

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 76/2025

IN THE MATTER OF:

Kalpesh Chandrakant Yadav

... Applicant

v.

Union of India & Ors.

... Respondents

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Date: 11.02.2026

Adv. Aniruddha S Kulkarni

Standing Counsel,

Environment and Climate Change Department

Government of Maharashtra



**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 76 / 2025**

Kalpesh Chandrakant Yadav ...Applicant

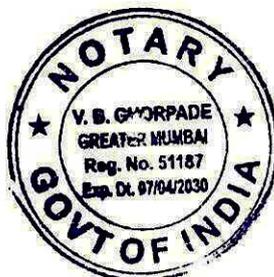
v/s.

Union of India & Ors. ...Respondents

**ADDITIONAL AFFIDAVIT BY RESPONDENT NO. 3,
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY (SEIAA)**

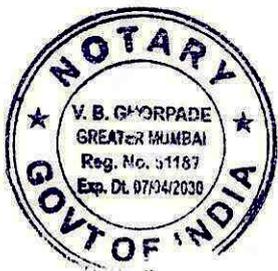
I, Dattatray Suryakant Bhalerao, working as Scientist I & Deputy Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.



1. It is submitted that at the very outset that this respondent has filed a reply affidavit dated 25.11.2025 in the present application. This Hon'ble Tribunal while considering the same in its order dated 27.11.2025 issued certain directions as reproduced below:

3. *It is further submitted in this affidavit by Respondent No.3 that Answering Respondent earlier had deferred the proposals in the PCMC area, because of the order dated 09.08.2024 of the Tribunal passed in Original Application No.93 of 2024 (CZ). Thereafter, this Tribunal issued direction vide order dated 30.04.2025 in Original Application No.38 of 2025 (WZ). At this stage, we do not deem it appropriate to proceed further to consider this affidavit because copies of these orders have not been placed on record by learned counsel for Respondent No.3. We would like from Respondent No.3 to place all the details along-with copies of the orders passed in the said*



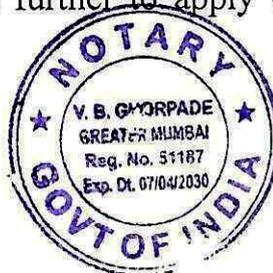
A handwritten signature in black ink, appearing to be "A. B. D." or similar, located below the notary seal.

Original Applications, so that we can appreciate this affidavit.

Hence, this answering respondent is filing the present additional affidavit.

2. Original Application No. 93 of 2024 (Pranjal Karera Vs. Union of India & Ors.) was filed in the Hon'ble National Green Tribunal, Central Zone Bench, Bhopal with the prayer for issue of directions to the MoEF&CC, to appraise all those Building and Construction Projects that are located in whole or in part within 5 km of a (i) protected area notified under the Wildlife Protection Act, 1972 (ii) Critically Polluted Areas and Severely Polluted Areas as identified by the CPCB (iii) Eco-Sensitive areas notified under S. 3(2) of the EP Act, (iv) located on interstate boundaries, as Category A projects by and appraise the same at the Central level by the sectoral Expert Appraisal Committees and further to apply General Conditions [GC] to

Ans.



Item 8 of the Schedule of the EIA, 2006 for located in a Critically and Severally polluted areas as identified by the CPCB as per letter dated 10.04.2019 and implement the directions passed by the Central Zone Bench vide its Orders dated 10.07.2019, 23.08.2019 and 14.11.2019 in OA No. 1038 of 2018 titled In re: News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" & the OM dated 31.10.2019, and appraise Building and Construction Projects located in CPA/SPA areas as Category A projects, deors whether GC applies or not.

3. The Hon'ble National Green Tribunal, Central Zone Bench, Bhopal in its order dated 09.08.2024 held:

40. In view of the above submissions, arguments and records and notification, we are of the view that after quashing the notification dated 22.12.2014, vide order dated 06.03.2024, in W.P.(C) No. 3097/2016, General



A handwritten signature in black ink, appearing to be "V. B. G. Orpade".

