

Presented on: 06.09.2022

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

**APPEAL No. 5 OF 2022**

**BETWEEN**

SHAJI A. K

: APPELLANT

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS

: RESPONDENTS

**ADDITIONAL REJOINDER AGAINST THE COUNTER AFFIDAVIT FILED  
BY THE 5<sup>TH</sup> RESPONDENT**

RAJAN VISHNURAJ (R-1268) [K/653/2010]

HARISH VASUDEVAN (H-253) [K/779/2013]

*Counsel for Appellant*

**Amicus Advocates**

II Floor, Chundanal Monarch, K.K Padmanabhan Road, Kochi-18

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

**MEMORANDUM OF APPEAL**

[Under Section 18(1) read with Section 16 of the National Green Tribunal  
Act, 2010]

**APPEAL No. 05 OF 2022**

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SHAJI A.K ..... **APPELLANT**

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
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Date: 06.09.2022

Place: Kochi



**HARISH VASUDEVAN  
COUNSEL FOR THE APPELLANT**

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**BEFORE THE HON'BLE NATIONAL GREEN  
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**APPEAL No. 5 OF 2022**

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*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS : RESPONDENTS

**ADDITIONAL REJOINDER AGAINST THE COUNTER AFFIDAVIT FILED  
BY THE 5<sup>TH</sup> RESPONDENT**

I, Shaji A.K. Aged about 47 years, S/o. Kuryakose, Arakkal House, Perinkari P.O., Kannur District - 670 706, do hereby solemnly affirm and state as follows:

1. I am the appellant in the memorandum of appeal and as such I am conversant with the facts of the case. I am competent to swear this affidavit.
2. I submit that I have read the counter affidavit filed by the 5<sup>th</sup> respondent against which I have filed a rejoinder dated 03.09.2022. Without prejudice to the above-mentioned rejoinder, this additional rejoinder is filed. The appellant herein also reserves a right to file a detailed rejoinder against the counter affidavit filed by the 5<sup>th</sup> respondent, bringing more facts to prove the case before the Hon'ble Tribunal.

Shaji. A.K 



3. The notification dated 14.03.2017 vide S.O.804(E) issued by the 1<sup>st</sup> Respondent is the only notification under the relevant statute to deal with the case of violations. A true photocopy of the relevant pages of the Notification dated 14.03.2017 vide S.O.No.804(E) issued by the 1<sup>st</sup> Respondent is produced herewith and marked as **ANNEXURE A11**. By issuing Annexure A1, the 2<sup>nd</sup> Respondent clearly violates Paragraph 13 and 14 of Annexure A11.
  
4. In the 114<sup>th</sup> meeting of the SEAC, Kerala, the matter was again placed for consideration. The SEAC categorically found and observed that the construction of more than one building was started at the time of the field inspection. It was also observed that the entire land was modified / developed making it difficult to assess the damage to flora and fauna, natural landscape and natural drainage systems. The SEAC clearly made an observation that the SEIAA has violated Clause No.8(ii) of the EIA Notification, 2006 and statutory procedure was not followed in this case. A true photocopy of the relevant pages of the 114<sup>th</sup> meeting of the SEAC Kerala is produced herewith and marked as **ANNEXURE A12**.
  
5. That, it is clear from Annexure A11 and A12 that the SEIAA has clearly violated the procedure established by law as even admitted by the SEAC. The 2<sup>nd</sup> Respondent has totally neglected and violated the provisions of law to grant the impugned EC.
  
6. That, after the 116<sup>th</sup> meeting of the SEAC, Kerala, two SEAC members namely Sri.K.Krishna Panicker and Dr.Ajayakumar Varma have visited the site again. It is observed by the said members that there

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are serious violations done by the 5<sup>th</sup> Respondent, of the compliance of conditions prescribed by the SEIAA. A true photocopy of the inspection report prepared by Dr.R.Ajayakumar Varma and Sri.K.Krishna Panicker is produced herewith and marked as **ANNEXURE A13**. The said remarks and observations are not properly reflected in the minutes of the SEAC.

