R-5 & 6 (in Virtual Mode)

ORDER

1. Mr. Sankar Prasad Pani, learned Counsel is present (in Virtual Mode) for the Applicant. Counsel for the Respondents are present in Virtual Mode.
2. The broad allegations made in the present Original Application are that the Respondent Nos. 1 and 2 have been carrying out constructions in Phase-I & II over a built-up area of 3,95,865.09 m² for which they were accorded Environmental Clearance on 17.03.2020 (Annexure 9 to the Original Application). It is also alleged by the Applicant's Association that in violation of the conditions of the Environmental Clearance, Green-Belt and Avenue Plantation required over an area of 20% of the site using native trees species/plants, was supposed to have been planted by the Project Proponent, Respondent Nos.1 and 2, covering an area of 30,929.22 m² but this has not been done.
3. It is further alleged that the compliance of condition of No Objection Certificate (NOC) from the Central Ground Water Board and permission of Water Resource Department, Govt. of Odisha, has not been undertaken.

4. The Applicant in his Original Application alleges that following Environmental Clearance conditions have not been complied with which read as under:-

“1. Green-Belt and Avenue Plantation over at least 20% of the site using native trees species/plants area not there. SEAC Committee observes that Green belt for Phase I is virtually absent except decorative plants such as Krushna Chuda, Ficus panda etc. in the periphery of the boundary of Phase I and landscaping.

2. Compliance of Conditions of “NOC” from CGWA and permission of water Resource Department, Govt. of Odisha is not available.

3. Detail workable plan/scheme either for zero discharge/or discharge to main road side drain through STP and oil water separation unit, particularly for monsoon period so that it will not affect the human health/environment is not available.

4. STP does not have the facility for complete treatment (Primary, Secondary and tertiary) of waste water.

5. The water treatment plant does not have any iron remover although one of the water source has high iron content.

6. The zero liquid discharge is not maintained, there is no oil water separation unit and thereby discharge of untreated water to Budhi Nalla which is mentioned as Buri Nall in EC letter.

7. Absence of facility for use of Renewable/Solar Energy in Phase I against a stipulation of at least 5% of the total power consumption for Phase I for street and common area solar lighting.

8. Diesel Generator sets in Phase I of project have inadequate Stack heights and same is violation of CPCB Norms.

9. Dust control measures not adopted to control dust and noise pollution during the construction of Phase II for which the senior citizens were the worst sufferers.

10. Rain Water harvesting/Recharge Pits reveals that water harvesting for storm water and runoff water is not available.

11. No facility for segregation of solid wastes into Biodegradable and non-biodegradable category.”

5. The Respondent Nos. 1 & 2, (hereinafter referred to as ‘Project Proponent’), have filed their counter-affidavit dated 05.03.2022,

denying the allegations in the Original Application and further submitting that the claims made by the Applicant with regard to the Respondent Nos.1&2, are misconceived, vexatious and frivolous, apart from not being maintainable and Applicants have no cause of action.

6. In the affidavit, it is stated that the Applicant submitted a letter on 05.10.2021 to the Respondent No.3, SEIAA, Odisha, alleging non-compliances of the stipulated conditions by the Respondent Nos. 1 & 2, in the Phase-I of the Project. It is stated that a four Member Committee was formed by the SEIAA, Odisha, to investigate the purported non-compliance of the stipulated conditions by the Project Proponent and the said Committee visited the site and conducted an investigation in the presence of one representative of the Applicant at the project site on 20.01.2022. It is stated that representatives of the Applicant and Respondents Nos. 3, 4 and 7 were also present as well as the representatives of the Project Proponent. It is stated that investigation was conducted by the Committee without any obstruction by the parties pursuant to which the Project Proponent submitted a Status Report vide letter dated 03.02.2022 with regard to the Action Plan for implementation of the points mentioned by SEIAA, Odisha, in its letter dated 20.02.2020. Copy of the Status of Action Plan has been filed as Annexure-A (colly) (page no. 223) which is extracted herein below:-

**“STATUS OF ACTION PLAN FOR IMPLEMENTATION OF
POINTS MENTIONED VIDE SEIAA, LETTER NO-7887/SEIAA
DATE-20-02-2020**

Sl. No.	Condition of Environmental Clearance	Implementation to be done	Implementation Schedule	Implementation Status as on 31-01-2022
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1)	Development of Green Belt For PH-1 & PH-II	We will develop a Green belt of 3.0Mtr width (approx..) in multiple layers all along the permanent boundary wall. This will be carried out both for PH-I & PH-II Expansion. The plantation activity of Greenbelt for PH-II shall be started on the onset of monsoon and shall be completed by end of 2020 monsoon i.e. much before the completion of building project and handing over process.	Plantation work to be started by June 2020 (start of monsoon) and will be completed by September 2020 (End of Monsoon)	Since this is an integrated project plantation can only be done along the permanent boundary which will took place in phase manner as per the available of boundary. However Plantation around PH-I area and along 500 mtr. Of permanent boundary has been completed using Local species of plan (Kamini, Neem, Bakul, Kadamba, Champa, Mango, Coconut, Karanja etc.)
2)	'NOC' from CGWA & permission for Water Resources Dept. Govt. of Odisha for Phase-I and PH-II for quantum of ground water drawl. Measures for limiting water	NOC from CGWA. Measures for limiting water use has been done by restricting the use through optimization of water supply and measuring the daily supply using flow meter.	Complied	Complied

	use.			
3)	<p>Installation of STP of appropriate capacity (Phase-I and Phase-II) and complete waste water treatment protocol adopted. Waste water drainage outside the premises, and permission of the competent Authority for the same.</p>	<p>STP of capacity 270 KLD based on MBBR technology is already in force for Phase-I and another STP of capacity 450 KLD has been planned for Phase-II. The surplus waste water of STP after using it for car washing. Toilet Flushing and gardening will be carried by the surface drain of the project leading to a appropriate capacity of ET P with oil and water separate chamber and shall be finally discharged to BMC open drain running along the frontage of the project after meeting the required parameters.</p>	<p>EPT for disposal of Excess treated Water during Monsoon shall be in operation by 30th June 2020.</p>	<p>The construction installation and operation of STP for PH-II is in final operation stage and connection of pipeline for disposal of Excess treated waste water to municipal drain has been completed which will be taken into full operation during monsoon of 2022. All the treated water of PH-I has been utilized for gardening purpose and no excess water is available for discharge to municipal drain. However system for discharging excess treated water during monsoon period has been integrated with PH-II system of discharging excess water.</p>
4)	<p>Rain water harvesting/Rec</p>	<p>The rain water from the roof top</p>	<p>Phase-I Corrective steps</p>	<p>All necessary corrective steps</p>

	<p>harge pits implementation plan.</p>	<p>of the building shall be channelized through pipelines and chambers directly to the collection pit and Ground water recharging pits without mix up with other run off water from landscaped area in the surface drain.</p> <p>This will ensure good quality water being recharged to Under Ground.</p> <p>Already 17 no. of Recharge pit are in force for Phase-I and another 12 no. of Recharge pit are under construction for Phase-ii.</p> <p>THERE IS A PLAN OF TOTAL 58 NO. OF Recharge pit has been planned for the entire project in phase manner.</p>	<p>to be completed by 30th June 2020.</p> <p>Phase-II will be in operation by December 2020.</p>	<p>has been completed and roof top rainwater discharge line directly connected to rain water recharge pits.</p> <p>Complied</p>
5)	<p>Solid waste Management plan and its implementation for Phase-I and</p>	<p>Further to our existing process of door to door collection of segregated solid</p>	<p>31st October 2020.</p>	<p>Adequate capacity of compost machine has been installed, which</p>

	<i>Phase-</i>	<p>waste and handing over to the OPSCB Empaneled (Under solid waste management rule of 2016 of Environmental protection act 1986) solid waste recycler for disposal.</p> <p>We are committed to install adequate capacity of Organic convertor/composting machine in the project area aiming at utilization of this compost for Lawn, ornamental Horticulture, Green belt.</p> <p>The above system catering both for PH-I and PH-II shall be in operation by October 2020.</p>		<p>will be made fully operational by 30th June 2022. However, the discussion with PH-I society will be made and a system will be explored to manage the solid waste generated from PH-I through this compost machine. Till handover to PH-I society the agency with whom we had a contract was collecting the garbage regularly.</p>
6)	<i>Energy conservation measures undertaken in Phase-I and Phase-II</i>	<p>As a progressive measure we are consulting and negotiating with IIT Bhubaneswar start-up project</p>	30 th June 2020.	<p>The installation of Solar power generation system is in progress at roof top area of</p>

