

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ)

Application No.53 of 2020

Olympia Grande Apartment Owners Welfare
Association, Pallavaram Registration No.569/2016,
Represented by its Secretary Mr.S.Chandrasekar,
No.328, GST Road, Pallavaram,
Chennai – 600 043.
Email ID :ogaowa2016@gmail.com
Phone No. 9381011008

... Applicant

AND

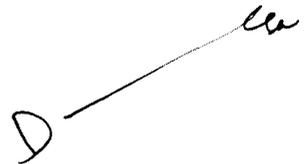
M/s.KSMNirman Private Ltd.,
Represented by its Managing Director,
No.1, SIDCO Industrial Estate, Guindy,
Chennai – 600 032.
Email ID :sales@olympiagroup.in
Phone No. 044 – 4356 3773 and two others.

... Respondents

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Dated this the 14th day of December, 2021


Counsel for the Applicant

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BRIEF NOTE ON SUBMISSIONS FILED ON BEHALF OF THE APPLICANT

It is respectfully submitted:

1. The present application has been filed aggrieved by the 1st respondent's violation of conditions imposed in the environmental clearance issued by the 3rd respondent on 16.04.2013, amended on 24.02.2015.
2. The applicant is an association of allottees of Olympia Grande apartment complex. The 1st respondent was the developer of the apartment complex. This is a large apartment complex consisting of 788 apartments spread across 17 towers, all are 11 floors tall, with more than 3000 people residing in it. The entire apartment complex is located on a plot area of around 7 acres.
3. Apartment complexes of this magnitude exert severe pressure on the environment both in terms of generation of waste as well as resource consumption during both construction and operation phases. It is for this reason that the law mandates that such large construction projects

undergo scrutiny and obtain environmental clearance and such projects are included in the EIA Notification, 2006 under entry 8 in the Schedule. The 1st respondent's project obtained clearance under category 8 (a).

4. It is submitted that the crux of the present case is the failure of the 1st respondent to comply with the conditions imposed in the EC. Non compliances range from illegally, unscientifically established sewage treatment plants, the failure of the 1st respondent to scientifically operate the STP to treat sewage, reuse recovered water in accordance with the clearance and dispose the waste generated without causing pollution to establishment of an organic waste convertor as required by law, failure to install solar panels of necessary wattage, failure to provide roof garden, rain water harvesting, solar panel etc.

SEWAGE TREATMENT PLANT

5. The illegality committed by the 1st respondent in this respect can be split into the following heads:
 - a. Failure to establish STP in accordance with the EC
 - i. STP location
 - ii. STP design and process
 - iii. STP without consent
 - b. Failure to operate the STP scientifically to treat sewage generated and consequent release of untreated sewage into the environment
 - c. Failure to treat and provide water for reuse as mandated by the EC.

Location of STP

6. It is submitted that the 1st respondent has established an STP of size 165 KLD under the Basement of Tower A9 and 315 KLD under the basement of tower F1. The 1st respondent has not filed the EIA report / EMP report or other reports submitted to the 3rd respondent for obtaining the subject EC.
7. According to the planning permission obtained by the 1st respondent dated 26.04.2012, the STP is proposed to install behind tower "C". This is the plan that was approved by the CMDA for which planning permission was

accorded. It is not open to the 1st respondent to change the location of the STP as their wish. Myriad considerations regarding its impact on the environment, health of people etc ought to be considered apart from the propensity of the location to flood during rainfall etc also need to be looked at. Ease of access to discharge points i.e CMWSSB sewer line is also a relevant factor. Thus, the changing of STP location is illegal.

