

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE, CHENNAI**

ORIGINAL APPLICATION NO.188 OF 2021

BETWEEN

S.Sakthivel,
Environmental Protection & Anti-Pollution Group
S/o. PK Subramaniam,
Alagu Vinayakar Kovil Street,
Fairlands, Salem – 636016.

...Applicant

AND

Ministry of Environment, Forest & Climate Change (MoEF & CC),
Rep. by its Secretary to Government,
Union of India,
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi – 110 003 & Ors.

...Respondents

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Dated at Chennai on this 15th day of March, 2023

Vidyalakshmi Vipin

COUNSEL FOR 3RD RESPONDENT

VIDYALAKSHMI VIPIN

Standing Counsel for SEIAA, Kerala and KSBB

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Additional Report submitted by SEIAA, Kerala, the 3rd Respondent
in OA No.188/2021 before the Hon'ble NGT(SZ)

The Hon'ble NGT vide Order dated 27.02.2023 directed the 3rd respondent SEIAA, Kerala to file a report indicating the requirement of Environmental Clearances (EC) and whether the respondent colleges have required EC or not. This respondent humbly submits the report as below.

"As per the S.O.1533 (E) dated.14.09.2006, the MoEF&CC notified that Building and Construction Projects having built up area $\geq 20,000$ sq.mtrs and $\leq 1,50,000$ sq.mts comes under category 8(a) in the schedule of EIA notification 2006, requires prior Environmental Clearance. Subsequently the Ministry of Environment Forest & Climate Change vide S.O.3252 (E) dated. 22.12.2014, amended the above notification by excluding the projects/activities such as industrial sheds, schools, colleges, hostels for educational institutions from taking prior EC, but such building structure shall ensure sustainable environmental management, solid & liquid waste management, rainwater harvesting and may use recycled materials such as fly ash bricks etc. (Annexed R3.1) Thereafter, the matter has been further examined in the Ministry and vide OM dated 09.06.2015 the MoEF&CC clarified that " the Notification No. S.O. 3252 (E) dated 22.12.2014 provides exemption to buildings of educational institutions including universities from obtaining prior Environment Clearance under the provisions of the EIA Notification, 2006 subject to sustainable environmental Management. *In case of medical universities/institutes the component of Hospitals will continue to require prior Environment Clearance* ". (Annexed R3.2)



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Later, Sri.Tony Thomas, the Legal Cell Director of One Earth One Life has filed WP(C) No.3097 of 2016 before the Hon`ble High Court of Kerala by challenging the Gazette Notification No 3252 (E) dated 14.12 2014 and the Hon`ble High Court vide interim order dated 17.9.2020 and 23.11.2020 directed that, " there will be a stay of Ext.P1 notification (S.O 3252 (E) dtd 14.12 2014) to the extent of modification by the definition of built up area provided to clause 8(a) by way of Note 1 to the effect that the projects or activities shall not include industrial shed, school, college, hostel for Educational Institutions, but such buildings shall ensure environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials, such as fly ash, bricks, for a period of two months." (Annexed R3.3). The Ministry vide OM dated 04.10.2022 clarified that Order is valid within the territorial jurisdiction of High Court of Kerala, is subject to the outcome of the said court case". (Annexed R3.4)

It is further submitted that this Authority has been constituted by Government of India authorizing to deal with Environmental Clearance (EC) for projects falling under category "B" of schedule in EIA Notification 2006. The Authority doesn't have the power and is also not equipped with to inspect projects/constructions and to verify EC requirement status of the projects/constructions. It is submitted that this Respondent cannot ascertain the extent of construction of the projects unless any application is before this Respondent. It is submitted that the data on EC requirement status of those Medical Colleges that haven't applied for EC cannot be ascertained by this Respondent. However SEIAA has requested Kerala State Pollution control Board to inform whether 'Consent to Operate' has been given to the Medical Colleges mentioned in the Original Application No.188/2021.




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The status of EC applications pertains to the respondent colleges in OA No.188/2021 is as below:

Sl.No.	Name of College	Status (As per the records of SEIAA)	Built up Area
1	Sri.Gokulam College & Research Foundation	No application received	Since no application is received we are unable to provide the details.
2	Sri.Uthradam Thirunal Academy of Medical Sciences & Hospital	No application received	Since no application is received we are unable to provide the details.
3	Amritha School of Medicine	No application received	Since no application is received we are unable to provide the details.
4	KMCT Medical College Campus	Application for EC received on 19.12.2017 and is under process since the additional documents sought for is yet to be submitted	77839.51 sq.m (which includes Hostels, residential buildings & educational institutions)
5	Malankara Orthodox Syrian Church Medical College	No application received	Since no application is received we are unable to provide the details.
6	MES Medical College & Hospital	Application received on 16.11.2022 and is under process	Total BuA=1,37,479 sq.m (Existing built-up area constructed prior 2006 = 96,475 sq.m. + Proposed Built-up area = 41,004 sq.m.)
7	Karuna Medical College	No application received	Since no application is received we are unable to provide the details.



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8	Azeenia Medical College	No application received	Since no application is received we are unable to provide the details.
9	Dr.Somervell Memorial CSI Medical College	No application received	Since no application is received we are unable to provide the details.
10	DM Wayanad Institute of Medical Sciences	No application received	Since no application is received we are unable to provide the details.
11	Al- Azhar Medical College & Super Specialty Hospital	Application for ToR was earlier submitted on 29.07.2020 and the same was rejected by SEIAA on 19.02.2021 as the application was not submitted during the window period and it was a violation case. After rejection they again applied on 28.06.2021 and the same was also delisted. Again they applied for ToR on 25.05.2022 after the issuance of SOP dated.07.07.2021 and the Authority directed the proponent to apply for regularization of existing violation only as per O.M.FNO.22-2112020-1A.III dtd 28.01.2022.I. As per the decision, they again submitted application on 10.03.2023 which is under process.	Total BuA=56881.81 sq.m (Including educational institution, Hostels, STP, Staff quarters etc)
12	Kannur Medical College	No application received	Since no application is received we are unable to provide the details.



Rani R.S.

RANI. R.S

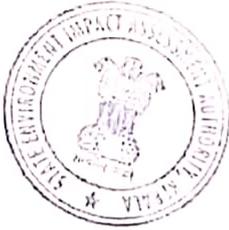
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13	TD Medical College	No application received	Since no application is received we are unable to provide the details.
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Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to pass such orders in accordance with law.

Dated at Chennai on this the 15 day of March 2023.