7. It is unheard in the history of the process under the EIA Notification that an EC is issued without having an appraisal. The impugned EC is issued against the recommendation of SEAC without referring back to them or having any consultation with SEAC. No appraisal is done in this case. It is to be noted that the Respondents No.2 to 4 did not specifically object this fact.

8. Therefore, it is most humbly requested and prayed that, having regard to the above mentioned and other grounds that may be pleased to accept this rejoinder and allow this appeal, with cost to the 5<sup>th</sup> respondent.

All the facts stated above are true to the best of my knowledge, belief & information.

Dated this the 5<sup>th</sup> day of September, 2022

Shaji. A.K. 

DEPONENT

Solemnly affirmed and signed before me by the deponent whom I know on this the 5<sup>th</sup> day of September, 2022 in my office.

Harish Vasudevan   
ADVOCATE

**VERIFICAION**

I, Shaji A.K. Aged about 47 years, S/o. Kuryakose, Arakkal House, Perinkari P.O., Kannur District - 670 706, do hereby verifies that the contents of the above paragraphs 1 to 8 are true to the best of my knowledge and I have not suppressed any material facts.

DATE: 06-09-2022

SIGNATURE OF THE APPELLANT

PLACE: Ernakulam.

  
Shaji. A.K.



# 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

सं. 723]

नई दिल्ली, मंगलवार, मार्च 14, 2017/फाल्गुन 23, 1938

No. 723]

NEW DELHI, TUESDAY, MARCH 14, 2017/PHALGUNA 23, 1938

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 14 मार्च, 2017

का.आ. 804(अ).—पर्यावरण (संरक्षण) नियम 1986 के नियम 5 के उपनियम (3) की अपेक्षानुसार, पर्यावरण (संरक्षण) अधिनियम 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) के अधीन भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में अधिसूचना सं. का.आ. 1705(अ) तारीख 10 मई, 2016, पर्यावरणीय अनापत्ति के निदेश निबंधनों को अनुदत्त करने के लिए परियोजनाओं के मूल्यांकन की प्रक्रिया को पूरा करने के लिए, जिनमें स्थल पर कार्य आरंभ कर दिया है, पर्यावरणीय अनापत्ति की सीमा में परे उत्पादन का विस्तार किया है या पर्यावरण संघात अधिसूचना 2006 के अधीन पूर्व पर्यावरण अनापत्ति अधिप्राप्त किए बिना उत्पाद मिश्रण में परिवर्तन किया है, द्वारा उन सभी व्यक्तियों से, जिनके उसमें प्रभावित होने की संभावना थी, उस तारीख से जिसका उस राजपत्र की प्रतियां, जिनमें यह अधिसूचना अंतर्विष्ट है, उपलब्ध करा दी जाती हैं, माउट दिन की अवधि के भीतर आक्षेप और मुझाव आमंत्रित करने हुए एक प्रारूप अधिसूचना प्रकाशित की गई थी ;

2. और उक्त राजपत्र की प्रतियां जनता को 10 मई, 2016 को उपलब्ध करा दी गई थीं ;
3. और पूर्वोक्त वर्णित प्रारूप अधिसूचना पर प्राप्त सभी मुझावों या आक्षेपों पर केंद्रीय सरकार द्वारा सम्बन्धित विचार कर लिया गया है ;
4. पर्यावरण (संरक्षण) अधिनियम, 1986 के उपबंधों के अध्याधीन, अधिनियम की धारा 3 की उपधारा (1) के अधीन केंद्रीय सरकार को ऐसे सभी उपाय करने की शक्ति है, जो वह पर्यावरण की क्वालिटी के संरक्षण और सुधार तथा पर्यावरण प्रदूषण को रोकने, नियंत्रित करने और समाप्त करने के प्रयोजनों के लिए आवश्यक और समीचीन समझती है ;
5. पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 5 केंद्रीय सरकार को निदेश देने के लिए मशकत करती है, जो इस प्रकार है "केंद्रीय सरकार किसी अन्य विधि में किसी बात के होते हुए भी, किन्तु इस अधिनियम के उपबंधों के अधीन रहते हुए इस अधिनियम के अधीन अपनी शक्तियों के प्रयोग और अपने कृत्यों के निर्वहन में किसी व्यक्ति, अधिकारी या प्राधिकरण को निश्चित निदेश दे सकती और ऐसा व्यक्ति, अधिकारी या प्राधिकरण ऐसे निदेशों का अनुपालन करने के लिए बाध्य होगा ;