STP should not be located below basement of residential towers

8. The establishment of the STPs below the basements of tower A9 and F1 is also unscientific and contrary to the TNPCB's siting requirements. It is submitted that the area where the apartment complex is located is prone to flooding and whenever there is severe rainfall, water stagnates in the complex. Since the STPs are located below the basement, these areas are among the first to flood, resulting in severe environmental crisis – by preventing the STP from functioning to treat incoming sewage and also by resulting in contamination from sewage in the system.
9. The TNPCB vide Board vide memo No. TNPCB/Comp/F.No. 23405/2017, has stated that it has been decided not to encourage the construction of Sewage Treatment Plant (STP) and Effluent Treatment Plants in the basement floor in view of health hazard and safety aspects. Board vide memo No. TNPCB/Comp/F.No. 23405/2017, Date: 21.09.2017 instructed all the DEEs/JCEE(M) not to encourage the industries for construction of STP/ETP in basement floor. The Karnataka Pollution Control board also has mandated that STPs should not be located below residential towers and should be located far away from residential towers.
10. The location of the STPs under these residential towers results in a situation where during rainfall the STPs are not operated and sewage is let out without treatment and the STP are also gets flooded. The 1st respondent is the author of this unfortunate situation and is solely liable. It is submitted that the apartment complex does not have a scientifically established rainwater harvesting system or any rainwater harvesting system for that matter. The absence of a rainwater harvesting system

compounds the issue and results in flooding of the complex due to the fact that concretisation prevents percolation of rainwater into the earth.

11. It is submitted that the report by IIT that the 1st respondent relies on is only a process description and capacity adequacy study. It is not an audit of the STP established or an audit of the operation of the STP. The IIT report only performs the basic function of informing the authorities of the capacity of the STP that will be required for a given number of inhabitants and nothing further. A reading of the report will make this more than evident.
12. The STPs ought to have been constructed above ground. In the MBBR Process, sewage containing waste organic matter is aerated in aeration basin in which microorganisms metabolize the soluble and suspended organic matter. The Media is added to speed up the process of oxidization. Part of organic matter is synthesized into new cells and part is oxidized to carbon dioxide and water to derive energy. In the activated sludge systems the new cells formed in the reaction are removed from liquid stream in the form of flocculent sludge in the settling tanks. Sufficient amount of air is supplied to oxidize the organics absorbed by the bacterial biomass. Required quantity of oxygen should be supplied and mixing done by the diffused aeration system. The MLSS concentration shall be maintained in the aeration tank and excess sludge from settling tank shall be transferred to aerobic digester by sludge transfer pump.
13. The cultivation and culture and the continuous breed of microorganisms and bacterial biomass is not possible inside the cofferdam in the absence of required oxygen level of 23% in the air.
14. Biochemical oxygen demand (BOD) represents the amount of oxygen consumed by bacteria and other microorganisms while they decompose organic matter under aerobic (oxygen is present) conditions at a specified temperature. The Bio Mass carrier media specifications demand for the MBBR process
Oxygen required : 2.0 kg/kg of BOD

Oxygen in air	:	23%
Sp.Gr of air @30 deg	:	1.2
Aeration type	:	Diffused Aeration
Oxygen Transfer efficiency	:	12%
BOD Load	:	57.75 kg/day
Air for Aeration Tank	:	
		$(57.75 \times 2.0) / \{1.2 \times (23/100) \times (12/100) \times 20\}$
	:	174.4m ³ /nr

It cannot be achieved in the absence of required level of oxygen.

Establishment without consent under Water Act and Air Act

15. It is submitted that had the 1st respondent obtained prior consent to establish and operate from the TNPCB as required by Section 25 of the Water Act and 21 of the Air Act, the TNPCB would have been in a position to notice this fact and this illegality could have been addressed. However, the 1st respondent has established the apartment complex and STP without mandatory consent.
16. The TNPCB in its notice dated 17.12.2019 (please see page 32 of conv set) has noticed this aspect but has failed to initiate prosecution of the 1st respondent but has rewarded them with a post facto consent to operate dated 07.12.2020. It is relevant to note that under both Section 21 of the Air Act and Section 25 of the Water Act, consent can only be prior and not post facto. The consent order thus granted is without the authority of law and void.
17. The TNPCB has also imposed penalty of Rs. 7 crore 11 lakhs and 60 thousand rupees (7,11,60,000/-) on the 1st respondent but this has also not been paid till date. The payment of penalty in no way absolves the respondent of their liability for prosecution.

STP plant not operated in accordance with law

18. The 1st respondent admits that the 315 KLD STP was commissioned on 16.08.2016 and the 165 KLD plant was commissioned on 24.10.2016.