3rd RESPONDENT

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रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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पर्यावरण वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3252(अ).—एक प्ररूप अधिसूचना, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (3) की अपेक्षानुसार अधिसूचना, सं. का.आ. 1533 (अ) तारीख 14 सितम्बर, 2006 (जिसे इसमें इसके पश्चात् मूल अधिसूचना कहा गया है) का और संशोधन करने के लिए, सं. का.आ. 2319 (अ) तारीख 11 सितम्बर, 2014 (जिसे इसमें इसके उक्त अधिसूचना कहा गया है) द्वारा, भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उप-खंड (ii) में प्रकाशित की गई थी, उन सभी व्यक्तियों से जिनके उससे प्रभावित होने की संभावना है उक्त अधिसूचना के राजपत्र की प्रतियां जनता को उपलब्ध होने की तारीख से साठ दिन की अवधि के भीतर आक्षेप और सुझाव आमंत्रित किए गए थे;

और उक्त राजपत्र की प्रतियां जनता को 11 सितम्बर, 2014 को उपलब्ध करा दी गई थीं;

और साठ दिन की विनिर्दिष्ट अवधि के भीतर उक्त अधिसूचना के संबंध में कोई आक्षेप या सुझाव प्राप्त नहीं हुए हैं;

अतः अब केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (3) के खंड (घ) के साथ पठित उक्त पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिसूचना में निम्नलिखित और संशोधन करती है, अर्थात् :—

मूल अधिसूचना में अनुसूची में स्तंभ (1) के अधीन भवन/संनिर्माण परियोजनाएं/नगरीय और क्षेत्र विकास परियोजनाओं से संबंधित मद्र 8 और उपमद 8(क) तथा उपमद 8(ख) तद्विनिर्दिष्ट उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित मद, उपमदें और प्रविष्टियां रखी जाएंगी, अर्थात् :—

5053 GI/2014

(1)

(1)	(2)	(3)	(4)	(5)
"8				भवन या संनिर्माण परियोजनाएं या नगरीय और क्षेत्र विकास परियोजनाएं
8(क)	भवन और संनिर्माण परियोजनाएं		>20000 वर्ग मीटर और < 1,50,000 वर्ग मीटर निर्मित क्षेत्र	इस अधिसूचना के प्रयोजन के लिए "निर्मित क्षेत्र" को, सभी तलों पर इकट्ठे निर्मित या आच्छादित क्षेत्र के रूप में परिभाषित किया गया है जिसके अंतर्गत बेसमेंट और अन्य सेवा क्षेत्र भी हैं जिनका भवन/संनिर्माण परियोजनाओं के लिए प्रस्ताव किया गया है। टिप्पण 1 : परियोजना या कार्यकलापों में औद्योगिक शेड, विद्यालय, महाविद्यालय, शैक्षिक संस्थाओं के लिए छात्रावास शामिल नहीं होंगे किंतु ऐसे भवन भरणीय पर्यावरणीय प्रबंधन ठोस और द्रव अपशिष्ट प्रबंधन, वर्षा जल संरक्षण का सुनिश्चय करेंगे और वे पुनः चक्रित सामग्रियों जैसे भस्म ईटों का उपयोग कर सकेंगे। टिप्पण 2 : "साधारण शर्तें" लागू नहीं होंगी।
8(ख)	नगरीय और क्षेत्र विकास परियोजनाएं		जो >50 हेक्टेयर के क्षेत्र और या >1,50,000 वर्ग मीटर क्षेत्र को कवर कर रही हैं	इस मद के अधीन आने वाली नगरीय और क्षेत्र विकास परियोजनाओं से पर्यावरण निर्धारण रिपोर्ट की अपेक्षा होगी और उनका निर्धारण श्रेणी "ख1" परियोजना के रूप में किया जाएगा। टिप्पण : "साधारण शर्तें" लागू नहीं होंगी।

[फा. सं. 19-2-2013-आई.ए. III]

मनोज कुमार सिंह, संयुक्त सचिव

टिप्पण: मूल नियम भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उप-खंड (ii) में अधिसूचना सं. का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और निम्नानुसार पश्चावर्ती संशोधन किए गए:—

1. का.आ. 1737(अ), तारीख 11 अक्तूबर, 2007;
2. का.आ. 3067(अ), तारीख 1 दिसंबर, 2009;
3. का.आ. 695(अ), तारीख 4 अप्रैल, 2011
4. का.आ. 2896(अ), तारीख 13 दिसंबर, 2012;
5. का.आ. 674(अ), तारीख 13 मार्च, 2013;
6. का.आ. 2559(अ), तारीख 22 अगस्त, 2013;
7. का.आ. 2731(अ), तारीख 9 सितंबर, 2013;
8. का.आ. 562(अ), तारीख 26 फरवरी, 2014; और
9. का.आ. 1599(अ), तारीख 25 जून, 2014

MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 22nd December, 2014

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

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

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

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

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

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

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

MANOJ KUMAR SINGH, Jt. Secy.

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

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

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

Government of India

Ministry of Environment, Forest and Climate Change

(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jor Bagh Raod
New Delhi-110 003

Dated: 09th June, 2015

OFFICE MEMORANDUM

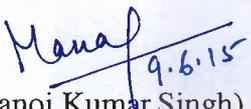
Sub: Clarification regarding Gazette Notification No. S.O. 3252 (E) dated 22.12.2014 on applicability of Environment Clearance-reg.

Vide Gazette Notification No. S.O. 3252 (E) dated 22.12.2014, the Ministry of Environment, Forest and Climate Change has exempted the School, College and Hostel for educational institution from obtaining prior Environment Clearance under the provisions of the EIA Notification, 2006 subject to Sustainable Environmental Management.

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

The Guidelines to be followed for building projects to ensure sustainable environmental management in pursuance of Notification No. S.O.3252 (E) of 22nd December 2014 under EIA Notification 2006 are at Annexure-I.

This issues with the approval of the Competent Authority.


(Manoj Kumar Singh)
Joint Secretary

Copy to:-

1. All the officers of IA Division
2. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
3. The Chairman of all the Expert Appraisal Committees
4. The Chairman, CPCB
5. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
6. IT Consultant, MoEFCC for uploading into the website.

Copy for information:

1. PS to MOS (Independent Charge).
2. PPS to Secretary (EF&CC).
3. All Divisional Head.
4. Website, MoEF&CC
5. Guard File.

**GUIDELINES TO BE FOLLOWED FOR BUILDING AND CONSTRUCTION PROJECTS
TO ENSURE SUSTAINABLE ENVIRONMENTAL MANAGEMENT
IN PURSUANCE OF NOTIFICATION No. S.O. 3252 (E) OF 22nd DECEMBER, 2014
UNDER ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION, 2006**

[INDUSTRIAL SHED AND EDUCATIONAL INSTITUTIONS]

The Notification dated 22nd December, 2014 has taken out the industrial shed*, school, college, hostel for educational institution from the requirement of prior Environment Clearance (EC) under EIA Notification, 2006 and stipulated that such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks. These Guidelines will be applicable to all buildings and constructions which come under the ambit of Notification No. S.O. (E) 3252 of 22nd. December 2014. To ensure sustainable environment management these guidelines as suited will be applicable on the projects under Item 8 (a) of EIA Notification in addition to the conditions stipulated in the EC.

