

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 87 of 2021 (SZ)

IN THE MATTER OF

Arvind Kumar Agrawal and others

...Applicant(s)

Versus

The Chief Secretary to Government of Tamil Nadu

Pollution Control Board and Others.

...Respondent(s)

REJOINDER AFFIDAVIT FILED BY THE 1st APPLICANT & OTHERS

TO THE COUNTER AFFIDAVIT OF 5TH RESPONDENT

SUBMITTED ON 20.11.2021

CHENNAI

DATED: 05.12.2021



1st Application & Party in Person

(ARVIND KUMAR AGRAWAL)

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Next Date: 14.12.2021

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REJOINDER AFFIDAVIT FILED BY THE 1ST APPLICANT ALONG WITH OTHER APPLICANTS TO THE COUNTER AFFIDAVIT OF 5TH RESPONDENT ON DATED 20.11.2021

I, Arvind Kumar Agrawal, S/o Sri Lakhan Lal Agrawal, aged about 43 years, 1st Applicant of this application, residing at B2-302, Provident Cosmo City Apartment, Pudupakkam, 603103, do hereby solemnly affirm and declare as under:-

- I. I am the 1st petitioner in the present Application, and I am fully conversant with the facts of the present case based on the records obtained through written correspondences with various Government departments, RTI responses, visual evidences collected from this residential site, internal communications from Cosmo City Welfare Associations.
- II. This Hon'ble National Green Tribunal (NGT), Southern Zone (SZ), Chennai, in its order dated 22.11.2021, in Original Application No. 87 of 2021, has directed the following:

"The 5th Respondent is directed to file their objections (if any)" to the Joint Committee report and the applicant is directed to file their Rejoinder (if any) to the counter affidavit submitted by the 5th Respondent on or before 08.12.2021.

1st Applicant along with other applicants have made few observations to the counter affidavit submitted by 5th Respondent on dated 20.11.2021, which are contrary to the evidences furnished in this petition. The 1st Applicant along with other applicants is hereby filing its reply to the said counter affidavit for kind consideration to this Hon'ble Tribunal. It is respectfully submitted following:

1. That, the allegation made in para #2 by the 5th Respondent that *"There is no document on record to prove any authorization or permission by the other applicants to the 1st Applicant. The 1st applicant cannot be permitted to represent all other applicants without such authorization in a manner known to law"*.

It is respectfully submitted, that all the applicants in this petition have signed this petition and is available as record of proof, under Verification - document upload section, when filed using e-file option online on dated 24.02.2021. It was due to oversight and mistake, unsigned version of the verification document, was uploaded in the system instead of signed version of it. All the applicants are well aware of this petition and are still supporting. Most of them were available and present when Joint Committee members inspected this residential complex. This can further be validated from the report, where TNPCB official recorded the Sound testing result from one of the Applicant's flat B1-003 of Thiru Radhakrishnan. A copy of verification along with the signature of all the applicants is annexed here with as R/1.

2. That, in para #3, the 5th Respondent acknowledges that *"the 5th respondent decided to construct 2174 instead of 1184 units while they received Environmental Clearance only for 1184 units on 24th July 2008. They also received planning permit from Directorate of Town and Country planning for 2174 units"*

It is great dismay and serious concern to such government functional body, that they approved such planning permit of 2174 units without considering or requiring such facts of Environment Clearance, which had led to over constructions on said premise, thereby causing damages to Environment to such a great extent. Although, DTCP was also made party in this application but had to exclude them due to the ambit of NGT Act, that it limits. It is further submitted that, 5th Respondent as well as the Joint Committee had acknowledged this fact in their individual submission, that construction of additional 990 units had already been started much before and are now completed and commissioning, prior to obtaining the EC permission. The 5th Respondent also confirmed of selling of 2097 units of this complex as of today in his submission. It is now well established the fact, that EC for expansion of 990 units is not granted to this project by the state SEIAA and hence completion of

construction of such additional units and its selling is blatant violation of the EIA Notification, 2006.

3. That, in para #4, *"5th Respondent stated that application for expansion of EC submitted on 06.02.2009 as per annex R5/1 and is currently under final stage."*

However it is humbly submitted, that there is no such fact about this application ,mentioned by the Joint Committee, in its report submitted to this Hon'ble Tribunal on 28.09.2021 for hearing fixed on 29.09.2021. It is also evident from the RTI responses obtained from MoEF&CC, Regional office Chennai and Impact Division, MoEF&CC, New Delhi, whereas, both of them have confirmed this project as violation to EIA Notification, 2006, and suggested State PCB/State Government to take actions against the project proponent.

The 5th Respondent had also submitted online application seeking ToR for expansion of 990 units 29.03.2017 from MoEF&CC where it is further delisted. The 5th Respondent had intentionally suppressed this fact in his counter affidavit filled herein. Copy of status of the project showing in MoEF&CC website (<http://environmentclearance.nic.in>) is annexed herewith as ANNEXURE R/2. Hence submission made in Para#4 by the 5th Respondent in his counter affidavit may kindly be ignored and must not be relied upon.

4. That, in para #6, the 5th Respondent submitted that *"As regards the further developments by the MoEF&CC in the year 2012, 2013 etc. regarding the direction of the Closure of Project, the replies have been given to the other respondents duly stating the position vide letters dated 24.01.2013 and 15.02.2013"*.

It is further respectfully submitted that, despite their reply to clarify on alleged violations, the relevant authorities have not reinstated the earlier EC issued to this project on dated 24.07.2008 or revoking of project closure directions as issued by MoEF&CC, New Delhi on dated 14.10.2013. Instead, 5th Respondent, continued the construction despite knowing the fact that EC was kept in abeyance. Such facts are well known from the letters issued by MoEF&CC and are already documented by Applicant in its petition. Hence, this submission from 5th Respondent may kindly be ignored and cannot be relied upon.

5. That, in para #7, the 5th Respondent submitted that *"As regards the construction of STP near block B1, B2 and B3, it is informed that due to large size of the project and also the site related technical issues, such decision was taken up and subsequently obtained the revised approval from DTCP on its relocation"*.

