

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,

AT NEW DELHI

I.A. No. 124/2024

IN

ORIGINAL APPLICATION (Suo-Moto) No. 61/ 2024

IN THE MATTER OF :

In Re: News item appearing in The Northeast News dated 25-12-2023, titled– “Assam PCCF M K Yadava accused of illegally clearing protected forest for Commando Battalion”.

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Filed by

Advocate

Sl. Instrument No. 8998
Date. 20/4/25

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH,
NEW DELHI



ORIGINAL APPLICATION (Suo-Moto) No. 61/ 2024

IN THE MATTER OF :

In Re: News item appearing in The Northeast News dated 25-12-2023, titled—
“Assam PCCF M K Yadava accused of illegally clearing protected forest for Commando Battalion”.

IN THE MATTER OF :

An additional affidavit filed for and on behalf of the State of Assam.

ADDITIONAL AFFIDAVIT

FILED BY SMT. MAUCHUMI BARUA, AGED ABOUT 55 YEARS, D/o LATE ROHINI BARUA, PRESENTLY HOLDING THE POST OF SECRETARY TO THE GOVERNMENT OF ASSAM, ENVIRONMENT & FOREST DEPARTMENT.

I, Smt. Mauchumi Barua, aged about 55 years, D/o Lt. Rohini Barua, presently holding the post of Secretary to the Government of Assam, Environment & Forest Department, and posted at Guwahati, in the district of Kamrup (Metro), Assam, do hereby solemnly affirm and state as under.



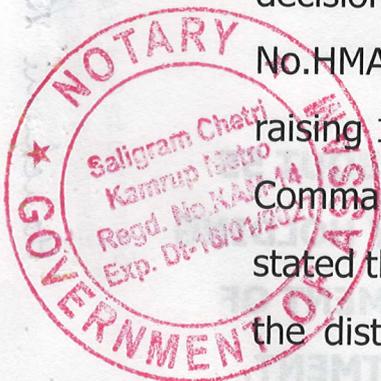
Sanyasi Chetri
NOTARY GOVT. OF ASSAM
Kamrup (Metro) Guwahati
Regd. No-KAM-14

Secretary to the Govt. of Assam
Environment & Forest Dept.
Bismil Guwahati
Mauchumi Barua

1. That, I being the Secretary to the Government of Assam, Environment & Forest Department, and being duly authorised to represent the State of Assam in the present Original Application (Copy of the news publication), and, also, being well conversant with the facts and circumstances of the case, I am competent to swear this affidavit.

2. That, in the instant case 6 (six) numbers of affidavits have already been filed on behalf of the State of Assam, wherein it has been elaborately explained the manner in which the chronic problem of encroachment by the people of Mizoram in the Inner Line Reserved Forest (ILRS), located on the Assam-Mizoram border, is going on, in a systemic way, since early seventies, by giving details of incidents, in tabular form. While explaining the said incidents, several news paper reportings have also been quoted in the said affidavit-in-opposition. It was also explained that pursuant to the Cabinet decision dated 28-07-2021, the Governor of Assam vide letter No.HMA.113/2021/Pt/29, dated 22-10-2021 granted approval for raising 1 (one) new Assam Commando Battalion, i.e. the 2nd Assam Commando Battalion (Operation), at Birsima, Hailakandi. It was stated that the ILRF is remotely located which is around 75 km from the district headquarters, Hailakandi, and, therefore, to have an easy mobility and availability of force, it was decided to house the facility and infrastructure for the battalion within ILRF itself.

3. That, in the last additional affidavit filed on behalf of the State of Assam in the instant proceeding, it was brought on record by stating that the Final (Stage-II) approval of the proposal, submitted by the



20/4/2022
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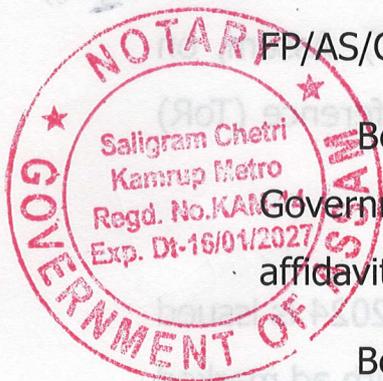
State of Assam, has been granted by the Government of India, as per Rule 11 of the Van (Sanrakshan Evam Samvardhan) Adhiniyan, 1980, on compliance of conditions imposed in the 'In-Principle' approval.

Prior to the Final (Stage-II) approval, the MoEF & CC in its meeting of Forest Advisory Committee held on 26-12-2024 approved the proposal of diversion of forest land submitted by State Government for 11.5 hectare for construction of Assam Police Commando Battalion at Damchera in inner line reserved forest under Hailakandi Division, Hailakandi District, in the state of Assam and the Government of India issued the Stage-I/In-principle of Approval on 21-01-2025, vide Online Proposal No FP/AS/OTHERS/469924/2024.

The Government of Assam has complied with all the conditions mentioned/imposed in the said Stage-I/In-principle of Approval dated 21-01-2025 and, accordingly, Accordingly, Government of India, granted the Final (Stage-II) approval under Section 2(1)(ii) of Van (Sanrakshan Evam Samvardhan) Adhiniyan, 1980, to the Government of Assam on 20-02-2025, by online proposal No. FP/AS/OTHERS/469924/2024, dated 20-02-2025.

Be it mentioned that all the above two approvals issued by the Government of India are already part of records vide the last two affidavits filed on behalf of the State of Assam.

Be it stated that as per Rule 9(i), proposal for Central Government in respect of Van (Sanrakshan Evam Samvardhan) Adhiniyan, 1980, are accorded in two stages namely (i) 'In-Principle' approval (ii) 'Final' approval. Accordingly, the MoEF & CC had accorded Stage-I approval to the proposal on 21-01-2025, vide



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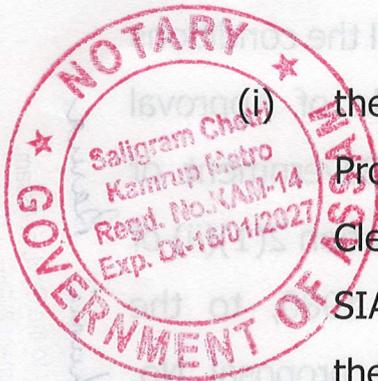
online proposal No. FP/AS/OTHERS/469924/2024 and as stated above the Final (Stage-II) approval was granted on 20-02-2025, by online proposal No. FP/AS/OTHERS/469924/2024, dated 20-02-2025.

4. That, on last 07-04-2025 when the instant case came up for consideration before the Hon'ble Tribunal, the Counsel appearing for the proposed intervenor raised an issue that no EC has been obtained for the project. Accordingly, the Hon'ble Tribunal was pleased to grant liberty to the State of Assam to supplementary affidavit in this regard. In compliance of the Hon'ble Tribunals' order and in response to the allegation raised by the proposed intervenor, the deponent herein begs to state that –

(i) the Assam Police Housing Corporation Limited, the Project Proponent, had filed an application for Environmental Clearance through PARIVESH 2.0 portal vide proposal No. SIA/AS/INFRA2/512545/2024, dated 03-12-2024. Pursuant to the aforesaid application filed by the Project Proponent, the State Level Expert Appraisal Committee (SEAC), Assam, on 04-12-2024, was pleased to issue Terms of Reference (ToR) with special conditions.

Copy of the ToR dated 04-12-2024 is issued by the SEAC is annexed herewith ad marked as **Annexure-I**.

(ii) in due deference, the Project Proponent had submitted the Terms of Reference (ToR) compliance report and duly

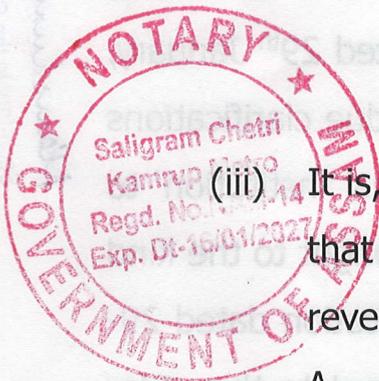


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Environment & Forest Dept.
Disour: Guwahati, Assam

uploaded on PARIVESH 2.0 portal. The State Level Expert Appraisal Committee (SEAC), Assam, had examined the said report and the same was examined on 07-03-2025 in the SEAC meeting. The Project Proponent had made a detailed and elaborate presentation on the project and its activities and placed all the factual position with records and evidences before the State Level Expert Appraisal Committee (SEAC), Assam, through a NABET Accredited Consultant. The main issues which were considered by the State Level Expert Appraisal Committee (SEAC), Assam, and due diligence done on the project by the State Level Expert Appraisal Committee (SEAC), Assam, can be gauged from the uploaded minutes of the said meeting dated 18-03-2025.

Copy of the minutes of the meeting (MoM) dated 18-03-2025 of the SEAC is annexed herewith and marked as **Annexure-II**.



(iii) It is further, humbly submitted by the answering Respondent that the main issues which were considered by the SEAC as revealed from the MoM dated 18-03-2025, are –

- A. Overall Impact of project on environment
- B. Border security
- C. Encroachment of land
- D. Loss of biodiversity
- E. Rampant deforestation in Inner Line RF.

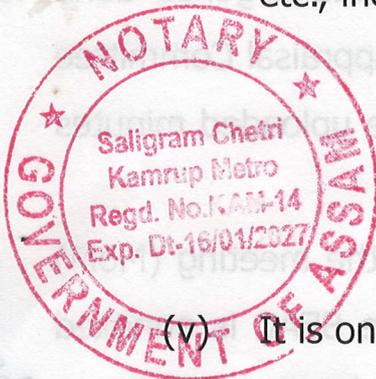
(iv) The answering Respondent also humbly begs to submit before this Hon'ble Tribunal that the SEAC had taken cognizance of

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the OM F. No. 19-131/2019-IA-III [128798] dated 19th May, 2022, of MoEF&CC and found that the project fits categorically as 'Educational institute' as the proposed building like kill house, drill shed, watch tower, computer training center, control room, namghar, etc. go hand in hand with the mentioned definition therein, as it is a specialized center for daily training of the cadets including daily physical fitness, mental and spiritual wellbeing, Physical Training (PT), Drill, Parade, shooting practice and outdoor jungle warfare training, etc., including training for new entrants.

Copy of the Notification dated 19-05-2022 is annexed herewith and marked as **Annexure-III.**



(v) It is on record that SEAC had duly considered and taken note of the latest notification from MoEF&CC, dated 29th January, 2025, referenced as S.O. 523 (E), whereby due clarifications and guidelines are elaborated for 'Educational institution' to be falling under Exempted Category. It is brought to the kind Notice of the Hon'ble Tribunal that the notification dated 29-01-2025 was issued by the MoEF&CC pursuant to the order dated 06-03-2024 in WP(C) No. 3097 of 2016 (One Earth One Life -vs- The Ministry of Environment, Forest and Climate Change).

Copies of the notification dated 29-01-2025 and the order dated 06-03-2024 are annexed hereto respectively as

20/4/25
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 Regd. No. KAM-14

Alanchumi Barua

Secretary to the Govt. of Assam
 Environment & Forest Dept.
 Dispur, Guwahati

Annexures-IV and **Annexure-V**, respectively.