Conditions is undisputedly applicable and all such projects in Schedule 8 of EIA 2006 located within 5 km. of ecologically protected areas, CPA/SPA, ecosensitive areas, inter-state boundaries and international boundaries are to be appraised and evaluated at the central level by sector specific EAC.

41. Accordingly, we direct the MoEF&CC to strictly enforce the notification dated 14.09.2006 attached to Category 8 in the note general conditions and we direct the MoEF&CC to appraise all those building and construction projects that are located in whole or in part within 5 km. of the protected area notified under the Wildlife (Protection) Act, 1972, critically polluted areas and severely polluted areas as identified by the CPCB, eco-sensitive areas notified under Section 3(2) of the Environment (Protection) Act, and the projects located at

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inter-state boundaries as Category A projects and to be appraised by the central level by the Sectoral Expert Appraisal Committee.

Copy of the Hon'ble NGT order dated 09.08.2024 in O.A. No. 93 of 2024 (CZ) Pranjal Karera Vs. Union of India & Ors. is attached as **ANNEXURE 1**.

4. Thereafter, SEIAA deferred the proposals in PCMC area as per the above mentioned order dated 09.08.2024 in O.A. No. 93 of 2024 (CZ).
5. Further, an Original Application No. 38 of 2025 (M/s Achalare Realtors Pvt. Ltd. Vs. MoEF&CC & Ors.), was considered by the Hon'ble National Green Tribunal, Western Zone Bench, Pune which was filed seeking issuance of direction to CPCB and MPCB to declare the correct CEPI Score of the Pimpri Chinchwad Municipal Corporation Area and issuance of



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direction to SEIAA to consider the application dated 29th June, 2023 for grant of Environmental Clearance (EC).

6. In the said case, this Hon'ble Tribunal observed:

6. In the case in hand, learned counsel for the applicants has provided a copy of the Comprehensive Environmental Pollution Index (CEPI) in descending order along-with status of environment of Industrial Areas/Clusters monitored by CPCB during 2018, which has been downloaded from the website of CPCB, Delhi (http://www.cepi.cpcb.gov.in/cpcb_cepi/doc/CEPI2018scoresinascendingorderupload.pdf) wherein at serial no.86, in Column 2, the name of Polluted Industrial Areas (PIAs) is recorded to be Pimpri- Chinchwad and its CEPI Score is recorded in Column 7 as 52.16 and Column 9 has category of PIA Recorded as "OPA" (Other Polluted

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Areas) and not "CPA" (Critically Polluted Area).

Central Pollution Control Board, Delhi

The Comprehensive Environmental Pollution Index (CEPI) in descending order, along-with status of environment, of Industrial Areas/Clusters monitored by CPCB, during 2018

Sl No.	Name of Polluted Industrial Areas (PIAs)	State	Air EPI	Surface Water EPI	Land EPI	CEPI Scores	Status of Environment	Category of PIA
86.	Pimpri-Chinchwad	Maharashtra	52.00	6.25	3.25	52.16	As_Wn_Ln	OPA

7. We also find mention in the e-mail dated 02.09.2024, at page 231 of the paper book, sent by Director & DH- IPC - VI & VII, CPCB in response to queries raised by CREDAI Pune Metro that as per the revised methodology 2016, PIA (Polluted Industrial Areas) are classified based on CEPI Score as follows:-

S.No	CEPI Score	Categorization of Industrial Areas
1.	70 and above	Critically Polluted Areas
2	60 and above - below 70	Severely Polluted Areas
3.	Less than 60	Other Polluted Areas

8. Perusal of above documents make it quite clear that the Pimpri-Chinchwad area is not a "CPA-Critically Polluted



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Area". Therefore, the SEIAA ought to have considered the project without waiting for any response from the CPCB.