It is further respectfully submitted that, in its initial project planning permit obtained from DTCP on date 26.02.2009, there were no such STP earmarked near to these blocks in

question. Its only nearly after 8 years of the project, the proponent went for revised plan approval and sought approval on 12.11.2016. At that time, Both of the STPs were already constructed and were under fully operation mode. The DTCP authority is already impleaded by the 1st Applicant in its petition vide 965/20 filed to State Human Rights commission and is still under pendency. However, fact can't be ignored that, EC for expansion of 990 units was not granted to this Project. Also, as per TNPCB circular memo no. vide T16/25323/STP/Orange/2007-4 on dated 23.10.2008, guidelines for siting sewage treatment plant clearly states that The STP site should be located at least 500 meters away from a notified habitated area and is mentioned in para #3 as excerpted below:-

Sewage Treatment Plant siting criteria - Guidelines

1. The STP site should be at least 250 metres away from any lake or pond preferably in the downstream side of lake or pond so that the sewage shall not reach the water bodies.
2. The STP site should be located more than at least 250 metres away from river or stream and shall ensure that the treated / untreated sewage should not reach the above water sources.
3. The STP site should be located at least 500 metres away from a notified habitated area and zone of 100 metres around STP site boundary should be declared as no-development zone so that green belt can be developed in that area.

It is also annexed in the petition as ANNEXURE A-18 of page 104 & 105. Hence, this submission from 5th Respondent may kindly be ignored and cannot be relied upon.

6. That, in para #8, the 5th Respondent submitted that *"height of the DG Sets are in accordance to PCB norms"*. However, as of its current states, such DG Sets are producing enormous pollution during its operations and low height of such emission stacks, emission of hazardous gases creating short of breathing to nearby residents. Pictures of stack height of DG Sets are already filed in its petition by the Applicant as ANNEXURE A-27. Even the Joint committee had missed this important observation in its report submitted to this Hon'ble Tribunal. As per Consent to Establish norms, such stack height is mentioned as 15 meter in its approval. It is annexed as ANNEXURE A-8, PAGE 79. Hence submission made by 5th Respondent here may kindly be ignored and cannot be relied upon. Picture of such DG set stack height is here with annexed as R/3 as well.
7. That, in para #9, the 5th Respondent submitted that *"depletion of ground water sources is a global phenomenon for which 5th Respondent cannot be made solely responsible"*. It is

respectfully submitted that, though, it is being viewed as global problem, however for residents of such a larger population of nearly 10,000 in such a dense area, it is a specific concern to cater the need of water requirements. Every year during summer, residents of this complex face water scarcity and have to rely on external water suppliers. This is causing additional burden to individual and over all maintenance cost. Moreover, it is statute condition of obtaining proper approval from CMWA for such water requirements during operation phase (PAGE 42, ANNEXURE - A2 in the petition). 1st Applicant is of view that such approvals has not yet been obtained by 5th Respondent though there is no substantial proof available or to his knowledge as of today.

8. That, in para #12, the statement made here upon "*brochure showing up project plan to be viewed as conceptual in nature and must not be considered as legal offering*", is not correct and is denied outright. There are orders from various Hon'ble courts discarding such myth. One such recent order from Hon'ble Tribunal TNREAT on the Appeal No. 44/2020 clarified such myth quoting following section available under RERA Act 2016.

included as a legal document. To eradicate this kind of mischief and to regularize the construction industry Section 12 is contemplated.

Section 12: Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act:

Provided that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or building, as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.

Though it may not be perceived under the ambit of NGT Act, the statute siting guidelines of such massive STP remains applicable in this specific case. A similar ruling comes from TNREAT and published in prominent newspaper recently and is annexed here as R/7. Hence statement made in this para by 5th Respondent may kindly be ignored.

9. That, in para #15, the statement made here upon "*STP location and its admittedly approval from Cosmo City Resident Welfare association hereafter referred to as CCRWA*", is incorrect. The annexures provided in R5/3 also does not substantiate its approval from CCRWA. CCRWA has taken up the maintenance handover on dated 01.11.2017, from 5th Respondents in a very ill-starred condition. Though 1st Applicant had sought clarification on

such handover process and open items from CCRWA however, CCRWA had not responded yet despite multiple follow up and in person meeting. The 1st Applicant had raised noise and odor issues, while 5th Respondent were maintaining this entire complex. There are other few applicants who also raised their apprehension with regard to location of STP in due course of time, but 5th Respondent didn't address such concerns. Copy of such complaints, CCRWA on open or unsettled issues are annexed here with as ANNEXTURE R/4.

10. That, in para #17, 5th Respondent stated, that, he had replied to all the notices issued to them by the 2nd Respondent and I.A. Division, MoFE&CC, New Delhi. However it is contrary to the fact that none of such respondents including MoEF&CC, New Delhi have acknowledged or mentioned about such letters (Annexed as R5/4) in its report or responses respectively, that 1st applicant had obtained through RTI Act. Moreover, no further directions were issued after such reply to 5th Respondent on restoring of Environment Clearance issued for 1184 units on 24.07.2008. The closure directions issued letter vide F.No. SEIAA/TN/EC/8(a)/006/F-20/2008 dated 14.10.2013 by MoEF&CC, New Delhi has not been restored as well on the basis of evidence submitted in the petition. Hence such reply as annexed as R5/4 may kindly be ignored and cannot be relied upon. As of now, 5th Respondent has neither obtained the Environment Clearance to expansion of 990 units for this project in question, nor restored the previous Environment clearance that was kept in abeyance as per letter addressed to 5th Respondent on dated 14.10.2013 vide memo No. FNo.SEIAA/TN/EC/8(A)/006/F.20/2008 of Govt. of India, Ministry of Environment and Forest (IA Division) New Delhi, 110003.
11. That, denying of fact in para #18 upon siting criteria guidelines of STP by 5th Respondent, it exhibits the sheer act of shying away from its responsibility towards public health and safety. As per the PART B, General Condition of para #3 and para #6 of letter dated 24.07.2008 from SEIAA, Tamil Nadu while issuing EC to 5th Respondent, it is clearly defined as

3. The SEIAA reserves the right to add additional safeguard measures subsequently, if found necessary and to take action including revoking of the Environmental Clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.