Land, Air, Noise, Water, Energy, Biological, Socio-economic, and Solid & other Waste Management are the main environment facets to be considered in relation to pre, during & post building construction, therefore, it is necessary to ascertain the baseline data of these environmental facets.

The project proponent should file the information about description of project as per points described below prior to start of the project. Information pertaining to compliance on other points be filed at six monthly interval to the respective State Pollution Control Board and the Regional Office of the Ministry of Environment, Forests and Climate Change.

The compliance of the following will be ensured by the respective State Pollution Control Board before giving 'Consent-to-Operate' to industries and by the Local Urban Bodies and the Development Authorities while giving the 'Occupancy Certificate' to the buildings and constructions. These Certificates should be submitted by the above authorities to the Regional Office of MoEFCC. Ministry of Environment, Forest and Climate Change can assess/evaluate/monitor the compliance of conditions enumerated in the Guidelines through verification by Regional Offices or deputed organisations / person.

S. No.	Environmental Parameters	Implementation and monitoring parameters to be included in local by-laws.
a.	Pre-requisites	<p>Brief description of the project</p> <p>01.Name of the Project, Survey number, Village, Taluka, District, State to be mentioned with Google Earth Image and GPS Co-ordinates of the plot to be submitted.</p> <p>02.Location & distance from nearby landmark places / services to be mentioned.</p> <p>03.Total Built-up area (FSI and Non- FSI) should be mentioned with detailed calculations certified by local planning and sanctioning authority.</p> <p>04.Form 1, Form 1A and Consolidated statement as per Environment Notification dated September 14, 2006 to be submitted to local planning and sanctioning authority, Regional Office, MoEFCC and SPCB</p>
b.	Environment Impacts on Project Land	<p>05.The building layout, set-back/side margin, podium, basement ventilation etc. is prepared based on local building bye-laws and is approved by local competent authorities. The Project Proponent shall obtain all necessary clearance/ permission from all relevant agencies including Town Planning Authority before commencing the work.</p> <p>06.Provisional fire NOC to be obtained from local CFO (Chief Fire Officer)</p> <p>07. "Consent-to-Establish and Consent-to-Operate" shall be obtained as required from State Pollution Control Board as provided in the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974</p> <p>08.The project proponent shall put in place a credible enforcement mechanism for compliance of energy conservation measures with its allottees, as projected, in perpetuity. This would be monitored by the designated Energy Conservation/ efficiency Authority in the State.</p> <p>09.Soil and ground water samples will be tested to ascertain that there is no</p>

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threat to ground water quality by leaching of heavy metals and other toxic contaminants.

10. Top fertile soil to be preserved and to be later used in landscape.
11. The excavation/demolition debris must be disposed off in designated landfill areas or to be used within site for levelling purpose. Under no circumstance, the debris will be disposed in river bed/lakes etc.
12. Undertaking to be given by project proponent that occupancy will be given only after drainage and water connections are in place.
13. Dust/smoke prevention measures such as wheel washing, water sprinkler, screening, barricading and debris chute must be installed.
14. This should comply with the provisions of eco-sensitive zone regulations, coastal zone regulations, heritage areas (identified in the master plan or issued separately as specific guidelines), water body zones (in such zones, no construction is permitted in the water-spread and buffer belt of 30 m minimum around the FTL [full tank level]), various hazard prone area regulations, and others if the site falls under any such area.
15. The site planning should take into account heat island effect, size and density of the built-up areas cause heat island effect, wherein higher air temperatures are created in the dense urban areas as against the low-rise surrounding built-up areas. The solar access in the morphology of clusters can be understood in terms of utilization of direct (and not reflected or diffused) solar radiation, mainly for day lighting and heat gain. This defines the minimal distances between the buildings and the relations between built-up volume and open spaces.
16. The proportion of open spaces and built-up edges should be designed such that it ensures winter solar access and summer ventilation.

c. Water

17. Proponent shall obtain permission for ground water withdrawal from State Ground Water Authority.
18. Storm water control and its re-use as per CGWB and BIS standards for various applications.
19. The natural flow of existing storm water channel should not be altered or diverted.
20. Keeping in view the use of large quantities of water in curing, measures for reducing water demand during construction should be followed. Curing water should be sprayed on concrete structures; free flow of water should not be allowed for curing. After liberal curing on the first day, all concrete structures should be painted with curing chemical to save water. Concrete structures should be covered with thick cloth/gunny bags and then water should be sprayed on them. This would avoid water rebound and will ensure sustained and complete curing. Ponds should be made using cement and sand mortar to avoid water flowing away from the flat surface while curing.
21. The developer should ensure groundwater and municipal water meet the water quality norms as prescribed in the Indian Standards for various applications (Indian Standards for drinking [IS 10500-1991], irrigation applications [IS 11624-1986]).
22. The use of potable water during construction should be minimized.
23. Separation of grey and black water should be done by the use of dual plumbing line for separation of grey and black water.
24. Source of water to be identified.
25. Water treatment measures such as filtration, softeners, RO etc should be implemented.
26. Low flow fixtures and sensors to be used to promote water conservation.
27. Water meters to be installed to monitor consumption of water.
28. Water balance table/chart should be prepared.

d. Waste Water Treatment

29. Sewage treatment plant of capacity capable of treating 100% waste water to be installed on site.
30. Tertiary treatment such as dual media filter, activated carbon filter and ozonization/ chlorination to be provided so that the treated water