	<p>including installation of solar panel for lighting of common areas, hot water storage etc. Detail of action plan and implementation schedule.</p>	<p>group for procurement installation, operation and maintenance of solar power within the Project for I & II phases with a long term annual maintenance contact satisfying the norms of minimum 5% of the power consumption in the Project.</p>		<p>Phase-II Building and the entire system will be in complete operation by 30th June 2022. Similar System for PH-I will be in place with help of suitable agency to generate solar power by 31st August 2022. This delay is due to Pandemic and few system installed earlier did not work properly.</p>
7)	<p>Details of expenditure incurred on various activities carried out under CSR activities.</p>	<p>Detail expenditure for Financial year 18-19 and 19-20 enclosed for your reference.</p>	Complied	Complied
8)	<p>Installation of DG set as per CPCB norms.</p>	<p>Although the Power outage in the Project is Low, thee by utilization of DG set is also Low. However, we are committed to construct appropriate housing of the present and</p>	20 th June 2020	<p>As per the Consent order issued by SPCB the height of vent has been made 6.05mt from Ground level.</p>

		<p><i>future DG sets and provide Vent to adequate height for proper dispersion of air Pollutant and noise pollution.</i></p>		
<p><i>NOTE: Z Estates Pvt. Ltd. is committed to provide best and qualitative Housing with all modern amenities and advance facilities retaining its continual customer satisfaction and public appreciation.</i></p> <p><i>But due to the PANDEMIC COVID-19 situation Since March 2020 we are unable to keep our commitment as per our letter Dt.25-02-2020.</i></p> <p><i>Further it may please note that as this is an integrated project and certain things can only be executed along with the completion of the work in phase manner.</i></p> <p><i>However, we assured the Esteemed Committee visited our site on 20.01.2022 that we will strictly adhere to the guide lines and conditions of E.C. and other Statutory authority in phase manner.”</i></p>				

7. The SEIAA, Odisha, Respondent No.5, has filed affidavit also dated 05.03.2022, and in para 2 thereof it has brought on record the Inspection Report of inspection carried out on 20.01.2022.
8. The State Pollution Control Board, Odisha, Respondent No.4, has filed affidavit dated 13.04.2022, bringing on record an Inspection Report of inspection carried out on 20.01.2022, relevant extract of which is extracted herein below:-

“Inspection report of the Joint Committee visited on 20.01.2022, in the matter on violation of conditions stipulated in the C by the Builders Z-Estates Pvt. Ltd. on Construction of Housing Colony and shopping mall (Phase-I) at Kalarahanga, Patia, Bhubaneswar.”

.....XXX.....XXX.....XXX.....XXX.....

As per direction, the Joint Committee to visit the site and examine the facts and submit report on the following points:

- i. *No green belt has been developed in Phase-I except some decorative plants where as the EC stipulation is to plant*

- local shade bearing species like Akashmani, Neem, Ashoka, Kadamba, Bela, Karanja etc. in the form of green belt. There is a provision of 30,923.22 sqm green belt in Phase-I project.
- ii. The Project Proponent may be asked to submit valid NOC from CGWA and permission from Water Resources Dept. Govt. of Odisha, for Phase-I for which bore wells are in use since the beginning.
 - iii. The ZEPL has handed over a STP which does not have the facility to complete treatment (Primary, Secondary and Tertiary) and there is no provision for either zero waste water discharge or discharge to main road side drain through ETP & oil water separation unit.
 - iv. There is no system for water harvesting for storm water and runoff water.
 - v. There is blatant violation of Solid Waste Management Rules, 2016 as there is no mechanism either at source or at delivery point to outsourcing agency for separation into Biodegradable and non-biodegradable category.
 - vi. There is no use of Renewable/Solar Energy in Phase-I against a stipulation of at least 5% of the solar power consumption for Phase-I for street and common area solar lighting.
 - vii. The installation of three D.G. sets in Phase-I have inadequate stack heights, a violation of Pollution norms.

Accordingly, the Joint Committee comprising of the aobe following official had visited the site on 20.01.2022. Shri Ashok Kumar Tripathy, complainant as not present and on behalf of him the Z1 Residents' Welfare Association of Phase-I Z-Estate has nominated Sri S.K. Dash, the representative of the society to join inspection team. As intimated, Shri Ashok Kumar Tripathy, the member of the Z1 Residents' Welfare Association that he will not attend the inspection committee showing the reasons that he was not taken Vaccine of COVID-19.

“Overall Observation:

Based on the site inspection and documents submitted by the Sri Tapan Kumar Mohanty project Authority (PA) of Z1-Estates, the following point has been observed by the committee are as follows:

1. Initially, the PA had applied a proposal to SEIAA, Odisha to develop in single phase construction of building Z1-estate Pvt. Ltd. for which Environmental Clearance (EC) was granted by SEIAA, Odisha vide letter no. SEIAA-261/10 dated **16.08.2011** over total built up area-**2,44,092.73 sqm.** And provision for green belt & avenue plantation of trees-20% of the site area. Later the PA had applied another application on 10.09.2014 for modernization for construction of housing colony and shopping mall (Phase-II) with built up area **2,75,042 sqm.**, existing premises of Phase-I construction project. Due to sluggish market demand and financial constraints the PA had decided to developed the project in phases for which the PA had applied application on 10.09.2014 for Phase-I consisting existing building (as a part of the earlier EC) and modified Phase-II project to developed with total built up area 2,75,042 sqm (Phase-I & Phase-II). EC obtained for modernization of phase-II vide letter no. 827 dt. **23.03.2016.** the PA had obtained EC vide letter no.7991/SEIAA dt. **17.03.2020** for expansion for construction of housing colony and convenient shopping (Phase-III) with built up area **3,95,865.09 sqm** and green belt provision was **30.929.22 sqm.**

2. During site inspection the Committee has observed that the Phase-I project had already completed and people are staying there and Phase-II project almost completed and going to operate very soon and the Phase-III project is under construction. So, Phase-I, II & III projects are integrated project in a same campus.

3. Green belt and Avenue Plantations are available and shown by the Proponent. However, at some places the plants were not available and very less/uprooted, which needs to be replanted.

4. PA was asked to submit the NOC /letter from CGWA for use of ground water. A copy of the same was shown by the proponent. The PA had obtained NOC from Central Ground Water Authority (CGWA) for withdrawal of ground water 1100 cum/day vide letter no.21-4(287)/SER/CGWA/2011-140 Dt.23.02.2011 and also thereafter (i.e. on dated 23.05.2015 for 950cum/day and on dated 16.07.2019 for 3.46,750 cum/year) copy attached.

5. The PA has informed that the phase-8i building of Z1-Estates Pvt. Ltd. was handover to Z1 Residents Welfare Association on dated 18.01.2021 and the documents handover details to the Association was acknowledge by Sri Manoranjan Mishra and Sri KalpataruPattanaikthe two members of the association.

6. The Committee visited the STP and was found that the STP was running with Primary and Secondary units. STP is installed and in place and the PA has explained that it is functioning through Moving Bed Biofilm Reactor (MBBR) technology. The proper function of the same depends upon its regular operation required chemical dosing and maintenance. It was decided that Regional officer of SPCB, Bhubaneswar may collect a sample in presence of PA ad Z1-Residents' Welfare Association, sealed it and tested to ascertain functioning of STP at later stage.

7. The treated water generated from STP is used for gardening etc. as explained by PA and there is no excess treated water found or accumulated at any area nearby. However, PA was advised that there has to be a connection of treated water to outside Municipal drain to take care of excess treated water of any and also in rainy season. Pa explained that some of the works are incomplete due to the integrated periphery development work like-internal drains, roads etc and will be done very soon.

8. **Rain water harvesting & Recharge Pits:** the PA showed the recharging Pits across the site. One such pit was opened and found water in it. ThePA has explained that channel drains are available to collect the excess water and surface water during rainy season. Pa was advised that, as so many recharge pits are already in place, they should implement the harvesting system fully not only for roof top but also for paved area surface water by connecting channels to pits.

