

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

**IN**

**ORIGINAL APPLICATION NO.205 of 2021(SZ)**

Applicant : Environmental Protection & Research Council

Vs

Respondents : The Government of India & Others

**VOLUME2**

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Dated this the 17<sup>th</sup> day of October 2022

**RemaSmrithi**, Advocate

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT 3



**KERALA STATE POLLUTION CONTROL BOARD**

FILE NO. :PCB/HO/EKM/ICE/510/2011

Date of issue :2022-07-22

**CONSENT REFUSAL ORDER**

**Order No : PCB/HO/EKM-I/CRO/02/2022**

**Ref : 1. Online Consent application no. 3649181 dated 31.03.2022**

**2. Consent Refusal Intention Notice of even no. dated 22.01.2022**

**3. Letter dated 07.02.2022 received from the Branch Head, Jain Housing & Constructions Ltd.**

WHEREAS M/s JAIN HOUSING & CONSTRUCTIONS LTD comes under the purview of the Water (Prevention and Control of Pollution) Act 1974, the Air(Prevention and Control of Pollution) Act 1981 and the Environment (Protection) Act, 1986.

WHEREAS Shri. COLLEEN PETRIZ , BRANCH HEAD, JAIN HOUSING & CONSTRUCTIONS Ltd has made an application for Integrated Consent to Operate vide reference (1) above, under the Water(Prevention & Control of Pollution) Act 1974 and the Air(Prevention & Control of Pollution) Act, 1981, for a residential complex in G+21 floors with 304 apartments in 34576.26 m2 area in Sy.no. 485/1 of Kakkanad Village, Kanayannur Taluk at Ernakulam District under the name, JAIN HOUSING & CONSTRUCTIONS Ltd, on 26.08.2016;

WHEREAS as per Section 25 of the Water(Prevention & Control of Pollution) Act 1974 “No person shall, without the previous consent of the State Board, establish or take any steps to establish any treatment and disposal system which is likely to discharge sewage into a stream or well or sewer or on land”;

WHEREAS the application was returned for want of some clarifications/documents;

WHEREAS the application was resubmitted on 19.07.2019;

WHEREAS Consent enquiry was conducted on 21.08.2019;

WHEREAS during enquiry it was noticed that this project was constructed without obtaining Board's Integrated Consent to establish and started occupancy without obtaining Board's Integrated Consent to Operate;

WHEREAS MoEF also inspected the site in the year 2020 and informed that the project was constructed without obtaining the Environmental Clearance;

WHEREAS O.A.No205/2021 was filed before the Hon'ble National Green Tribunal against the unauthorised

construction of the project in wet land;

WHEREAS Consent Refusal Intention Notice was issued to you vide Notice read (2) above for establishing and commissioning the residential complex without obtaining Board's Consent to Establish and Consent to Operate and for not obtaining Environmental clearance before starting the construction;

WHEREAS the reply submitted by you vide letter read (3) above is not acceptable;

AND WHEREAS a Joint Committee was constituted for verifying the violations, as directed by the Hon'ble NGT and after elaborate discussions and verification of the documents the following conclusions were drawn by the Joint Committee;

1. The builder has started the construction activities before obtaining the EC from MoEF & CC. The project does not have a valid EC as of now and prior to start of any additional work, the Project Proponent is required to obtain a fresh EC from SEIAA, Kerala.
2. The entire construction was done without KSPCB Consent to Establish and started occupancy without Consent to Operate from KSPCB violating the Water(Prevention & Control of Pollution) Act 1974, the Air(Prevention & Control of Pollution) Act, 1981 and the Environment(Protection) Act, 1986.
3. The paddy land is used for building construction without obtaining any permission from local level monitoring committee and RDO. The conversion of agriculture lands disrupted the ecological set up of the area and affects the biological diversity of the area. Hence the construction had caused environmental damage.

NOW THEREFORE under Section 25 4(b) of the Water(Prevention & Control of Pollution) Act 1974 , the 'Consent to Operate' applied for by you is hereby refused;

NOW THEREFORE the Consent applied for by you, as per the application cited under reference above is hereby refused.