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		<p>characteristics are as per Central Pollution Control Board (CPCB) norms.</p> <p>31. If STP and pump room are installed in basement, adequate ventilation as per NBC air changes norms should be provided.</p> <p>32. Treated waste water to be recycled for flushing and gardening.</p>
e.	Drainage Pattern	<p>33. Excess treated water disposal plan to be submitted.</p> <p>34. Total paved area of the site under parking, roads, paths or any other use should not exceed 25% of the site area or net imperviousness of the site not to exceed the imperviousness factor as prescribed by the NBC 2005 (BIS 2005b), whichever is more stringent.</p> <p>35. The final disposal point for excess treated water discharge will be municipal sewer for areas where sewerage network is present.</p> <p>36. In areas where sewerage network is absent, the excess treated water can be used for agriculture or can be disposed off as per CPCB rules.</p> <p>37. Storm water disposal plan to be submitted.</p> <p>38. The final disposal point for storm water will be municipal storm drain for areas where storm water network is present.</p> <p>39. In areas where storm water network is absent, the storm water surface runoff can be disposed off in nearby natural water streams/ nallas.</p>
f.	Ground Water	<p>40. Hydro-geological survey for ground water analysis shall be submitted.</p> <p>41. Aquifer capacity and Ground water yield shall be determined.</p> <p>42. Rain water harvesting plan shall be submitted indicating the number of recharge pits and bores and total rain water to be harvested.</p> <p>43. Rain water to be harvested and as a safety precaution, rainwater on-line filters be provided as per NBC norms.</p>
g.	Solid Waste Management	<p>A} During construction phase:</p> <p>44. Disposal of muck during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority. The Rules on the Solid Waste Management including Construction Waste issued by the MoEFCC as amended will be applicable.</p> <p>45. Construction spoils, including bituminous material and other hazardous materials, must not be allowed to contaminate watercourses and the dump sites for such material must be secured so that they should not leach into the ground water.</p> <p>46. Any hazardous waste generated during construction phase, should be disposed off as per applicable rules and norms with necessary approvals of the State Pollution Control Board.</p> <p>47. Miscellaneous site debris such as broken tiles etc shall be used on site for leveling /backfilling purpose.</p> <p>48. Packaged STP /mobile toilets shall be provided for labour camp.</p> <p>49. Polymer bags used for cement and gypsum shall be handed over to authorized recyclers.</p> <p>50. Cardboard boxes and other packaging material will be handed over to authorized recyclers.</p> <p>B} Post construction phase:</p> <p>51. Organic waste composter (OWC) or Vermiculture pits shall be installed on site for biodegradable waste treatment (capacity calculated at 0.3kg/tenement/day) The manure generated shall be used for landscaping.</p> <p>52. The non-biodegradable waste or e-waste shall be handed over to authorized recyclers.</p> <p>53. STP sludge shall be removed using filter press or centrifuge mechanism. The dried sludge cakes shall be used as manure in landscaping.</p> <p>54. Minimize waste generation; streamline waste segregation, storage, and</p>

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disposal; and promote resource recovery from waste.

55. Resource recovery from waste: Employ resource recovery systems for biodegradable waste as per the Solid Waste Management and Handling Rules, 2000 of the MoEFCC. Make arrangements for recycling of waste through local dealers.
56. Use of covering sheets should be done for trucks to prevent dust dispersion from the trucks and washing of tyres when trucks with soil / debris coming on road.
57. Hazardous Waste Management: Products, such as paints, cleaners, oils, batteries, and pesticides that contain potentially hazardous ingredients require special care when being disposed. Improper disposal of household hazardous wastes can include pouring them down the drain, on the ground, into storm sewers, or in some cases putting them out with the trash.

The hazardous wastes from construction and demolition activities are centering oil, formwork oil, tar and tar products (bitumen, felt, waterproofing compounds, etc.), wood dust from treated wood, lead containing products, chemical admixtures, sealants, adhesive solvents, Explosives and related products and equipment used in excavation, acrylics, and silica, etc.

h. Air Quality and Noise Levels.

A) During construction phase:

58. The diesel required for operating DG sets shall be stored in underground tanks and clearance from Chief Controller of Explosives shall be taken, as applicable.
59. Ambient noise levels should conform to residential standards both during day and night as per Noise Pollution (Control and Regulation) Rules, 2000. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/ SPCB.
60. Burning of waste to be banned.
61. The construction site DG to be maintained regularly so that the smoke emission and noise levels are as per permissible norms.
62. Regular P.U.C check for all construction machinery coming on site be done.
63. Noise cancellation and insulation devices such as mufflers, barricades etc to be used to avoid noise propagation to adjoining areas.

B) Post construction phase:

64. DG to be regularly maintained so that the smoke emission and noise levels are as per permissible norms. It shall be at least 6 meters away from the boundary.
65. Air quality monitoring to be done quarterly.
66. STP and water pumps, air blowers etc should be installed with noise cancellation devices or suitable acoustical enclosures to be given so that the noise levels as per NBC norms are maintained.

C) During Construction & Operation

67. The provisions of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder be complied for control of noise pollution during construction and operation.
68. Setting up the barriers: National Building Code 2005 suggests that design solutions such as barrier blocks should be used to reduce external LA10 noise levels to at least 60-70 dB (A) at any point 1.0 m from any inward looking façade. Green belts and landscaping could act as an effective means to control noise pollution. In case of railway tracks, a minimum distance of 50m to 70m may be provided between the buildings and the tracks.

i. Energy

69. Appropriate processes and material be used to encourage reduction in carbon foot print.
70. Use of glass be reduced by up-to 40% to reduce the electricity consumption and load on air-conditioning. If necessary, use high quality double glass with special reflective coating in windows.
71. Solar water heater to be provided adequately.

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72. Common area lighting should be Solar / LED.
73. Install energy meters to monitor overall consumption, and timer-switch for all common area lighting, and other consumption of measurable energy.
74. Fly ash should be used as building material in the construction as per the provisions of Fly Ash Notification of September, 1999 and amended as on 27th August, 2003 and 3rd November, 2009.
75. Wherever possible recycled materials having low embodied energy be used.
76. Use of light coloured, reflective roofs having an SRI (solar reflectance index) of 50% or more should be promoted. The dark coloured, traditional roofing finishes have SRI varying from 5% to 20%.
77. Optimize use of energy systems in buildings that should maintain a specified indoor environment conducive to the functional requirements of the building by following mandatory compliance measures (for all applicable buildings) as recommended in the Energy Conservation Building Code (ECBC) 2007 of the Bureau of Energy Efficiency, Government of India. The energy systems include air conditioning systems, indoor lighting systems, water heaters, air heaters, and air circulation devices.
78. Use the concept of passive solar design of buildings using architectural design approaches that minimize energy consumption in buildings by integrating conventional energy-efficient devices, such as mechanical and electrical pumps, fans, lighting fixtures, and other equipment, with the passive design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design, and thermal mass.
79. The building should be oriented optimally based on Sun-path and engineering analysis to curtail excessive solar radiations.
80. Lighting systems should comply with the ECBC 2007 and applicable to interior spaces of buildings, exterior building features, including facades, illuminated roofs, architectural features, entrances, exits, loading docks, and illuminated canopies, exterior building grounds etc. except emergency lighting and lighting in dwelling units.
81. All the point light sources installed in the building for general lighting shall be LEDs or LEDs or equivalent. All the linear light sources installed in the building for general lighting shall be T-5 or at least 4 Star BEE rated TFLs or equivalent. The installed interior lighting power shall not exceed the LPD (Lighting Power Density) value as recommended by ECBC 2007.
82. Automatic Lighting shutoff control be installed: Interior lighting/Exterior Lighting systems shall be equipped with an automatic control device in accordance with ECBC 2007. Occupancy sensors that shall turn the lighting off within 30 minutes of occupant leaving the space. It should also have option for manual turning on lights when the space is occupied. ECBC requires controls in day lit areas that are capable of reducing the light output from luminaries by at least half and Controlling of exterior lighting with photo-controls where lighting can be turned off after a fixed interval.
83. The tapping of renewable sources of energy for lighting, heating, cooling and ventilation needs, deserve special attention. For captive solar power generation, a minimum of 15 percent of sanctioned load is the requirement.
84. Solar photovoltaic (SPV) systems are direct energy conversion systems that convert solar radiation into electric energy. SPV systems should be installed to reduced use of conventional sources of energy. Roof tops of buildings as well as other exposed areas such as of parking shades should be utilized for installation of SPV systems.
85. Hot water requirement in buildings should be met through use of various types of solar water heating systems, viz. flat plate collector; single glazed double glazed; evacuated tube collectors; and Water heating with solar concentrators.
86. The Project Proponent should ensure regular energy audit.
 - i. To validate the predicted energy consumption, thermal comfort, and visual comfort criteria by an energy auditor approved by the BEE, Government of India.