(vi) It is respectfully submitted by the answering Respondent that the SEAC had also prescribed the measures of Sustainable Environmental Management as prescribed in notification dated 29-01-2025 (Annexure IV) for the project, such as, provision of Rain water harvesting, slope stability measures, trees planting, Establishment of Sewerage Treatment Plant, Making of Garland Drain and to develop the project as zero liter discharge to be strictly adhered to by the project proponent.

(vii) It is further submitted that the MoM of the SEAC is under consideration of the State Level Environment Impact Assessment Authority (SEIAA), Assam, awaiting disposal. Meanwhile, the Project Proponent has also submitted an undertaking of compliance of the conditions imposed for undertaking measures of Sustainable Environmental Management. It is expected that the State Level Environment Impact Assessment Authority (SEIAA), Assam, is likely to issue necessary order in this regard very shortly.

Copy of the undertaking of compliance submitted by the project proponent is annexed herewith and marked as

Annexure-VI.

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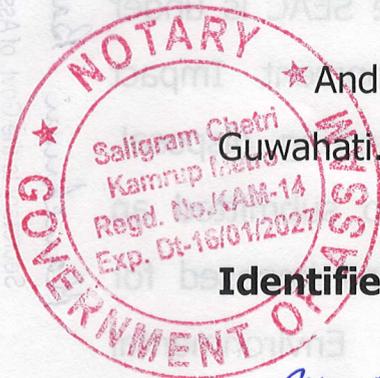
5. That, in view of the above explained facts it is humbly submitted that this Hon'ble Tribunal may be pleased to drop the instant proceeding in view of the necessary approval granted by the appropriate authority that is the Government of India.

6. That, the statements made in paragraphs 1, 2, 3(p), 4(p) and 5(p) are true to my knowledge and those made in paragraphs 3(p), 4(p) and 5(p) are being matters of records which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

"On Oath"

I swear, that my declaration is true, that it conceals nothing and that no part of it is false, so help me God.

And I sign this affidavit on this 20th day of April, 2025, at Guwahati.



Identified by me,

Palladi Kogoi
20/4/25

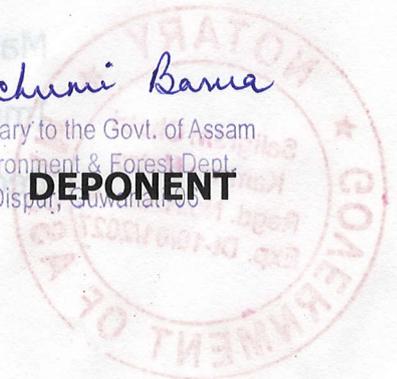
Advocate's Clerk

Manchuni Barua
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DEPONENT

[Signature] 20/4/25
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Regd. No. KAM-14





सत्यमेव जयते

File No.: SEAC/ SEIAA. 3946/ 2024

Government of India

Ministry of Environment, Forest and Climate Change

(Issued by the State Level Expert Appraisal Committee(SEAC), ASSAM)



Dated 04/12/2024



To,

Lachit Baruah
Assam Police Housing Corporation Ltd.
Rehabari, Guwahati, Assam, HAILAKANDI, ASSAM, 781008
assampolicehousing@gmail.com

Subject: Grant of Standard Terms of Reference (ToR) to the proposed Project under the EIA Notification 2006- and as amended thereof-regarding.

Sir/Madam,

This is in reference to your application submitted to SEAC vide proposal number SIA/AS/INFRA2/512545/2024 dated 03/12/2024 for grant of Terms of Reference (ToR) to the project under the provision of the EIA Notification 2006-and as amended thereof.

2. The particulars of the proposal are as below :

(i) ToR Identification No.	TO24B3803AS5481337N
(ii) File No.	SEAC/ SEIAA. 3946/ 2024
(iii) Clearance Type	Fresh ToR
(iv) Category	B1
(v) Project/Activity Included Schedule No.	8(a) Building / Construction
(vii) Name of Project	Raising of New Assam Police Commando Battalion at Kachurtal in Hailakandi District, Assam (Presently shifted to Damchera in Gharmura Range under Ramnatpur Police Station)
(viii) Name of Company/Organization	Lachit Baruah
(ix) Location of Project (District, State)	HAILAKANDI, ASSAM
(x) Issuing Authority	SEAC
(xii) Applicability of General Conditions	NO

3. The SEAC has examined the proposal in accordance with the Environment Impact Assessment (EIA) Notification, 2006 & further amendments thereto and after detailed examination hereby decided to grant Standard Terms of Reference to the instant proposal of Assam Police Housing Corporation Ltd. to construct New Assam Police

Commando Battalion at Kachurtal in Hailakandi District, Assam (Presently shifted to Damchera in Gharmura Range under Ramnatpur Police Station) with a built-up area of **45125** sq.m. under the provisions of the aforementioned Notification [B1-Category and Schedule -(a)].

4. The brief about the Projects as submitted by the Project proponent in Form-1 (Part A, B) and Standard Terms of Reference are annexed to this letter as Annexure (1).
5. The Ministry reserves the right to stipulate additional TORs, if found necessary.
6. The Standard Terms of Reference (ToR) to the aforementioned project is under provisions of EIA Notification, 2006 and as amended thereof. It does not tantamount to approvals/consent/permissions etc required to be obtained under any other Act/Rule/regulation. The Project Proponent is under obligation to obtain approvals /clearances under any other Acts/ Regulations or Statutes, as applicable, to the project.
7. The granted letter, all the documents submitted as a part of application viz. Form-1 Part A and Part B are available on PARIVESH portal which can be accessed by scanning the QR Code above.

Copy To

1. The Joint Secretary, Ministry of Environment, Forest and Climate Change, Government of India, MOEF&CC, Indira Paryavaran Bhawan, Jorbagh Rd, New Delhi-110003.
2. The Secretary to the Govt. of Assam, Environment & Forest Department, Dispur, Guwahati-6 Cum Member Secretary, SEIAA, Assam for favour of kind information.
3. The Member Secretary, PCB Assam for favour of kind information.
4. The Integrated Regional Office, Ministry of Environment, Forest & Climate Change, 4th Floor, Housefed Building, G.S. Road, Rukminigaon, Guwahati-22 for kind information.
5. Office Copy.

Annexure 1

Standard Terms of Reference for conducting Environment Impact Assessment Study for Building / Construction and information to be included in EIA/EMP report

1. Statutory compliance

Sr. No.	Terms of Reference
1.1	The project proponent shall obtain all necessary clearances/ permissions from all relevant agencies including town planning authority before commencement of work. All the construction shall be done in accordance with the local building byelaws.
1.2	The approval of the Competent Authority shall be obtained for structural safety of buildings due to earthquakes, adequacy of firefighting equipment etc. as per National Building Code including protection measures from lightening etc.
1.3	The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1980, in case of the diversion of forest land for non-forest purpose involved in the project.
1.4	The project proponent shall obtain clearance from the National Board for Wildlife, if applicable.

2. Water quality monitoring and preservation

Sr. No.	Terms of Reference
2.1	Use of water saving devices/fixtures (viz. low flow flushing systems; use of low flow faucets tap aerators etc) for water conservation shall be incorporated in the building plan.
2.2	Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate recirculation lines for flushing by giving dual plumbing system be done.
2.3	Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.

3. Energy Conservation measures

Sr. No.	Terms of Reference
3.1	Outdoor and common area lighting shall be LED.
3.2	Solar power shall be used for lighting in the apartment to reduce the power load on grid. Separate electric meter shall be installed for solar power. Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.

4. Waste Management

Sr. No.	Terms of Reference
4.1	A certificate from the competent authority handling municipal solid wastes, indicating the existing civic capacities of handling and their adequacy to cater to the M.S.W. generated from project shall be obtained.

Additional Terms of Reference

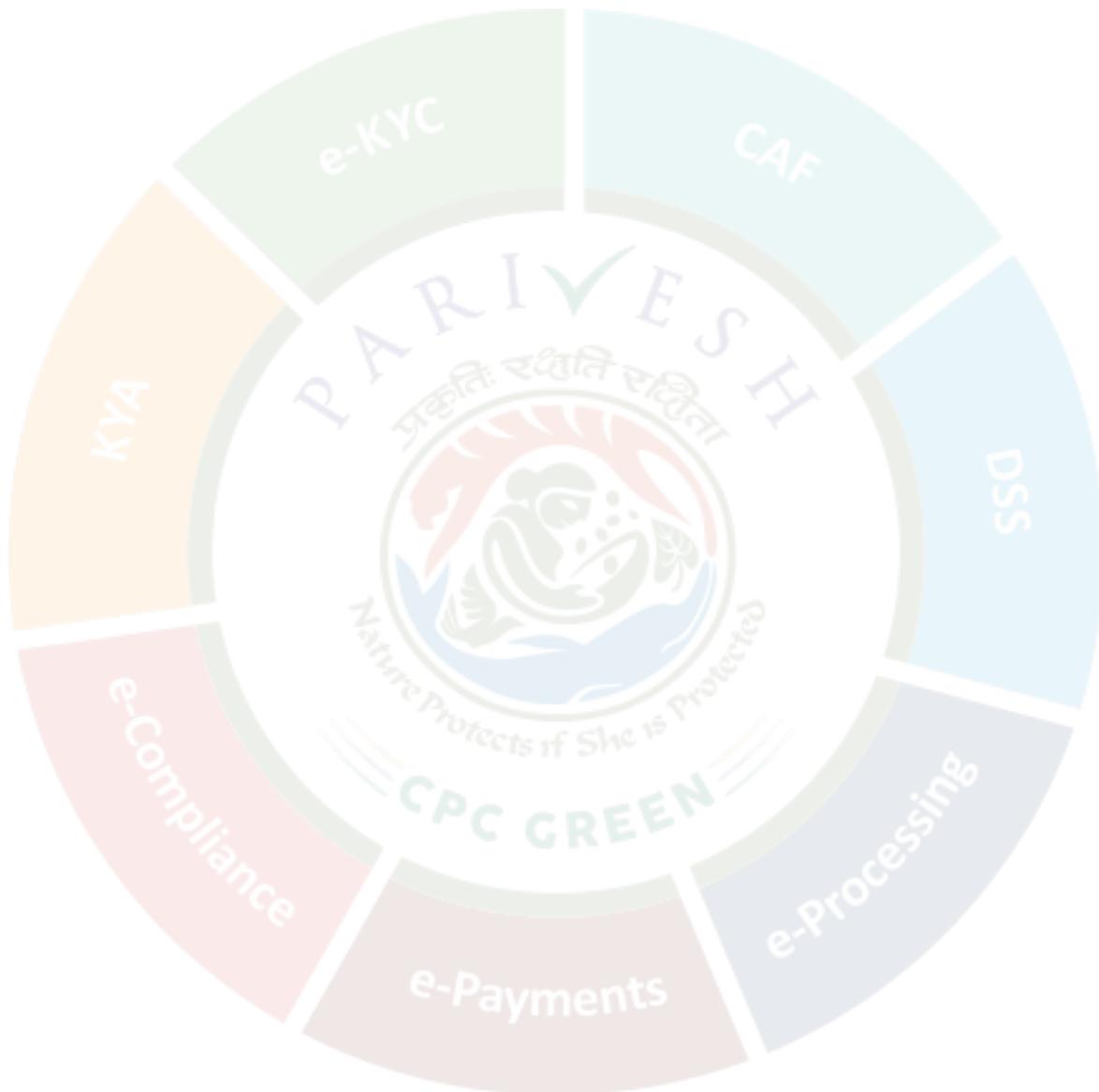
Specific Conditions by SEAC:

1. Describe in details, with documentary evidences, about the attempted encroachments of the Reserved Forest land by unscrupulous elements / insurgents.
2. Details of the Court cases/NGT cases, orders, if any, including judgement and their compliance etc.
3. Legal proof of any complain lodged/registered with the law enforcing agencies, any authority shall form a special section in the EIA report.
4. The requirement for the project and its urgency shall need to be explained in the administrative context, Government decisions as the foundation of such projects with cogent reasons and traced through the maintenance of peace and public tranquility for the locality.
5. Keeping in view the sensitivity of the matter apparently the Central Government is also involved in the border issue, the EIA report shall incorporate the necessary and essential documents exchanged interstate correspondences, State – Center correspondences, inter departmental correspondences and other relevant and reliable coverage by media to comprehend the holistic understanding and appreciation of the matter in its entirety.
6. Attempt shall be made to quantify and asses the loss of property / human life / forest land / Forest property / other resources due to undesired and prohibited activities.
7. EIA report may resort to consultations, incorporation of interviews / discussions / self-interaction report

during the process of ground study etc.

