

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI
(filed under section 19 of the National Green Tribunal Act, 2010)
in
Original Application No 21/2021(SZ)

IN THE MATTER OF

Dr. Anupkrishnan.V

Flat 7173, Tower 7, Prestige Bella Vista

Ayyappanthangal Village, Mount Poonamallee Road

Kanchipuram District, Chennai- 600056

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..... Applicant

Versus

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8. Managing Committee of

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REJOINDER FILED BY APPLICANT TO THE COMPLIANCE REPORT OF SEIAA ON THE EC CONDITIONS OF THE PROJECT PRESTIGE BELLA VISTA DATED 17-02-2023



MOST RESPECTFULLY SHOWETH THAT:-

- 1) The instant rejoinder is submitted in response to the compliance report filed by SEIAA on the EC conditions of the project Prestige Bella Vista dated 17/02/2023. Applicant denies all the averments and allegations contained therein, except to the extent specifically admitted herein. Applicant puts the 2nd Respondent to strict proof of all averments and allegations that are not expressly admitted herein.
- 2) The Applicant requests the Hon'ble Tribunal to read this rejoinder along with (i) The written statement filed by Applicant to Joint Committee dated 25-04-2021, (ii) Rejoinder to the Joint Committee Report filed by applicant on 28-08-2021, (iii) Rejoinder to the counter affidavit of R4 & R5 filed by applicant dated 19-10-2021, (iv) Rejoinder to the counter affidavit of 1st Respondent filed by applicant on 24-10-2021, (v) Rejoinder to TNPCB Report filed by Applicant on 15/09/2021, (vi) Objections filed by applicant to the further report of TNPCB on 10-02-2022, (vii) Objections filed by Applicant to the further report of Joint Committee on 21-03-2022, (viii) Interlocutory Application No. 11/2022(SZ) dated 08-01-2022, (ix) Rejoinder filed by Applicant to the Counter Affidavit of Respondents 4&5 in IA 11/2022 dated 01-05-2022, (x) Rejoinder filed by Applicant to Counter Affidavit of CMDA dated 16-05-2022, (xi) Rejoinder filed by Applicant to the status report of CMDA dated 18/01/2023 and (xii) Rejoinder filed by Applicant to the status report of TNPCB dated 18/01/2023.
- 3) At the outset, Applicant submits that SEIAA failed to mention in its compliance report that the 4&5th Respondents committed major Environmental Clearance Violations. These EC Violations are unambiguously defined in the Office Memorandum SOP of Ministry of Environment F.No.22-21/2020-IA.III dated 07/07/2021. SEIAA failed to report that (i) the 4&5th Respondents started construction of the project before obtaining Prior-EC and (ii) that they constructed 13 additional residential blocks comprising of 871 apartments and one additional non residential block illegally without prior approval from the Ministry. **Clarification Office Memorandum of Ministry of Environment F.No. IA3-22/10/2022-IA.III dated 05/05/2022 clearly mentioned in the 5th to 7th Paragraph that increase in number of block of building and dwelling units would be treated as EC Violation and shall be dealt with accordingly as per the provisions of the OM SOP dated 07/07/2021.**
- 4) The Applicant states that this is a classic case in which corrupt officials of CMDA, TNPCB, SEIAA and MOEF&CC RO Chennai helped 4&5th Respondents to violate building rules and environmental rules enacted by Union of India with impunity. The Project Proponent has maneuvered and manipulated officials and authorities. Instead of 20 blocks as stipulated in the EC, 34 blocks were constructed by 4&5th Respondents. CMDA violated section 2 and 7(ii) of EIA notification, 2006 and exempted project proponent from getting fresh EC and issued planning permit for construction of 33 blocks of building. TNPCB issued CTE and CTO overlooking EC conditions violations



and non – compliance committed by 4&5th Respondents. In fact, TNPCB violated the Office Memorandum of MOEF&CC dated 02/11/2018 insisting TNPCB **not to issue CTO to projects where ground water is proposed as water source till the project proponent obtains NOC to draw ground water for project activities from competent authorities, and issued CTO for 25 blocks of buildings on 26/11/2018 (please see page 399 of Rejoinder to CA of 4&5th Respondents)**. Director of MOEF&CC RO Chennai failed to send reports regarding the violations committed by 4&5th Respondents to SEIAA or initiate any action against them for not sending six monthly monitoring reports (From June 2013 to June 2016). Instead, 1st Respondent helped 4&5th Respondents to fabricate six monthly compliance report from June 2014 to June 2016. **1st Respondent falsified in its compliance report dated 05/02/2019 that “The Project Authority have obtained Environmental Clearance to construct 20 Towers having 33 blocks (A1-19, B1, B2, B3, B4, B6, B7, B8, C1-4, D1-3).”** Actually, the Project Authority got EC to construct 20 blocks only. 1st Respondent issued a certified copy of compliance report on EC conditions to the Project overlooking blatant EC violations and non compliance committed by the project proponent. 1st Respondent issued the certified copy of compliance report to 4&5th Respondents violating the OM No. 206 issued by MOEF&CC- IA division dated 02/11/2018 insisting the project proponent to apply for NOC to obtain permission for ground water drawl in the projects where ground water is proposed as water source. CMDA issued Final Completion Certificate on 08/12/2022 during the pendency of the OA No. 21/2021 violating EIA Notification 2006, Developmental regulations and the Tamil Nadu Town and Country Planning Act, 1971 regarding minimum set back space between blocks.