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		<p>ii. To ascertain continued safety in the operation of the electrical and mechanical systems of the building through proper maintenance by the owner or the occupants.</p> <p>87. This will be ensured in the contract document by providing for the commissioning of all electrical and mechanical systems by the respective supplier or builder. Moreover, the respective facility management group, assigned by the owner or the occupants themselves, will carry out the maintenance facilities.</p> <p>88. Energy conservation measures like installation of CFLs/LEDs for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning. 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.</p>
j.	Traffic Movement System	89. Width of driveways, parking provision, ramp width and slope to be kept as per local bye laws.
k.	Provisions for Differently able	<p>90. The Project Proponent should provide at least the minimum level of accessibility for persons with disabilities.</p> <ul style="list-style-type: none"> • Ensure accessibility and usability of the facilities in the building by employees, visitors and clients with disabilities. • Ensure access to facilities and services by adopting appropriate site planning to eliminate barriers as per the recommended standards (NBC 2005 [BIS 2005f]). • Layout and designing of interior and exterior facilities as per principles of universal design such as prescribed by the National Building Code of India, building management policies and procedures, provision of auxiliary aids & appliances, and staff training in disability awareness.
l.	Green Belt/Green Cover	<p>91. Provide minimum 1 tree for every 80 sq.mt of plot area.</p> <p>92. Wherever trees are cut or transplanted, compensatory plantation in the ratio of 1:3 to be done in the premise.</p> <p>93. Native species of trees to be planted.</p> <p>94. Vegetation to provide as shading and promote evaporative cooling. In hot and dry climates, evaporative cooling through appropriately sized wet surfaces or fountains have a desirable effect. It should be planned for maximum benefit.</p> <p>95. The project should have detail proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale.</p>
m.	Disaster/Risk Assessment Plan	<p>96. Fire tender movement plan to be submitted.</p> <p>97. Firefighting system to be provided as per the fire NOC.</p> <p>98. Turning radius to be kept as per Fire NoC or as prescribed in the local by-laws.</p> <p>99. Public address system to be installed as per the Fire Safety norms.</p> <p>100. Place of assembly to be indicated.</p>
n.	Socio Economic Impact and CSR	<p>101. Biodegradable and non-biodegradable waste bins to be provided for every household to promote waste segregation at source.</p> <p>102. Importance of environment and various environment drives to be initiated.</p> <p>103. Importance of maintenance of environment infrastructure to be showcased by issuing pamphlets etc.</p> <p>104. Provision for health care, medical kit, crèche, First-Aid room shall be given during construction phase for the construction workers.</p> <p>105. Adequate shelter for resting hours, crèche, clean and potable drinking water to be provided to construction workers.</p> <p>106. All local labour welfare laws must be complied.</p> <p>107. Concerns of the communities being affected by the Project are to be responded on priority, and all possible CSR is to be rendered to make the responses effectively beneficial..</p>

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- o. Environment Management Plan (EMP)
108. Detailed environment management plan comprising of estimated capital cost and O&M cost for the following environment infrastructure should be submitted:
- a. Sewage Treatment Plant
 - b. Landscaping
 - c. Rain Water Harvesting
 - d. Power backup for environment infrastructure.
 - e. Environment Monitoring
 - f. Solid Waste Management
 - g. Solar and Energy Conservation
109. Environment Monitoring Cell with defined functions and responsibility shall be set up and its details be submitted.
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END NOTE:

Industrial Shed*: The word 'industrial shed' implies building (whether RCC or otherwise) which is being used for housing plant and machinery of industrial units and shall include godowns and buildings connected with production related and other associated activities of the unit in the same premise.

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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Wednesday, the 15th day of June 2022 / 25th Jyaishta, 1944
IA.NO.2/2022 IN WP(C) NO. 3097 OF 2016(S)

PETITIONER/PETITIONER:

ONE EARTH ONE LIFE,
REPRESENTED BY ITS LEGAL CELL DIRECTOR, SRI.TONY THOMAS. K.,
AGED 61 YEARS, RESIDING AT 'KIZHAKKEKKARA' (H),
IRUMBAKACHOLA, MANNARKAD P.O., PALAKKAD DISTRICT.

RESPONDENTS/RESPONDENTS:

1. MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE, PARYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD, NEW DELHI-110 003, REPRESENTED BY ITS SECRETARY.
2. STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY, DIRECTORATE OF ENVIRONMENT AND CLIMATE CHANGE, PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM-695 024.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to stay Exhibit P14, in the interest of justice and equity.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of SRI.RENJITH THAMPAN (SENIOR ADVOCATE) along with M/S RAJAN VISHNURAJ, P.CHANDRASEKHAR & V.HARISH, Advocates for the petitioner in IA/WPC, ASSISTANT SOLICITOR GNERAL OF INDIA & SRI.BABU P.L., CENTRAL GOVERNMENT COUNSEL for R1 in IA/WPC, and of SRI. S BIJU,CENTRAL GOVERNMENT COUNSEL,the court passed the following:

P.T.O.

S.MANIKUMAR, C.J. & SHAJI P. CHALY, J.

**I.A.2 of 2022 in W.P.(C)No.3097 of 2016 &
Cont. Case (C) No.1063 of 2022**

Dated this the 15th day of June, 2022

ORDER

S.MANIKUMAR, C.J.

By order dated 17th September 2020 in W.P.(C)No.3097 of 2016,
we directed thus:

“We have evaluated the rival submissions and is of the opinion that the subject matter requires serious consideration, since we find that there is some force prima facie in the contentions advanced by the petitioner. Therefore, the balance of convenience requires that undue advantage is not taken by the builders by carrying out constructions, in the guise of that part of Ext.P1 notification, which is seriously under challenge being violative of the Notification of the Government of India and the Rules, 1986. Therefore, we are of the opinion that in order to protect the environmental issues, an interim order is granted effective from today onwards. Therefore, there will be a stay of Ext.P1 notification to the extent of modification by the definition of built up area provided to clause 8(a) by way of Note 1 to the effect that the projects or activities shall not include industrial shed, school, college, hostel for Educational Institutions, but such buildings shall ensure environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials, such as fly ash, bricks, for a period of two months.”