8. Any other relevant matter that may hold good for the project to set aside any ambiguity shall also be covered.

9. The Processing Fee need to be submitted while submission of the EIA report.





Government of India
Ministry of Environment, Forest and Climate Change
 (Issued by the State Level Expert Appraisal
 Committee(SEAC),
 ASSAM)



Minutes of 22th SEAC meeting (Agenda 4) State Level Expert Appraisal Committee meeting held from 07/03/2025 to 07/03/2025

Date: 18/03/2025

MoM ID: EC/MOM/SEAC/137237/3/2025

Agenda ID: EC/AGENDA/SEAC/137237/3/2025

Meeting Venue: Conference Hall, PCBA, 3rd Floor

Meeting Mode: Hybrid

Date & Time:

07/03/2025	04:20 PM	04:35 PM
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1. Opening remarks

At the very outset, the Member Secretary, SEAC welcomed the Hon'ble Chairman, SEAC and all the Members of the Committee. He briefed the house about the agenda for the meeting as circulated and requested the esteemed members for their thorough participation and deliberation to expedite the process of disposal of the pending cases.

2. Confirmation of the minutes of previous meeting

As per the agenda, the august committee duly reviewed the Minutes of the Meetings (1st Sitting and 2nd Sitting) held on 7th February, 2025 and ratified the minutes.

3. Details of proposals considered by the committee

Day 1 -07/03/2025

3.1. Agenda Item No 1:

3.1.1. Details of the proposal

Raising of New Assam Police Commando Battalion at Kachurtal in Hailakandi District, Assam (Presently shifted to Damchera in Gharmura Range under Ramnatpur Police Station) by lachit baruah located at HAILAKANDIA SSAM

Proposal For		Fresh EC	
Proposal No	File No	Submission Date	Activity

			(Schedule Item)
SIA/AS/INFRA2/525576/2025	SEAC/ SEIAA. 3946/ 2024	27/02/2025	Building / Construction (8(a))

3.1.2. Project Salient Features

The project proposal for grant of "**EC for Raising of New Assam Police Commando Battalion at Kachurtal** in District- Hailakandi (presently shifted to Damchera in Gharmura Range under Ramnathpur Police Station)" is proposed by the **Assam Police Housing Corporation Ltd.** The applicant is **Sri Lachit Baruah, Managing Director, Assam Police Housing Corporation Ltd.**

The project Proponent has filed application under violation category and had applied for Terms of Reference (ToR) vide proposal number SIA/AS/INFRA2/512545/2024 dated 03.12.2024. Accordingly, Terms of Reference (ToR) vide Identification No. TO24B3803AS5481337N, dated 04.12.2024 was granted by the SEAC with special conditions. This project includes residential, non residential & common facilities. Point wise ToR Compliance is uploaded with the EIA Report. KML file is examined and found correct. Location shows that the project area is falling within the Reserved forest. The project is falling under Category B2 in item 8(a) of the Schedule to the EIA Notification' 2006.

The total plot area of the proposed project is **40.69 Acre** or **1,64,700 Sq M (Forest land)**. As on date, the total Built-up Area (BUA)- residential component of the project is **19,668 Sq M (FAR +NON FAR +Services)** which is less than **20,000 Sq M**. The total estimated cost of the project is **Rs. 149.63 Crore**.

The need for Raising of new Assam Police Commando Battalion at Kachurtal in Hailakandi District, Assam (shifted to Damchera in Gharmura Range under Ramnathpur Police Station) is not only limited to combat the undesired and unprecedented illegal occupancy/encroachment of Reserved Forest land by unscrupulous elements of the neighbouring state, Mizoram but also to bring a halt to the illegal cutting and removal of trees causing colossal loss to biodiversity of the area and also to thwart the possible attempts of poaching, smuggling of precious forest produce including rare and endangered species of medicinal plants and ongoing illegal non forestry activities by way of clearance of huge patches of forest cover for cultivation of **Broom stick** which happens to be a lucrative business as huge demand in international market.

3.1.3. Deliberations by the committee in previous meetings

N/A

3.1.4. Deliberations by the SEAC in current meetings

Project Proponent, duly assisted by Mr. Kumar Ashish (Consultant), made presentation before the August committee on behalf of the project Proponent. Form 1A, EIA Report, Conceptual plan, diversion of forest land documents etc are uploaded by the project proponent.

All connected papers are placed before the Committee for scrutiny, discussion and deliberation.

The project has **valid Consent to Establish (CTE)** granted by the Pollution Control Board, Assam vide its letter No **PCBA/SLC/T-1458/24-25/04 dated 04.12.2024** and Terms of Reference **ToR (Identification No. TO24B3803AS5481337N, dated 04.12.2024)** against the application submitted to the SEAC vide proposal number SIA/AS/INFRA2/512545/2024 dated 03/12/2024, being case of violation of the provisions under the EIA Notification, 2006 requiring EIA and EMP. It is pertinent to mention as submitted before the Committee

that the project Proponent has **obtained the requisite Forest Clearance (Stage II)** from the MoEF & CC under the **Van (Sanrakshan Evam Samvardhan) Adhiniyam,1980** on **20.02.2025** vide online proposal No. FP/AS/OTHERS/469924/2024 and that the **constructions have been stopped** at project site in compliance to the Order dated **14.03.2024** of the **Hon'ble NGT, Principal Bench, New Delhi in Original Application No. 61/2024** (IA No.124/2024).

It was submitted by the project Proponent that the instant proposal needs to be seen through **historical** lance and the atrocities caused by unscrupulous elements with ulterior motive from across the border (state of Mizoram) with unwarranted and unabated trespass in to the territory of Assam posing challenge to the peaceful resistances exhibited by law enforcing agencies including the front line sentinels of forests of Assam resulting in unprecedented damage to forest and ecology due to looting of forest resources, encroachments of forests by way of illegal construction of hamlets, houses in forests, construction of roads, felling of valuable trees, smuggling of timbers, damage to plantations. Rampant non forestry activities by way of clearance of large patches of forest areas causing damage to overall ecology for cultivation of Broom stick (*Thaoslaena maxima*), a commodity, which has huge demand in the international market are encouraged to be practiced showing scant regard to the sanctity of the forest. While such a scenario continued to prevail in the Inner line Reserve Forests, covering primarily most of the border areas, unprecedented use of fire arms and sudden incidence of firing from the very Force in Uniform of Mizoram state, an episode of use of fire arms towards fellow country men, an unfortunate incident which never happened within the Country, was beyond any stretch of imagination, which shook and touched the hearts of the civic society and the people of Assam at large, in as much the incident lead to brutal killing of innocent Civilians and the Police personnel guarding the very territory of the state of Assam including severe injury to one of the IPS officers who miraculously escaped, in flagrant violation of the mutual accord for peace and harmony, maintenance of public tranquillity among the people which was duly mediated by the Central Government and agreed by the state of Assam and Mizoram. This was a blatant breach of mutual trust and understanding as fostered by the Union Government.

In support of the claim made, project Proponent, displayed the chronological incidences starting from 1992, the FIRs filed against the senior officials of Mizoram Govt. abetting the encroachment, newspaper clippings, the submissions made in the Hon'ble Court and the series of correspondences made within and across the concerned departments, authorities. The photographs of Mizoram police personnel venturing the project site and many such proof as a testimony on record regarding undue interference were projected and displayed before the august Committee. The members of the SEAC took serious cognizance of the entire situation prevailing in the area at that relevant point of time.

It was also explained in detail about the existing disputes regarding interstate borders with the States of Mizoram, Nagaland, Arunachal Pradesh, Meghalaya after attaining statehood which were integral parts of erstwhile Assam. On record such disputes even lead to filing of Civil Suites in the Hon'ble Supreme Court against the states like Arunachal Pradesh and Nagaland as far back as in 1989. It is noteworthy that virgin forests along the states of Assam bordering these states have been plundered and faced the wrath of state sponsored encroachment. This is despite the fact that the Hon'ble Supreme Court of India have very heavily come down upon the north eastern states particularity keeping in view the alarming situations arising out of large scale destruction of forest areas, encroachment etc with series of directions over the years since its Order dated **10.12.1996** in **T.N. Godavarman Thirumulpad vs Union of India and Others**. The Hon'ble Apex Court had even made the highest official of the states accountable for the cause of restoration of forest cover, to bring a halt to illicit felling, to take recourse to stringent measures to free the unprecedented large scale encroachment of forest and wild life areas on record in view of the Globally accepted as one of the **12 Mega Biodiverwsity Hot spots** of the World.

It is further brought to the notice of the SEAC that the state of Assam have huge chunk of forest areas bordering the neighbouring states under unabated encroachment which are being resolved through the process of discussions with the counter parts. In many of the areas where in large scale encroachments have taken place the state is committed to free the areas holistically and the Govt have been very successful in restoring many of the encroached areas from the very clutches of unscrupulous elements. As a testimony, the case in point of Burachapori Wildlife Sanctuary (1st Addition to the Nagaon Wildlife Sanctuary) a part of greater landscape of Kaziranga National Park and Tiger Reserve, as documented on record, is placed. The Govt of Assam is committed to free and restore the forest areas for greater cause of preservation of flora and fauna of the state and bring a halt to devastation caused to the forest areas.

The august house asked the project Proponent to brief about the project details and the status of construction. It was submitted that the project has proposal of **construction of non-residential building** involving Office Building for the Commandment, Garage, Sentry post, M.T. Garrage With Office (20 Vehicles), Ration & Clothing Store, Magazine / Kote Building with Explosive Depot, Go's Mess / Guest House, SOS's Mess, Community Center with Canteen , Saloon, Laundry Block, Hospital (10 Bed), Drill shed with Stage, Gate Complex with 10 Men Barrack, Watch Towers, Fire Station with Barrack, AT, Control Room, Classroom block for Computer lab, Indoor Sports complex with Gym, Primary School, Family Welfare Center, Namghar, Recreation Hall, Quarters for Deputy Commandant and Assistant Commandant, Inspectors, Havildars and Barracks.