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से पूर्व जमा किया जाएगा और उसे मंत्रालय के प्रादेशिक कार्यालय, विशेषज्ञ मूल्यांकन समिति तथा विनियामक प्राधिकरण के अनुमोदन के पश्चात् मुद्रांकनी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के सफलतापूर्वक कार्यान्वयन के पश्चात् निर्मुक्त किया जाएगा।

14. ऐसी परियोजनाएं और क्रियाकलाप, जो इस अधिमूचना की तारीख को उल्लंघनकारी हैं, इस अधिमूचना के अधीन पर्यावरणीय अनापत्ति के लिए आवेदन करने के पात्र होंगे और परियोजना प्रस्तावक इस अधिमूचना के अधीन पर्यावरणीय अनापत्ति के लिए केवल इस अधिमूचना की तारीख से छह मास के भीतर ही आवेदन कर सकते हैं।

[फा. सं. 22-116/2015-आईए-III]

मनोज कुमार सिंह, संयुक्त सचिव

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

New Delhi, the 14th March, 2017

**S.O. 804(E).**—Whereas, a draft notification under sub-section (1), and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), vide number S.O. 1705(E), dated the 10<sup>th</sup> May, 2016, as required by sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for finalising the process for appraisal of projects for grant of Terms of Reference and Environmental Clearance, which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance under the Environment Impact Assessment Notification, 2006 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;

2. And whereas, copies of the said notification were made available to the public on the 10<sup>th</sup> May, 2016;

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

4. Whereas, subject to the provisions of the Environment (Protection) Act, 1986, under sub-section (1) of section 3 of the Act, the Central Government has the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling, and abating environment pollution;

5. Whereas, section 5 of the Environment (Protection) Act, 1986 empowers the Central Government to give directions which reads as "Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions;

6. Whereas the Ministry of Environment, Forest and Climate Change issued Office Memoranda dated 12.12.2012 and 27.06.2013 to establish a process for grant of environmental clearance to cases of violation.

7. Whereas, the Hon'ble High Court of Jharkhand had passed an order dated the 28<sup>th</sup> November, 2014 in W.P. (C) No. 2364 of 2014 in the matter of Hindustan Copper Limited *Versus* Union of India in which the High Court held that the conditions laid down under Office Memorandum dated 12<sup>th</sup> December, 2012 in paragraph No. 5 (i) and 5 (ii) were illegal and unconstitutional and had further held that action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance could not await initiation of action against the project proponent. The Hon'ble Court further ruled that the proposal for environment clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws;