6. All the stipulations stated under Part A and Part B above would be enforced in addition to the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006.

Furthermore, Circular cited by the Applicant in the petition as Annexure A-18 is well established and must be applicable in the construction and commissioning of such a voluminous Sewage treatment plant in question. The statement made here in by the 5th Respondent may kindly be ignored and cannot be relied upon.

12. That, in para #19, denial of statement made by 5th Respondent upon issuance of completion certificate, raises a serious question in the interest of safety measure to the public at large. A completion certificate is a document that is awarded, after the inspection of a real estate project, stating that it has been constructed according to the approved building plan and that it meets all the necessary standards set by the local development authority or municipal corporation. This certificate needs to be obtained by developers, as well as owners of standalone properties. It is required, to ensure the supply of utilities like water, electricity and drainage system. As per the Tamil Nadu Generation and Distribution Corporation Limited hereafter referred to as TANGEDCO, *“a residential building with a height of 12 meters 3 residential units or 750 square meters and all types of industrial buildings does not require a completion certificate. completion certificate of other applications is mandatory before implementing the power connection.”*. The 5th Respondent admittedly easing out such mandate requirements according to its will and pleasure and secured the power for their unauthorized 990 units. Although, TANGEDCO had been impleaded earlier in this petition by the applicant on the basis of “Polluter Pays” Principles, it was denied with the fact that it doesn’t fall under the ambit of NGT Act, and directed for its exclusion. Had TANGEDCO not provided the power supply to these units, the selling of such unauthorized units were not possible thereby continuous damages to the environment would have been reduced significantly. Hence, statement made in para#19 by the 5th Respondent may kindly be ignored.
13. That, statement made by 5th Respondent in para #20 is denied and is totally wrong. It can further be verified from the MoM recorded by Expert Appraisal Committee, IA Division, New Delhi for the projects related to violation of the EIA Notification, 2006 as annexed Annexure A9 in the petition. This MoM is available in the MoEF&CC website as well.

14. That, statement made by 5th Respondent in para #21 is untruthful, hence it is denied outright. The report submitted by Joint Committee to this Hon'ble Tribunal has recorded many such violations of PCB norms to this STP in question.
15. That, the statement made by 5th Respondent in para #22 may kindly be rejected. The Applicants had raised their concerns during the time, when 5th Respondent was maintaining this complex. Copy of such complaints is annexed herewith as ANNEXURE R/4. Also the expenses incurred to keep up the STPs in operation post-handover were huge. Such expenses are well evident from audited statements and are annexed as A-11 in the petition by the applicants for evidence.
16. That, the statement made by 5th Respondent in para #24 on the usage of OWC for 1000 KG / day. Although, it is under capacity, and provided, it had never been put into operation, even when 5th Respondent was maintaining the complex. The 1st applicant respectfully submits here, that the allegation is based on the current state of OWC observing through over a long period of time. The OWS is also established at Open Site Reservation meant only for green belt development. Also solid waste is still being carried away through external/municipal vehicles daily and is believed to be on payment basis. The pictures of OWC is annexed in the petition as ANNEXURE A-13.
17. As regards to the para #25 on DG Sets heights, 1st Applicant had already replied in para#6 in this rejoinder.
18. As regards to para #26, 5th respondent is not impleaded in the petition submitted to State Human Rights Commission.
19. That, the statement made by 5th Respondent in para #27 is incorrect and may kindly be ignored. Though 5th respondent perceives it as "the state of affair outside of perimeters" of the project but it must be well planned to avoid traffic congestion for nearly 10000 dense populated area for the village road leading/joining to main road. Certainly, there must be role of government authorities like local Panchayat and DTPC to plan carefully before providing such approval for developing residential units for larger population.
20. As regards to para #28, it is denied as 1st applicant had made these submissions based on evidences and these evidences have been annexed subsequently in its petition. The Joint Committee has also recorded violation of PCB norms, in its report submitted to this Hon'ble Tribunal.
21. That, the statement made in para #29, by the 5th respondent, may kindly be rejected. The 1st Applicant had been raising several complaints about the STP in question, since Nov 2017 to CCRWA, however hasn't got any effective remedy from them. 1st Applicant had sought

clarifications from CCRWA on the state of STPs in its registered letter dated 05.10.2021, when CCRWA took over the maintenance from 5th Respondent in 01.11.2017. However, despite multiple follow up with CCRWA on such clarifications, the same hasn't been responded by CCRWA till now. It is disappointing that such information is not made available to the 1st Applicant by the CCRWA. Furthermore, 1st applicant respectfully submitted that allegation, made on the state of STPs, are substantiated by documentary evidence and can be viewed in conjunction with the audited statements published by CCRWA for past years, break fix amount collected from the residents by the CCRWA and its expenditures on keeping up the state of such STPs. These statements are annexed in the petition as ANNEXURE A-11 & A-12.

Furthermore, it is respectfully submitted that application is well maintainable and filed within the time limit. Section 14(3) of the NGT Act, i.e. "unless it is made within a period of six months from the date, on which the **cause of action** for such dispute first arose". The 5th Respondent has not obtained the EC from the competent authority. Also there had been substantial violations recorded by various government authorities and had issued show cause notices to 5th Respondent from time to time. The report submitted by Joint Committee to this Hon'ble Tribunal confirms violation to PCB norms and violation to EIA Notification, 2006. 5th Respondent is also in accord with the fact that EC for additional 990 units is not yet obtained and 2097 units have been sold as of now. Hence there is sufficient continuous cause of action upon which acceptance of this case before this Hon'ble Tribunal is vindicated.