The status of completed construction with details up to the date of presentation was submitted as in the following table:

SL. NO	NAME OF BUILDINGS	FLOORS	BLOCKS	TOTAL AREA (in sqm as per scope)	TOTAL AREA (in sqm as per site)	REMARKS
<u>NON-RESIDENTIAL BUILDINGS</u>						
1	C.O.'S Office Building	G + 1	1	1083	1083	
2	Garage	G	1	40	-	Not yet started
3	Sentry Post	G	2	8	-	Not yet started
4	M.T. Garrage With Office (20 Vehicle)	G	1	870	-	Not yet started
5	Ration Store & Clothing Store	G	1	300	300	
6	Magazine / Kote Building With Explosive Depot	B + G	1	350	350	
7	Go's Mess / Guest House	G + 1	1	650	650	
8	So's Mess	G + 1	1	870	870	

9	Community Center With Canteen , Saloon, Laundry Block	G	1	600	So's Mess 600	
10	Hospital (10 Bed)	G	1	330	330	
11	DRILL SHED With Stage	G	1	400	400	
12	Gate Complex With 10 Men Barrack	G	1	175	175	
13	Watch Towers	G	10	50	-	Not yet started
14	Fire Station With Barrack	G + 1	1	350	350	
15	ATM	G	1	15	15	
16	Control Room	G	1	50	50	
17	CLASSROOM BLOCK With COMPUTER LAB	G + 1	1	700	700	
18	Indoor Sports Complex With Gym	G+ 1	1	800	800	
19	Primary School	G	1	560	560	
20	Family Welfare Centre	G	1	500	500	
21	Namghar	G	1	100	100	
22	Recreation Hall	G	1	400	400	
	Total Area for non residential buildings			9201	8233	
<u>RESIDENTIAL BUILDINGS</u>						
23	Co's Residential Building	G + 1	1	250	250	
24	Garage	G	1	40	-	Not yet started
25	Sentry Post	G	1	16	-	Not yet started
26	Guard Shed	G	1	74	74	
27	Deputy Commandant	G + 1	1	720	720	

28	Assistant Commandant	G + 1	2	1200	1200	
	Assistant Commandant-I			600	600	
	Assistant Commandant-II			600	600	
29	Inspector,SI	G + 1	4	4160	4160	
	Inspector,SI-1	G + 1		1040	1040	
	Inspector,SI-2	G + 1		1040	1040	
	Inspector,SI-3	G + 1		1040	1040	Roof Slab reinforcement & shuttering work completed
	Inspector ,SI-4	G + 1		1040	1040	First Floor Slab completed
30	Havaldar ,ASI, Constable	G + 1	12	8928	8928	
	(Havaldar-1)	G + 1		744	744	
	(Havaldar-2)	G + 1		744	744	
	(Havaldar-3)	G + 1		744	744	
	(Havaldar-4)	G + 1		744	744	
	(Havaldar-5)	G + 1		744	744	
	(Havaldar-6)	G + 1		744	744	
	(Havaldar-7)	G + 1		744	744	
	(Havaldar-8)	G + 1		744	744	
	(Havaldar-9)	G + 1		744	744	
	(Havaldar-10)	G + 1		744	372	Plinth work completed & column work done. <i>No further construction activity will be carried out.</i>
	(Havaldar-11)	G + 1		744	372	First Floor Slab reinforcement & shuttering work com

						pleted. <i>No further construction activity will be carried out.</i>
	(Havaldar-12)	G + 1		744	744	
31	Followers	G + 1	1	640	640	
32	Accomodation For So's (Insp,Si)	G + 1	1	600	600	
33	Barrack (Havildar, Constable, Followe r)	G + 1	4	3840	3840	
	Barrack-1	G + 1		960	960	
	Barrack-2	G + 1		960	960	
	Barrack-3	G + 1		960	960	
	Barrack-4	G + 1		960	960	
	Total area for residential buildings			20468	19668	

The project Proponent has drawn pointed attention of the house to two relevant court cases involving **M/S. Saumya Buildcon pvt. Ltd. -Vs Union of India and others** [Writ Petition (C) No. 470 of 2013] and **M/s Glomore Construction & Ors -vs- Union of India & Ors. before the Hon'ble NGT (West Zone Bench Pune) in O.A. No. 71/2016 (WZ)** [Restored as per the order passed in M.A. No.10/2022 (WZ) dated 06.12.2022] where in the Hon'ble Courts have clearly clarified that **up-to the construction of BUA measuring 20,000 Sq M, Environmental Clearance (EC) is not required.** The project Proponent further submitted that after completion of **19,668 Sq M** construction work of the **proposed Project was stopped.**

The project Proponent / assisted by the Consultant further asserted that the **project is in confirmation** with the project being falling under the exemption category as per **the OM F. No. 19-2/2013-IA-III dated 9th June' 2015** of MoEF & CC read with the **OM F. No. 19-131/2019-IA-III [128798] dated 19th May' 2022.**

As per the **OM F. No. 19-2/2013-IA-III dated 9th June' 2015 of the MoEF &CC**, in the second Para of the clarification it states that the Notification **No. S.O. 3252 (E) dated 22.12.2014** provides exemption to buildings of **educational institutions** including universities from obtaining prior **Environment Clearance** under the provisions of the EIA Notification, 2006 subject to sustainable environmental Management and as **per the OM F. No. 19-131/2019-IA-III [128798] dated 19th May' 2022** clarification on the applicability of EIA Notification' 2006 for educational Institutions in the **para 4.** It states **that educational institution means** a school, seminary, college, university, professional academies, **training institutes** or other educational establishment, not necessarily a chartered institution and includes not only buildings, but also all grounds necessary for the accomplishment of the full scope of educational instruction, including those things essential to mental, moral and physical development.

Assam Police Commando Battalion Centre categorically fits in within the ambit of educational institution. Hence, the instant proposal qualify to be **exempted from the purview of the Environmental Clearance** but certainly in compliance to - '**Sustainable Environment Management**', as per the instant Notification under consideration, a strong argument advanced by the PP assisted by the Consultant in the light of aforesaid

clarifications before the SEAC.

The SEAC suggested **Sustainable Environment** Management through execution of the following items/activities at the proposed project site.

1. Explore the **possibility and installation of Rain Water Harvesting** (RWH) system at the project site.
2. **Slope stability measures** on the elevated terrain near to the project site needs to be implemented with carpeting of the area with greenery using indigenous grasses / herbs eg. Broom sticks (*Thaolaena maxima*) roots having strong soil binding effect preventing soil erosion and help land stabilization.
3. **Fencing** of the entire project site by green hedges of local species of shrubs and fruit bearing species like Satkora (*Citrus macroptera* var *asamnesis*), a rare and endemic species of plant having large scale market value due to culinary and medicinal value, Kaffir lemon (*Citrus hystrix*), having the same importance including promotion of other tree species endemic to the Barak valley under due discussions with the DFO, Hailakandi. It is also suggested that since major chunk of forest areas are destroyed, in a phased manner, assistance of the **Eco Task Force** deployed in the Northern Assam Circle bordering the state of Arunachal Pradesh having expertise in raising plantations and nurseries may be utilized by the Police Battalion for restoration of the areas with endemic species of plants and trees unique to Barak valley.
4. **Establishment** of STP at the project site.
5. **Garland drain** to be made all along the project site to carry and discharge the water coming from hills in to the drain.
6. To develop the project as **ZERO LITRE DISCHARGE** site for solid and liquid waste.

The SEAC is of the considered opinion that being a Government project initiated for combating maintenance of territorial integrity of the state as also restore and preserve the pristine forests and wildlife in the Reserved forests and appreciate the project as a whole in the light of above narrations and discussions, observations based on factual position of law and merit of the case, the SEAC is of considered opinion and not inclined to recommend the SEIAA for grant of EC for the project at hand.

Decision: Not recommended for grant of EC by SEIAA.

3.1.5. Recommendation of SEAC

Not Recommended

3.2. Agenda Item No 2:

3.2.1. Details of the proposal

DIGARU SAND PERMIT AREA NO. 4 MMC(FOR PERMIT AREA AND GOVT. WORKS PERMIT) by BHRIGENDRA NOBIS located at KAMRUP METRO,ASSAM			
Proposal For		Application for Validity Extension of EC- Form-6	
Proposal No	File No	Submission Date	Activity (Schedule Item)
SIA/AS/MIN/525048/2025	SEIAA.3220/2022	02/03/2025	Mining of minerals (1(a))

3.2.2. Project Salient Features

This is a river bed mining project proposed by **Bhrigendra Nobis for Digaru Sand Permit Area No. 4 MMC (For**

Permit Area and Govt. Works Permit) under Kamrup East Division falling under **B2 Category**. The proposed mining area is measuring **3 ha** non-forest area, falling in Kamrup District under the jurisdiction of the DFO, Kamrup East Division with the recommended quantity of minor mineral measuring **41,347 Cu M Sand** till expiry of the validity of the period of approved mining plan i.e. **14.07.2025**.

The DFO, Kamrup East Division vide letter dated **21.01.2025** has submitted the balance quantity as **41,347 Cu M Sand** and recommended for extraction till expiry of the validity as on i.e. **14.07.2025**.

Earlier EC was granted on **05.01.2023** and recommended **40,000 Cu M** of Sand for 2 years @ **20,000 Cu M** per year. Half Yearly Compliance Reports are uploaded in Parivesh 2.0 portal.

The Mining Plan was prepared by the Registered Qualified Person (RQP) Sri Prabal Goswami while the same was approved by the Director, Geology and Mining, Assam vide letter dated **10.01.2025** for 2 (**two**) years with the recommended quantity of **41,347 Cu M** of Sand.

Geotagged photograph of the RQP as a testimony to his visit to the proposed mining area is uploaded.

An area measuring **0.99 Ha** constituting **33%** of the project area is proposed to be covered with green belt or plantations with indigenous species of plants.

The total project cost is estimated at **Rs 80 Lakh**.

3.2.3. Deliberations by the committee in previous meetings

N/A

3.2.4. Deliberations by the SEAC in current meetings

Necessary documents submitted in support of the proposal is placed before the Committee for scrutiny and appraisal. Half yearly Compliance Reports (HCR) are uploaded. The KML file of the proposed mining area is scrutinized. Due discussions and deliberations are held.

The Committee is of the opinion that the DFO, Kamrup East Division for Kamrup District has taken requisite steps to complete the preparation of the District Survey Report (DSR) and in terms of the orders of the Hon'ble Apex Court, the Principal Bench of the NGT for the Sustainable Sand Mining or River Bed Mining and Mining of other Minor Minerals following the guidelines issued by the MoEF & CC in 2016 and 2020 {SSMMG' 2016 and EMGSM' 2020} and placed the same for evaluation and appraisal by the SEAC.

It is pertinent to mention that *Evaluation* and *Appraisal* of the final DSR for the district has already been done by the SEAC & SEIAA, Assam. The approved DSR for the district needs to be uploaded in public domain and the DFO is urged to do the same urgently.

It is revealed that the instant proposal is already approved in the DSR with the stipulated quantity of **4,950 Cu M** allotted for mining in a year.

The Committee deem it appropriate to recommend the grant of EC by the SEIAA allowing extraction and harvesting of of minor mineral up to **14.07.2025** as recommended in terms of the **approved DSR-(page No 10 & 72)** with the quantity of minor mineral measuring **4,950 Cu M** of Sand.

Decision: Recommended grant of EC up to **14.07.2025** only allowing extraction of **4,950 Cu M** of Sand.