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8. And whereas, Hon'ble National Green Tribunal, Principal Bench *vide* its order dated 7<sup>th</sup> July, 2015 in Original Application No. 37 of 2015 and Original Application No. 213 of 2015 had also held that the Office Memoranda dated 12<sup>th</sup> December, 2012 and 24<sup>th</sup> June, 2013 on the subject of consideration of proposals for Terms of Reference or Environment Clearance or Coastal Regulation Zone Clearance involving violations of the Environment (Protection) Act, 1986 or Environment Impact Assessment Notification, 2006 Coastal Regulation Zone Notification, 2011 could not alter or amend the provisions of the Environment Impact Assessment notification, 2006 and had quashed the same;
9. And whereas, the Ministry of Environment, Forest and Climate Change and State Environment Impact Assessment Authorities have been receiving certain proposals under the Environment Impact Assessment Notification, 2006 for grant of Terms of References and Environmental Clearance for projects which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance;
10. Whereas, the Ministry of Environment, Forest and Climate Change deems it necessary for the purpose of protecting and improving the quality of the environment and abating environmental pollution that all entities not complying with environmental regulation under Environment Impact Assessment Notification, 2006 be brought under compliance with in the environmental laws in expedient manner;
11. And whereas, the Ministry of Environment, Forest and Climate Change deems it necessary to bring such projects and activities in compliance with the environmental laws at the earliest point of time, rather than leaving them unregulated and unchecked, which will be more damaging to the environment and in furtherance of this objective, the Government of India deems it essential to establish a process for appraisal of such cases of violation for prescribing adequate environmental safeguards to entities and the process should be such that it deters violation of provisions of Environment Impact Assessment Notification, 2006 and the pecuniary benefit of violation and damage to environment is adequately compensated for;
12. And whereas, Hon'ble Supreme Court in *Indian Council for Enviro-Legal Action Vs. Union of India* (the Bichhri village industrial pollution case), while delivering its judgment on 13<sup>th</sup> February, 1996, analyzed all the relevant provisions of law and concluded that damages may be recovered under the provisions of the Environment (Protection) Act, 1986 (1996 [3] SCC 212). The Hon'ble Court observed that ..... section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government [or its delegate, as the case may be] to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment.....". Section 5 clothes the Central Government [or its delegate] with the power to issue directions for achieving the objects of the Act. Read with the wide definition of "environment" in Section 2 (a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures..... Hon'ble Court has further observed that levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5 which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The question of liability of the respondents to defray the costs of remedial measures can also be

Shaji A.K. J

- looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" Principle. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".
- 13 (1). Now, therefore, in exercise of the powers conferred by sub-section (1) and sub clause (a) of clause (i) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986; the Central Government hereby directs that the projects or activities or the expansion or modernisation of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 entailing capacity addition with change in process or technology or both undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Level Environment Impact Assessment Authority, as the case may be, duly constituted by the Central Government under sub-section (3) of Section 3 of the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006 and will be dealt strictly as per the procedure specified in the following manner:-
- (2) In case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product- mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) Section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level.
- (3) 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.
- (4) The cases of violation will be appraised by respective sector Expert Appraisal Committees constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.
- (5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants. The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.
- (6) The Expert Appraisal Committee shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.

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(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority.

14. The projects or activities which are in violation as on date of this notification only will be eligible to apply for environmental clearance under this notification and the project proponents can apply for environmental clearance under this notification only within six months from the date of this notification.

[F. No. 22-116/2015-IA-III]

MANOJ KUMAR SINGH, Jt. Secy.

**MINUTES OF THE 114<sup>th</sup> MEETING OF SEAC KERALA HELD DURING 6<sup>th</sup> – 8<sup>th</sup> OCTOBER 2020 AT THE CONFERENCE HALL, STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, THIRUVANANTHAPURAM**

The 114<sup>th</sup> meeting of the SEAC KERALA was held online during 6<sup>th</sup> – 8<sup>th</sup> October 2020 observing all the lockdown protocols stipulated by the Government. The meeting started at 10.00 AM on 6<sup>th</sup> October 2020 with Dr. C. Bhaskaran, Chairman, SEAC KERALA chairing. The Chairman welcomed the members to the meeting. The Committee then moved on to the deliberations on the agenda items.

**Physical Files**

**Item No.114.01**

**Minutes of the 113<sup>th</sup> SEAC meeting held during 15<sup>th</sup> – 17<sup>th</sup> September, 2020**

**Decision:** The Committee approved the minutes of the 113<sup>th</sup> SEAC meeting.

**Item No.114.02**

**Judgment dated 4.10.2019 in WP(C) No.31684/2016 filed by Tomy Thomas (File No.1255/EC4/2016/SEIAA) (Common Judgment in WP © 31684/2016, WP (C).15505/2016 & WP (C) 25529/2019)**

**Decision:** The Committee heard (on line) the Secretary of Thalapalam GramaPanchayat as well as the petitioner Shri. Anilkumar, the proponent Shri. Tomy Thomas and his Consultant Dr. P.Z. Thomas. The Committee directed the proponent to intimate the SEIAA while the quarry functions, so that the SEAC can conduct the field inspection as ordered by the Hon'ble High Court of Kerala.