2. Alleging that Mr.Rameshwar P. Gupta, Secretary, Ministry of Environment, Forests and Climate Change, New Delhi (respondent in

I.A.2 of 2022 in W.P.(C)No.3097 of 2016 &
Cont. Case (C) No.1063 of 2022

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Cont. Case (C) No.1063 of 2022) has violated the interim orders dated 17.9.2020 and 13.6.2022 passed by this court and issued Ext.P14 office memorandum dated 19th May 2022, Cont. Case (C) No.1063 of 2022 has been filed. That apart, petitioner has also filed I.A.No.2/2022 in W.P. (C)No.3097 of 2016 seeking for stay of Ext.P14 office memorandum.

3. Attention of this court is drawn to a letter dated 29.3.2022 issued by the Director, Government of India, Ministry of Environment, Forest and Climate Change to the Director, M/S Institute of Human Resources Development, Thiruvananthapuram, by which exemption has been granted in respect of several education institutions.

4. It is also submitted that the abovesaid letter has been issued knowing fully well the interim order passed by this court in W.P. (C)No.3097 of 2016 dated 17.9.2020 and 23.11.2020 respectively, against the amendment to the EIA Notification, 2006 dated 22.12.2014 (which provides exemption to educational institutions having built-up area \geq 20,000 Sqm. and less than 1,50,000 Sqm.from the requirement of prior EC). For brevity clause 4(iv) of the letter dated 29.3.2022 is extracted below:

I.A.2 of 2022 in W.P.(C)No.3097 of 2016 &
Cont. Case (C) No.1063 of 2022

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“4. iv. Application has been submitted for Environmental Clearance based on the order issued by High Court of Kerala at Ernakulam (on writ petition W.P.(C)No.3097 of 2016 (S) dated 17.9.2020 and 23.11.2020, staying the amendment to the EIA Notification, 2006 dated 22.12.2014 (which provides exemption to educational institutions having built-up area \geq 20,000 sqm. and less than 1,50,000 sqm. From the requirement of prior EC.”

5. On instructions, Mr.S.Biju, learned Central Government Counsel submitted that the alleged contemnor Mr.Rameshwar P. Gupta, Secretary, Ministry of Environment, Forests and Climate Change, New Delhi has already retired from service. Learned Central Government Counsel admitted that there occurred some communication gap in respect of the earlier interim orders passed by this court.

6. Sri.Ranjith Thampan, learned Senior Counsel appearing for the writ petitioner submitted steps would be taken to implead the necessary parties.

7. In such a view of the matter, we are not inclined to issue any direction in the contempt petition at this stage. However, respondents in the writ petition are directed to file their response to I.A.No.2 of 2022 seeking for stay of Ext.P14 office memorandum dated 19th May 2022.

I.A.2 of 2022 in W.P.(C)No.3097 of 2016 &
Cont. Case (C) No.1063 of 2022

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8. Mr.S.Biju, learned Central Government Counsel seeks time to
get instructions in the matter.

Post on 28.6.2022.

**S.MANIKUMAR
CHIEF JUSTICE**



**SHAJI P. CHALY
JUDGE**

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APPENDIX OF WP(C) 3097/2016

EXHIBIT P1

**A TRUE PHOTOCOPY OF THE GAZETTE NOTIFICATION NO.3252(E)
DATED 22.12.2014.**

EXHIBIT P14

**TRUE PHOTOCOPY OF THE OFFICE MEMORANDUM DATED
19/05/2022 (F NO.19-131/2019-IA-III[128798]).**



IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 26th day of July 2022 / 4th Sravana, 1944
WP(C) NO. 3097 OF 2016(S)

PETITIONER:

ONE EARTH ONE LIFE,
REPRESENTED BY ITS LEGAL CELL DIRECTOR, SRI.TONY THOMAS. K.,
AGED 57 YEARS, IRUMBAKACHOLA, MANNARKAD P.O., PALAKKAD DISTRICT.

RESPONDENTS:

1. MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE, PARYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD, NEW DELHI-110 003, REPRESENTED BY ITS SECRETARY.
2. STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY, DIRECTORATE OF ENVIRONMENT AND CLIMATE CHANGE, PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM-695 024.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the Exhibit P1 notification, without any further delay, pending final disposal of this writ petition(civil).

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 15/06/2022 and upon hearing the arguments of SRI.RENJITH THAMPAN (SENIOR ADVOCATE) along with M/S RAJAN VISHNURAJ, P.CHANDRASEKHAR & V.HARISH, Advocates for the petitioners, SRI.S. MANU, ASSISTANT SOLICITOR GENERAL OF INDIA & SRI.BABU P.L., CENTRAL GOVERNMENT COUNSEL for R1 and of SRI.S. BIJU, CENTRAL GOVERNMENT COUNSEL, the court passed the following:

P.T.O.

S. MANIKUMAR, CJ & SHAJI P. CHALY, J.

W.P.(C) No. 3097 of 2016 &
Cont. Case © No. 1063 of 2022

Dated this the 26th day of July, 2022.

ORDER**S. MANIKUMAR,CJ.**

On 15.06.2022, we passed the following order:

“By order dated 17th September 2020 in W.P.
(C)No.3097 of 2016, we directed thus:

“We have evaluated the rival submissions and is of the opinion that the subject matter requires serious consideration, since we find that there is some force prima facie in the contentions advanced by the petitioner. Therefore, the balance of convenience requires that undue advantage is not taken by the builders by carrying out constructions, in the guise of that part of Ext.P1 notification, which is seriously under challenge being violative of the Notification of the Government of India and the Rules, 1986. Therefore, we are of the opinion that in order to protect the environmental issues, an interim order is granted effective from today onwards. Therefore, there will be a stay of Ext.P1 notification to the extent of modification by the definition of built up area provided to clause 8(a) by way of Note 1 to the effect that the projects or activities shall not include industrial shed, school, college, hostel for Educational Institutions, but such buildings shall ensure environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials, such as fly ash, bricks, for a period of two months.”

2. Alleging that Mr.Rameshwar P. Gupta, Secretary, Ministry of Environment, Forests and Climate Change, New Delhi (respondent in Cont. Case (C) No.1063 of 2022) has violated the interim orders dated 17.9.2020 and 13.6.2022 passed by this court and issued Ext.P14 office memorandum dated 19th May 2022, Cont. Case (C) No.1063 of 2022 has been filed. That apart, petitioner has also filed I.A.No.2/2022 in W.P. (C)No.3097 of 2016 seeking for stay of Ext.P14 office

W.P.(C) No. 3097/2016 &
C.O.(C) No. 1063/2022

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memorandum.

3. Attention of this court is drawn to a letter dated 29.3.2022 issued by the Director, Government of India, Ministry of Environment, Forest and Climate Change to the Director, M/S Institute of Human Resources Development, Thiruvananthapuram, by which exemption has been granted in respect of several education institutions.