3.2.5. Recommendation of SEAC

Recommended

3.2.6. Details of Environment Conditions

3.2.6.1. Specific

GENERAL CONDITIONS BY SEAC

- | | |
|----|--|
| 1. | <ol style="list-style-type: none"> 1. This is subject to the conditions that the proponent shall have to strictly follow all terms and conditions laid down in the approved mining plan and the approved DSR for the district. 2. This is also subject to the conditions that: (a) mining shall be confined and limited to the area falling within the GPS coordinates recorded in the approved DSR; (b) the active bank of the river is not disturbed / damaged because of mining and transportation of mining materials; (c) the Proponent shall extract the approved quantity of minerals indicated herein with maximum mining depth of up to 1(one) meter only from the non-mined surface. 3. The quantities of minor mineral allowed for extraction, annually, shall be in terms of the approved DSR and shall not be exceeded by the Proponent. 4. The Orders of the Hon'ble Apex Court, the NGT (Eastern Bench), Kolkata; the Principal Bench of the NGT for the Sustainable Sand Mining or River Bed Mining and Mining of other Minor Minerals following the guidelines issued by the MoEF & CC in 2016 and 2020 {SSMMG' 2016 and EMGSM' 2020} shall be followed by the Proponent. |
|----|--|

SPECIFIC CONDITIONS BY SEAC

- | | |
|----|--|
| 1. | <ol style="list-style-type: none"> 1. Consent to Establish (CTE) and Consent to Operate (CTO) are to be obtained from the PCBA in terms of the guidelines circulated by the CPCB / MoEF & CC for non manual extraction which need to be adhered to by the concerned DFO. 2. The Divisional Forest Officer shall ensure due vigilance in the mining area to avert any kind of irregularities / illegalities during the mining period. 3. The DFO shall also ensure marking the boundary of the mining site on the ground fixing permanent concrete pillars, painted yellow with the Geo-coordinates depicted there in on the pillars / posts, following the GPS coordinates mentioned in the approved mining plan/DSR before allowing any mining as bounden on the PP. 4. No mechanized machinery shall be allowed to be used for excavation of mineral from river bed and only on exceptional cases the DFO may permit use of JCB for loading and unloading of mineral in vehicles. 5. CER activities shall be carried out / undertaken by the Proponent and minimum 2% of the total project cost estimated to be Rs 1.00 Lakh (one) only, shall be earmarked for the purposes. Necessary drinking water facilities, toilets and provision for solar lights shall be made in the nearby village under due consultation of the DFO concerned. The DFO shall identify the activities adequately, prepare a budget for the purposes and get the same executed / implemented while allowing mining in the area and shall upload the reports in PARIVESH 2.0 portal which shall form part of the Half Yearly Compliance Report (HCR) as mandated to be uploaded by the project Proponent in terms of the OM No IA3-22/1/2022-IA.III Dated 14.06.2024 in pursuance of the EIA Notification 2006. 6. Plantation activities shall be carried out / undertaken in any educational institution or Govt lands along the proposed mining area involving local NGOs, School / College students for an area measuring 0.99 ha and plantations shall be raised @ 2,500 numbers of saplings per ha and adequate fund earmarked amounting to |
|----|--|

Rs 1 (one) Lakh only, for the purposes shall be spent within May,2025. Efforts shall be made to selectively use the saplings of aesthetic, medicinal value, evergreen nature with due consultation of the DFO and shall make effort to label the plant species for the benefits of the villagers, common people and specially the school / college students. The DFO shall get the same executed / implemented within 3 (three) months which shall form part of the Half Yearly Compliance Report (HCR) as mandated to be uploaded by the project Proponent in terms of the OM No IA3-22/1/2022-IA.III Dated 14.06.2024 in pursuance of the EIA Notification 2006.

7. The recommended species of plants in the locality could be of species like Bakul (*Mimosops elengi*), Agor (*Aquillaria malaccensis*), Amlokhi (*Phyllanthus emblica*), Hilikha (*Terminalia chebula*), Asoca (*Saraca asoca*), Bael (*Aegle marmelos*), Bokphul (*Sesbania grandiflora*), Mohaneem (*Azadirachta indica*), Jamun (*Syzygium cuminii*), Kordoï (*Averrhoa carambola*), Arjun (*Terminalia arjuna*), Jack fruit (*Artocarpus integrifolia*), Ow Tenga (*Dillenia indica*), Chandan (*Santalum album*), Thekera (*Garcinia spp*) etc etc.
8. Half Yearly Compliance Reports (HCR) are mandatory on the part of project Proponent which need to be uploaded on or before 1st June and 1st December of the calendar year in PARIVESH 2.0 portal and no activity shall be permitted by the DFO without HCR.

Compliance of the same shall duly be uploaded by the Proponent in the PARIVESH 2.0 portal.

4. Any Other Item(s)

N/A

5. List of Attendees

Sr. No.	Name	Designation	Email ID	Remarks
1	Dr Apurba Kumar Das	SEAC MEMBER	apu***@tezu.ernet.in	Absent
2	Dr Bijoy Sankar Goswami	SEAC MEMBER	bij*****@gmail.com	
3	Dr Rahul Mahanta	SEAC MEMBER	rah*****@gmail.com	
4	Shri Arup Barpujary	SEAC MEMBER	abc*****@gmail.com	
5	Dr Raza Rafiqul Houque	SEAC MEMBER	rrh@tezu.ernet.in	Absent
6	Shri Shantanoo Bhattacharyya	SEAC MEMBER	sha*****@yahoo.com	
7	Jatindra Sarma	Chairman, SEAC	chs*****@gmail.com	
8	Gokul Bhuyan	Member Secretary, SEAC	mem*****@pcbassam.org	

F. No. 19-131/2019-IA-III [128798]
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira Paryavaran Bhawan
3rd Floor, Vayu Wing, JorBagh Road
Ali Ganj, New Delhi-3

19th May, 2022

OFFICE MEMORANDUM

Subject: Clarification on the applicability of EIA Notification 2006 for Educational Institutions - regarding.

Ministry of Environment, Forest and Climate Change vide Notification No. S.O. 3252 (E) dated 22.12.2014, amended the schedule 8 of EIA Notification 2006 to state that Industrial shed, school, college, hostel for educational institution shall be exempted from requirement of Environmental Clearance (EC) but shall ensure sustainable environmental management etc.

2. Further, Ministry has issued an OM dated 9th June 2015 clarifying that Notification dated 22.12.2014 provides exemption to buildings of educational institutions including universities from obtaining prior EC under the provisions of EIA Notification 2006 subject to sustainable environmental management and provided a set of guidelines to be followed for building projects to ensure sustainable environment management.

3. In this regard, the Ministry is in receipt of request for clarification on the definition of 'educational institution' for which the above mentioned exemption is applicable. The matter was referred to the sectoral Expert Appraisal Committee (EAC) of the Ministry and based on their recommendation the matter was further referred to the Ministry of Education for seeking clarification regarding the definition of Educational Institution.

4. In this regard, Department of Higher Education, Ministry of Education has informed that different types of education institutions in terms of school, college, university, technical institutions, etc., have been defined in various statutes for the purpose of recognition, affiliation, accreditation etc. However, there is no specific definition of the term 'educational institutions'. Further, Department of Higher Education informed that as per Noise Pollution (Regulation and Control) Rules, 2000 under the Environment Protection Act, 1986, the term 'educational institutions' has been defined, as:

"educational institution" means a school, seminary, college, university, professional academies, training institutes or other educational establishment, not necessarily a chartered institution and includes not only buildings, but also all grounds necessary for the accomplishment of the full scope of educational instruction, including those things essential to mental, moral and physical development."

5. The matter has been examined in the Ministry and it has been decided that the exemption provided for educational institutions vide Ministry's Notification No. S.O. 3252 (E) dated 22.12.2014 shall be applicable to all educational institutions covered under the definition of educational institution as mentioned in Noise Pollution (Regulation and Control) Rules, 2000. However, these educational institutions shall strictly implement the guidelines issued vide OM dated 9th June 2015 to ensure sustainable environment management.

6. This is issued with the approval of the competent authority.


(Sundar Ramanathan)
Scientist E

To

1. The Chairman, CPCB, New Delhi.
2. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
3. The Chairman of all the Expert Appraisal Committees
4. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
5. All the officers of IA Division

Copy for information to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/ JS(SKB)
5. Website, MoEF&CC /Guard file



भारत का राजपत्र

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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 29 जनवरी, 2025

का. आ . 523(अ)— भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय ने अपनी अधिसूचना संख्या का.आ. 60 (अ), तारीख 27 जनवरी, 1994 के द्वारा भारत के किसी भी हिस्से में कोई नई परियोजना शुरू करने या अधिसूचना में शामिल किसी विद्यमान उद्योग या परियोजना के विस्तार या आधुनिकीकरण के लिए पूर्व पर्यावरणीय मंजूरी की आवश्यकता के साथ-साथ कतिपय निर्बंधन और प्रतिषेध भी अधिरोपित थे;

और भारत के उच्चतम न्यायालय ने 'हिंदुस्तान टाइम्स' एंड क्वार्टर फ्लोस दा मैली यमुना बनाम सेन्ट्रल पोल्यूशन कंट्रोल बोर्ड और अन्य के मामले में रिट याचिका (सिविल) संख्या 1994 का 725 और रिट याचिका (सिविल) संख्या 1985 का 4677 में अपने तारीख 12 दिसंबर 2003 के आदेश में कहा था कि भवन निर्माण से पर्यावरण को नुकसान होता है और इसलिए, ऐसी निर्माण परियोजनाओं को 1994 की उक्त अधिसूचना के दायरे में लाने पर विचार किया जा सकता है, इसलिए, उक्त अधिसूचना को संख्या का.आ. 801(अ), तारीख 7 जुलाई, 2004, द्वारा संशोधित किया गया था जिसके अंतर्गत भवन और प्रतिषेध परियोजनाओं की कुछ श्रेणियों को इसके दायरे में लाया गया था तथा पूर्व पर्यावरणीय मंजूरी को आवश्यक बनाया गया था;

और तत्पश्चात केन्द्रीय सरकार ने उक्त अधिसूचना को, संख्या का. आ. 1533 (अ), तारीख 14 सितम्बर, 2006 (जिसे इसमें इसके पश्चात ईआईई अधिसूचना कहा गया है) के अधीन अधिक्रमण कर दिया था, जिसमें अन्य बातों के साथ-साथ इसकी अनुसूची की मद 8 (क) और (ख) के अधीन आने वाली भवन और निर्माण परियोजनाओं तथा नगरी और क्षेत्र विकास परियोजनाओं पर कतिपय निर्बंधन और विनिर्माण लगाए गए थे तथा ऐसे किसी भी क्रियाकलाप के लिए पूर्व पर्यावरण मंजूरी को आवश्यक बनाया गया था;

और तत्पश्चात् केन्द्रीय सरकार ने पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (3) के अधीन 11 सितम्बर, 2014 को एक प्रारूप अधिसूचना प्रकाशित की थी, जिसमें ईआईए अधिसूचना की अनुसूची में मद 8 (क) और (ख) तथा उससे संबंधित प्रविष्टियों के संबंध में संशोधन के लिए सभी संबंधितों से सुझाव और आपत्तियां आमंत्रित की गई थीं तथा प्रारूप अधिसूचना के संबंध में प्राप्त सभी सुझावों और आपत्तियों पर विचार करने और उन्हें सम्मिलित करने के पश्चात् संख्या का.आ. 3252 (अ), तारीख 22 दिसम्बर, 2014 के अधीन अंतिम अधिसूचना जारी की गई थी;