22. That, statement made in para #30 by the 5th Respondent is rejected outright and may kindly be ignored. The report submitted to this Hon'ble Tribunal by the Joint Committee clearly recorded this STP in question is a violation to the PCB Norms and EIA Notification, 2006. Pictures as annexed A-16 in the petition, depicts the current state of affairs and suffering, that, residents nearby to this STP in question, are going through regularly. The locus standi for cause of such suffering and pains is none other than 5th Respondent.
23. As regards to para #31, it is denied, otherwise it would be contrary to the principal of natural justice if such violation of PCB norms & Guidelines and violation to EIA Notification, 2006 are overlooked.
24. That, statement made in para #32 by the 5th Respondent is incorrect and may kindly be ignored. The date of booking, shown in this Para, itself supports the fact, that STP in question was not planned and was not constructed to the best of the knowledge known to these applicants at the time of purchase. The location of the STP in question was planned and constructed much after that, where applicants (except 8th Applicant) had no choice but to

accept it unconditionally due to unavoidable circumstances of large financial burden and housing loans commitment. Moreover, questioning to implead CCRWA as a party to such grievances is denied by the fact, that, it's a responsibility 5th Respondent for obtaining the Environment clearance for additional expansion of 990 units. Also 5th Respondent is duly bound for its act like identifying the location and construction of STP near B1 & B2 block or not obtaining the permissions from CMWA for ground water extraction, not obtaining the completion certificate for this project etc. It is also clearly stated under Para #4 of General Condition of Part B of EC Conditions issued to this project. As stated in Para# 9, CCRWA took over the maintenance from 5th Respondent subjected to certain unresolved items. The 1st Applicant had provided sufficient evidences and documentary proof on this regard in petition as annexed ANNEXURE A-25 as well as the MoM published by CCRWA as annexed here with R/4.

25. That, statement made in para #33 upon approval of STP in question by DTCP is subjected to cause of action, pertaining to revised approval, which had been sought by the 5th Respondent much after the construction and commissioning of such STP in question. As application is made where substantial question is related to environment, such statement may kindly be ignored and cannot be relied upon.
26. As regards to para #34 to #36, submissions have already been made in its petition or in this rejoinder.
27. The 5th respondent in his counter affidavit had made an attempt to substantiate its stands on the 3 major grounds stated below: -
 - A. Securing the planning permit approval from Directorate of Town and Country Planning Authority for 2174 units on dated 26.02.2009 and subsequently location of STPs, reduced driveway and additional car parks under revised plan approval on dated 12.11.2016. Thereby outright shying away the necessity of obtaining the Environmental Clearance for this project.
 - B. Delegating obligations and responsibilities to CCRWA solely as handing over of maintenance of this complex took place on dated 01.11.2017, thereby CCRWA to be a locus standi.
 - C. Selling of 2097 units out of 2174 of this complex as of current state thereby seeking compassionate treatment and empathetical view from this Hon'ble Tribunal as it may affect the 990 buyers adversely if found guilty.

However, in contrary to above grounds, it is further respectfully stated that, Firstly, it must be revisited the EIA Notification, 2006 as stated like “**Under the Environment**

(Protection) Act, 1986 ('the Act', for short) the Central Government had issued the notification dated 14.09.2006. The said notification not only makes it mandatory that prior to the commencement of a construction, or "preparation of a land", Environmental Clearance ('EC') has to be sought from the regulatory authority." There are enough evidences to substantiate the fact, that, EC issued to this project for constructing only 1184 units and same was kept in abeyance, as per letter dated 14.10.2013 & closure direction issued by MoEF&CC, New Delhi, to this project. Application seeking on expansion to 990 units in question is also delisted due to noncompliance of earlier EC conditions as stipulated in the EC letter dated 24.07.2008 issued by SEIAA to 5th Respondent. The Joint committee report submitted to this Hon'ble Tribunal and RTI responses obtained from Government of India, MoEF&CC Regional Office, Tamil Nadu and MoEF&CC, New Delhi respectively are also in accord to the fact that this project is a complete violation of EIA Notification, 2006.

Secondly, The MoEF&CC, Impact Assessment Division, New Delhi in his letter vide F.No. 23-19/2017-IA-III, addressed to 5th Respondent on dated 10.04.2018, clearly called out the point in para #5 as *"expanded the production beyond the limit of environmental clearance under the Environment Impact Assessment Notification, 2006. (excerpted below)"* The committee had expressed their views while considering the online proposal No. IA/TN/NCP/63558/2017 on seeking ToR/Expansion to 990 units for this project. The copy is annexed herewith as ANNEXTURE R/6.

EC, which amounts to violation of the EIA Notification, 2006. SEIAA vide their letter dated 23rd May, 2014 has confirmed the case to be of violation of the EIA Notification, 2006, and recommended the State Government to initiate action against the project proponent u/s 19 of the Environment (Protection) Act, 1986. In response, Tamil Nadu Pollution Control Board has issued the show cause notice on 10th September, 2014.

5. The Ministry has issued a Notification vide S.O. 804 (E) dated 14th March, 2017 for appraisal of projects for grant of Terms of Reference / 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.

6. The proposal was considered by the Expert Appraisal Committee, constituted in the Ministry for appraisal of the proposals for ToR/EC in pursuance of the Ministry's Notification dated 14th March, 2017, in its meeting held on 15-16 January, 2018. The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, noted that the construction continued even after show cause notices issued by the Ministry for non compliance of the earlier EC conditions not settled yet and even continued to do construction for expansion without obtaining prior EC for the expansion project (990 dwelling units), and thus amounts to blatant violation of the EIA Notification, 2006 and recommended for the following:-

This brings up two important points for assertion, whether Environment Clearance would still be possible for expansion of 990 units for this Project, despite the fact that almost 11 years have been over since the original EC was issued on dated 24.07.2008 for 1184 units? And, whether, the claim, that 5th Respondent and Joint committee had made, in their individual submission respectively is admissible at this juncture? The statements made by these respondents in their submissions, that Application is in final stage of getting the Environment Clearance as mentioned in para#4 of the counter Affidavit; or para#16 of Recommendation in the report that Joint Committee submitted where it is recommended below as