- 5) 4&5th Respondents and CMDA contended that the total land area the total built up area of the project are the same in the EC as well as in the Planning Permit in spite of increasing the number of blocks from 20 to 33 **(Please refer to para 11 of the status report of CMDA in I.A No. 181/2021 in OA No. 21/2021. Also refer to para 12 of status report of CMDA in I.A No. 11/2022 in OA No. 21/2021)**. But common sense says that it is humanly not possible to increase the number of building blocks without increasing the number of apartments when total built-up area is kept the same. EC did not mention about the total number apartments to be constructed in 20 blocks of buildings. Builders applied for EC in Form 1, Form 1A for the construction of 17 blocks with 2768 apartments with MOEF on 25/01/2011. Their application was returned for fresh TOR and the application was resubmitted with fresh TOR on 28/04/2012. 4&5th Respondents again revised the application for the construction of 20 Towers with 33 blocks with total of 2613 apartments and re – submitted it on 18/06/2012. Actually, 23 blocks out of 33 blocks were illegally amalgamated to 10 Towers (14 blocks were amalgamated to 7 Towers and 9 blocks were amalgamated to 3 Towers) in the Master Plan Layout of the Project in the re-submitted application for prior-EC dated 18/06/2012, violating the minimum set back space between building blocks as insisted



in the Model Building Bye-Laws, 2016 and CMDA Developmental Regulations. But EAC did not allow this illegal amalgamation of 33 blocks into 20 Towers and issued EC to construct only 20 blocks of building on 16/10/2016 based on the application dated 28th April 2012. (Please refer to the EC letter issued to 4&5th Respondents in page 21-27 of OA 21/2021). EC letter did not mention the total number of apartments to be constructed in 20 blocks. **At this juncture, Applicant entreat 1st & 2nd Respondent to produce copies of the entire Form 1, Form 1A, EIA/EMP Reports submitted by 4&5th Respondents on 25/1/2011, 28/04/2012 and 18/06/2012 respectively, before Hon'ble NGT to expose one of the biggest building violation happened in India.**

6) There cannot be relaxation of rules regarding the set back space, which are mandatory in nature and cannot be dispensed with, especially in the case of high rise building as per Supreme Court verdict in Civil Appeal No. 15581 of 1996 in V.M. Kurian vs State of Kerala and Ors dated 27/03/2001. In fact, CMDA regularized the unauthorized subdivision and amalgamation of 33 blocks to 20 Towers, comprising of amalgamation of one or more blocks to a maximum of 3 blocks aggregating to a total of 33 blocks (14 blocks amalgamated to 7 Towers and 9 blocks amalgamated to 3 Towers), violating rules regarding minimum set back spaces between those blocks by levying ₹25,10,000/- as regularization charges in 2012 **(please see para 7 of SC Judgment in Civil Appeal Nos. 5642-5643 of 2019 in CMDA vs Prestige Estates Projects Ltd)**. The number of persons residing therein is bound to increase with increase in number of building blocks. This will impact the amount of water requirements, the amount of parking space, amount of open spaces and the pollution load will be definitively increased. CMDA overlooked the DF&RS directive that “the entire set back area of 12 M available as per DR Regulations should be made permanent with concrete paving so as to withstand the capacity of 45 tons of weight of Aerial Ladder Platform Vehicle and also to move around the building blocks and to operate the vehicle,” while regularizing the unauthorized division and amalgamation of building blocks flouting minimum set back space between blocks to issue the planning permit.

7) Hon'ble Madras High Court has pronounced in its verdict in W.P. Nos.25811 and 25812 of 2017 in M.Kalyani, S.Srinivasan vs The Commissioner, GCC & Others that

"6. We also find there are set back violations in the building, apart from floor violations. The set back violations are not capable of being cured as per the Master Plan, as observed by us in a series of orders."..... "This Court has categorically held that CMDA, Corporation of Chennai, Housing and Urban Development Department or such other authority cannot and shall not permit the regularisation of set back violations. If there are any set back regularisations, the same will have to be recalled. If any set back regularisation is made, the officials responsible for the same has to be taken to task, and, they should not be allowed to continue in their respective posts, apart from initiating departmental action."



- 8) Hon'ble Supreme Court in Civil Appeal No. 15581 of 1996 in V.M. Kurian vs State of Kerala and Ors dated 27/03/2001 pronounced that violation of rules regarding set back spaces, projections into and constructions on open spaces, floor area ratio, maximum prescribed height, aerodrome vicinity height restrictions, parking spaces, minimum width of stair cases and fire protection which are mandatory in nature and are required to be complied with for the construction of a high rise building, are contrary to the public safety and convenience.