और केरल उच्च न्यायालय, एर्नाकुलम ने रिट याचिका (सिविल) संख्या 2016 की 3097 के मामले में अपने तारीख 6 मार्च 2024 के आदेश के अधीन 'वन अर्थ वन लाइफ बनाम पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय और अन्य' में 22 दिसंबर, 2014 की अधिसूचना को इस आधार पर रद्द कर दिया था कि अंतिम अधिसूचना प्रारूप अधिसूचना से अलग थी, हालांकि मंत्रालय को विधि के अनुसार एक नई अधिसूचना जारी करने की स्वतंत्रता प्रदान की गई थी;

और केरल उच्च न्यायालय के निर्णय के आलोक में, राष्ट्रीय हरित अधिकरण ने मूल आवेदन संख्या 2024 का 93 में 9 अगस्त, 2024 के अपने आदेश के अधीन, अन्य बातों के साथ-साथ, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को ईआईए अधिसूचना की अनुसूची के मद 8 (क) और (ख) के संबंध में सामान्य शर्तों की प्रयोज्यता से संबंधित उपबंधों का अनुपालन करने या इस संबंध में स्पष्टीकरण अधिसूचना जारी करने का निर्देश दिया था;

और केरल उच्च न्यायालय के निर्णय और राष्ट्रीय हरित अधिकरण के आदेश के मद्देनजर, विभिन्न भवन निर्माण परियोजनाओं के लिए पूर्व पर्यावरणीय मंजूरी की प्रयोज्यता के संबंध में उच्चतम न्यायालय के तारीख 12 दिसंबर 2003 के निर्णय का पालन करने के लिए एक नई अधिसूचना जारी करने की तत्काल आवश्यकता है

प्रारूप अधिसूचना उक्त अधिसूचना में संशोधन करने के लिए अधिसूचना संख्या का. आ. 4844 (अ) तारीख 7 नवम्बर, 2024 द्वारा भारत के राजपत्र, असाधारण, भाग 2, खण्ड 3, उपखण्ड (ii) में प्रकाशित की गई थी जिसमें उन सभी से जिनका उससे प्रभावित होना सम्भाव्य है, उस तारीख से, जिसको उक्त प्रारूप अधिसूचना में अन्तर्विष्ट राजपत्र की प्रतियां जनता को उपलब्ध कराई गई थी, साठ दिनों की अवधि के भीतर आक्षेप और सुझाव आमंत्रित किए गए थे।

और उक्त अधिसूचना की प्रतियां 7 नवंबर, 2024 को जनता को उपलब्ध करा दी गई थी।

और केन्द्रीय सरकार द्वारा, उक्त अधिसूचना के उत्तर में प्राप्त आक्षेपों और सुझावों पर साठ दिनों की अवधि के भीतर सम्यक रूप से विचार कर लिया गया है।

अतः अब केन्द्रीय सरकार, पर्यावरण संरक्षण नियम 1986 के नियम 5 के उप नियम (3) के साथ पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय की अधिसूचना संख्या का.आ. 1533 (अ), तारीख 14 सितम्बर, 2006 में और निम्नलिखित संशोधन करती है, अर्थात:-

उक्त अधिसूचना की, अनुसूची में, मद 8 और उससे संबंधित प्रविष्टियों के स्थान पर, निम्नलिखित मद और प्रविष्टियों को रखा जाएगा, अर्थात:-

परियोजना या गतिविधि		सीमा रेखा वाली श्रेणी		शर्तें, यदि कोई हों
		क	ख	
(1)	(2)	(3)	(4)	(5)
"8		भवन या संनिर्माण परियोजनाएं या नगरी और क्षेत्र विकास परियोजनाएं		
8(क)	भवन और संनिर्माण परियोजनाएं	> 20000 वर्ग मीटर और < 1,50,000 वर्ग मीटर निर्मित क्षेत्र	इस अधिसूचना के प्रयोजन के लिए "निर्मित क्षेत्र" को, सभी तलों पर इकट्ठे निर्मित या आच्छादित क्षेत्र के रूप में परिभाषित किया गया है जिसके अधीन बेसमेंट और अन्य सेवा क्षेत्र भी हैं जिनका भवन या संनिर्माण परियोजनाओं के लिए प्रस्ताव किया गया है।	टिप्पण1 .- परियोजना या कार्यकलापों में औद्योगिक शेड, विद्यालय, महाविद्यालय, शैक्षिक संस्थाओं, के लिए छात्रावास शामिल नहीं होंगे किंतु ऐसे भवन भरणीय पर्यावरणीय प्रबंधन, ठोस और द्रव अपशिष्ट प्रबंधन, वर्षा जल संरक्षण का सुनिश्चय करेंगे और वे पुनः चक्रित सामग्रियों जैसे भस्म ईटों का उपयोग कर सकेंगे।

				टिप्पण2 .- "सामान्य शर्तें "लागू नहीं होंगी।
8(ख)	नगरी और क्षेत्र विकास परियोजनाएं		जो >50 हेक्टेयर के क्षेत्र और या >1,50,000 वर्ग मीटर क्षेत्र को कवर कर रही हैं	इस मद के अधीन आने वाली नगरी और क्षेत्र विकास परियोजनाओं से पर्यावरण समाघात रिपोर्ट अपेक्षित होगी और उनका निर्धारण श्रेणी "ख1" परियोजना के रूप में किया जाएगा। टिप्पण.- साधारण शर्तें "लागू नहीं होंगी।"

[फा.सं.आईए3-3/46/2024- आईए.III]

रजत अग्रवाल, संयुक्त सचिव

टिप्पण: मूल अधिसूचना संख्या का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii) में प्रकाशित किए गए थे और इसमें अंतिम बार अधिसूचना संख्या का.आ. 2215(अ) तारीख 7 जून 2024 द्वारा संशोधन किया गया था।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 29th January, 2025

S.O. 523(E).— WHEREAS the Government of India in the erstwhile Ministry of Environment and Forests *vide* its notification number S.O.60(E) dated the 27th January, 1994 imposed certain restrictions and prohibitions and requiring prior environmental clearance for undertaking any new project in any part of India or the expansion or modernisation of any existing industry or project covered in the notification;

AND WHEREAS the Supreme Court of India in its order dated the 12th December 2003 in WP (C) No. 725 of 1994 and WP (C) No. 4677 of 1985 in the matter of news item published in Hindustan Times titled "And Quiet Flows the Maily Yamuna" Vs Central Pollution Control Board and Others observed that building construction causes damage to the environment and, therefore, such construction projects may be considered to be brought within the purview of the said notification of 1994, hence, the said notification was amended *vide* number S.O 801(E), dated the 7th July, 2004 bringing within its purview certain categories of building and construction projects and requiring prior environmental clearance;

AND WHEREAS subsequently the Central Government superseded the said notification, *vide* number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the EIA Notification), *inter alia*, imposing certain restrictions and prohibitions on building and construction projects and township and area development projects covered under item 8 (a) and (b) of the Schedule thereof and required prior environment clearance for undertaking any such activities;

AND WHEREAS the Central Government under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, subsequently published a draft notification on the 11th September, 2014, inviting suggestions and objections of all concerned to the amendment in the Schedule of the EIA Notification in respect of items 8 (a) and (b) and the entries relating thereto and after considering and incorporating all the

suggestions and objections received in respect of the draft notification, made the final notification *vide* number S.O.3252(E) dated the 22nd December, 2014;

AND WHEREAS the High Court of Kerala, Ernakulam, *vide* its order dated the 6th March 2024, in the matter of WP (C) No. 3097 of 2016 titled One Earth One Life *vs.* the Ministry of Environment, Forest and Climate Change and Anr., quashed and set aside the notification dated the 22nd December, 2014 on the ground that the final notification was different from the draft notification while granting liberty to the Ministry to issue a fresh notification, in accordance with the law;

AND WHEREAS in the light of judgement of Kerala High Court, the National Green Tribunal, *vide* order dated the 9th August, 2024, in Original Application No. 93 of 2024, *inter alia*, directed the Ministry of Environment, Forest and Climate Change to either comply with the provisions related to the applicability of General Conditions in respect of items 8 (a) and (b) of the Schedule to the EIA notification or to issue a clarificatory notification in this regard;

AND WHEREAS in view of the judgment of the Kerala High Court and the order of the National Green Tribunal, there is an urgent need to issue a fresh notification clarifying the issues for adhering to the judgement of the Supreme Court dated the 12th December, 2003 regarding applicability of prior environmental clearance for various building construction projects;

AND WHEREAS a draft notification for making amendments in the said notification was published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), *vide* number S.O. 4844(E), dated the 7th November, 2024, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date on which copies of the Gazette containing the said draft notification were made available to the Public;

AND WHEREAS copies of the said notification were made available to the public on the 7th November, 2024;

AND WHEREAS the objections and suggestions received in response to the said notification within the period of sixty days have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification of the Government of India in the erstwhile Ministry of Environment and Forests, number S.O.1533(E), dated the 14th September, 2006, namely:—

In the said notification, in the Schedule, for item 8 and the entries relating thereto, the following item and the entries shall be substituted, namely:—

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
“8	Building or Construction projects or Area Development Projects and Townships			
8(a)	Building and Construction projects		≥ 20,000 sq.m. and < 1,50,000 sq. m. of built up area	The term “built up area” for the purpose of this notification is defined as the built up or covered area on all floors put together, including its basement and other service areas, which are proposed in the building or construction projects. Note 1.— The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental

				management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks. Note 2.— General Conditions shall not apply.
8 (b)	Townships and Area Development Projects		Covering an area \geq 50 ha and/or built up area \geq 1,50,000 sq. m.	A project of Township and Area Development Projects covered under this item shall require an Environment Impact Assessment report and be appraised as Category 'B1' Project. Note. — General Conditions shall not apply.”.

[F.No. IA3-3/46/2024-IA. III]
RAJAT AGARWAL, Jt. Secy.

Note.-The principal notification was published in the Gazette of India, *vide* number S.O. 1533(E), dated the 14th September, 2006 and was last amended *vide* the notification number S.O. 2215(E) dated 7th June 2024.



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 6TH DAY OF MARCH 2024 / 16TH PHALGUNA, 1945

WP(C) NO. 3097 OF 2016

PETITIONER/S:

ONE EARTH ONE LIFE
AGED 57 YEARS
REPRESENTED BY ITS LEGAL CELL DIRECTOR, SRI.TONY
THOMAS K., IRUMBAKACHOLA, MANNARKAD P.O.,
PALAKKAD DISTRICT.
BY ADVS.
SRI.RAJAN VISHNURAJ
SRI.P.CHANDRASEKHAR
SRI.V.HARISH
RENJITH THAMPAN (SR.)