9. **Solid Waste Management:** PA a copy of agreement letter on dated 08.06.2020 with authorised party of M/s. Clean mart Facility Services, Plot No. 78, Rasulgarh Square, Bhubaneswar-10, Odisha for collection of solid waste from the premise of Z-Estate for the period 1st may 2020 to 31st march 2021. It was informed by PA that initially internal collection of solid waste was managed by them systematically till handover the Z1-

building to the Association and then it was managed by them. Now they are not aware of renewal of any such contract by the association. The PA has not installed any composting machinery for decomposition and reuse of bio-degradable waste at building premises of Phase-I. The committee has not seen any community dustbin has been placed outside of the building for separation and collection of domestic waste for phase-I. However, there is a newly purchased bio-degradable waste composting machines having capacity 1000kg/day waste decomposition for the Phase-II building is already there to operate. The Pa has informed that, the Phase-2 compost system having adequate capacity shall be made available to Phase-1 building for treatment of bio-degradable solid waste for composting through composting machines if association desire.

10. **Solar system or energy conservation;** there is no use of Renewable/Solar energy in Phase-I building as it verified by the committee. The PA has explained that efforts were made by them initially (like individual lighting system), but the system did not work due to breakdowns. They are now planning to do the system along with Phase-II and will be done by them. Pa was informed that they must put in place 5% of total power by solar PV system at rooftop as agreed by them for Phase-I

11. **Dg set Stack:** the DG set stack of phase-I about 6 mtr as per compliance report and also found physically with roof coverage. Although it is not adequate, the distance from nearest building is over 50 meters. The PA was advised to adhere the commitments given to SEAC/SIEAA with regard to stack height even though it is away from the building also the RO, SPCB needs to check the same whether as per norm.

12. The PA was asked to submit required documents with status of compliance report which they have submitted. From this, it is found that while some of the work already has done and some work are yet to be executed. Reason of delay expressed by Pa that due to pandemic Covid-19 and being an integrated project some activities gets delayed. However, PA has agreed to do the pending work with new timeline(attached).

13. The PA has submitted a undertaking vide letter no. nil dated 25.02.2020 at SEIAA. Odisha on dated 26.02.2020 with mentioning that he will complete the action plan for

implementation EC conditions mentioned in letter no. 7887/SEIAA dt. 20.02.2020 within the period i.e. ends of the year 2020. But some of the works i.e. install of organic convertor/composting machine in the project area of phase-I, procurement installation operation and maintenance of solar power within the project area of Phase-I and Phase-II though minimum 5 % of the power consumption in the project and appropriate height for D.G. sets are not complied by Pa within the time period.

14. Again the Pa has submitted their reply (copy attached) on compliance of the conditions issued by SEIAA vide letter no.7887/SEIAA dt. 20.02.2020 and the following points are as follows:

a. **Green Belt:** since this is an integrated project plantation can only be done along the permanent boundary which will take place in phase manner as per the valuable of boundary. However, plantation around Phase-I area and along 500mtr of permanent boundary has been completed using local species of plant (kamini, neem, Bakul, Kadamba, champa, mango, Coconut, karanja etc.).

b. **NOC from Central Ground Water Authority:** complied

c. **Installation of STP of appropriate capacity:** the construction, installation and operation of STP for Phase-II is in final stage to operate and connection of pipe line for disposal of excess treated waste water to municipal drain has been completed which will be taken into full operation during monsoon of 2022. All the treated water of phase-I has been utilized for gardening purpose and no excess water is available for discharge to municipal drain. However system for discharging excess treated water during monsoon period has been integrate with phase-II system of discharging excess water.

d. **Rain Water Harvesting /Recharging pits implementation plan:** all necessary corrective steps has been completed and roof top rainwater discharge line directly connected to rain water recharge pits.

e. Solid waste management plan and its implementation for Phase-I and Phase-II adequate capacity of compost machine has been installed. Which will be made fully operational by 30th June 2022. However, the discussion with Phase-I Residents' Welfare Association will be made and a system will be explored to manage the solid waste generated from phase-I through this compost machine. Till the phase-I building handover to the Welfare Association with whom we had a contact was collecting the garbage regularly.

f. Energy Conservation measures for Phase-I & Phase-II: the installation of solar power generation system is in progress at roof top area of Phase-II building and the entire system will be complete operation by 30th June 2022. Similar system for Phase-I will be in place with help of suitable agency to generate solar power by 31st August 2022. This delay is due to Pandemic and few system installed earlier did not work properly.

g. Details of expenditure incurred on various activities carried out under CSR activities: Complied

h. Installation of DG set as per CPCB norms: As per the Consent order issued by SPCB the height of vent has been made 6.06mt from ground level.

Other Points:

1. The Z-Welfare Association authority did not agree to participate in the joint discussion.
2. The Association was asked about list of deviations they have mentioned while taking over from the PA. they said that there is no such deviation lists neither have they showed any other documents like: Contact without side agency for disposal of solid wastes etc.
3. Now that the Phase-I building of Z1-estate is managed by the Z1-Residents' Welfare Association, we may officially ask them to produce the following:

a) *Valid Contract agreement for solid waste disposal with outsourcing agency (Authorized).*

b) *Test report of STP water done periodically*

c) *Maintenance plans for the existing green belt and plantation*

4. *PA to adhered all unfinished work committed by them timeline with reason for delay to be explained by them.*

Recommendation of the Committee

1. *The PA is yet to complete some of the unfinished work referring to what was identified by SEAC and SIEAA and agreed by them vide letter dated 25.02.2020. Being an integrated project few of the activities are interrelated, as explained by PA to which Committee inferred that the compliance has to be done fast within stipulated time as mentioned by PA. Now compliance of the said conditions. The EC will be revoke.*

2. *The PA has to plant more indigenous fruit bearing and broad leave tree species rather decorative and increasing lawn area within the period August, 2022 positively.*

3. *The PA shall submit the details report on water cycle like quantum (in KILD) of rainwater water to be collected from roof top area of building, paved area, open surface, and storm water and their connecting route from source to rainwater recharging/recycling pit with photographs to be submitted at SEIAA, Odisha.*

4. *The PA needs to recharge the rainwater harvesting pits and harvest the water from reutilization by the users. They should use the services of a qualified consultant of execution of the same.*

5. *The PA has to install a separate organic convertor/composting machine for phase-I or to collect the bio-degradable solid waste from phase-I building and compost it in Phase II composting machine which is already placed in Phase-II*

building premises after mutual understanding between PA of Z-estates and Z1-Residents' Welfare Association.

6. *The PA has to install adequate no. of solar panel for light of street and common area of Phase-I building within 30th June, 2022.*

7. *Further, since the Phase-I building is now under the control of Z1-Residents' Welfare Association, it is mandatory on the part of the Association to maintain all systems like-STP operation, contract with authorized agency for solid waste disposal, maintenance of rainwater harvesting/recharging pits. Maintain plants life, pay required water cess for ground water to the authority (if any). Working of lifts etc. by trained manpower for safety and environment. This needs to be ascertained by RO. SPCB periodically.*

8. *The Regional Officer, SPCB Bhubaneswar may collect as sample in presence of PA and Z1 - Residents' Welfare Association, sealed it and tested to ascertain functioning of STP and quality of treated water used of gardening and other purposes.*

9. *The committee suggests to communicate the finding and recommendations to the Dept. of FE &Cc, Govt. of Odisha and the member Secretary SPCB for further needful and necessary action as per Got. Procedure.”*

9. Additional affidavit dated 29.04.2022 has been filed by the State Pollution Control Board, Odisha, Respondent No.4, wherein it is stated that the Board, in pursuance of the Inspection Report of the Joint Committee, has collected samples and sent the same to the Central Laboratory, Bhubaneswar, for analysis. The Analysis Report received from the Central Laboratory reveals that BOD and Feacal Coliform (FC) results do not meet the prescribed standard. The Report also reveals that Oil & Grease result is showing as 11.4 mg/l which is higher than STP discharge standard of 10.0 mg/l.

Copy of the Analysis Report has been filed as Annexure-R4/2 (colly) to the affidavit, which is extracted herein below:-

“Additional information w.r.t. O.A. No. 11 of 2022/EZ in the Matter of Z1 Residential Welfare Association on Applicant – Vrs – Z-Estates Pvt. Ltd. & Others – Respondent.

.....XXX.....XXX.....XXX.....XXX.....