"As stated above, the area of land owned by the 5th respondent was only 9.5 cents (384.4 sq. mtrs.). As per the impugned order, the 5th respondent was allowed to construct an eight storied building with floor area of 27306.55 sq. ft. and 83.15 ft. height to accommodate 28 residential apartments, office and godowns etc. etc. The exemption granted by the State Government has enabled the 5th respondent to construct the building in violation of Rules regarding - (1) minimum open spaces required to be kept in the front, rear and sides, (2) front, rear and side yards, (3) projections into and constructions on open spaces, (4) floor area ratio, (5) maximum prescribed height, (6) aerodrome vicinity height restrictions, (7) parking spaces, (8) minimum width of stair cases and (9) fire protection.

Under the Rules, there is restriction with regard to the maximum height of the building. The building should not be constructed exceeding 1.5 times width of the street abutting plus 1.5 times the front yard. Before the High Court, the 5th respondent gave an affidavit that he would convert the ground floor of the building for purposes of car parking. The said affidavit could not have been entertained as the ground floor had already been constructed and let out. Most surprising is that the requirement of having provision towards protection from fire hazards was also dispensed with. The minimum width of the staircase as required under Rule 21(11) (b), also got dispensed with. This shows that the Rules, which are mandatory in nature and are required to be complied with for construction of a high rise building, were allowed to be dispensed with. Observance and compliance of Rules is for public safety and convenience. There cannot be relaxation of Rules, which are mandatory in nature and cannot be dispensed with especially in the case of high rise building. The position may be different in the case of one or two storied building where there are minor deviations from the Rules, which do not effect the public safety and convenience. In the present case, we find that the deviations are of high magnitude, which are contrary to the public safety and convenience. We are, therefore, of the view that the order passed by the State Government exempting the provisions of the Rules for constructing an eight storied building was contrary to the mandatory provisions of the Rules and therefore, is not sustainable in law."



9) Increase in building blocks from 20 to 33 with additional construction of 871 apartments is a serious environmental violation as per MOEF&CC Notification S.O. 804(E) dated 14/03/2017, OM SOP dated 07/07/2021 and clarification OM of Ministry of Environment dated 05/05/2022. In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance as per section 13(ii) of MOEF&CC Notification S.O. 804(E). Exemption to obtain fresh Environmental Clearance for unauthorized expansion or any change in product-mix, change in quantities within products or number of products in the same category for which environmental clearance has been granted is applicable only if there is no change in the total capacity sanctioned in prior environmental clearance granted earlier under this notification and there is no increase in pollution load. The Project Proponent shall apply to the State Pollution Control Board along with their last Consent to Operate certificate and **Certificate of No Increase in the Pollution Load** as per MOEF&CC Notification S.O. 3518(E) dated 23rd November 2016. Installation and implementation of Online Continuous Effluent Monitoring System (OCEMS) with at least 95% uptime, connected to the servers of the Central Pollution Control Board and State Pollution Control Board or Union Territory Pollution Control Committee concerned to report the quantity and quality, of emission and discharges, was added as an additional criteria as per MOEF&CC Notification S.O 980(E) dated 2nd March 2021. **CMDA is not the competent authority to grant exemption from obtaining fresh EC.**

10) The builder accused the applicant of “initiating the instant proceedings on totally false and vexatious grounds after a lapse of 5 years from taking possession of the unit intending to cause harm to the 4&5th Respondent’s reputation and to unjustly enrich himself.” They further stated in their affidavit that all 2613 residents in the apartment complex are living in harmony with an enhanced quality of life except the applicant. The members of the Joint Committee constituted by the Hon’ble Tribunal also shared the same sentiments and conveyed it to the Applicant during the Joint Committee inspection conducted on 20/04/2021. Applicant draws parallel between the case of **Kerala SCZMA vs Maradu Municipality and Ors. in C.A. No. 004784 – 004785 / 2019 in SC** and the present case. The whole proceedings against Maradu Flats were initiated based on the complaint of a whistle blower to THE KERALA COASTAL ZONE MANAGEMENT AUTHORITY and the subsequent letter of KCZMA to Maradu Municipality to take action against the violation of the CRZ notification dated 17/06/2006. All the residents of 4 apartment complexes at Maradu Municipality supported the builder in CRZ violations and lived happily condoning the environmental violations for 8 to 10 years till Supreme Court ordered demolition. Supreme Court came down heavily on the Flat owners that they were well aware of the show cause notices issued by the authorities,



and even then, they proceeded to invest in the property and reside therein. Hon'ble Supreme Court held the view that the flat-owners were not entitled for any interest on the amounts paid by them to the builders.

- 11) Hon'ble Supreme Court and NGT have have time and again proclaimed in various judgments "that Environmental safety is non negotiable and there should be economic development while taking due care and ensuring the protection of environment." So, Applicant has actually ensured that a similar fate will not happen to residents of Prestige Bella Vista Project by filing this case against 4&5th Respondents for committing building violations and environmental violations. Now, the onus is on the Builder to complete the project as per building plan and conditions of Environmental Clearance issued to them.
- 12) Hon'ble Supreme Court has criticized the officials of MOEF & CC for helping the project proponents to flout the law and harm the environment in its judgment in **CIVIL APPEAL NO. 10854 OF 2016** in M/S Goel Ganga Developers India vs UOI through Secretary, MOEF.