Dated this the 2022-07-22

**A B Pradeep  
Kumar**

Digitally signed by A B Pradeep  
Kumar  
Date: 2022.08.04 10:48:12 +05'30'

**For and on Behalf of the  
KERALA STATE POLLUTION CONTROL BOARD**

**To**

Shri. COLLEEN PETRIZ ,

BRANCH HEAD, JAIN HOUSING & CONSTRUCTIONS Ltd

Project at Jain Tuffnel Park,

Phase-I, Block 4 & 5, Kakkanad / H.O - JAIN HOUSING AND CONSTRUCTIONS LTD, G-361, MAIN AVENUE, PANAMPILLY NAGAR, COCHIN-682036.

**1. This digitally signed document is legally valid as per the Information Technology Act 2000**

2. For verifying this document please go to [krocmmms.nic.in](http://krocmmms.nic.in) and search in Closed after Refusal applications in the home page of the Board's Online Consent Management and Monitoring System.



☎ General: 0471 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151  
e-mail: ms.kspcb@gov.in, FAX: 2318152 web: www.keralapcb.nic.in

## KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004  
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/EE1/NGT-GENERAL/01/19-20 (Vol.II)

Date: 10/10/2022

### AUTHORISATION

Sub:- M/s. Tuffnel Gardens – Authorization to initiate legal action-reg.

Ref:- 1. Consent Refusal Order No. PCB/HO/EKM-1/CRO/02/2022  
dated 22/07/2022.

2. Letter No. PCB/EKM/DO-1/OA-205/2021 dated 16/09/2022.

The project at Jain Tuffnel Park Phase –I of Jain Housing and construction Ltd, comes under the consent purview of the water (Prevention and Control of pollution) Act 1974, the Air (Prevention and control of Pollution) Act 1981 and the Environment (Protection) Act 1986. The application for Consent to Operate was refused vide order cited (1). The consent was refused since the unit had constructed the building without obtaining Boards Integrated Consent to Establish as well as the Environmental Clearance. It is also noted that occupancy was also started without obtaining Boards Integrated Consent to Operate. This is in violation of section 25 & 26 of water Act. The Joint committee constituted by the Hon'ble NGT in OA 205/ 2021 has also observed that the building is constructed violating Environmental Acts and Rules. The Environmental Engineer, District Office -1, has vide ref (2) requested sanction for taking legal action against the unit. Hence in light of the above facts, Board proposes to initiate legal action as per sections 44&45A of the Water Act against the occupier of the unit. Smt. Sreelekshmi P.B, Environmental Engineer, District Office-1, Ernakulam is hereby authorized to take all steps to initiate legal proceedings against the Branch Head Jain Housing and constructions Ltd,

Kakkanad, Ernakulam and to make complaint against the Branch Head, before the appropriate First class Judicial Magistrate Court.

  
**CHAIRMAN**

To

Smt. Sreelekshmi P.B  
Environmental Engineer  
District Office -1,  
Ernakulam

Copy to:

1. Chief Environmental Engineer  
Regional Office, Ernakulam
2. Senior Environmental Engineer, Legal Cell  
Regional Office, Ernakulam
3. Senior Environmental Engineer -1, Head Office



## KERALA STATE POLLUTION CONTROL BOARD

DISTRICT OFFICE -1, ERNAKULAM

GANDHINAGAR, KOCHI - 682 020

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

ജില്ലാ ഓഫീസ്-1, എറണാകുളം

ഗാന്ധിനഗർ കൊച്ചി - 682 020

PCB/EKM/DO-1/OA-205/2021

KERALA STATE POLLUTION CONTROL BOARD  
DISTRICT OFFICE-1, COCHIN-682 020

DESPATCHED ON... 15/10/2022

Regd A/D  
14.10.2022

### NOTICE

Sub: - Consent under Air (Prevention & Control of Pollution) Act 1981 / Water (Prevention & Control of pollution) Act 1974 & Environmental Protection Act 1986 – reg.