As per the recommendation of joint committee w.r.t. visit to the project site on dtd. 20.01.2022 to verify the violation made to the stipulated Environmental Clearance condition on Z-Estate Pvt. Ltd., (Phase-I) FOR CONSTRUCTION OF Housing Colony and Shopping Mall vide Point No.08 the outlet of STP treated water before discharge to garden has been collected on 13.04.2022 in sealed condition in presence of representative of Project Proponent and Estate Manager of Residential Welfare Association and analyzed in the Central Lab, Patia, of SPCB, BBSR. For evaluation of 270 KLD Capacity STP working condition, the stipulated parameters like PH, BOD, TSS, Fecal coliform of Board have been analyzed as has been cited in the Consent to Establish Order w.r.t. expansion of construction of housing colony which was issued vide Order No.20841, dtd.27.12.2021.

As per the Consent to Establish condition the treated domestic waste water shall meet the standard as pH (6.5-9.0, BOD: (<20 mg/l), TSS (<100 mg/l) & Fecal Coliform (<1000 MPN/100 ml.) as notified by the MoEF& CC, Govt. of India vide G.S.R 1265 €, dtd. 13.10.2017. The treated waste water shall be reused for plantation, gardening etc. to the maximum possible extent. Also the treated waste water from STP may be discharged to Municipal Sewer after meeting the prescribed standard as proposed by Board.

Whereas, the Analysis Report which was received from Central Lab., of State Pollution Control Board, Odisha, Bhubaneswar revealed that BOD and Fecal coliform result is not meeting the prescribed standard w.r.t. special stipulated condition as cited above. Also the Oil & Grease result is showing 11.4 mg/l i.e. higher than STP discharge standard 10 mg/l).

Here this can be summarized that the total wastewater of the Phase-I housing complex is not being treated fully (100%) for which the result of treated water is showing high BOD, FC & Oil & Grease value w.r.t. to prescribed standard of Board.

Remark:

- a) *In that context the said Effluent Treatment Plant should be upgraded to such an extent so as to achieve the standard criteria parameter before land discharge.*
 - b) *After necessary up-gradation if required at an regular interval 03 more evaluation report may be conducted within coming 3-4 months so as to get a clear cut conclusion about working status of STP of phase-I.*
 - c) *The In-charge of the said Sewage Treatment Plant (STP) should taken up the adequate treatment and necessary chemical dosing practices so as to meet the prescribed standard of the Board before discharge to land/drainage system/used in the garden.*
 - d) *The Project Proponent may be directed to provide clear idea that during monsoon how the treated water is being utilized or directly discharging the same to nearby barren land and finally connecting to the natural drainage system which is flowing backside i.e. some distance away from Phase-I project site.”*
10. The Test Reports which have been filed with the affidavit show the presence of Oil & Grease at 11.4 mg/l which is higher than the STP discharge standard of 10 mg/l; Feacal Coliform is 1,60,000 MPN/100 ml which should be >1000 MPN/100 ml, and Biochemical Oxygen Demand (BOD) is 22.0 mg/l as against the prescribed standard of 20 mg/l.
 11. The Respondent Nos.1&2, Project Proponent, have filed their reply dated 26.05.2022, wherein it is stated that the Committee had visited the STP and found that the same had been installed and was functioning through Moving Bed Biofilm Reactor (MBBR) Technology. It is stated that one STP of capacity 270 KLD was installed in Phase-I of the project area which was maintained and

controlled by the Project Proponent and one FMC Company, namely, United Resorts Services LLP, was appointed by the Project Proponent for maintaining the said STP and the said Company had maintained the STP w.e.f. 01.09.2016 to 31.03.2021. Thereafter, the said STP was handed over to the residents of the building in Phase-I w.e.f. 01.04.2021 and on and from 01.04.2021, the said STP has been maintained and controlled by the Applicant's of Phase-I building.

12. It is further stated that the Respondent No.4, State Pollution Control Board, Odisha, had inspected the STP on 30.11.2019 when it was still being maintained by the Respondent No.1, Project Proponent, and submitted an Inspection Report which did not speak of any deviation in the operation of the STP. Copy of Inspection Report of inspection carried out on 30.11.2019 has been filed as Annexure-A to the affidavit which reads as under:-

***“Inspection Report of M/s. Z-Estates Pvt. Ltd.,
At- Kalarahanga, PO-KIIT, Dist.-Khordha, Odisha***

.....xxx.....xxx.....xxx.....xxx.....

During the day of inspection the unit has following observations were made:

1. *The unit has installed three nos. of D.G. sets having capacity 380 KVA each with in-built acoustic enclosure alongwith stack of required height each.*
2. *It was found that the unit has complete the constructed work of 2 Blocks of (B+G+12), 6 Blocks of (B+G+14), one Dormitory (G+2) and one Club (B+G+1) started operation as observed.*
3. *The unit installed one no. of STP having capacity 270 KLD for waste water treatment purpose each consisting of oil & grease trap, bar screen, equalization tank, MBBR-1, BBR-2, Tube Settler, Chlorine Dosing Tank, Sludge Holding Tank, Activated Carbon Filter and Multigraded filter etc.*

4. The treated water after meeting prescribed standard of the Board is being used for landscaping, vehicle washing, toilet flushing and gardening purpose and no treated effluent shall be discharge to outside of the premises found during visit.
5. The house keeping of that unit is found to be satisfactory.

The compliance to Consent to Operate order is given as follows.

Compliance to Consent to Operate Conditions:

<i>F. SPECIAL CONDITIONS (AIR POLLUTION CONTROL):</i>	
<i>Diesel power generating sets shall have acoustic enclosure.</i>	<i>3 nos (DG) sets (with Acoustic Enclosure) 380 KVA Each are in operation for the existing project.</i>
<i>The Height of the stack connected to DG set shall conform to the following $H = h + 0.2\sqrt{KVA}$</i>	<i>Three nos. of D.G. sets having capacity 380 KVA each with in-built acoustic enclosure along with stack of required height each.</i>
<i>The ambient air quality in the premises of the unit shall confirm to the norm stipulated.</i>	<i>Assured to comply.</i>
<i>G. SPECIAL CONDITIONS (WATER POLLUTION CONTROL):</i>	
<i>The entire domestic water shall be treated in the existing Sewage Treatment Plant (STP). The treated waste water shall be partly reused for toilet flushing, landscaping, vehicle washing and green belt. The balance treated effluent shall be discharged to Municipal sewer and shall meet prescribed standard mentioned in section-B of this order. STP shall be operated without any stoppage and maintained properly.</i>	<i>At present the treated water is being used for gardening, toilet flushing and car washing and no waste water is being discharged to outside of the unit premises.</i>
<i>Separate storm water drain and weep holes in the compound walls shall be provided to ensure natural drainage of rain water in the catchment area during the</i>	<i>Separate storm water drain and provision of weep holes on the compound wall to ensure natural drainage of rain water in the catchment area during the</i>

<i>monsoon period.</i>	<i>monsoon period.</i>
<i>The solid waste generated should be properly collected segregated and shall be handed over to BMC for ultimate disposal.</i>	<i>The solid waste generated from household is being collected and handed over to BMC for ultimate disposal.</i>
<i>Rain water harvesting structure shall be developed inside the premises and maximum efforts shall be made to reuse harvested rain water with a definite plan and programme to reduce drawl of fresh water.</i>	<i>17 nos. of rain water recharge Pit are being executed and in operation at site.</i>
<i>There shall not any Leakage of oil from DG set area.</i>	<i>There is no leakage of oil from DG sets observed at site during inspection.</i>
H. SPECIAL CONDITIONS (OTHERS)	
<i>The proponent shall comply he conditions as stipulated in environmental clearance issued by SEIAA Odisha vide letter No. 433 dt 16.03.2011.</i>	<i>Complied</i>
<i>The waste water treatment system and other environmental measures shall be operated and maintained all the time either by project proponent (Builder of the Project) or by the Owner's welfare Association as the case may be.</i>	<i>The Project proponent has engaged Expert professionals to maintain and operate one 270 KLD STP.</i>
<i>Energy conservation measure like installation of CFLS/TFLs for the lighting the areas outside the building should be in place. Used CFLs and TFLs should be properly collected and disposed off/sent for recycling as per the prevailing guidelines/rules of the regulatory authority to avoid mercury contamination. Use of solar panels may be done to the extent possible.</i>	<i>LED bulbs have been used for all common area lighting and all street lighting, points. The used bulbs are given to authorized agency.</i>