*".....20. This is not the first time that we have noticed such clarificatory communications being issued by the officials of the Ministry of Environment, Forest and Climate Change, which virtually have the effect of nullifying the statutory provisions and notifications. We have adverted to some of these communications in our judgment in **Common Cause vs. Union of India**. We expect the officials of the Ministry of Environment, Forest and Climate Change to take a stand which prevents the environment and ecology from being damaged, rather than issuing clarifications which actually help the project proponents to flout the law and harm the environment."*

Applicant enumerates the entire environmental violations committed by the 4&5th Respondents, CMDA, MOEF&CC, SEIAA and TNPCB by elaborating the sequence of events happened since the application for the prior Environmental Clearance of this project by 4&5th Repondents.

- 13) 4&5th Respondents started the project construction in January 2012 itself violating EIA notification 2006, before obtaining planning permit and prior EC. This fact is clearly mentioned in the 'Data Sheet' of Certified Copy of Compliance Report issued to PBV Project on 05/02/2019 (**please refer para 7 in page 7 of Rejoinder statement filed by Applicant to CA of R4&5**). More over, the Annual Report of Prestige Estates Projects Pvt Ltd for FY 2011-2012 clearly mentioned that Respondents started the Prestige Bella Vista Project before March 31st, 2012 (**please refer pages 266-273 of Rejoinder to CA of 4&5th Respondents**). So, construction of Prestige Bella



Vista project was started way before obtaining Environmental Clearance and it is considered as a case of environmental violation as per section 13 of MOEF&CC Notification S.O. 804(E) dated 14/03/2017 and as per OM SOP dated 07/07/2021 and clarification OM dated 05/05/2022.

14) 4&5th Respondents submitted the application in Form 1, Form 1A and EIA/EMP reports for prior Environmental Clearance to the Director (IA-III), MOEF, New Delhi on 25/01/2011. It was presented in the 110th EAC meeting held on 5th – 7th March 2012. 4&5th Respondents proposed construction of a residential complex “Prestige Bella Vista” at Ayyappanthangal, Sriperumbudhur Taluk, Kanchipuram District with the following scope of the project,

a) Total land area of the Project was 1,00,199 sq.m b) Total built up area was 4,78,003 sq.m c) Construction of 17 blocks residential buildings and one block of club house with total apartments of 2768 was proposed. Total residents were calculated as 13,471 (11,824 residents + 1182 maintenace staff + 465 visitors) d) The proposed project require total water of 1659 KLD of which 856 KLD of fresh water to meet the entire common and per capita requirements and the source is ground water as the project site falls under the safe category of the central ground water board classification and hence the yield is dependable. Ground water extraction will be carried out upon approval from the competent authorities. Water requirement for flushing is 507 KLD and gardening about 296 KLD. f) Waste water generation is estimated to be 1192 KLD which would be treated in STP of capacity of 1710 KLD. The treated waste water of 1133 KLD is proposed to be partly recycled for flushing in toilet and gardening and the remaining quantity will be disposed through the CMWSSB sewage collection system. g) The power requirement during operation is estimated to be 16 MVA from nearby TNEB grid h) Emergency power back up was to be provided by 2 nos of 180 KVA, 10 nos of 400 KVA and 9 nos of 500 KVA DG sets i) Total car parking spaces provided for parking were 3586 cars of which 1300 nos at basement 1, 1451 nos at basement 2 and 835 at ground level.

15) Based on the details presented by the project proponents and after discussions, additional “Terms of Reference” were finalized to be incorporated to those furnished by the project proponent by the EAC which was communicated to the project proponent in April 2012 & 29/05/2012. The additional TOR included (1) Re-submission of the Parking details considering the various norms as based on higher norms (2) Examination and re-submission of the details of the Impact on competitive users of ground water.

16) 4&5th Respondents resubmitted the revised application in Form 1, Form 1A and EIA/EMP reports incorporating additional TOR on 28th April 2012. The scope of the Project was the same as that submitted before except that (1) the 856 KLD of raw (fresh) water that required will be met through the ground water extraction/CMWSSB, (2) the total car parking spaces provided for parking were changed to 3769 nos considering the



total dwelling unit area of 2,56,949 sq.m as per CMDA regulation applicable for the project.

17) 4&5th Respondents further revised and submitted the final application in Form 1, Form 1A and EIA/EMP reports incorporating additional TOR on 18/06/2012 in which they proposed construction of 20 Towers by amalgamating 33 blocks of building comprising of amalgamation of 1 or more to a maximum of 3 blocks of buildings with a total built up area of 4,58,341 sq.m. violating the minimum set back space between building blocks. The scope of the project was revised as follows,

a) Total land area of the Project was 1,00,199 sq.m

b) Total built up area was 4,58,341 sq.m

c) Construction of 20 Towers of residential buildings and one block of club house with total apartments of 2613 was proposed. R4&5 has admitted in their Counter Affidavit dated 07/10/2021 that "The Project was to be constructed as a residential complex comprising of 20 Blocks /Towers (TOWERS). As stipulated in the EC, there are only 20 towers that have been constructed within the project. Each of these Towers comprises of one or more blocks to a maximum of 3 blocks aggregating to a total of 33 blocks." (Please refer to page 3 para 4(d) of the Counter Affidavit of 4&5th Respondents to the OA 21/2021 dated 07/10/2021).