**Item No.114.03**

**Application for Environmental Clearance for Granite building stone Quarry in Re Survey No242/3,242/4 of Uzhavoor & 245/2,245/3 of Monipally Villages in Meenachil Taluk, Kottayam District (File No.1307/EC2/2019/SEIAA)**

**Decision:** The Committee discussed and accepted the Field Inspection Report. The Committee also directed the proponent to submit the following documents/details

Shaji AK *Ju*

**Decision:** The Committee decided to invite the proponent for presentation along with the recent cluster certificate for submission to the SEIAA.

**Out of Agenda**

**1. SIA/KL/MIN/4572/2019, 1591/EC4/2020/SEIAA**

Environmental Clearance proposal of 'Silica Sand Quarry of Smt. S. Jayasree', over an extent of 1.0552 Ha. in Sy. Nos. 58/11B1, 58/11B2 & 58/14 in Panavally Village, Cherthala Taluk, Alappuzha District, Kerala

**Decision:** The Committee entrusted Shri.K.KrishnaPanicker and Smt.BeenaGovindan for field inspection.

**2.SIA/KL/NCP/83033/2018, 1193/EC1/2018/SEIAA**

M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd. proposes to construct a mixed use development project which is located at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b of Village Pantheerankavu, Olavanna Panchayat, Kozhikode Taluk, Kozhikode District, Kerala.

**Decision :** Accepting the sub-committee report, SEAC recommended to initiate violation proceedings against the proponent. The 93<sup>rd</sup> SEIAA meeting held on 03<sup>rd</sup> June 2019 decided the following;

- 1) Direct the District collector and the Secretary, Kozhikkode Corporation to issue Stop Memo and report compliance.
- 2) Initiate violation proceedings against the proponent as per S.O 1030 (E) dt.08.03.2018 under EIA Notification 2006.

Though SEIAA rejected several representations of the proponent, the 101<sup>th</sup> SEIAA meeting decided to give approval for the project considering it as an expansion, subject to the following conditions.

1. *In the SEIAA meeting held on 17th January 2020, after the personal hearing, proponent has given an undertaking and he shall scrupulously follow his undertaking during the construction and operation phase of the project.*
2. *Proponent shall not violate any rules and regulations under EIA Notification 2006 as well as other rules and regulations of Govt. Kerala applicable to this Project.*

3. Proponent shall carry out all ameliorative measures to rectify the environmental damage caused if any, in the project region, due to present construction activity, as suggested by SEAC to the best satisfaction of SEAC.
4. During the pendency of EC, SEAC shall make an inspection and the proponent shall abide by the conditions if any suggested.
5. Activities relating to Corporate Environmental Responsibilities amounting to Rs.7 crores shall be carried out leading to protection and promotion of environment including waste management in the project district as per OM F.No.22-65/2017-IA-III dt.01.05.2018 of MoEF& CC as directed by Director, Directorate of Environment & Climate Change and supervised by District Collector.
6. Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project (Circular No.J-11013/41/2006-IA.II(I) of GoI, MoEF dt.22.09.2008).

The decision of SEIAA was considered in the 110<sup>th</sup> SEAC meeting and decided for field inspection. Again, the subject was considered in the 114<sup>th</sup> SEAC meeting. It was pointed out that construction of more than one building was started at the time of field inspection. Moreover, the entire land was modified/developed making it difficult to assess the damage to flora and fauna, natural landscape and natural drainage systems. However, the 101<sup>th</sup> SEIAA meeting disagreed with the SEAC recommendation. **As per clause 8 (ii) of EIA Notification 2006, "In case where the SEIAA disagrees with the recommendations of the SEAC, SEIAA shall request reconsideration by the SEAC"**. This procedure was not followed in this case. **So, the Committee decided to bring this procedural lapse to the notice of SEIAA.**

### 3.SIA/KL/MIN/54836/2019, 1796/EC2/2020/SEIAA

Environmental Clearance for KMML Block III in Panmana and Chavara village, Karunagappally Taluk in Kollam district for an area of 88.119 Hectares in Kollam District.