RESPONDENT/S:

- 1 MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE
CHANGE
FORESTS AND CLIMATE CHANGE, PARYAVARAN BHAVAN,
CGO COMPLEX, LODHI ROAD, NEW DELHI - 110 003,
REPRESENTED BY ITS SECRETARY.
- 2 STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY
DIRECTORATE OF ENVIRONMENT AND CLIMATE CHANGE,
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM - 695
024.
BY ADVS.
SHRI.BABU P.L., CGC
MANU S., DSG OF INDIA
S. BIJU
V. TEKCHAND, SR. GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 06.03.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

A. J. Desai, C. J.

The question involved in this public interest litigation is ‘whether a notification can be issued by the Government different than the draft notification issued for the purpose involved therein?’.

2. The petitioner, an organization registered under the Travancore-Cochin Scientific, Literary and Charitable Societies Registration Act, 1955, working with the sole intention to protect and improve the forests and safeguard the environment, challenged Ext. P1 notification dated 22.12.2014 issued by the Ministry of Environment, Forests and Climate Change on various grounds, but mainly on the ground that the notification is contrary to the draft notification issued on 11.09.2014 and the observation in the notification that no objections or suggestions were received by the Department in response to the draft notification is factually incorrect.

3. Though notice was issued by this Court, no counter



affidavit came to be filed on behalf of the respondents for a considerably long time. Thereafter, a Division Bench of this Court passed the following order on 08.09.2020:-

“Though orders were passed in the year 2018 directing the respondents to respond to the prayers sought for and though on several occasions, time was also granted by this court, no counter affidavit has been filed to the writ petition from 2016 onwards.

2. Mr.R.Prasanthkumar, learned Central Government Counsel for the respondents seeks some more time to file counter affidavit. Though considerable time has been granted for the above said purpose, even a statement/counter affidavit is not filed.

3. Mr.V.Harish, learned counsel for the petitioner submitted that on account of non-grant of stay of the impugned notification, several buildings have been constructed without any environmental clearance. It is also brought to the notice of this court that under similar circumstances, taking note of the failure in filing the counter affidavit despite considerable time being granted, High Court of Karnataka has granted interim stay of the impugned notification No.3252(E) dated 22.12.2014. Learned counsel for the petitioner also submitted that when the present writ



petition came up for hearing, after perusal of the files produced by the Ministry of Environment, Forest and Climate Change, New Delhi, a Hon'ble Division Bench of this court noticed that there was a letter of the Ministry of Environment, Forest and Climate Change, addressing the Law Ministry, accepting the mistake in the impugned notification and on the directions of the Division Bench, copy of the said letter was also furnished to the learned counsel for the petitioner.

4. On the above said aspect, learned counsel for the petitioner is directed to produce a copy of the letter of Ministry of Environment, Forest and Climate Change, New Delhi addressed to the Law Department. He is further directed to produce a copy of the order of stay granted by the High Court of Karnataka.”

4. Thereafter, the matter was again called by the Division Bench on 17.09.2020 and the following order passed by which a stay came to be granted against the modification to the definition of built up area brought about by Ext. P1 notification dated 22.12.2014;

“The writ petition is filed by a voluntary organisation challenging an amendment to the Environmental Impact



Assessment Notification dated 22.12.2014 produced as Ext. P1 issued by the Ministry of Environment, Forest and Climate Change, Government of India, New Delhi.

2. The grievance of the petitioner is that vide Ext.P1, the first respondent has modified the definition of 'built up area' providing exemptions to clause 8(a) and (b) from the application of general conditions contained under the Notification in question. It is also the case of the petitioner that the impugned order is in contravention of sub-Rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 ('Rules, 1986' for brevity). With the above backdrop, the petitioner seeks to quash Ext.P1 notification to the extent to which it inserts an amended Note that tinkers the impact and scheme of the amending Notification No. SO1533(E) dated 14.09.2006 issued under sub-Rule (3) of Rules, 1986, by inter alia modifying/diluting the definition of 'built up area' and thus, providing exemption to clause (8)(a) by way of Note 1 and further to the extent to which the amended Notification exempts the entries under clause 8(a) and (b) from the application of general conditions contained under the original EIA Notification, 2006, and for other consequential reliefs.

3. When the matter came up for admission on 27.01.2016, respondents were granted four weeks' time to file counter affidavit and thereafter, the case was being listed



periodically. On 05.10.2016, this court has granted three weeks' time as a last chance to file counter affidavit, if any, and further the Ministry of Environment was directed to place on record the files relating to the decision making process. Even though such a peremptory direction was issued, no counter was filed in spite of periodical postings of the case. On 14.06.2018, at the request of the respondents, four weeks' time was again granted by this court and in spite of the same, it was not filed. Thereupon, on 31.07.2018, when the matter was posted, the Standing Counsel sought further time for additional instructions for a period of three weeks and the same was granted as a last chance. On 27.05.2019, the learned Standing Counsel for the Government of India submitted before the Court that he has received instructions and had undertaken to file the counter affidavit within three weeks. Accordingly, the matter was adjourned for a further period of three weeks. Subsequently, when the matter was posted, there was no representation for the respondents and therefore, the case was adjourned. The case was posted before us on 29.05.2020 and it was adjourned to 16.06.2020 at the request of the respondents. On 16.06.2020, again time was sought for for filing counter affidavit and accordingly, two weeks' time was granted, on which day it was recorded that the counsel for the respondent submitted that counter affidavit has been sent for filing and due to Pandemic Covid -19, there is some delay.



Accordingly, time was extended by a further period of two weeks to file the counter affidavit and the case was posted to 14.08.2020. On 14.08.2020, time was again sought and posted the case to 08.09.2020. On 08.09.2020, a detailed order was passed by this Court expressing dissatisfaction due to the non-compliance of the directions to file counter affidavit. However, the matter was posted to this day. Today also, no counter affidavit is filed. However a statement is filed by the counsel and submitted that the statement filed is not authenticated by the concerned authority and the same was filed on telephonic instructions. Learned counsel for the petitioner has produced additional documents along with I.A. No. 2 of 2020, inter alia various orders passed by this Court, the National Green Tribunal, Principal Bench, New Delhi and other notifications/order issued by the Government of India etc..

4. We have heard the respective counsel for the purpose of interim orders since the interim orders was being pressed for the Counsel for the petitioner on the ground that in the guise of Ext. P1 notification, permits are granted in absolute violation of the Environment (Protection) Act, and the original EIA Notification issued in the year 2006. it is also pointed out that the drastic amendment to section 8(a) was brought without an appropriate draft notification, which is a mandatory requirement under the notification issued by the Government of India and therefore, Ext. P1 notification



to that extent cannot be sustained and so also, the same is in violation of the sub-Rule (3) of Rule 5 of the) Rules, 1986. Learned counsel representing the central Government Counsel submitted that further time is required to place the counter affidavit and make submissions in respect of the contentions advanced by the petitioner

5. We have evaluated the rival submissions and is of the opinion that the subject matter requires serious consideration, since we find that there is some force prima facie in the contentions advanced by the petitioner. Therefore, the balance of convenience requires that undue advantage is not taken by the builders by carrying out constructions, in the guise of that part of Ext.P1 notification, which is seriously under challenge being violative of the Notification of the Government of India and the Rules, 1986. Therefore, we are of the opinion that in order to protect the environmental issues, an interim order is granted effective from today onwards. Therefore, there will be a stay of Ext. P1 notification to the extent of modification by the definition of built up area provided to clause 8(a) by way of Note 1 to the effect that the projects or activities shall not include industrial shed, school, college, hostel for Educational Institutions, but such buildings shall ensure environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials, such as fly ash, bricks, for a period of two months.”



5. Thereafter, the matter was listed for final hearing. Ultimately, on 10.01.2024, a counter affidavit was filed by the respondents to which there is no rejoinder.

6. The case put forth by the petitioner is that the 1st respondent Ministry of Environment, Forests and Climate Change, by issuing a draft notification dated 11.09.2014, had called upon the persons interested in making any objection or suggestion to the proposed amendment to the original notification dated 14.09.2006 issued by the Central Government with respect to the requirement of getting environment clearance for different types of construction. It is the case of the petitioner that, in spite of receiving several suggestions and objections to the draft notification, the respondent Department issued final notification under Rule 5 of the Environment (Protection) Rules, 1986, stating that no objections or suggestions were received by the Department.

7. Learned Senior Counsel appearing for the petitioner would submit that, for the first time, by filing a counter affidavit in



the month of January 2024, the respondents tried to clarify that there was a typographical error in issuing the notification dated 22.12.2014, stating that no objections or suggestions were received. He would submit that, even though suggestions or objections were received, as admitted by the respondent Department, there is no discussion about the same in the final notification. He would further submit that, even otherwise, the final notification is totally different from the draft notification earlier issued on 11.09.2014. He would submit that, in the draft notification, it is specifically mentioned that the project or activities covered under the notification will be residential buildings, commercial buildings, hotels, hospitals, hostels, office blocks, Information Technology / Software Development Units / Parks, whereas by the final notification, certain buildings like industrial sheds, schools, colleges and hostel for educational institutions are excluded, which was not the intention of the Department while issuing the draft notification. He therefore would submit that, on both these grounds, the notification dated



22.12.2014 is required to be quashed and set aside.

8. He would further submit that, under Section 23 of the General Clauses Act, 1897, if any changes are to be made after previous publication of rules or bye-laws, certain conditions are required to be followed and the most important condition is to invite objections from the public at large. He would submit that, publishing a draft notification inviting objections or suggestions and thereafter, issuing final notification totally different from the draft notification, would vitiate the process, since there was no occasion for the public to know about the changes made to the final notification. It is submitted that, even in the absence of any objections or suggestions to the draft notification, the Government cannot issue a different final notification.

9. Relying upon a decision of the Bombay High Court in **Avinash Ramakrishna Kashiwar and Others v. State of Maharashtra and Others [AIR 2015 NOC 535]** in PIL No. 72 of 2013 dated 10.12.2014, learned Senior Counsel would submit that the Bombay High Court, on a similar set of facts, quashed and



set aside a final notification which was different from the draft notification. Reliance is also placed upon a decision of this Court in **Kerala State Road Transport Corporation v. Saju Varkey and Others [2018 (4) KHC 617]**. He therefore would submit that the writ petition requires to be allowed on these grounds.

10. On the other hand, learned Central Government Counsel would submit that, since there was a mistake on the part of the authority while issuing the final notification dated 22.12.2014, in stating that no objections or suggestions were received to the draft notification, they tried to correct the same by informing the Ministry of Law and Justice. However, the Legislative Department of the Ministry of Law and Justice by communication dated 29.09.2016, informed that it is not possible to amend the notification. By taking us through the counter affidavit, he would submit that the objections received by the Department have been considered and thereafter, the notification has been issued. In answer to the contention regarding the change in the final notification, he would submit that, earlier, almost all the buildings



having specified built up area were required to obtain environmental clearance certificate. However, buildings like industrial sheds, schools, colleges and hostel for educational institutions have been exempted by final notification. He would submit that, the change was brought about considering the nature of activity carried out in these buildings. Therefore, there is no adverse effect on the public at large as far as the environment is concerned. He would submit that, under Rule 5 of the Environment (Protection) Rules, 1986, the Government is empowered to modify the Rules and therefore, the petition may be dismissed.