d) Total residents were calculated as 12,911 (11,227 residents + 1123 maintenance staff + 561 visitors).

e) The proposed project would require 1575 KLD of total water of which 806 KLD of fresh water to meet the entire common and per capita requirements and the source is ground water/CMWSSB as the project site falls under the safe category of the central ground water board classification and hence the yield would be dependable. Ground water extraction will be carried out upon approval from the competent authorities. Water requirement for flushing is calculated as 488 KLD and gardening about 230 KLD.

f) Waste water generation is estimated to be 1133 KLD which would be treated in STP of capacity of 1610 KLD. The treated waste water of 1076 KLD is proposed to be partly recycled for flushing in toilet and gardening and the remaining quantity will be disposed through the CMWSSB sewage collection system.

g) The power requirement during operation is estimated to be 16 MVA from nearby TNEB grid.

h) Emergency power back up was to be provided by 26 nos of 750 KVA DG sets.

i) Total car parking spaces provided for parking were 3769 cars.

j) In continuation, 4&5th Respondents submitted the detailed Water Treatment Plant Design Proposal for the treatment of ground water for Prestige Bella Vista Project on 14/07/2012. As per their submission, source of water for the proposed project would be from bore wells proposed at site. The water sample obtained from bore well at site was tested and the characteristics observed were used for



designing the WTP. It was noticed from the test results that the TDS of the water was on the higher side of 1100 ppm. Apart from TDS, TSS, Iron content and Hardness were also on the higher side of potable limits. Considering the above, the following treatment steps were proposed to make the ground water fit for all domestic purposes. The treatment scheme comprises of a multimedia sand filter followed by activated carbon filter and a reverse osmosis membrane filter treatment. The RO treated water is proposed for drinking and cooking purpose for 12,911 residents was calculated as 172 KLD in the project hence a RO plant of 180 KLD plant is proposed (Please refer page 17-20 of the Rejoinder filed by Applicant to CA of CMDA dated 16/05/2022).

18) This proposal was presented in the 114th Meeting of the Expert Appraisal Committee for Building Construction, Coastal Regulation Zone, Infrastructure Development and Miscellaneous projects held on 9th – 10th July, 2012, Scope Complex, Lodhi Road, New Delhi. The EAC, after due consideration of the relevant documents submitted by the project proponent, have recommended for the grant of EC for Prestige Bella Vista Project. Accordingly, the Ministry of Environment and Forests (IA-III Division) issued necessary EC for the above project subject to strict compliance of the terms and conditions as mentioned in the EC Letter dated 16/10/2012. **EAC did not accept the construction of 20 Towers comprising of amalgamation of one or more to a maximum of 3 blocks aggregating to a total of 33 blocks as was proposed by the 4&5th Respondents. Instead, EAC considered the application dated 28/04/2012 with the following TOR**

- 1. EC stipulated construction of 20 blocks of building and one block of club house only. It didn't stipulate the exact number of apartments to be constructed. **It didn't propose to construct 2613 apartments.***
- 2. Total land area of the Project was stipulated to be 1,00,199 sq.m*
- 3. Total built up area was stipulated to be 4,78,003 sq.m*
- 4. Total water requirement was calculated as 1659 KLD*
- 5. Fresh water requirement of 859 KLD was proposed to be sourced from bore wells and metro water. Permission to draw ground water should be obtained from the competent authority prior to construction/operation of the project.*
- 6. Adequate drinking water facility based on Reverse Osmosis treatment technology to be provided.*
- 7. Waste water generation was estimated to be 1133 KLD which would be treated in STP of capacity of 1610 KLD. The treated waste water was proposed to be partly recycled for flushing in toilet and gardening. Excess waste water was proposed to be disposed through the municipal sewage collection system.*
- 8. The power requirement during operation was estimated to be 16 MVA*



9. Emergency power back up was to be provided by 26 nos of 750 KVA DG sets.

10. Total car parking spaces for parking were stipulated to be 3769 ECS.

19) 4&5th Respondents got the planning permission from CMDA vide PP No.C/PP/MSB-IT/38 A to Ac/2012, Permit No.7115 in letter no. C3(N)/4606/2011 dated 13/02/2013 under premium FSI for the construction of multi storied building comprising of 33 blocks and a club house. As per the approved plan,

1. total land area is 1,00,182.7 sq.m and
2. the total built up area is 4,64,047 sq.m
3. the number of blocks is 33 nos
4. the total apartments were 2610.

3rd Respondent regularized the unauthorized sub division and amalgamation of 33 blocks to 20 Towers, comprising of amalgamation of one or 3 blocks aggregating to a total of 33 blocks violating rules regarding minimum set back spaces between those blocks. CMDA levied ₹ 25,10,000/- as regularization charges and issued planning permit **(please refer to page 167 para 2(iii) of OA No. 21/2021(SZ)**. By this regularization, 3rd Respondent violated section 2 and 7(ii) of EIA notification, 2006 as well as Supreme Court Judgment in Civil Appeal No. 15581 of 1996 in V.M. Kurian vs State of Kerala and Ors dated 27/03/2001.