**Decision:**The Committee decided to invite the proponent for presentation

Shaji. A.K. 

**Environmental Clearance** for the mixed use Township Development project 'Landmark Trade Centre' in survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b of Pantheerakavu Village, Olavanna Panchayath, Kozhikode Taluk & Kozhikode District, Kerala by Mr. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd

### INSPECTION REPORT

As per the decision of the 101<sup>st</sup> meeting of SEIAA, Environmental Clearance was issued to Sri. Anwar Sadath (Director), M/s Calicut Landmark Builders & Developers Pvt. Ltd, Kozhikode as per order No. 1193/EC2/2018/SEIAA Dt. 12/03/2020 for the period of 5 years from 12/03/2020 for the Mixed use Township Development project "Landmark Trade Centre" in Sy. No. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b of Pantheerankavu Village, Kozhikode Taluk & Kozhikkode District, Kerala for an area of 3.309 hectares.

Authority gave approval for the project considering it as an expansion, subject to the following conditions.

1. Proponent shall not violate any rules and regulations under EIA Notification 2006 as well as other rules and regulations of Govt. Kerala applicable to this Project.
2. Proponent shall carry out all ameliorative measures to rectify the environmental damage caused if any, in the project region, due to present construction activity, as suggested by SEAC to the best satisfaction of SEAC.
3. During the pendency of EC, SEAC shall make an inspection and the proponent shall abide by the conditions if any suggested.
4. Activities relating to Corporate Environmental Responsibilities amounting to Rs. 7 crores shall be carried out leading to protection and promotion of environment including waste management in the project district as per OM F.No.22-65/2017-1A-III dt.01.05.2018 of MoEF & CC as directed by Director, Directorate of Environment & Climate Change and supervised by District Collector.
5. Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project (Circular No. J-11013/41/2006-1A.11(I) of Gol, MoEF dt.22.09.2008).

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The 116<sup>th</sup> SEAC meeting decided to conduct field inspection and entrusted Shri K. Krishna Panicker and Dr. R. Ajayakumar Varma for the same to recommend specific conditions as suggested by the SEIAA. The sub committee inspected the project area on 20<sup>th</sup> January 2021 and held discussion with the project proponent on implementation and adherence of EC conditions.

#### Observations

During the site visit, we found that construction of commercial and residential blocks is in full swing. On enquiry, it was informed that they didn't file any compliance reports till that date. So compliance of EC conditions couldn't be verified in detail. They didn't start any CER activities and didn't furnish any time schedule for its implementation. We couldn't find any temporary structures for construction labourers within the project site.

Emergency/second access to the project site in the back side is very narrow and got only 3m width for some distance. Excavation of red soil is taking place in the project area spreading dust. But there is no effective mechanism for dust control. A large quantity of red soil is dumped in the project site. On enquiry it was informed that excess soil is dumped. But they don't have EC for transporting the excess soil for outside uses.

#### Recommendation

We suggest the following for the consideration of SEAC

- 1) Proponent may be directed to file compliance reports on time.
- 2) Emergency Second access suitable for fire engine movement must be developed
- 3) Sprinklers should be installed at the sites where red soil is excavated and red soil is dumped. Water spraying must be done on the unsurfaced roads prior to and after the movement of trucks and other vehicles for dust control.
- 4) Temporary accommodation for construction workers may be made as decided by SEIAA.
- 5) Provide safe and healthy basic facilities for construction workers as per the Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
- 6) Appropriate action should be taken to ensure that the excess rainwater runoff reaches the nearest main drainage drain of the area and if necessary, carrying capacity of the

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- natural drain should be enhanced to contain the peak flow
- 7) Appropriate protection to the soil dump and appropriate drainage around the soil dump should be provided to prevent soil erosion.
- 8) Proponent be directed to submit a reasonable time schedule for implementation of CER activities.

Dr. R Ajayakumar Varma  
Member, SEAC

K Krishna Panicker  
Member, SEAC

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