11. We have heard the learned Advocates appearing for the respective parties.

12. The draft notification issued on 11.09.2014 reads as under:-

**“MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE**



NOTIFICATION

New Delhi, the 11th September, 2014

S.O. 2319(E). The following draft notification further to amend the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1553(E), dated 14th September, 2006 which the Central Government proposes to issue, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 for the information of the public likely to be affected thereby, and notice is hereby given that the said notification will be taken into consideration by the Central Government on or after the expiry of sixty days from the date on which copies of the Gazette of India containing this notification are made available to the public;

Any person interested in making any objection or suggestion on the proposals contained in the draft notification may do so in writing within the period so specified through post to the Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110 003 or electronically at email address: ad.raju@nic.in



Draft Notification

In the Schedule to the said notification, for items 8(a) and 8(b), and the entries relating thereto, the following items and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
"8		Building / Construction projects / Area Development projects and Townships		
8(a)	Building and Construction Projects	≥20000 sq.mtrs and <1,50,000 sq.mtrs of built-up area#		<p>The built up area for the purpose of this Notification is defined as ‘the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects.</p> <p>Note:</p> <p>(i) The projects or activities covered are residential buildings, commercial buildings, hotels, hospitals, hostels, office blocks and information technology / software development units / Parks</p> <p>(ii) “General Condition” is not applicable.</p>
8(b)	Townships	Covering	an	++All projects under



and Area
Development
projects

area \geq 50 ha
and or built up
area \geq 1,50,000
sq.mtrs++

Item 8(b) shall be
appraised as Category
B1

Note:

“General Condition” is
not applicable.”

[F. No. 19-2/2013-IA.III]

AJAY TYAGI, Jt. Secy.”

13. In the said notification, in the second paragraph, the public at large was invited to raise objections or suggestions. Accordingly, the Department had received many objections and suggestions from various institutions or individuals throughout the country, evident from the counter filed by the respondents. However, if we see the language of the final notification dated 22.12.2014, it has been specifically stated that no objections or suggestions were received in response to the earlier notification dated 11.09.2014. Final notification dated 22.12.2014 reads as under:-

**“MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE**



NOTIFICATION

New Delhi, the 22nd December, 2014

S.O. 3252(E).-Whereas, a draft notification further to amend the notification number S.O 1555(E), dated the 14th September, 2006 (hereinafter referred to as the principal notification), was published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 2319, (E) dated the 11th September, 2014 (hereinafter referred to as the said notification), 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;

And whereas, copies of the said notification were made available to the public on 11th September, 2014;

And whereas, no objections or suggestions have been received in response to the said notification within the specified period of sixty days;

Now, therefore, in exercise of the powers conferred by Sub-section (1) and clause (v) of Sub-section (2) of Section 3 of the said Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central



Government hereby makes the following amendments in the said notification, namely:-

In the principal notification, in the Schedule, under Column (1), for item 8 relating to Building / Construction Projects / Area Development Projects and Townships and sub-items 8 (a) and 8 (b) and the entries relating thereto, specified there under, the following item, sub-items and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
				Building or Construction projects or Area Development projects and Townships
8(a)	Building and Construction Projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs of built-up area	The term “built up area” for the purpose of this notification the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the building or construction projects.
				Note 1:- The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste



8	Townships and Area Development projects	Covering an area of >50ha and or built up area > 1,50,000 sq.mtrs.	<p>management, rain water harvesting and may use recycled materials such as fly ash bricks.</p> <p>(ii) “General Conditions” shall not apply.</p> <p>A project of Township and Area Development Projects covered under this item shall require an Environment Assessment report and be appraised as Category ‘B1’ Project.</p> <p>Note.- “General Conditions” shall not apply.</p>
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[F. No. 19-2/2013-IA-III]
MANOJ KUMAR SINGH, Jt. Secy.”

In the above notification, it is specifically stated in paragraph 3 that no objections or suggestions were received.

14. It is true that the authority had requested the Ministry of Law and Justice to permit them to amend the notification, however, the same was refused by Ext. P11 communication dated 29.09.2016. If the authority had received such communication, instead of amending the notification, the authority should have



considered the objections and suggestions in detail and could have issued a fresh notification which is not the case on hand.

15. As far as the proposal made in column 5 of both notifications is compared, there is a vast difference in the final notification, by which certain buildings are exempted from getting environmental clearance certificates. People at large were not aware about the intention of the authority to modify the draft notification and therefore, in our considered opinion, there is a breach of Section 23 of the General Clauses Act, 1897, which reads as under:-

“23. Provisions applicable to making of rules or bye-laws after previous publication.—

Where, by any [Central Act] or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons



likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [Government concerned] prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the [Official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.”

16. Sub-sections (1) to (4) of Section 23 makes it clear that the public should be aware about the changes in the Rules, bye-



laws etc. In the present case, the public was not aware about the difference between the draft and the final notifications.

17. Rule 5 of the Environment (Protection) Rules, 1986 is relevant to the case on hand, wherein also there is a requirement of public notice. The said Rule, as it then stood, reads as under:-

“5. Prohibitions and restrictions on the location of industries and the carrying on processes and operations in different areas.- (1) The Central government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas:-

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the



opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or



restrictions on the locations of an industry or the carrying on of processes and operations in an area, it may by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the locations of the industries and carrying on of process or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication of the notification in the Official Gazette.

(d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may within five hundred forty five days from such day of publication impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area.



(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3).”

18. Considering the above aspect, we are of the considered opinion that the decisions relied upon by the learned Senior Counsel appearing for the petitioner in **Avinash** (supra) and **Kerala State Road Transport Corporation** (supra) are applicable.

19. Paragraphs 16 and 17 of the decision in **Avinash**'s case are relevant for our consideration, which are reproduced hereunder:-

“16. It will also be relevant to refer to the observations of the Apex Court in the case of the Municipal Corporation Bhopal, M.P. v. Misbahul Hasan and Others reported in (1972) 1 Supreme Court Cases 696. The Apex Court while construing the provisions of Section 24 of the M.P. General Clauses Act, 1955 which is pari materia with Section 24 of the Bombay General Clauses Act, has observed thus:-



“13. The legislative procedure envisaged by Section 24, set out above, is in consonance with notions of justice and fair-play as it would enable persons likely to be affected to be informed so that they may take such steps as may be open to them to have the wisdom of a proposal duly debated and considered before it becomes law. This mandatory procedure was not shown to have been complied with area.”

17. It could thus be seen that it appears to be settled position of law that the requirement of previous publication inviting objections and suggestions is not an empty formality. It is with an intention to enable persons likely to be affected, to be informed, so that they may take steps as may be open to them and the objections/suggestions made would be required to be taken into consideration by the authorities before issuing a final notification. In the present case, the draft notification provided for establishment of headquarter of the sub-division at Sadak-Arjuni. However, the final notification provides for establishment of the headquarter at Morgaon-Arjuni. It could thus be seen that insofar as the establishment of headquarter is concerned, the final notification is totally different from the draft notification.”

20. Paragraph 14 of the decision in **Kerala State Road**



Transport Corporation's case is also relevant to the case on hand, which is reproduced hereunder:-

“14. The provisions of Sections 99, 100 and 102 indicate that the procedure to be followed, while introducing a scheme, or modifying an existing one, is one that is designed to ensure transparency and fairness in a matter involving pre-existing rights of private transport operators. It follows, therefore, that there cannot be any finalization of a scheme, which is different from the one that was proposed, and in respect of which objections were invited. The introduction of a restrictive element (in the instant case, the stipulation that the maximum distance limit would apply to the saved permits), while finalising a draft that did not contain such a stipulation has, therefore, to be seen as breaching the aforesaid statutory safeguard. A question arises, however, as to whether, in these cases, the petitioners had a pre-existing right, relatable to Ext.P5 scheme, to operate ordinary and OLS services without any restriction as regards distance? Although the learned counsel for the respondent KSRTC would vehemently contend that the said rights accrued to the private operators, not through Ext.P5 scheme, but only through Ext.P9 G.O., we are of the view that the rights/privileges granted to the petitioners through Ext.P9 G.O. cannot be seen as divorced from Ext.P5.”



In such circumstances, we are of the considered opinion that the writ petition requires consideration. Accordingly, the same is allowed. Notification dated 22.12.2014 is hereby quashed and set aside. Needless to say, the respondent authority may issue fresh notification, in accordance with law. It is made clear that the petition is entertained only on the above ground. Other contentions raised in this writ petition have not been examined on merits.

Pending Interlocutory Applications, if any, shall stand closed.

Sd/-
A. J. DESAI
CHIEF JUSTICE

Sd/-
V. G. ARUN
JUDGE



APPENDIX OF WP(C) 3097/2016

PETITIONER EXHIBITS

- EXHIBIT P1. A TRUE PHOTOCOPY OF THE GAZETTE
NOTIFICATION NO. 3252 (E) DATED
22.12.2014.
- EXHIBIT P2. A TRUE PHOTOCOPY OF THE DRAFT
NOTIFICATION NO.S.O.2319(E) DATED
11.09.2014.
- EXHIBIT P3. A TRUE PHOTOCOPY OF THE MINUTES OF THE
39TH MEETING OF THE 2ND RESPONDENT HELD
ON 18.06.2015.
- EXHIBIT P4. A TRUE PHOTOCOPY OF THE LETTER OF
REJECTION OF EC DATED 16.10.2007 ISSUED
BY THE 1ST RESPONDENT.
- EXHIBIT P5. A TRUE PHOTOCOPY OF THE OFFICE
MEMORANDUM DATED 09.06.2015.

UNDERTAKING

The following undertaking is submitted in compliance to issued Minutes of meeting of 22th SEAC meeting, Assam, held on 18.03.2025 (MoM ID: EC/MOM/SEAC/137237/3/2025, Agenda ID: EC/AGENDA/SEAC/137237/3/2025), agenda item no. 1, "for the Raising of New Assam Police Commando Battalion at Kachurtal in Hailakandi District, Assam (Presently shifted to Damchera in Gharmura Range under Ramnatpur Police Station) located at Hailakandi, Assam", vide Proposal No.-SIA/AS/INFRA2/525576/2025) for obtaining Environmental Clearance.

It is submitted that the following 6 points of Sustainable Environment Management, as suggested by SEAC in MoM for New Assam Police Commando Battalion at Hailakandi, Assam will be executed in letter and spirit.

1. Explore the possibility and installation of Rain Water Harvesting (RWH) system at the project site.
2. Slope stability measures on the elevated terrain near to the project site needs to be implemented with carpeting of the area with greenery using indigenous grasses / herbs eg. Broom sticks (Thaoslana maxima) roots having strong soil binding effect preventing soil erosion and help land stabilization.
3. Fencing of the entire project site by green hedges of local species of shrubs and fruit bearing species like Satkora (Citrus macroptera var asamesis), a rare and endemic species of plant having large scale market value due to culinary and medicinal value, Kaffir lemon (Citrus hystrix), having the same importance including promotion of other tree species endemic to the Barak valley under due discussions with the DFO, Hailakandi. It is also suggested that since major chunk of forest areas are destroyed, in a phased manner, assistance of the Eco Task Force deployed in the Northern Assam Circle bordering the state of Arunachal Pradesh having expertise in raising plantations and nurseries may be utilized by the Police Battalion for restoration of the areas with endemic species of plants and trees unique to Barak valley.
4. Establishment of STP at the project site.
5. Garland drain to be made all along the project site to carry and discharge the water coming from hills in to the drain.
6. To develop the project as ZERO LITRE DISCHARGE site for solid and liquid waste.

Regards,



Managing Director,
Assam Police Housing Corporation Ltd
Rehabari, Guwahati.

o/c