20) 6th Respondent issued Consent to Establish to the project proponent of Prestige Bella Vista vide CTE Proc.No.T11/TNPCB/F.18722/OL/SPR/W&A/2013 dated 28/06/2013 for construction of 33 blocks in 20 Towers of residential buildings violating EC conditions which permitted to construct 20 blocks only.

21) 1st Respondent failed to monitor and send reports regarding the violations committed by 4&5th Respondents to SEIAA (2nd Respondent) or initiate any action against them for not sending six monthly monitoring reports (From June 2013 to June 2016). But 1st Respondent helped R4&5 to fabricate compliance report from June 2014 to June 2016. 1st Respondent along with other 2 members of the Joint Committee submitted their Report before Hon'ble Tribunal(SZ) on 10/08/2021 stating that 4&5th Respondents have been submitting compliance reports from June 2014 onward based on the acknowledgment submitted by them, discrediting RTI statement of Dr. M T Karuppiah of MOEF&CC, ROSEZ **(Please refer to page 2 para 5 of the Rejoinder to MOEFCC dated 24/10/2021)**. The PIO of the MOEFCC, ROSEZ stated before Central Information Commission on 09/01/2023 that the covering letter with the Diary number & date of receipt at Chennai Office with office seal of the compliance report from December 2014 to June 2016 were missing from Chennai Office. Thus indirectly admitting that original 6 monthly compliance reports from Dec 2014 – June 2016 were not received at Chennai Office. The PIO raised lame excuse that the documents were



earlier maintained at Bangalore Office and the covering letter might have been missed during the transfer to Chennai Office (**Refer page 22-28 of the Rejoinder filed by Applicant to the status report of TNPCB dated 18/01/2023, i.e. CIC decision dated 11/01/2023**). But the Chennai Office started functional from March 2013 onward and these docs were addressed only to Director, MOEFCC of Chennai Office as per the address mentioned in the forged covering letter attached with the 6 monthly compliance reports (**Refer Page 29-36 of the Rejoinder filed by Applicant to the status report of TNPCB dated 18/01/2023, i.e. CAG report on Environmental Clearance and post clearance monitoring, Report No. 39/2016; para 7.1**).

22) In the meanwhile, CPCB Bangalore and Chennai office replied to Applicant's RTI query that they didn't receive six monthly compliance report of Project Proponent of Prestige Bella Vista Residential Project from 2012-2016, either through email or by registered post. MOEF&CC infra-2 division replied that Ministry of Environment, Forest and Climate Change is not having copies of compliance reports of PBV from 2012 to 2016 (**please refer to para 22 to 24 in page 10&11 of Rejoinder to MOEFCC dated 24/10/2021**).

23) 3rd Respondent issued first partial completion certificate on 08/01/2016 for 14 blocks and the second partial completion certificate on 16/03/2016 for 11 blocks of buildings violating Environmental Clearance conditions which stipulated construction of only 20 blocks. 3rd Respondent accepted the reduced distance between blocks, i.e., regularised the minimum set back space violations between the blocks and issued those 2 partial Completion Certificates (**Please refer Para 8 of Status Report of CMDA in I.A No. 181 of 2021 in OA No. 21 of 2021 & Para 9 of Status Report of CMDA in I.A No. 11 of 2022 in OA No. 21 of 2021 dated 03/01/2023**). This action of CMDA is in violation of Madras High Court order in W.P. Nos. 25811 and 25812 of 2017 which specifically held that CMDA cannot and shall not permit the regularization of set back violations. CMDA made submission in the Status Report dated 03/01/2023 that they issued those 2 partial completion certificate based on the Fire Compliance Certificate issued by the Directorate of Fire and Rescue Services vide D.Dis.No.8805/C1/2015 in C.C.No.41/2015 dated 25.08.2015. **But CMDA overlooked the fire Compliance Certificate directive that "the entire setback area of 12 M available as per DR Regulations should be made permanent with concrete paving so as to withstand the capacity of 45 tons of weight of Aerial Ladder Platform Vehicle and also to move around the building blocks and to operate the vehicle."**

24) 6th Respondent issued CTO for 25 block of building in Prestige Bella Vista Project vide Proc.No.T2/TNPCB/F.1918SPR/RL/SPR/W&A/2018 dated 26/11/2018 violating EC conditions which permitted construction of 20 blocks only. TNPCB violated the Office Memorandum of MOEF&CC dated 02/11/2018 and issued CTO for 25 blocks.