These STPs ought to have been operated efficiently and in accordance with law to ensure that sewage generated from this complex is treated adequately and reused in accordance with the clearance. The failure to operate STP properly will result in treated sewage not meeting parameters laid down by law and in the release of contaminated water into the environment. Sewage is recognised as a great polluter and only to mitigate its impact, are such treatment systems mandated by law.

Discharge of untreated sewage

19. It is submitted that the 1st respondent most of the time did not operate the STP as required and simply bypassed the STP, discharged the untreated sewage into the storm water drain / sewage main / into the environment, causing pollution and violating conditions imposed. The applicant has submitted several complaints / highlighted this illegality in communications with the 1st respondent. Kindly refer to complaints made by the applicant dated 30.09.2019 and 15.10.2019. (Page no. 24 to 29 of Convenience typed set filed by the applicant). The 1st respondent however continued with impunity. The complete absence of records of sludge generation from the STPs is also proof of the fact that the STP was never operated.

20. The TNPCB in its proceedings dated 21.12.2020 and 12.01.2021 has noticed that the 1st respondent was not operating the STP and sewage was bypassed into the storm water drain through pipes. It is submitted that the STP was never operated properly by the 1st respondent. There is no such recording anywhere except the report of the committee constituted by this Tribunal, which was also not based on any energy audit or water balance.

TNEB meter readings

21. STPs require electricity for the operation of the STP's various components like the operation of blowers to maintain aerobic conditions, press etc. These components have a design rate of consumption. To

operate the STP, this amount of electricity necessarily will be consumed. The number of units consumed should be commensurate with the design rate. However, a brief analysis of the electricity readings / metering of the STP under tower A9 shows great variance in the number of units consumed ranging from 2770 units (see reading on 06.01.2020) to 22530 (see reading on 06.05.2021). In fact, the readings prior to the consent to operate on 07.12.2020 show extremely low values. This is irrefutable proof that the STP was not operated by the 1st respondent.

No log books / flow meter readings

22. The 1st respondent has not produced log books containing flow meter readings of the EMFMs in the STP. This is also proof that the STP was not operated as required by law. The flow meter readings would enable us to do a water balance, which would prove the efficiency of the STP's operation. Condition No. 6 of the consent to operate specifically mandates EMFMs.

TNPCB records that STP was not operated

23. The TNPCB in its notice dated 21.12.2020 (see page 75 of conv set) has stated that based on the complaint of the applicant, the unit was inspected on 09.12.2020 and records that the STP was not in operation. Similarly, in its proceedings dated 12.02.2021 also states that the unit was inspected on 11.01.2021 and that the STP was partially operated and both STPs were found discharging into the storm water drain.

Failure to Reuse treated water

24. According to condition No. iii of the EC , the treated water is supposed to be used in the following manner
- a. 190 KLD for flushing
 - b. 21 KLD for gardening
 - c. 203 KLD disposed to CMWSSB
25. However, it is a proven fact that the sewage generated was never treated as required and hence obviously, the 1st respondent has not been using the treated water in compliance with this condition.

26. It is submitted that there is no infrastructure in place to provide 190 KLD of treated water for flushing purposes to these apartments. The 1st respondent has never operated the STP and has only been clandestinely and illegally discharging it into the environment in violation of the EC. The 1st respondent has falsely stated that the applicants have objected to the supply of treated water for flushing purposes. It is submitted that unless the treated water meets the standards prescribed in law, the use of the same will only be a health hazard and the endeavour of the applicant has been only to ensure that the STP was operate properly in accordance with the law.
27. Apart from the EC and the consent to operate dated 07.12.2020, the proceedings dated 21.12.2020 of the TNPCB also issues directions to the 1st respondent to reuse the treated water on these lines. The 1st respondent is in violation of these conditions as well.
28. The failure to reuse water meant that excessive quantities of fresh water had to be purchased by the applicant association. Apart from the financial implication, fresh water is the most precious resource today, which ought to be conserved. However, the 1st respondent's failure has resulted in a situation where huge quantities of fresh water, which otherwise could have been avoided have been procured and utilised for toilet flushing, gardening etc

Treated water did not meet standards

29. The 1st respondent has filed several test reports to contend that the STP's alleged treated water met the standards prescribed under law. However, these reports have been stoutly denied by the applicant and these reports are self-serving and have not been collected and analysed by the regulator.
30. The TNPCB in its letter dated 18.01.2021 has clearly stated that the samples of treated sewage collected by them did not meet the standards prescribed and the ROA shows COD as high as 240 mg/l. This is proof that

the STP's treated water did not meet the standards prescribed and all claims to the contrary by the 1st respondent are liable to be rejected.