4. It is also submitted that the abovesaid letter has been issued knowing fully well the interim order passed by this court in W.P. (C)No.3097 of 2016 dated 17.9.2020 and 23.11.2020 respectively, against the amendment to the EIA Notification, 2006 dated 22.12.2014 (which provides exemption to educational institutions having built-up area > 20,000 Sqm. and less than 1,50,000 Sqm. from the requirement of prior EC). For brevity clause 4(iv) of the letter dated 29.3.2022 is extracted below:

“4. iv. Application has been submitted for Environmental Clearance based on the order issued by High Court of Kerala at Ernakulam (on writ petition W.P.(C)No.3097 of 2016 (S) dated 17.9.2020 and 23.11.2020, staying the amendment to the EIA Notification, 2006 dated 22.12.2014 (which provides exemption to educational institutions having built-up area > 20,000 sqm. and less than 1,50,000 sqm. From the requirement of prior EC.”

5. On instructions, Mr.S.Biju, learned Central Government Counsel submitted that the alleged contemnor Mr.Rameshwar P. Gupta, Secretary, Ministry of Environment, Forests and Climate Change, New Delhi has already retired from service. Learned

W.P.(C) No. 3097/2016 &
C.O.(C) No. 1063/2022

: 3 :

Central Government Counsel admitted that there occurred some communication gap in respect of the earlier interim orders passed by this court.

6. Sri.Ranjith Thampan, learned Senior Counsel appearing for the writ petitioner submitted steps would be taken to implead the necessary parties.

7. In such a view of the matter, we are not inclined to issue any direction in the contempt petition at this stage. However, respondents in the writ petition are directed to file their response to I.A.No.2 of 2022 seeking for stay of Ext.P14 office memorandum dated 19th May 2022.

8. Mr.S.Biju, learned Central Government Counsel seeks time to get instructions in the matter.

Post on 28.6.2022.”

2. On the basis of the statement dated 24.07.2022 filed for and on behalf of respondent No.1 as Bench Mark, Mr. S. Biju, learned Central Government Counsel, submitted that taking note of the order dated 17.09.2020 passed by this Court in W.P.(C) No3097 of 2016, office memorandum dated 28th June, 2022 has been issued incorporating certain clarifications. Relevant paragraphs of the statement dated 24.07.2022 read thus:

4. It is further submitted that, on 29/03/2022, the Infrastructure sector of the Impact Assessment Division of the

W.P.(C) No. 3097/2016 &
C.O.(C) No. 1063/2022

: 4 :

Ministry of Environment, Forests and Climate Change, hereinafter referred to as the 'Ministry', granted Environment Clearance for the "Integrated Educational Hub Project" of M/s Institute of Human Resource Development, Kerala, wherein the Ministry has mentioned that the validity of the EC is subject to the Interim Order dated 23/11/2020 imposed by this Hon'ble Court in WP(C) 3097/2016. Thus the Ministry never had any intentions to contravene the Order of this Hon'ble Court. This itself is evident from the Environment Clearance dated 29/03/2022 produced as Ext. P15 along with the IA.

5. It is submitted that the Ministry was in receipt of request for clarification regarding the definition of the term 'educational institution' under which exemption under the EIA Notification, 2006, as amended, was applicable. Acting upon the representation, the matter was then referred to the Ministry of Education for seeking clarification pertaining to the definition of Educational Institution wherein it was informed that Educational Institution as defined under the Noise Pollution (Regulation and Control) Rules, 2000 may be considered as the appropriate definition. Based on the above clarification the Ministry vide OM dated 19/05/2022 issued a clarification on the applicability of EIA Notification, 2006 for Educational Institutions which merely re-iterated the definition of "educational institution" as already incorporated in the Noise Pollution (Regulation and Control)

W.P.(C) No. 3097/2016 &
C.O.(C) No. 1063/2022

: 5 :

Rules, 2000.

6. It is further submitted that the Hon'ble Supreme Court of India vide Judgment dated 9/12/2021 in CIVIL APPEAL NO. 7576 OF 2021 Electrosteel Steels Limited vs. Union of India and Ors while dealing with the issue of applicability of OM has held that: "... The interim stay passed by the Madras High Court can have no application to operation of the Standard Operating Procedure to projects in territories beyond the territorial jurisdiction of Madras High Court..."Para 93). The aforementioned directions of Hon'ble Supreme Court reinforces the principle that the orders of Hon'ble High Court are applicable to their respective territorial jurisdiction.

7. It is further submitted that the Ministry vide OM dated 28/06/2022 issued an addendum to the OM dated 19/05/2022 which reads as follows: "In view of the interim Order of the High Court of Kerala at Ernakulam [in writ petition W.P. (C) No. 3097 of 2016 (S)] dated 17.09.2020 and 23.11.2020 against the amendment to the EIA Notification, 2006 dated 22.12.2014, the aforesaid clarification is applicable within the territorial jurisdiction of High Court of Kerala subject to the outcome of the aforementioned writ petition pending in the High Court of Kerala at Ernakulam." Hence the Ministry vide the addendum has clarified that for all projects within the territorial jurisdiction of High Court of Kerala, the applicability of the OM dated 19.05.2022 is subject to the outcome of the instant petition. A

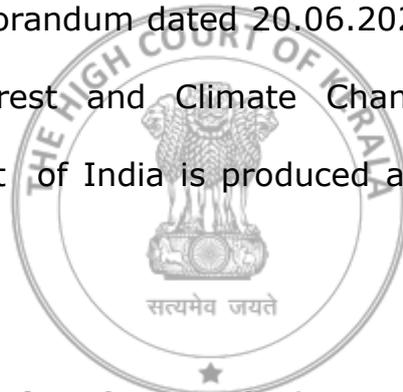
W.P.(C) No. 3097/2016 &
C.O.(C) No. 1063/2022

: 6 :

true copy of the OM dated 28.06.2022 is produced herewith and is marked as Annexure R1(a).

8. It is submitted that the Ministry has the highest regards for the Hon'ble Court and has acted in good faith only to re-literate the stated position in the Statute and nothing beyond that which cannot be deemed to have been carried out in wilful and purposeful disobedience of the directions of this Hon'ble Court.”

3. Office Memorandum dated 20.06.2022 issued by the Ministry of Environment, Forest and Climate Change Impact Assessment Division, Government of India is produced as Annexure R1(a) and it reads thus:



“28th June, 2022

OFFICE MEMORANDUM

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

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

W.P.(C) No. 3097/2016 & : 7 :
C.O.(C) No. 1063/2022

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

"In view of the interim Order of the High Court of Kerala at Ernakulam in writ petition, W.P.(C) No. 3097 of 2016 (S) dated 17.09.2020 and 23. 11.2020 against the amendment to the EIA Notification, 2006 dated 22.12.2014, the aforesaid clarification is applicable within the territorial jurisdiction of High Court of Kerala subject to the outcome of the aforementioned writ petition pending in the High Court of Kerala at Ernakulam."