Copy of this Hon'ble Tribunal's order dated 30.04.2025 passed in Original Application No. 38 of 2025 (M/s Achalare Realtors Pvt. Ltd. Vs. MoEF&CC & Ors.) is attached as **ANNEXURE 2**.

7. Similarly, a Writ Petition No. 4803 of 2025 was filed in Hon'ble High Court at Bombay by CREDAI Pune Metro and others to invoke the jurisdiction of the Court under Article 226 of the Constitution of India seeking directions to State Environment Impact Assessment Authority, Maharashtra to decide upon the proposals received by it for seeking Environmental Clearance ("EC") in Pimpri- Chinchwad area by considering the present day Comprehensive Environmental Pollution Index ("CEPI") scores as updated/published by Maharashtra Pollution Control Board ("MPCB") in accordance with Email dated 02/09/2024 issued by Central Pollution Control Board ("CPCB"),

As.



independent of and without relying upon the notification dated 29/01/2025 issued by MoEF&CC.

8. The Hon'ble High Court at Bombay issued an order on 30.04.2025 in Writ Petition No. 4803 of 2025 CREDAI Pune Metro & Ors. v. State of Maharashtra & Ors. and observed:

11. The Hon'ble Supreme Court vide order dated 24/02/2025 has stayed the operation and implementation of the Notification dated 29/01/2025. According to the petitioners, proposals made by the member of the petitioner seeking EC need to be considered on the basis of present day CEPI scores as updated /published by respondent no,4- MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB.

12. In such view of the matter, we are inclined to dispose of this petition by issuing the following direction.

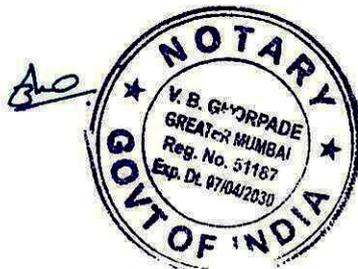


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The proposals made by the petitioner seeking EC from the respondent no. 2-SEIAA be considered in accordance with law on the basis of the present day CEPI scores as updated/published by respondent no. 4 – MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB or in accordance with the clarification if received from CPCB, within a period of eight weeks from the date of uploading of the order.

Copy of the Hon'ble High Court's order dated 30.04.2025 in Writ Petition No. 4803 of 2025 CREDAI Pune Metro & Ors. v. State of Maharashtra & Ors. is attached as **ANNEXURE 3**.

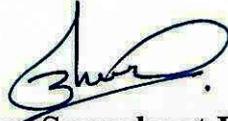
9. Thereafter, pursuant to the above orders the proposals were considered in PCMC area and accordingly SEIAA considered the present proposal on 8th May, 2025 and recommended the



proposal for grant of EC subject to certain compliances as given
in the earlier SEIAA reply dated 26.11.2025 as well as in the EC.

Whatever is stated above is true and correct to the best of my
knowledge, ability and belief and I affirm it to be true.

Mumbai :
Date : 11 FEB 2026


Dattatray Suryakant Bhalerao
Scientist-I & Deputy Secretary,
Environment & CC Department,
Government of Maharashtra



VERIFICATION

I, Dattatray Suryakant Bhalerao, Scientist-I & Deputy Secretary, Environment and Climate Change Department, Government of Maharashtra, having my office address 15th Floor, New Administrative Building, Hutatma Rajguru Chowk, Madam Cama Road, Mantralaya, Mumbai-400032. do hereby verify and declare that the statements made in the aforesaid paras are true and correct to the best of my knowledge and information and I believe the same to be true and that no material is has been concealed therefrom.

Solemnly affirmed on this day of February, 2026 at Mumbai.