25) 1st Respondent issued certified compliance report to Prestige Bella Vista Project vide F.No.EP/12.1/2012-13/SEIAA/16/TN/0255 dated 15/02/2019 erroneously stating that the project proponent obtained EC to construct 20 Residential Towers having 33 blocks of buildings and that they have completed 33 blocks in compliance with all EC conditions. This Compliance Report overlooked EC conditions which stipulated construction of only 20 blocks of building. 1st Respondent overlooked several non compliance of EC conditions and issued the Compliance Report. The Joint Committee appointed by the Hon'ble NGT in which 1st Respondent was a member, submitted a report before Hon'ble NGT highlighting the violations/non-compliance of the said project on 10/08/2021. The major non-compliance/violation are as follows, (1) EC clearance to Prestige Bella Vista involves construction of 20 blocks only but the project proponent constructed 33 blocks in 20 Towers (2) inadequate car park spaces was noticed which is treated as violation (3) they have not obtained NOC for ground water abstraction and 200 KLD of water is obtained through tanker lorries (4) there is no RO water plant provided for treatment of drinking water (5) they have installed DG sets for 12.75 MVA instead of proposed 19.5 MVA in the EC (6) Consent to Operate was not obtained for the entire project so far (7) Project Proponent hasn't installed solar voltaic cell in the Project. **The Joint Committee recommended 4&5th Respondents to pay environmental compensation of ₹95,97,656/- for the violation/noncompliance of EC conditions.**

26) 4&5th Respondents constructed 34 blocks of building and a club house including one non – residential block which is now functioning as the Assistant Engineer (O&M) Office, TANGEDCO, Ayyappanthangal. 3rd Respondent in his letter No. EC/C-1/4841/2015 dated 14/09/2020 had requested 4&5th Respondents to pay additional developmental charges and I&A charges for the additional construction noticed during the process of final CC application process **(please refer to para 10 -12 of Rejoinder filed by Applicant to CA of CMDA dated 16/05/2022).**

27) 3rd Respondents issued 3rd and final Completion Certificate on 08/12/2022 during the pendency of the OA No. 21/2021. 3rd Respondent accepted the reduced distance between blocks, i.e., regularised the minimum set back space violations between the blocks and issued the 3rd and Final Completion Certificate. CMDA made in the submission that they issued the 3rd and final CC for 8 blocks as the 4&5th Respondents have paid all the necessary dues, and the Director of MOEF&CC Chennai had issued Environmental compliance in No.F. No. EP/12.1/2012-2013/SEIAA/11/TN/0255 dated 15.02.2019 for 20 residential towers having 33 blocks. Accordingly, the Final Completion Certificate for 8 blocks was issued in letter No.CMDA/CC/HRB/C/4841/2015 in CC No.EC/Central-1/395/2022 dated 08.12.2022. But the validity of the said Compliance Report stands canceled as the Joint Committee Report and the TNPCB Report have already mentioned serious environmental violations and noncompliance committed by



the 4&5th Respondents and recommended to levy environmental compensation from them.

SERIAL NUMBER WISE OBJECTIONS TO THE PRESENT STATUS OF COMPLIANCE REPORT

Operation Phase :-

- 28) The Applicant strongly denies the averments in the serial no. 1 as false and misleading. The Project Proponent has constructed 3 STPs of total 1550 (860 + 450 + 240) KLD capacity only instead of 1610 KLD as stipulated by EC. The Project Proponent failed to install OCEMS in the STP as mandated by CPCB and TNPCB **(Please refer to Para 31 of Objections filed by applicant to further report of Joint Committee dated 21/03/2022).**
- 29) No traversal required for the averments in the serial no. 2 & 3.
- 30) The Applicant strongly objects to the Compliance observed in serial no.4 as false and baseless. Applicant would like to state that R4&5 is trying to mislead everyone by quoting the OA No. 134/2015(PB) to avoid themselves from the responsibility of installation of RO plant of 180 KLD for drinking and cooking purpose in the residential project. Installation of RO plant is stipulated in the EC which should be complied with by the project proponent. The OA No. 134/2015 is about indiscriminate use of home RO purifier system where the TDS in water is less than 500 mg/l. The argument of 4&5th Respondents that the TDS of the treated water sample collected from the in house WTP ranges between 350 – 375 mg/l is highly misleading. EAC was concerned with the high TDS content of the ground water abstracted from the project only. TNPCB has got conclusive data that the TDS concentration in the groundwater from Ayyappanthangal area varies from 1300 to 1650 mg/L *(not 300 – 375 mg/l as claimed by 4&5th Respondents)* and the water quality is not desirable to drink or for domestic use **(Please refer to page 37-40 of the Rejoinder filed by Applicant to the status report of TNPCB dated 18/01/2023, I.e. Groundwater quality from Ayyappanthangal).** Actually, the EAC analyzed the report of the ground water sample from the project site and arrived at the conclusion that RO water plant is necessary in this project. 4&5th Respondents have admitted during the final inspection of TNPCB that they receive only 250 KLD potable water from CMWSSB on an average **(please refer page 6 of the status report of TNPCB dated 03/01/2023)** which is grossly inadequate to meet the needs of the residents. The EC stipulated 856 KLD fresh water requirement during operational phase. RTI reply from CMWSSB confirmed that CMWSSB have been delivering 280 to 300 KLD water on average to this project for the last 5 years **(Please refer to Para 20 of the Rejoinder to CA of R4&5 filed by applicant dated 19-10-2021).** Rest of water requirement of 550 KLD is solely met from private tanker lorries



which is a gross EC violation. In fact, 45 tanker lorries with capacity of 12 KL each are plying per day to supply 550 KLD of water to the project which is posing serious and unacceptable environmental hazard in the project **(please refer to para 26 of Objections filed by Applicant to further report of Joint Committee on 21/03/2022).**