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

sd/-

SUNDAR RAMANATHAN)
Scientist F"

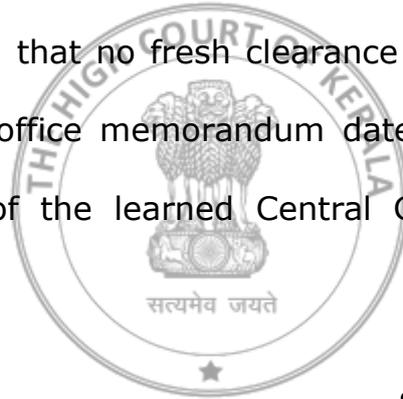
4. Even though Sri. Ranjith Thampan, learned Senior Counsel, submitted that there is wilful and intentional disobedience of the orders of this Court in W.P.(C) No. 3097 of 2016 and hence, there should be a direction for the personal appearance of the alleged contemnor, we are not inclined to do so. However, only a statement is filed as regards the averments made in the affidavit filed in support of I.A.No.

W.P.(C) No. 3097/2016 & : 8 :
C.O.(C) No. 1063/2022

2 of 2022.

5. In terms of the provisions of Contempt of Courts Act, 1971 and the Kerala High Court Act, 1958, the alleged contemnor has to file an affidavit in C.O.(C) No. 1063 of 2022 on the averments made in the Contempt Petition. Accordingly, we direct the respondent in the Contempt Petition to file an affidavit within two weeks with all supporting documents.

6. That apart, the learned counsel appearing for the alleged contemnor submitted that no fresh clearance would be granted based on the clarifications/office memorandum dated 28.06.2022 as stated supra. Statement of the learned Central Government Counsel is placed on record.



sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

sd/-
SHAJI P. CHALY,
JUDGE.

Rv

APPENDIX OF WP(C) 3097/2016

EXHIBIT P14	TRUE PHOTOCOPY OF THE OFFICE MEMORANDUM DATED 19/05/2022 (F NO.19-131/2019-IA-III[128798]).
EXHIBIT P15	A TRUE PHOTOCOPY OF THE EC DATED 29/03/2022 (F NO.21-28/2022-IA-III).
ANNEXURE R1(a)	TRUE COPY OF THE OM DATED 28/06/2022 ISSUED BY 1ST RESPONDENT



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

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

Dated: 4th October, 2022

OFFICE MEMORANDUM

Subject: Clarification regarding Gazette Notification No. S.O. 3252 (E) dated 22.12.2014 on applicability of Environmental Clearance - regarding.

Ministry of Environment, Forest and Climate Change vide Notification S.O. 3252 (E) dated 22/12/2014, amended the item 8 (a) of schedule to the EIA Notification 2006 to state that industrial shed, school, college, hostel for educational institution shall be exempted from requirement of Environmental Clearance (EC) but shall ensure sustainable environmental management, solid and liquid waste management, rainwater harvesting and may use recycled materials such as fly ash bricks.

2. Subsequently, the Ministry had clarified vide Office Memorandum (O.M) dated 05/03/2015 stating that "The word '*Industrial Shed*' implies building (whether RCC or otherwise) which is being used for housing plant and machinery of industrial units and shall include Godowns and buildings connected with production related and other associated activities of the unit in the same premise". Further, Ministry issued an OM dated 9/06/2015 clarifying that Notification dated 22/12/2014 provides exemption to buildings of educational institutions including universities from obtaining prior EC under the provisions of EIA Notification 2006 subject to sustainable environmental management and provided a set of guidelines to be followed for building projects to ensure sustainable environmental management.

3. In addition to the above, the Ministry vide letter dated 06/09/2016 clarified that the principle is of a dominant purpose. If an Industry is not covered under the EIA Notification 2006 for obtaining prior EC, it shall not be required to obtain prior EC under

item 8 of the schedule to the EIA Notification, 2006 if the size of the Industrial shed under which that industry is proposed to be housed is more than 20,000 sq. mtrs of built up area.

4. Thereafter, the Ministry issued an OM on 19/05/2022 stating that exemption provided for educational institutions vide Ministry's Notification No. S.O. 3252 (E) dated 22/12/2014 shall be applicable to all educational institutions covered under the definition of educational institution as mentioned in Noise Pollution (Regulation and Control) Rules, 2000. However, these educational institutions shall strictly implement the guidelines issued vide OM dated 9/06/2015 to ensure sustainable environmental management.

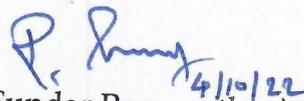
5. The Ministry is now in receipt of representations to exempt warehouses for storage of raw materials and finished goods of all consumption and industrial products including but not limited to industrial and factory-made products (except hazardous materials) from the requirement of prior EC along with industrial sheds, schools / colleges/ hostels for educational institutions as per the provisions contained in item 8(a) of schedule to the EIA Notification, 2006.

6. The matter has been examined in consultation with the concerned sector appraising Infrastructure Projects. Based on the inputs provided by the concerned sector of the IA Division, and further deliberation, the Ministry deems it necessary to clarify that, the word *Industrial Shed* mentioned in the Notification S.O. 3252 (E) dated 22/12/2014 implies buildings/ warehouses/ sheds (whether RCC or otherwise) which are used for housing machinery of industrial units and/or storage of raw materials and finished goods and industrial products including but not limited to industrial and factory-made products, irrespective of the location and proximity of the Industrial Shed *vis-a-vis* any Industry. These Industrial Sheds shall strictly implement the guidelines issued vide OM dated 9/06/2015 to ensure sustainable environmental management. However, if any of the activities/processes covered in the schedule to the EIA Notification 2006 are housed in the said Industrial Shed, then the same shall be required to obtain prior EC under the provisions of EIA Notification, 2006.

7. It is further mentioned that if the size of the industrial shed is $\geq 1,50,000$ sq.mtrs of built up area it shall be required to obtain prior EC under item 8(b) of schedule to the EIA Notification 2006, irrespective of the type of industry/ utility it houses.

8. In view of the existence of the interim Order issued by High Court of Kerala at Ernakulum [in writ petition W.P. (C) No. 3097 of 2016 (S)] dated 17/09/2020 and 23/11/2020 against the amendment to the EIA Notification, 2006 dated 22/12/2014, this clarification, within the territorial jurisdiction of High Court of Kerala, is subject to the outcome of the said court case.

9. This clarification is issued in supersession of OM no.19-2/2014-IA.III dated 05/03/2015 and with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist E

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the Officers of IA Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. Sr.PPS to Secretary (EF&CC)
4. Sr.PPS to AS(TK) / AS (NPG)
5. Sr.PPS to JS (SKB)
6. Website, MoEF&CC
7. Guard file.