<p><i>Opaque wall should meet prescriptive requirement as per Energy conservation. Building code which is proposed to be mandatory for all air-conditioned spaces while it is aspirational for non-air-conditioned spaces by use of appropriate thermal insulation material to fulfil requirement.</i></p>	<p><i>Opaque wall and thermal insulation has been used in the project.</i></p>
<p><i>Lube oil from Diesel generator shall be disposed to authorized waste recycler.</i></p>	<p><i>The Lube oil generated from DG sets during maintenance is being handed over to authorized used oil/waste recycler.</i></p>
<p><i>The board may impose further condition or modify the conditions are stipulated in this order during installation and/or at the time of obtaining consent to operate and may revoke this order in case the stipulated conditions are not implemented and/or information is found to have been suppressed/wrongly furnished in the application form.</i></p>	<p><i>The proponent has agreed to comply.</i></p>
<p><i>In case the consent fee is revised upwards during this period of consent the unit shall pay the differential amount to the Board (for the remaining years) to keep the consent order in force if the industry fails to pay the amount within the period stipulated by the Board the consent order will be revoked without prior notice.</i></p>	<p><i>The proponent has agreed to comply.</i></p>
<p><i>The Board reserves the right to revoke/refuse consent at any time during this period in case any violation is observed and modify/stipulate additional conditions as deemed appropriate.</i></p>	

13. Submission of Mr. Kallol Basu, learned Counsel appearing for Project Proponent, Respondent Nos. 1&2 is that no illegality or irregularity in the maintenance of STP was observed by the State Pollution Control Board, Odisha, as long as the said STP was being controlled and maintained by the Respondent Nos.1&2 and the Inspection Report filed by the Joint Committee, of inspection carried out on 20.01.2022, is after the STP was handed over to the Applicant's Association on 01.04.2021.
14. The Project Proponent have filed another reply affidavit dated 26.05.2022 to the same effect as their previous affidavit also dated 26.05.2022. In addition, it is stated that a detailed report has been submitted by the Project Proponent on water cycle like - quantum (in KLD) of rainwater to be collected from the rooftop area of the building, the paved area, the open surface area for storm water collection. It is stated that all recharge pits have been constructed and are provided with slatted pipes which extend upto 30 meters depth in order to facilitate the replenishment and retention of rainwater all around the year and the same is in full operation.
15. With regard to the Solid Waste Management, it is stated that one M/s Clean Mart Facility Services, Bhubaneswar, has been appointed by the Project Proponent for collection of solid waste from the premises for the period from 01.05.2020 to 31.03.2021 but after the building of Phase-I was handed over to the Applicant on 18.01.2021, the solid waste of the buildings of Phase-I is being managed by the Applicant.
16. It is further stated that one Bio-degradable Waste Compositing Machine having capacity of 1000 kg/day has been installed in the Southern portion of Phase-I i.e., in Phase-II, and the said machine

is fully operational. It is also stated that the Project Proponent had vide letter dated 11.05.2022 informed the Applicants of Phase-I to segregate the waste generated in Phase-I and to send the biodegradable waste for composting to this Composting Machine.

The case of the Respondent Nos. 1&2, Project Proponent, is that there was no condition in the Environmental Clearance granted on 16.08.2011 and on 23.02.2016 for installing of Organic Waste Converter in Phase-I and, therefore, no Bio-degradable Waste Compositing Machine was installed in Phase-I.

17. With regard to Solar System or Energy Conservation, it is stated that installation of Solar Water Heater has been completed on the rooftop area of Phase-II and the entire system will be completed by 30.06.2022. It is also stated that the installation of Solar Power Generation System for Phase-I will be in place with the help of suitable agency to install Solar Water Heater by 31.08.2022. The delay in installation of the same has been explained by stating that there was COVID pandemic during this period.
18. As regards the Diesel Generator DG set Stack, it is stated by the Project Proponent that as per the recommendation of the Joint Committee the height of the DG Set Stack has been verified and re-checked by the SEIAA, Odisha, and the State Pollution Control Board, Odisha, and as per Consent to Operate issued by the State Board, the height of vent has been made 6.06 meter from ground level.
19. Further affidavit dated 15.11.2022 has been filed by the Project Proponent titled as 'compliance affidavit' and in para 2 thereof the compliance status of the directions of SEIAA has been given which is extracted herein below:-

Rejoinder	SEIAA	Respondent No. 1 and 2 - Compliance
1. Green Belt and Avenue plantation over at least 20% of the site using native trees species/plants area not there.	Green Belt and Avenue Plantations are available. The committee had instructed the respondent nos. 1 and 2 to plant more indigenous fruits bearing and broad leave tree species rather to develop decorative and increasing lawn area within the period August, 2022.	The project is an integrated project. The plantation can only be made along the permanent boundary. Plantation around Phase I and Phase II area along with 600 meter of permanent boundary has been completed using local species of plant like Swarnachampa, Nagachampa, Panasha, Kamini, Neem, Bakul, Kadamba, Champa, Mango, Coconut, Karanja etc.
2. Compliance of Conditions of "NOC" from CGWA and permission of Water Resource Department, Govt. of Odisha is not available.	23.02.2011: First NOC was granted by CGWA for use of ground water 1100 cum/day. 23.05.2015: Second NOC was granted by CGWA for use of water 950 cum/day. 16.07.2019: Third NOC was granted by CGWA for use of water 3,46,750 cum/day.	Complied
3. (i) Detail workable plan/scheme either for zero	The STP was running with primary units. The	One STP with a capacity of 270 KLD was installed in Phase 1 of the Project

<p>discharge and/or discharge to main road side drain through STP and oil water separation unit, particularly for monsoon period so that it will not affect the human health / environment is not available.</p> <p>(ii) STP does not have the facility for complete treatment (Primary, Secondary and tertiary) of waste water.</p> <p>(iii) The water treatment plant does not have any iron remover although one of the water sources has high iron content.</p> <p>(iv) The zero liquid discharge is not maintained, there is no oil water separation unit and thereby discharge of untreated water to BudhiNalla which is mentioned as</p>	<p>treated water of Phase I has been utilised for gardening purpose and no excess water is available for discharge to municipal drain. There is no excess treated water found or accumulated at any area nearby. The committee advised that there has to be a connection of treated water of outside Municipal Drain to take care of excess treated water if any and also in rainy season. The respondent nos. 1 and 2 had also installed water treatment plant for treatment of underground water.</p>	<p>Area. After installation, the STP was maintained and controlled by the Project Proponent. Thereafter, one FMC Company namely United Resorts Services LLP was appointed by the Project Proponent for maintaining the said STP. The said company had been maintaining the said STP on and from 01.09.2016 to 31.03.2021.</p> <p>Thereafter, the said STP was handed over to the residents of the building in Phase I on 01.04.2021. On and from 01.04.2021, the said STP has been maintaining and controlling by the residents of the Phase I Building.</p>
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<i>BuriNalla in EC Letter.</i>		
<p>4. Absence of facility for use of Renewable / Solar Energy in Phase I against a stipulation of at least 5% of the total power consumption for Phase I for street and common area solar lighting.</p>	<p>There was no use of renewable/solar energy in Phase I building. The respondent nos. 1 and 2 undertook that the said solar energy will be installed in Phase I building by 31.08.2022.</p>	<p>The installation of solar water heater has been completed at roof top area of Phase II and the entire system will be completed by 30.06.2022.</p> <p>The installation of solar power generation system for Phase I will be in place with help of suitable agency to install solar water heater by 31.08.2022.</p> <p>Work order has been issued to M/S Solar Sack on 19.08.2022 and the installation works are under process.</p> <p>It is submitted that the aforesaid installation work will be completed by 31.01.2023. But such completion of installation work will be subject to cooperation and permission rendered and granted by the applicants, i.e. Z1 Residents' Welfare Association.</p> <p>At present, the building of the Phase I is under the control of the applicants. The said building along with maintenance of rainwater harvesting and/or recharging pits etc.</p>