16. The proponent shall apply and obtain Environmental Clearance for the additionally constructed residential complex with 990 dwelling units with total built up area of 26619.02 Sq.m

Thirdly, such violations are deemed fit attracting stringent penal actions to safeguard the public interest. It is also important to note that none of such impleaded parties took action over a period of such 9 years in a way, where they could have stopped such violation if acted on time and could have shielded the public interest and innocent buyers. The recent judgement from the Hon'ble Supreme Court of India on Supertech Limited Vs. Emerald Court Owner Resident Welfare Association & Ors. Vide its Appeal No. 5041 of 2021 where they upheld the order passed by Hon'ble Allahabad High Court on demolition of 42 story building as it violated the NBR norms. It is worth quoting following excerpt from this case where illegal and unauthorized constructions were taken up on a stringent note.

"56...We would like to reiterate that no authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan. The courts are also expected to refrain from exercising equitable jurisdiction for regularisation of illegal and unauthorised constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas."

While order of demolition of this multistoried building remains intact, the affected purchases were remediated with full refund with interest rate of 12 percent.

Hence, it is earnest prayer that this Hon'ble Tribunal is pleased to consider the objections raised here to the counter affidavit submitted by 5th Respondent on dated 20.11.2021 and may kindly be pleased to pass such order as deem fit and proper in the interest of justice.



1st Application & Party in Person
(ARVIND KUMAR AGRAWAL)

VERIFICATION

I, Arvind Kumar Agrawal, S/o Shri Lakhan Lal Agrawal, aged about 43 years do hereby verify that the concerns of paras of Objections to the said report are based on records and information are true to best of my knowledge and belief.

Hence, verified on 30th day of November 2021 at Chennai.

OA 87/2021 (SZ)
05.12.2021



Sd/--

1st Application & Party in Person
(..Arvind Kumar Agrawal)

VERIFICATION

I, Arvind Kumar Agrawal, S/o Shri L. L. Agrawal, R/o B2/302, Provident Cosmo City, Pudupakkam – 603103, and on the behalf of other applicants mentioned below, do hereby verify

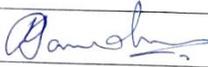
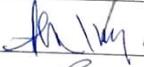
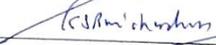
1. That the contents cited in this petition are true to best of my knowledge.
2. That the facts and grounds mentioned in this petition are basis on the documents obtained through RTI, through correspondence from Govt. Authorities and Association of the society and through observations.
3. And that I have not suppressed any material fact.
4. I am going to represent this case as party in person.

Date:

Chennai on this the 24 day of Feb 2021.


(Party in Person)

Applicants Signatures

Sr. No	Applicant Name	Signature
1	Janarthanan	
2	V. Sundareswaran	
3	Amit Kumar Ghosh	
4	S. Renganathan	
5	Radha Krishnan	
6	Ravichandran K S	
7	Sandosh Jathi Sengunthar	

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Arvind	Petitioner	1	3305118005632020	27-11-2020	Complete-Petition	ngt-complete-petitionv1.pdf	
Arvind	Petitioner	1	3305118005632020/2	20-03-2021	Complete-Petition	ngtpet2003.pdf	
Arvind	Petitioner	1	3305118005632020/3	06-04-2021	Complete-Petition	petwithannexes_v6.pdf	
Arvind	Petitioner	1	3305118005632020/3	01-04-2021	Complete-Petition	petwithannexes_v6.pdf	
Arvind	Petitioner	1	3305118005632020/6	10-06-2021	Reports	report-tnpcb to shrc.pdf	
Arvind	Petitioner	1	3305118005632020/4	06-04-2021	Complete-Petition	petwithannexes_v6.pdf	
Arvind	Petitioner	1	3305118005632020/1	24-02-2021	Complete-Petition	petition.pdf	
Arvind	Petitioner	1	3305118005632020/11	21-10-2021	Rejoinder	87-2021-objections.pdf	
Arvind	Petitioner	1	3305118005632020/1	24-02-2021	Annexures-and-Documents	annexes.pdf	
Arvind	Petitioner	1	3305118005632020/1	24-02-2021	Verification	VERIFICATION_v1.pdf	
Arvind	Petitioner	1	3305118005632020/7	03-08-2021	Rejoinder	rejoin-1.pdf	
Arvind	Petitioner	1	3305118005632020/11	21-10-2021	Annexures-and-Documents	87-2021-objections-annexs.pdf	

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ANNEXURE R/2

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Ministry of Environment, Forest and Climate Change
Government of India

"Pro Active and Responsive facilitation by Interactive and Virtuous Environmental Singlewindow Hub."

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Sno.	Proposal No.	MOEFCC File No.	Project Name	Company	Proposal Status	View
1	IA/TN/NCP/63558/2017	23-19/2017-IA.III	Residential Apartment constructed at Pudupakkam Village, Chengalpet Taluk, Kancheepuram District entitled "COSMOCITY" constructed by M/s Limited	PURAVANKARA LIMITED	Delisted TOR	

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environmentclearance.nic.in/timeline.aspx?pid=IA/TN/NCP/63558/2017&type=TOR&proposal_id=8738

TimeLine Details
Proposal received date at each stage of flow.

Submitted by Proponent	Query for Shortcoming (if any) by MS	Resubmission of Proposal by Proponent	Accepted by MS	Proposal considered by EAC	Minutes uploaded on	Additional Detail sought (if any) by MS	Replied by proponent	Delist/Relist	TOR Granted
29 Mar 2017	NA	N/A	10 Jul 2017	N/A	N/A	25 Jan 2018	N/A	Delisted : 02 Oct 2020	N/A

[Print page](#)







Arvind Agrawal <arvin.agrawal@gmail.com>

Kindly address EB and STP issue for B2..