- Ref: - 1. Online application for consent to operate no: 3649181 dated 25.08.2016  
2. Inspection conducted by MoEF on 19.02.2020  
3. Order no: IA3-22/19/2021-IA.III [E- 16436] dated 20.09.2021  
4. Hon'ble NGT order OA No 205/21 dated 22.09.2021  
5. Joint committee inspection on 09.11.2021  
6. Consent refusal order no: PCB/ HO/EKM-1/CRO/01/2022 dated 22.07.2022

WHEREAS M/s. JAIN HOUSING CONSTRUCTION LTD (M/S TUFFNEL GARDENS) in survey no. 483/14, 484/7, 485/1 of Kakkanad village, Thrikkakkara Municipality, Kanayannoor taluk, Ernakulam district comes under the purview of water (Prevention & Control of pollution) Act 1974, Air (Prevention & Control of Pollution) Act 1981 and Environmental (Protection) Act 1986 and is bound to comply with the provisions of the said acts;

WHEREAS as per the reference 1 above, you have submitted application for Consent to Operate of the Board;

WHEREAS the Board had conducted enquiry in the apartment and noted that you have constructed the project without CTE and started occupancy without consent to operate of the Board which is the violation of Section 25 of water (Prevention & Control of pollution) Act 1974 and also violated the conditions of EC (Environmental Clearance);

WHEREAS as per Section 25 of the Water(Prevention & Control of Pollution) Act 1974 "No person shall, without the previous consent of the State Board, establish or take any steps to establish any treatment and disposal system which is likely to discharge sewage into a stream or well or sewer or on land":

WHEREAS the construction of building without obtaining consent to establish and starting occupancy without consent to operate is violation of section 25 of the Water (Prevention & Control of Pollution) Act 1974;

WHEREAS a joint inspection was conducted by MoEF&CC, SEIAA and Board officials on 19.02.2020 and noted you have violated the conditions of EC;

WHEREAS the Hon'ble NGT in OA 205/2021 constituted a joint committee on 22.09.2021 with members from MoEF, SEIAA Kerala, KSPCB, District Collector to report the violations if any in the building construction. As directed by the Hon'ble NGT and after elaborate discussions and verification of the documents the following conclusions were drawn by the Joint Committee;

1. The builder has started the construction activities before obtaining the EC from MoEF & CC. The project does not have a valid EC as of now and prior to start of any additional work, the Project Proponent is required to obtain a fresh EC from SEIAA, Kerala.
2. The entire construction was done without KSPCB Consent to Establish and started occupancy without Consent to Operate from KSPCB violating the Water(Prevention & Control of Pollution) Act 1974, the Air(Prevention & Control of Pollution) Act, 1981 and the Environment(Protection) Act, 1986.
3. The paddy land is used for building construction without obtaining any permission from local level monitoring committee and RDO. The conversion of agriculture lands disrupted the ecological set up of the area and affects the biological diversity of the area. Hence the construction had caused environmental damage.

WHEREAS, as per reference (6) cited above, Board had refused your application for consent to operate as you have constructed the building without obtaining Board's consent to establish prior consent and also for not possessing valid EC for the project;

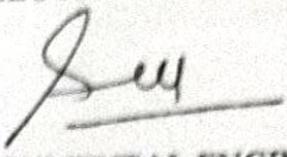
AND WHEREAS as per the above said facts, the Board is proposing to take legal action under the sections 44, 45 (A) and 47 of water (Prevention & Control of pollution) Act 1974;

NOW THEREFORE you are hereby directed to show cause if any within 15 days why the Board shall not initiate legal action against you.

Dated this 14<sup>th</sup> day of October 2022



For and on behalf of the  
KERALA STATE POLLUTION CONTROL BOARD

  
ENVIRONMENTAL ENGINEER

To,

1. Sri. SANDEEP MEHTA  
No.11, Somasundaram Street,  
T. Nagar, Chennai- 600 017
2. Smt. Colleen Petriz,  
Branch Head,  
Jain Tufnell Garden  
Site office, Flat No. 4082  
Rajagiri Valley  
Chittethukara, Nilampathinja Mughal Road  
Kakkanadu, Cochin- 682 039

Copy to:

1. The Chairman, KSPCB, Trivandrum
2. The Member Secretary, KSPCB, Trivandrum
3. The Chief Environmental Engineer, KSPCB Regional Office, Ernakulam