		<i>have to be maintained by the applicants.</i>
<i>5. Diesel Generator sets in Phase I of project have inadequate stack heights and same is violation of CPCB norms.</i>	<i>The DG Set stack of Phase I was about 6 meter with roof coverage. It was not adequate. The distance from nearest building was over 50 meters.</i>	<i>As per recommendation of the Committee, the height of the DG Set Stack has been verified and/or checked by the SEIAA and the Regional Officer, SPCB. As per the Certificate of the "Consent to Operate" issued by the SPCB, the height of vent has been made 6.06 meter from ground level.</i>
<i>6. Dust Control measures not adopted to control dust and noise pollution during the construction of Phase II for which senior citizens were worst suffers.</i>	<i>It was advised by the committee to take appropriate measures for controlling the dust and noise pollution. It was also advised to stop the construction work during mid day time, i.e. 1 pm to 3 pm and after 9 pm till the next morning.</i>	<i>Complied</i>
<i>7. Rain water harvesting / Recharge Pits reveal that water harvesting for storm water and runoff water is not available.</i>	<i>The committee had advised that as so many recharge pits were available in place, they should implement the harvesting system fully not only for roof top but also for paved area surface water connecting channels to pits. It was also advised</i>	<i>As per recommendation, the Project Proponent has already submitted the detailed report on water cycle like quantum (in KLD) of rainwater, which to be collected from the roof top area of the building, the paved area, the open surface and for storm water collection. All recharge pits are constructed and in full</i>

	<p>for rain harvesting and reuse for plantation and other purposes.</p>	<p>operation. All recharge pits are provided with slotted pipes, which are extended up to 30 meter depth, in order to facilitate the replenish and/or retention of rainwater all around year.</p> <p>Techno-Commercial Offer for Surface Runoff Water Treatment Plant has been prepared by Swachh Green Info Tech Private Limited.</p> <p>As per the aforesaid Report, the work is under process.</p> <p>At present, the building of the Phase I is under the control of the applicants. The said building along with maintenance of rainwater harvesting and/or recharging pits etc. have to be maintained by the applicants.</p>
<p>8. No facility for segregation of solid wastes into Biodegradable and non-biodegradable category.</p>	<p>The committee had not seen any community dustbin had been placed outside of the building for separation and collection of domestic waste for Phase I. There was a newly purchased bio-degradable</p>	<p>One authorized party namely M/S Clean Mart Facility Services was appointed by the Project Proponent for collection of solid waste from the premises of Z-Estates for the period from 01.05.2020 to 31.03.2021. The building of Phase I was handed over to the applicant on 18.01.2021.</p>

	<p>waste composting machines having capacity 1000 kg/day waste decomposition for the Phase II building was already there to operate. The compost machine for Phase II has been installed and the same will be operated by 30.06.2022.</p>	<p>Thereafter, the solid waste of the Buildings of Phase I has been managed by the applicants.</p> <p>One Bio-degradable Waste Composting Machine having capacity of 1000 kg/day has already been installed in the Southern portion of Phase I, i.e. in Phase II and the said machine is fully functioning. The Project Proponent, by a letter, has already informed the applicants of Phase I and asked them to segregate the waste generated in Phase I and to send the bio-degradable waste for composting to this Composting Machine. It is further submitted that there was no condition in the Environment Clearances dated 16.08.2011 and 23.02.2016 respectively for putting of Organic Waste Converter in Phase I. Therefore, no Bio-degradable Waste Composting Machine was installed in Phase I. The building of Phase I was handed over to the applicants on 18.01.2021 and inspection was conducted by the Committee on 20.01.2022.</p>
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		<p><i>After handing over the building to the applicants, the solid waste was managed by the applicant. The Project Proponent is not responsible for placing any community dustbin outside of the building for separation and collection of domestic waste for Phase I.</i></p> <p><i>At present, the building of the Phase I is under the control of the applicants. The said building along with contract with authorized agency for solid waste disposal has to be maintained by the applicants.”</i></p>
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20. The Central Ground Water Board, Respondent Nos. 5 & 6, has filed its affidavit dated 26.10.2022, stating therein that previously No Objection Certificate (NOC) was issued to the Respondent Nos. 1&2, Project Proponent on 16.07.2019 for use of ground water and the same has expired on 09.07.2022. It is also stated that an online application was submitted by the Project Proponent on 09.04.2022 for renewing of NOC issued to them earlier for use of ground water and the same is still pending consideration before the Central Ground Water Board, Bhubaneswar.
21. The Central Ground Water Board, Respondent Nos. 5&6, has filed a further affidavit dated 16.12.2022, stating that before consideration of further renewal of the NOC for extraction of ground water w.e.f. 10.07.2022, a site inspection of the premises in question was

carried out by the officers of the Central Ground Water Board and during inspection it was found that the Project Proponent had failed to adhere to the condition laid down in the NOC issued. Based upon the site inspection for verification of compliance of NOC conditions, report dated 17.08.2022 has been prepared and a show cause notice has been issued to the Project Proponent on 23.08.2022 in exercise of powers under Section 5 of the Environment (Protection) Act, 1986, to show cause as to why a complaint against the Project Proponent be not registered under Section 15 of the Act, 1986. It is further stated that a notice period of 60 days was given to the Project Proponent. The Company, Project Proponent, accordingly submitted its Compliance Report on 27.10.2022 and it was found that the Project Proponent had not fulfilled the criteria i.e., conditions mentioned in the NOC as well as in the show cause notice and only three, out of five points of the non-compliance conditions, had been fulfilled. Hence, it is stated that a second show cause notice was issued to the Project Proponent on 28.11.2022 to show cause as to why a complaint be not registered against it under Section 15 of the Environment (Protection) Act, 1986, giving 15 days time to rectify the default. Copy of the show cause notice dated 23.08.2022 has been filed as Annexure-D/5 to the affidavit, which shows the following non-compliances of the Project Proponent:-

1. *Bore wells are not fitted with digital flow meter,*
2. *Log Book is not maintained,*
3. *Peizometer is not fitted with telemetry system,*
4. *Recharge structures are not maintained,*
5. *Self Inspection is not submitted,*

22. The second show cause dated 28.11.2022, copy of which has been filed as Annexure-D/6 to the affidavit, shows the following non-compliance of the Project Proponent:-
1. *Bore wells are not fitted with digital flow meter,*
 2. *Self Inspection is not submitted,*
23. Copy of the reply dated 27.10.2022 submitted to the Regional Director, Central Ground Water Board, Bhubaneswar, by the Project Proponent, has also been filed at page no.362 of the paper book, answering the queries of the show cause notice by attaching (a) photographs of borewells fitted with digital flow meter, (b) Log Book, (c) details of Telemetry System submitted to the CGWA on 13.09.2022, (d) maintenance of recharge structures are going on which will take another couple of months to complete, and (e) Self-Inspection Report.
24. The Project Proponent have filed further affidavit dated 17.02.2023, showing the compliance of the directions of the Central Ground Water Board which have already been extracted hereinabove.
25. The Applicant has filed rejoinder affidavit dated 24.08.2022, stating that Environmental Clearances were granted to the Project Proponent on 17.03.2020 and 16.08.2021 for their Housing Projects in an area of 1,41,950.23 square meters and built-up area of 3,95,865.09 square meters and the Environmental Clearance was granted on an undertaking given by the Project Proponent on affidavit to comply with the required norms by 31.10.2020 but there is no compliance of the same. It is further alleged that the Project Proponent has not achieved 20% of Green Belt and Avenue Plantation using native trees species/plants which, he states, finds mention in the Report of the SEIAA that only decorative plants such

as – Krushna Chuda, Ficus Panda etc. have been planted in the periphery of Phase-I and landscaping.

26. In the affidavit, it is further alleged that the STP does not have facility for complete treatment (primary, secondary and tertiary) of waste water and the water analysis report shows presence of oil which means that there is no oil water separation unit in the STP. It is alleged that Water Treatment Plant does not have (a) any iron remover, (b) Zero Liquid Discharge is not being maintained, (c) and untreated water is being drained into the Budhi Nalla (Buri Nalla). It is also alleged that (a) there is absence of renewable/solar energy in Phase-I against a stipulation of at least 5% of the total power consumption for Phase-I; (b) Diesel Generator Sets in Phase-I of the Project do not have adequate stack heights; (c) dust control measures to control dust; (d) and noise pollution during construction of Phase-II has not been observed; (e) the report of the SEIAA Committee has not been complied with regard to the submission of detailed report on water cycle like – quantum (in KLD) of rainwater to be collected from rooftop area of the building, paved area, open surface area and storm water collection and their connecting route from source to rainwater recharging/recycling pit.
27. The Applicant has further alleged that inspite of the fact that the conditions mentioned in the Environmental Clearance dated 16.08.2011 for Phase-I had not been complied with and still remain incomplete, Environmental Clearance was granted on 23.02.2016 for Phase-II and the conditions therein also remain incomplete and yet Environmental Clearance for Phase-III has also been granted on 19.03.2020, which shows total non-application of mind by the SEIAA and very casual approach of SEIAA to the enforcement of the

Environmental Clearance conditions prior to grant of further Environmental Clearances.