- 31) No traversal required for the averments in the serial no. 5.
- 32) The Applicant strongly denies the averments in the serial no. 6 as false and misleading. This compliance report is in direct conflict with the Joint Committee Report submitted before Hon'ble NGT by its nodal officer Dr. D. Narasimhan on 19/03/2022. It was mentioned in the Joint Committee Report (page 5) as follows,... *“During inspection it was noticed that un-segregated solid is being disposed in to Ayyanpanthangal Municipal solid waste dump site which is noted as violation.”*
- 33) No traversal required for the averments in the serial no. 7.
- 34) The Applicant strongly denies the averments in the serial no. 8 as false and misleading. Applicant has already submitted evidences in detail about the encroachment of green belt in the periphery, open spaces and pedestrian pathways by illegal constructions and car parks **(Please refer to page 10 -11 of OA 21/2021 and para 6&7 of page 4 of written statement submitted to Joint Committee dated 25/04/2021).**
- 35) No traversal required for the averments in the serial no. 9 &10.
- 36) The Applicant strongly denies the averments in the serial no. 11 as false and misleading. 80% of the solar water heater installed in 30 blocks are not functional for several years and the project proponent refuse to repair it even now. 4&5th Respondents installed solar panel in 11 blocks with a total capacity of 75 KW only which is grossly insufficient as per the stipulated EC conditions. They have to install solar panel at 1/3rd of the total terrace area in all building blocks as mandatorily.
- 37) The Applicant strongly denies the averments in the serial no. 12 as false and misleading. 4&5th Respondents failed to provide 3769 car parks as stipulated in the EC letter. Applicant has already submitted evidences to show that public spaces are encroached and used as car park spaces **(please refer to page 11 &12 of IA 181/2021 and page 23 of the Rejoinder to the Counter Affidavit of 4&5th Respondents in IA 181/2021).**
- 38) No traversal required for the averments in the serial no. 13 – 14.
- 39) The Applicant strongly denies the averments in the serial no. 15 as false and misleading. Project Proponent didn't establish Environmental Management Cell in the Project to supervise and monitor the environment related aspects of the project so far. Project Proponent failed to submit the Minutes Of the Meeting of EMC for the last 8 years to support their claim.

Part B – General Conditions:-



- 40) The Applicant strongly denies the averments in the serial no. 1 as false and misleading. 4&5th Respondents didn't send the six monthly compliance report from 2012 to 2016. Please refer to Para 21 mentioned above.
- 41) No traversal required for the averments in the serial no.2.
- 42) The Applicant strongly denies the averments in the serial no. 3 as false and misleading. 4&5th Respondents changed the scope of the project by constructing 34 blocks of building instead of 20 blocks stipulated in the EC Letter.
- 43) No traversal required for the averments in the serial no. 4 – 9.
- 44) The Applicant strongly denies the averments in the serial no. 10 as false and misleading. 4&5th Respondents failed to send six monthly compliance report to MoEF, respective Zonal office of CPCB, SEIAA and TNPCB from 2012-2016. Please refer to Para 22 mentioned above.
- 45) No traversal required for the averments in the serial no.11.

PRAYER

It is, most respectfully prayed that the Hon'ble National Green Tribunal(SZ) may kindly be pleased to pass appropriate further orders as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case and thus render justice.



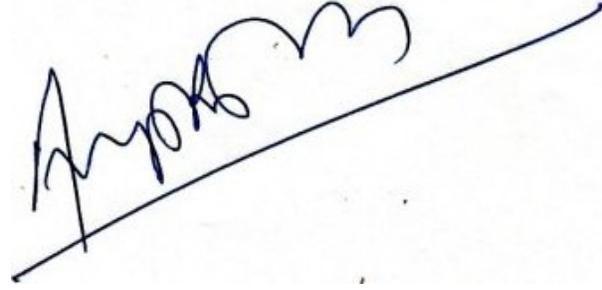
Applicant
Party in Person

AFFIDAVIT

I, Dr.Anupkrishnan. V, aged 58 yrs, son of Late K. Viswanathamenon, resident of Flat 7173, Prestige Bella Vista, Tower 7, Ayyappanthangal Village, Chennai-600056, do hereby solemnly affirm and declare under:-



1. That I am the Applicant in the OA No. 21/2021(SZ) and in the instant rejoinder and I am well conversant with the facts and circumstances of the case and is competent to swear the present affidavit.
2. That I have read the contents of the instant rejoinder and the same are true and correct and is drafted by my own instruction.

A handwritten signature in blue ink, appearing to be 'Ayyappa', written over a horizontal line.

Deponent

VERIFICATION:-

Verified at Ayyappanthangal, Chennai-56 on the 2nd March 2023, that the contents of the affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

A handwritten signature in blue ink, appearing to be 'Ayyappa', written over a horizontal line.

Deponent