ORGANIC WASTE CONVERTER:

31. The Applicant has violated the EC by not installing the solid waste converter in terms of clause (ix) and (x) under Operation Phase conditions. The condition is as follows:

(ix) The solid waste generated from the project activity shall be treated and disposed off as committed, and as per the prescribed method of collection and segregation at source, etc.

(x) The biodegradable municipal solid waste shall be treated through organic waste convertor and the manure shall be used to compost for green belt development/avenue plantation as committed.

32. The Consent to operate issued on 07.12.2020 has a specific condition to install organic waste convertor to handle biodegradable waste and utilize the manure for gardening. However, the 1st Respondent has not complied the same. The TNPCB had inspected the Applicant premises on 11.01.2021 and observed that organic waste convertor was not installed and unsegregated waste is being disposed through Pallavaram Municipality, vide proceedings dated 12.01.2021. This is clear violation of law.

33. The purpose for mandating in situ treatment and disposal of municipal waste from such large apartment complexes is to ensure that treatment and processing of waste at point of generation is achieved. Such conditions are imposed to also ensure that common municipal solid waste management operated by local bodies are not overburdened by dumping of large quantity of waste from such apartment complexes.

RAIN WASTER HARVESTING:

34. The 1st respondent has not provided any facility to scientifically harvest the rain water as prescribed in the EC. The existing design is such that the entire roof run off and surface run off are connected to the tank which is connected to storm water drain. The said tank is located near north wall, behind G2 tower. This results in precious fresh water being

channelled out of the property instead of being diverted to rain water harvesting structures, which will aid in in ground water recharge. Had the 1st respondent provided the rain water harvesting as per the CMDA plan and EC, the demand for water supply from outer sources could have been reduced and also helped in avoiding depletion of ground water.

35. The 1st respondent has made a false representation before the MOEF stating provisions were made for rain water harvesting and the 1st respondent is maintain the same in compliance report dated 30.10.2017. However, there is no such facility provided. A pit connected to the storm water drain cannot be called as a rain water harvesting facility in any way. This is a clear violation of law.

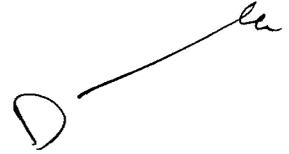
SOLAR PANELS

36. The 1st respondent has failed to comply with the condition relating to application of solar energy as prescribed under the EC. As per clause xvi of operation phase conditions, the 1st respondent has to use solar energy for illumination of common areas, lighting for garden and streets, etc in addition to the provision for solar water heating.
37. The 1st respondent has falsely stated that 30KW of solar power generation infrastructure were under construction. The 1st respondent has provided only 23 nos. of solar lights having maximum power of 100 watt each. e only 2.3 KW has been installed instead of claimed 30KW.

It is submitted that the 1st respondent has violated the conditions prescribed under environment clearance and consequently, caused huge damages to the environment. The 1st respondent has not only violated the conditions of EC, but also violated several laws by deviating from the approved plan. Against those deviations and violations, the Applicant has filed complaints before the appropriate forum. The violations of conditions prescribed under the EC not only caused damages to the environment, but also affected the allottees of the Applicant Association. Since the STPs were not in operable condition as per PCB norms, the allottees were procuring water from outside sources and resulted in additional expenses of more than 4 crores. Therefore, it is submitted

that the 1st respondent should be prosecuted and necessary actions to be taken for the said violations. It is further submitted that the STP for this apartment complex has to be established strictly in accordance with law and operated scientifically and other necessary measures are taken forthwith to ensure that all clearance conditions are strictly complied with.

Dated this the 14th day of December, 2021

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a flourish.

Counsel for the Applicant