28. We have heard the learned Counsel for the parties and perused the documents on record.
29. The Special Conditions for construction phase in the Environmental Clearance dated 16.08.2011 with regard to Ground Water, specifically mentions that no ground water shall be extracted for the project work at any stage during construction phase.
30. The Inspection Report of the Joint Committee of inspection carried out on 20.01.2022 is silent on this aspect of the matter and all that has been stated is that Phase-I Project has already been completed and people are staying there; the Phase-II Project is also almost complete and is going to be operated very soon; and Phase-III Project is under-construction. In the report, it is further stated that the Project Proponent was required to submit NOC letter from the Central Ground Water Authority for use of ground water which shows that it was permitted withdrawal of ground water of 1100 cum/day vide letter dated 23.02.2011 and thereafter w.e.f. 23.05.2015 at 950 cum/day and w.e.f. 16.07.2019 at 3,46,750 cum/year.
31. We fail to understand that when the Environmental Clearance Special Conditions of 16.08.2011 clearly stipulated that no ground water shall be extracted for the project work at any stage during the construction phase, how was the NOC granted by the Central Ground Water Authority for withdrawal of ground water vide their letters dated 23.02.2011, 23.05.2015 and 16.07.2019. This clearly shows dereliction of duty and irresponsibility on the part of the

officers concerned of the Central Ground Water Authority in acting in a mechanical manner on the basis of the application for grant of NOC without demanding and examining the conditions laid down in the Environmental Clearance.

Question is not that the Project Proponent submitted online application for grant of NOC. Question is whether the NOC for extraction of ground water for the project work at any stage during construction phase could have been granted at all?

32. The affidavit of the Central Ground Water Board dated 26.10.2022 shows that NOC was granted initially to the Project Proponent on 16.07.2019 on his application which expired on 09.07.2022 and now another online application has been submitted by the Project Proponent on 09.04.2022 for renewal of NOC. The Central Ground Water Authority before granting of NOC ought to have called for the Environmental Clearance of the Project Proponent's project and gone through the conditions laid down therein and in view of the specific prohibition against extraction of ground water for project work during construction work, *prima facie*, no NOC could have been granted. Without first verifying as to what the NOC was being required for and for what purpose the ground water was sought to be extract, NOC has been granted by the Central Ground Water Board. The affidavit of the Central Ground Water Board is silent on these aspects of the matter and, therefore, we may infer that the NOC was granted by the Central Ground Water Board to the Project Proponent in violation of the Special Conditions laid down in the Environmental Clearance dated 16.08.2011. This matter needs to be examined by the Ministry of Environment, Forests and Climate Change with regard to the conduct of the officers of the Central

Ground Water Board, calling for their explanation and if dereliction and negligence of duty on their part in this regard is found, appropriate disciplinary action needs to be taken against the then concerned officers of the Central Ground Water Board.

However, having said that, we do not intend to penalize the Project Proponent, Respondent Nos.1&2, for extraction of ground water when the NOC itself was approved by the Central Ground Water Board.

33. So far as the findings of the Joint Committee's Report with regard to the STP is concerned, the Joint Committee noted that during inspection the STP was found to be operational with primary and secondary units through Moving Bed Biofilm Reactor (MBBR) Technology and the treated water generated from the STP was being used for gardening and no excess treated water was found accumulated in any nearby area. The Project Proponent was advised to ensure connection of treated water to outside municipal drain to take care of excess treated water, if any, and also in the rainy season. Some works were found incomplete such as – internal drains, roads etc. which it was stated by the Project Proponent would be completed at the earliest.
34. The Project Proponent in his compliance affidavit dated 15.11.2022 has stated that one STP of capacity 270 KLD has been installed in Phase-I of the project area and the same was maintained by the Project Proponent till 31.03.2021 whereafter the same was handed over to the residents of the building in Phase-I on 01.04.2021 and thereafter the maintenance and control of the said STP has to be taken care of by the residents of the Phase-I building.

35. The Environmental Clearance dated 16.08.2011 is silent with regard to the capacity of the STP. From the documents on record, it is not clear as to whether the STP of 270 KLD would be adequate for Phase-I, Phase-II and Phase-III of the Project in question. The Water Analysis Report certainly shows non-compliance of the prescribed standard of BOD being 22.0 mg/l as against the prescribed standard of 20 mg/l and Faecal Coliform being 160000 MPN/100 ml as against the prescribed standard of less than >1000 MPN/100 ml, but as already noted hereinabove, the maintenance of the STP is now under the management and control of the residents of the Phase-I building i.e., the Applicant's Association, and, therefore, the liability for violation of the STP norms as indicated in the Report would fall upon the Applicant's Association.

We, therefore, direct the State Pollution Control Board, Odisha, to take appropriate action for determination of Environmental Compensation for violation of STP norms against the Applicant's Association.

36. The allegation of the Applicant that the Water Treatment Plant does not have Iron Removal or Zero Liquid Discharge, the same needs to be examined by the State Pollution Control Board, Odisha, for purposes of determination of Environmental Compensation in the light of the observations made hereinabove based on the Water Analysis Report.

37. As regards the Rain Water Harvesting and Recharge Pits, the Joint Committee noted that the recharge pits were found filled with water and channel drains were available to collect excess water and surface water during rainy season. The Committee advised the Project Proponent to implement the harvesting system fully not only

for rooftop but also for paved area surface water by connecting channels to the pits.

The Environmental Clearance dated 16.08.2011 requires the Project Proponent to install borewells for rain water recharging to be at least 5 meters above the highest ground water table.

38. The affidavit of the Central Ground Water Board, however, clearly shows that two notices were issued by the Board on the ground that (a) recharge structures were not being maintained by the Project Proponent; (b) borewells were not fitted with digital flow meter; (c) Log Book was not maintained; (d) piezometer is not fitted with telemetry system, and (e) self inspection is not submitted. Thus, the Project Proponent is in clear violation of the directions given by the Central Ground Water Board and is also not compliant of the Environmental Clearance conditions with regard to rain water harvesting and recharge of rain water through borewell.

The show cause notice issued by the Central Ground Water Board on 23.08.2022 shows that NOC with mandatory conditions/restrictions and safeguard was issued to the Project Proponent on 16.07.2019 and even on 29.08.2022, the Project Proponent has been found to be non-compliant with regard to recharge borewells and their maintenance. The Central Ground Water Board shall, therefore, determine the penalty for violations with regard to recharge of borewells and their maintenance committed by the Project Proponent and thereafter recover the same from the Project Proponent after giving him opportunity of hearing. It is made clear that subsequent compliance of the conditions by the Project Proponent will not absolve him from past violation of environmental norms.

39. As regards the Solid Waste Management, the Committee went through the papers relating to agreement of the Project Proponent with M/s Clean Mart Facility Service, Bhubaneswar, for collection of solid waste from the premises in question for the period from 01.05.2020 to 31.03.2021. The Committee did not notice any community dustbin outside the building for separation and collection of domestic waste for Phase-I but found that there was a newly purchased Biodegradable Waste Composting Machine having capacity of 1000 kg/day waste decomposition for Phase-II building. The Project Proponent has informed that Phase-II compost system had adequate capacity and would be made available to Phase-I building for treatment of biodegradable solid waste for composting through composting machines.
40. So far as Solid Waste Management regime is concerned, we may advert to the previous Inspection Report dated 30.11.2019 wherein it is found that solid waste generated from households was being collected and handed over to Bhubaneswar Municipal Corporation (BMC) for ultimate disposal. If any default has been found in the subsequent Inspection Report and according to the Project Proponent Phase-I site was handed over to the residents on 18.01.2021, therefore, any findings of non-compliance of the solid waste management regime would be the liability of the Applicant's Association.
41. As regards the Solar System or Energy Conservation, the Committee found that there was no use of Renewable/Solar Energy in Phase-I building. It is stated that efforts were made initially by the Project Proponent but the system did not work due to frequent breakdowns. The Project Proponent has been informed that they

must adhere to 5% of total power by Solar PV System at rooftop for Phase-I. The Project Proponent in his compliance report has stated that installation of Solar Power Generation System for Phase-I will be completed with the help of suitable agency by 31.08.2022. This clearly shows that from 2011 when the first Environmental Clearance was granted, the Project Proponent has not yet completed installation of Solar Power Generation System and has not install 5% of the total power generation or put in place solar water heater storage/supply at the rooftop and is, therefore, in violation of energy conservation measures. Even in the present affidavit of 16.11.2022, it has not been disclosed by the Project Proponent that Solar Water Heater at rooftop of Phase-I has been installed by 31.08.2022 or not.