Arvind Agrawal <arvin.agrawal@gmail.com>

Wed, Aug 12, 2015 at 2:43 AM

To: Kamal Lingam <kamal.lingam@providenthousing.com>, Vasudevan G <vasudevan@providenthousing.com>

Cc: Sastry VHS <sastry@providenthousing.com>, vanajakshi.vs@providenthousing.com, Sivakumar S <sivakumar@providenthousing.com>

Hi Kamal, Vasudevan,

There are couple of issues we are facing here since we moved.

Lift not operating – Lift has stop functioning for more than 8 weeks. This is causing great difficulty to us as we stay at 3rd floor. Our daily services like Newspaper, Milk, Water and maid-servant is also complaining about it repeatedly.

I have made complaint to both facility manager and Johnson Lift service center. They identified the issue due to low voltage i.e. not having enough power from EB to operate the lift. As per site project manager and facility manager Senthil, this has to be rectified by the EB department however they themselves don't have specific timeline.

Air pollution due to STP operation – Last week onward, the STP has started functioning however it is spoiling the surrounding atmosphere. Air is getting polluted badly and foully smell is prevailing. The intensity is so high that we are bound to close windows especially in night.

I have spoken about this problem with Siva and site project manager. They assured me that it will go away in couple of days, as STP has not started functioning round the clock. However we can still perceive foully smell. We are facing great difficulty in nights.

Fluctuation in EB power affecting home appliances – EB fluctuation is there as well and had caused one of ceiling fan in hall to stop functioning.

I request you to please address these problems at the earliest. This will surely help us and others stay pleasantly in Cosmo City, especially staying in front row of B1, B2 and B3.

Thanks,

Arvind

Concerns regarding Flat B-2 302 - as per telecon on Sat 10-Aug-13

Arvind Agrawal <arvin.agrawal@gmail.com>

Sun, Sep 8, 2013 at 12:12 AM

To: sastry@providenthousing.com, madhu@providenthousing.com, kamal.lingam@providenthousing.com

Dear Sastri, Kamal and Madhu,

Please refer the email below which has already been shared with crm team previously. Request you to address these concerns ASAP.

Thanks,
Arvind
Cell - 8939001372
Place - Chennai

----- Forwarded message -----

From: **Arvind Agrawal** <arvin.agrawal@gmail.com>

Date: Sun, Aug 11, 2013 at 6:32 PM

Subject: Concerns regarding Flat B-2 302 - as per telecon on Sat 10-Aug-13

To: harikrishnan@providenthousing.com

Cc: sivakumar@providenthousing.com, saravanand@providenthousing.com

Hi Harikrishnan,

Kindly share this email to right recipient(s) if not so.

This is with reference to our concerns that we have during our visit to the site last week. Our Flat reference is B-2 302.

First, there is a considerable delay and postponement of the possession that we came across when visited the site. Your letter dated on 20th Aug 2012 quoting the possession date 8th Aug 2013 of the said Flat. However when enquired now, it has been told to postponement to the Mar/Apr-14 which is indeed our beyond expectation. We are already paying interest on home loan as well as the rent. Considering delay of 7 months, we would be ending up paying more interest and rent which would be extra burden with sheer no gain financially.

Second, we notice STP (Sewage treatment plant) right in-front of our row which was not in initial plan and at the time of booking. We do not expect such plant in front of our block and the main entrance/gate. The sales person has neither mentioned this at the time of booking nor such communication have been triggered in past as well from your end.

Third, there is a pond depicted in the original plan too in front of this row-blocks, however when enquired about it, no such pond has been confirmed as of now which is again another surprise for us. We have opted this flat only because of this Pond view.

Please note that the sales person whom we contacted was Mr. Saravanan when we booked this Flat.

Please consider our concerns in utmost care and provide us justifiable solutions. It would be great if this could be resolved soon because we have planned for registration on 16th Sept 13. Let me know if you require any further information.



Arvind Agrawal <arvin.agrawal@gmail.com>

Fwd: Re: Final Possession Demand Letter B01-202

1 message

Sundar Arvind <sundar.fl@gmail.com>
To: arvin.agrawal@gmail.com

Sun, Nov 28, 2021 at 10:13 PM

FYI

----- Forwarded message -----

From: "Sundar Arvind" <sundar.fl@gmail.com>
Date: 13 Jun 2015 00:02
Subject: Re: Final Possession Demand Letter B01-202
To: "Saravanan D" <saravanand@providenthousing.com>
Cc: "Vasudevan G" <vasudevan@providenthousing.com>

Dear Saravanan,

Kindly note my new address for future communications.

V.Sundareswaran
Provident Cosmocity, Block-D2-301
[No:41, Dr.Abdul Kalam road](#), Near Siruseri IT park,
Pudupakkam village, Tamil Nadu-603103.

Clarify the below 2 points:

1. Final demand letter should be sent to customer on completion of inspection and before handing over of the apartment.
2. Based on our last meeting with PHL, I have been requesting the swapping of apartments due to STP in front of B1 block for the last few months and yet to receive a response from PHL.

Kindly do the needful. Thank you.

V.Sundar.

On 6/11/15, Saravanan D <saravanand@providenthousing.com> wrote:



Arvind Agrawal <arvin.agrawal@gmail.com>

Fwd: Intimation Regarding Handing Over Cosmo City Sector B - 01 / 001-304

1 message

Sundar Arvind <sundar.fls@gmail.com>
To: arvin.agrawal@gmail.com

Sun, Nov 28, 2021 at 10:34 PM

FYI

----- Forwarded message -----

From: **Sundar Arvind** <sundar.fls@gmail.com>

Date: Sat, Jan 11, 2014 at 12:44 PM

Subject: Re: Intimation Regarding Handing Over Cosmo City Sector B - 01 / 001-304

To: Anu radha <anuradha@providenthousing.com>

Cc: Saravanan D <saravanand@providenthousing.com>

Dear Madam,

Thanks for your email. As discussed, last disbursement is ready at HDFC and will reach you shortly.