42. We, therefore, direct the Project Proponent to complete the project of installation of Solar System for energy conservation to the extent of 5% of the total power positively within two months. However, for past non-compliances, the Project Proponent will be liable for Environmental Compensation as may be determined by the SEIAA, Odisha, which granted the Environmental Clearance.

43. As regards the Diesel Generator set Stacks, the Committee has noted that the DG set Stack of Phase-I is about 6 meters. The Committee also noted that the nearest building is about 50 meters and, therefore, the stack height is not adequate. The Environmental Clearance condition for Diesel Power Generating sets mentions that the height of the stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets put together and should be more than the highest building height. The Committee Report clearly indicates violation of the Environmental

Clearance condition by the Project Proponent. The Compliance Report of the Project Proponent mentions that as per the Consent to Operate, the height of the vent has been made 6.06 meters from ground level.

The State Pollution Control Board, Odisha, is, therefore, required to examine as to whether the stack height of DG set of 6.06 meters of the Project Proponent's project from ground level is adequate in the given circumstances or not.

44. Mr. Sankar Prasad Pani, learned Counsel for the Applicant's Association submitted that the Project Proponent has not achieved the required Green Belt condition of the Environmental Clearance and, therefore, subsequent Environmental Clearances could not have been granted by the SEIAA, Odisha, mechanically and without application of mind till the conditions laid down in the previous Environmental Clearance had been complied with by the Project Proponent.

45. Learned Counsel has referred to the affidavit filed by the Project Proponent before the State Level Expert Appraisal Committee (SEAC) dated 23.12.2019 (Annexure-8 to the Original Application), wherein the Project Proponent had itself undertaken that the Green Belt would be completed by September, 2020. The Committee has, however, noted that the project is an integrated project and, therefore, tree plantation for Green Belt can only be achieved along the permanent boundary which would take place in a phase manner as per availability of boundary. It is, however, stated that plantation around Phase-I area and along 500 meters of permanent boundary has been completed using local species of plant – Kamini, Neem, Kadamba, Champa, Mango, Coconut, Karanja etc.

46. The Environmental Clearance of 16.08.2011 requires the Project Proponent to achieve plantation of trees over at least 20% of the project site area by using native trees species/plants. The Inspection Report of 30.11.2019 is silent with regard to tree plantation in the premises in question. The Committee Report of 20.01.2022 also is peculiarly silent with regard to achieving of 20% target by the Project Proponent as per the Environmental Clearance of 16.08.2011.
47. The Project Proponent, Respondent Nos.1&2, in his compliance affidavit dated 15.11.2022 with regard to Green Belt and Avenue Plantation over at least 20% of the site area has stated that the project is an integrated project and plantation can only be achieved along the permanent boundary but plantation around Phase-I and Phase-II area along with 600 meters of permanent boundary has been completed using local species of plants like – Swarnachampa, Nagachampa, Panasha, Kamini, Neem, Bakul, Kadamba, Champa, Mango, Coconut, Karanja etc.
48. We may, therefore, summarise the directions given by us hereinabove as under:-
- (A) The SEIAA, Odisha, shall inspect the site in question within one month and verify whether installation of Solar Power Generation System for Phase-I and installation of Solar Water Heater which was required to be completed by 31.08.2022 as stated by the Project Proponent, has been completed and if not, appropriate penalty shall be imposed against the Project Proponent and the same shall be recovered within two months after giving him an opportunity of being heard.

- (B) The SEIAA, Odisha, is further directed to determine Environmental Compensation against the Project Proponent for failure to install the Solar System for energy conservation to the extent of 5% of total power as required by the Environmental Clearance conditions dated 16.08.2011 and action in this regard shall be taken within two months after giving the Project Proponent an opportunity of being heard.
- (C) The State Pollution Control Board, Odisha, shall verify as to whether the vent height of the D.G. set stack which is at present 6.06 meters for the ground level is adequate, considering that the Environmental Clearance requires the same to be more than the highest building height.
- (D) The State Pollution Control Board, Odisha, is also directed to compute Environmental Compensation against the Applicant's Association for violation of STP norms w.e.f. 01.04.2021 when the Phase-I was handed over to the Association by the Project Proponent within two months after giving them an opportunity of being heard.
- (E) The State Pollution Control Board, Odisha, shall also take action against the Applicant's Association for non-compliance of the Solid Waste Management regime, if any, w.e.f. 18.01.2021 when the Phase-I of the site in question was handed over to the Applicant's Association.
- (F) The Central Ground Water Board shall determine the penalty for violations with regard to recharge of borewells and their pits as committed by the Project Proponent and thereafter recover the same from the Project Proponent within two months after giving him an opportunity of being heard.

(G) With regard to completion of Green Belt and Avenue Plantation over at least 20% of the site area as required by the Environmental Clearance conditions dated 16.08.2011, the Committee constituted by the Tribunal is directed to re-visit the premises of the Project Proponent and verify whether at least 20% of the Green Belt has been achieved by the Project Proponent and if not, appropriate Environmental Compensation shall be determined against the Project Proponent and the same shall be recovered within two months after giving him an opportunity of being heard.

(H) The Ministry of Environment, Forests and Climate Change, shall verify as to how the Central Ground Water Board granted the NOC to the Project Proponent for extraction of ground water in violation of the Special Conditions laid down in the Environmental Clearance dated 16.08.2011 that no ground water shall be extracted for the project work at any stage during the construction phase and if the concerned officers of the Central Ground Water Board are found to have acted in violation of the Environmental Clearance conditions in granting the NOC to the Project Proponent for extraction of ground water, appropriate disciplinary action shall be taken against the concerned officers of the Central Ground Water Board by the Appointing Authority.

(I) The Ministry of Environment, Forests and Climate Change, shall also verify the conduct of the officers of SEIAA, Odisha, who were in position at the relevant point of time with regard to strict enforcement of the conditions laid down in the Environmental Clearance prior to granting subsequent Environmental

Clearances and if dereliction in discharge of their duties is found, appropriate adverse entries shall be given to the concerned officers of SEIAA, Odisha, in their ACRs by the Appointing Authority.

49. With the observations and directions made hereinabove, the Original Application No. 11/2022/EZ is accordingly disposed of.

50. I.A.s, if any, stand disposed of accordingly.

51. There shall be no order as to costs.

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B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

May 1st, 2023,
Original Application No.11/2022/EZ
AK

NGT

BEFORE THE NATIONAL GREEN TRIBUNAL

Miscellaneous Application No. _____ of 2024

In re:

Z1 RESIDENTS' WELFARE ASSOCIATION

.APPLICANT

Versus

Z ESTATES PRIVATE LIMITED and Others ...

RESPONDENTS

KNOW ALL to whom these present shall come I Bidhubhusan Nayak, aged about 47 years, Son of Shri Bishnucharan Nayak presently serving as Secretary of the Z1 RESIDENTS' WELFARE ASSOCIATION having its registered office at Tower 3, Ground Floor, Z1 Housing Complex, Advait, Po-Kalarahanga, Patia, Nandankanan Road, PS-Infocity Police Station, Bhubaneswar, Dist-Khurda, Odisha -751024 the above named APPLICANT do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :-**Sankar Prasad Pani**, Advocates, Plot No 2132/4814 B, Nageswartangi, Bhubaneswar, 751002, Mob-no.9437279278, Email- sankarprasadpani@gmail.com Enrollment no. O-785/07 and Ashutosh Padhy Enrollment no.O-1018/23

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 20th day of Jan 2024
Accepted subject to the terms of fees.

S. Pani
Advocate
A. Padhy

Client

For Z1RWA

B. Bidhubhusan Nayak
SECRETARY

Client

For Z1RWA

B. Bidhubhusan Nayak
SECRETARY

Client

For Z1RWA

B. Bidhubhusan Nayak
SECRETARY