I have one small clarification in the layout. Let me know what is the concrete building blocking the main entrance of B1 & B2. Kindly clarify as the design seems to be very strange.

Best regards,
V.Sundar.

On Thu, Jan 9, 2014 at 10:26 AM, Anu radha <anuradha@providenthousing.com> wrote:

Dear Sir,

Please find the latest work progress photo attached in Block 1.



COSMO CITY RESIDENTS WELFARE ASSOCIATION (CCRWA)

(Regd. No. 112/2012)

1/53, Dr. Abdul Kalam Road, Padiupakkam, Chennai – 603103

Association Office: 021-303 :: Ph: 044-47457665 :: Email: cosmoecm@gmail.com

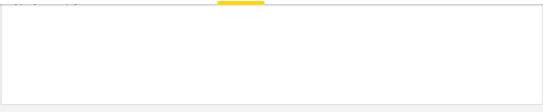
List of Unresolved Promises and Unresolved Issues by PHL

1. Non functional and substandard STP, approval not received from Tamil Nadu Pollution Control Board, filter press machine in the STP not operational from the day it is installed
2. Car parking slots not available inside the campus for new buyers
3. Poor construction - Used substandard material
4. Seepage problem at several newly constructed Blocks due to poor quality of construction by Provident Housing Limited - A Subsidiary of Puravankara
5. Very minuscule Club House in comparison with size of the apartments inside Cosmo City.
6. Low height compound wall (A -Sector)
7. External Painting not completed in A- sector Blocks
8. Provisioned very less stands in A-Sector terrace for drying cloths.
9. PHL has sent illegal car parking cancellation notice to the owners for allotted car parking slots
10. Promised Open swimming pool not yet to delivered
11. Maintenance dues pending for unsold apartment to Cosmo City Resident Welfare Association
12. CORPUS funds not transferred to Cosmo City Resident Welfare Association
13. Proposed New Club House not handed over and Committed size of Club House has been drastically reduced
14. Proposed New Car parking space not finished & not illuminated properly and yet to handed over to CCRWA
15. TNEB land cost for substation remaining not handed over
16. New TNEB Substation not completed and installation is pending for long time
17. Number of Apartments exceeds number of Car Parking slots inside the Campus
18. Incorrectly designed electrical MCB (In house), Common EB line connected to in house
19. Defective assets were handed over to Cosmo City Resident Welfare Association
20. Unequipped Gymnasium
21. Unequipped & Defective Sports complex

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- Helpdesk
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- Activities
- Documents

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Reply

Karthikeyan Kannan > PHLCCRWA 9 months ago

TN PCB Notice - Cosmo City

Hi,
Please find attached the email from PHL on the subject.
PHL has forwarded to us the Notice received by them from Tamil Nadu Pollution Control Board.

Thanks & Regards,
K. Karthikeyan

[TNPCB Notice - Cosmo City.pdf](#) | [Cosmo City - TNPCP Notice - PHL Email Dt.22 Jan 2021.pdf](#)

1 Replies 0 Likes

M. Valluvan 9 months ago

We should reply as early as possible. 1. We should emphasis our point the STP is incomplete, damaged and very bad shape at the time of handover to CCRWA. We can refer our mail that we have given our formal confirmation to Revamp the STP project. PHL is not initiate the work with SEMAG. If any consequences due to delay in implementation of revamp the STPPHL will be solely responsible. Since PCB has given many mandatory requirement to run STP;we can push PHL to install and complete. We will call Prem for meeting and conclude .

0 Likes

Type your reply here

F. No. 23-19/2017-IA-III
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Jor Bagh Road, New Delhi - 3

Date: 10th April, 2018

To,

Shri Sudhakar, DGM
M/s Puravankara Limited
No.7, LVR Center, Seshadri Road,
Chennai- 600 018 (Tamil Nadu)
E Mail: puravacosmo@gmail.com

Subject: Residential apartment 'COSMOCITY' at Survey Nos: 53/3, 53/4, 53/10B, 55, 56/1, 57/2 & 57/4, Pudupakkam Village Chengalpattu Taluk, District Kancheepuram (Tamilnadu) by M/s Puravankara Limited - reg.

Sir,

This refers to your online proposal No. IA/TN/NCP/63558/2017 dated 29th March, 2017, along with the details in prescribed Form-1 for consideration in terms of the provisions of this Ministry's Notification S.O.804 (E) dated 14th March, 2017 and for prescribing terms of reference (ToRs) accordingly.

2. The residential project involves construction of residential apartment 'Cosmo City' with a total built up area of 1,91,215.02 sqm (for 2174 apartments) in total plot area of 1,27,570.85 sqm at Survey No.53/3, 53/4, 53/10B, 55, 56/1, 57/2 & 57/4 at Pudupakkam Village, Chengalpattu Taluk, Kancheepuram District (Tamil Nadu) by M/s Puravankara Limited. The project site is permitted for residential use as per approved Master Plan of the area. Planning/ building permission were obtained from Chennai Metropolitan Development Authority (CMDA), whereas, other necessary approvals were taken from the Chennai Corporation, CMWS&SB etc. The said project/activity is covered under category B of item 8(a) &(b)of the Schedule to the EIA Notification, 2006, and requires prior EC from the SEIAA in Tamil Nadu based on the appraisal by SEAC.

3. Earlier, the EC was granted by SEIAA vide letter dated 24th July, 2008 for construction of 1184 units under category B of item 8(a) of the said Notification. The application for seeking EC to expansion of the project for more 990 dwelling units was submitted to SEIAA on 6th February, 2009 for consideration under item 8(b). Based on monitoring of the project by the Regional Office of the Ministry, the project proponent vide this Ministry's letter dated 2nd April, 2012 were directed to stop construction works for non compliance of EC conditions. There being no response, the project proponent was given final opportunity vide letter dated 16th July, 2012 followed by show cause notices on 7th December, 2012 & 8th February, 2013 to report the compliance of the earlier directions. The process is yet to be concluded.

4. The application for seeking EC to the expansion project (990 dwelling units) was submitted to SEIAA on 10th January, 2014, whereas the construction activity relating to expansion was started in the year 2009 only i.e. while submitting the proposal for EC to SEIAA on 6th February, 2009. The project was, therefore, started much before obtaining the

EC, which amounts to violation of the EIA Notification, 2006. SEIAA vide their letter dated 23rd May, 2014 has confirmed the case to be of violation of the EIA Notification, 2006, and recommended the State Government to initiate action against the project proponent u/s 19 of the Environment (Protection) Act, 1986. In response, Tamil Nadu Pollution Control Board has issued the show cause notice on 10th September, 2014.

5. The Ministry has issued a Notification vide S.O. 804 (E) dated 14th March, 2017 for appraisal of projects for grant of Terms of Reference / 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.

6. The proposal was considered by the Expert Appraisal Committee, constituted in the Ministry for appraisal of the proposals for ToR/EC in pursuance of the Ministry's Notification dated 14th March, 2017, in its meeting held on 15-16 January, 2018. The EAC, after detailed deliberations on the proposal in terms of the provisions of the MoEF&CC Notification dated 14th March, 2017, noted that the construction continued even after show cause notices issued by the Ministry for non compliance of the earlier EC conditions not settled yet and even continued to do construction for expansion without obtaining prior EC for the expansion project (990 dwelling units), and thus amounts to blatant violation of the EIA Notification, 2006 and recommended for the following:-

- (i) The project proponent shall submit the monitoring report on compliance status of the earlier EC conditions (EC dated 24th July, 2008 issued by SEIAA) from the Regional Office of the Ministry to conclude the show cause notices issued by the Ministry.
- (ii) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.

7. Based on recommendations of the EAC, the Ministry of Environment, Forest and Climate Change, in pursuance of the provisions of its Notification dated 14th March, 2017, hereby advised the project proponent to submit the monitoring report on compliance status of the earlier EC conditions (EC dated 24th July, 2008 issued by SEIAA) from the Regional Office of the Ministry to conclude the show cause notices issued by the Ministry.

8. Further, based on recommendations of the EAC and the statutory provisions, the Ministry has also approved the following:-

- (i) The State Government/SPCB to take action against the project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986, and further no consent to operate or occupancy certificate to be issued till the project is granted EC.

10. This issues with approval of the competent authority.


(Dr. Vinod K. Singh)
Scientist D

Copy to:

1. The Secretary, Department of Environment, No.1, Jeenis Road, Panagal Building, Ground Floor, Saidapet, Chennai-600 015, Tamil Nadu.

2. Addl. Principal Chief Conservator of Forests (Central), Ministry of Environment, Forests and Climate Change, 1st and 2nd Floor, Handloom Export Promotion Council, 34, Cathedral Garden Road, Nungambakkam, Chennai-34.
3. The Member Secretary, Central Pollution Control Board Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, New Delhi - 110 032.
4. The Member Secretary, Tamil Nadu Pollution Control Board, 76, Mount Salai, Guindy, Chennai - 600 032.
5. Monitoring Cell, MoEF&CC, Indira Paryavaran Bhavan, New Delhi.
6. Guard File/ Record File/ Notice Board.
7. MoEF&CC Website.


(Dr. Vinod K. Singh)
Scientist D

ole

Promoter cannot withdraw amenities shown in brochure'

TIMES NEWS NETWORK

Chennai: A humble brochure came to the rescue of homebuyers to nail a developer for denying a swimming pool in a villa project. The Tamil Nadu Real Estate Appellate Tribunal (TNREAT), which heard a case over the project, observed that promoters cannot dictate the terms as per their will.

In a recent order, the tribunal has observed that a builder cannot unilaterally withdraw amenities after claiming those in the brochure. "The brochure has been given by the builder to lure buyers offering and promising to give many amenities and the buyers have categorically stated they bought taking into consideration all the amenities provided. Having made them believe and sold the plot, the builder cannot unilaterally withdraw it," the order said. It also refused to entertain the argument of the developer that a brochure cannot be considered as a legal document.

The case pertains to a villa project falling under the purview of the Coimbatore Local Planning Authority. Dhanaas Property Developers filed an appeal with the tribunal over an order passed by the Tamil Nadu Real Estate Regulatory Authority in

Realtor told to pay more for causing mental agony

Chennai: The Tamil Nadu Real Estate Appellate Tribunal revised the penalty for mental agony caused to a homebuyer to 10% of the total construction cost after Tamil Nadu Real Estate Regulatory Authority had directed the developer to pay Rs 50,000 to the buyer.

A recent order of the tribunal said sections 59 to 69 of the RERA Act have fixed penalty at 5% or 10%, for contravention of the rules. The case pertains to an appeal filed by two homebuyers over an order of the TNREERA demanding ₹10 lakh as compensation for mental agony. AN Builders, respondent in the case, had sought to dismiss the appeal.

The complainant had paid ₹1.88 crore as advance but was not satisfied with the firm. Noting that there is a possibility for causing mental agony due to defective performance, the tribunal fixed 10% of the total construction cost of ₹87.8 lakh as penalty in this regard. However, the tribunal said the complainant's version is not evidence for claiming compensation for deficiency. A qualified engineer should have been employed to assess the accurate damage and obtain a report for seeking compensation, it added. **TNN**

January.

Pointing out that the brochure is only for information, which it is not a guarantee and cannot be included as a legal document, the promoter said that only 10 people among the 180 villas are claiming amenities such as swimming pool, gym and multipurpose hall with "malafide intention to create nuisance and cause mental torture" to them. The remaining villa owners have expressed their willingness to close the swimming pool construction due to water

scarcity and safety of children. Moreover, the gym and multipurpose hall could be constructed only after the completion of the fifth phase of the project.

However, the tribunal stressed that the developer cannot close the construction suo moto, after the receipt of amount for the amenities including the swimming pool. Referring to the gym and multipurpose hall, the TNREAT said, "The promoter has no loco standi or right to dictate the terms as per his will and pleasure."