Dattatray Suryakant Bhalerao
Scientist-I & Deputy Secretary,
Environment & CC Department,
Government of Maharashtra

BEFORE ME

ADV. V. B. GHORPADE
ADVOCATE & NOTARY
GOVT OF INDIA
Reg. No. 51187



ANNEXURE-1

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 93/2024(CZ)

Pranjal Karera

Applicant(s)

Vs.

Union of India & Ors.

Respondent(s)

Date of completion of hearing and reserving of order : 05.08.2024

Date of uploading of order on website : 09.08.2024

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL, EXPERT MEMBER**

For Applicant(s): Mr. Vanshdeep Dalmia, Adv.

For Respondent(s): Mr. Rohit Sharma, Adv.
Mr. Dharamvir Sharma, Adv.
Mr. Yadvendra Yadav, Adv.
Mr. Shoeb Hasan Khan, Adv.
Mr. Gaurvanvit Jain, Adv

ORDER

1. The present application has been filed with the prayer for issue of direction to the MoEF&CC, to appraise all those Building and Construction Projects that are located in whole or in part within 5 km of a (i) protected area notified under the Wild life Protection Act, 1972 (ii) Critically Polluted Areas and Severely Polluted Areas as identified by the CPCB (iii) Eco-Sensitive areas notified under S. 3(2) of the EP Act, (iv) located on interstate boundaries, as Category A projects by and appraise the same at the Central level by the sectoral Expert Appraisal Committees and further to apply General Conditions [GC] to Item 8 of the Schedule of the EIA, 2006 for located in a Critically and Severally polluted areas as identified by the CPCB as per letter dated 10.04.2019 and implement the

directions passed by this Tribunal vide its Orders dated 10.07.2019, 23.08.2019 and 14.11.2019 in OA No. 1038 of 2018 titled In re: News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels” & the OM dated 31.10.2019, and appraise Building and Construction Projects located in CPA/SPA areas as Category A projects, de hors whether GC applies or not.

2. The contention of the applicant is that MoEF&CC issued an OM dated 31.10.2019 devising a Mechanism for new activities/expansion by Red & Orange Category of industries in CPA’s and SPA’s. The relevant portion of the OM is extracted as below:

“B: Considerations of proposals for grant of Environmental Clearance for new and expansion activities in ‘Red’ and ‘Orange’ Categories located in Critically Polluted Areas and Severely Polluted areas:

- i. *Any project or activity specified in Category B1 will be appraised at the Central level, if located in whole or in part within 5 Km from the Boundary of Critically Polluted Areas or Severely Polluted Areas. However, Category B2 projects shall be considered at state level stipulating Environmental Clearance conditions as applicable for the Category ‘B1’ project/activities.”*

However, Building and constructions projects located in CPA/SPA, are still being continued to be appraised at the State level, in complete dissonance with the abovementioned Orders.

The Environment Impact Assessment Notification dated 14.09.2006 was issued by the Respondent MOEF under Section 3 of the EP Act categorizing projects and activities as Category ‘A’ and ‘B’, wherein Category ‘A’ projects would require a prior Environmental Clearance [EC] from the sector

specific EACs at the Central level whereas Category 'B' projects would require the same from the State i.e. by the respective SEACs. This categorization is based on the potential impacts on the human health, nature and man-made resources, wherein, the projects and activities of a higher and larger magnitude in terms of the potential adverse impact on the environment as a whole are appraised at the central level by sector specific EACs that constitute of experts in the particular field, and those of relatively lesser potential impact, at the State level.

ii. The Hon'ble Supreme Court in the case of IN RE: Construction of Park at Noida Okhla Bird Sanctuary while considering the issue as to whether General Conditions apply to Building and Construction projects directed that "...the question of application of the general conditions to the projects/ activities listed in the Schedule also needs to be put beyond any debate or dispute".

3. In Writ Petition (C) No. 3097/2016 titled One Earth One Life Vs. MOEF Hon'ble the High Court of Kerala, made it clear that general condition is applicable in all such projects in item 8 of the Schedule located in CPA/SPA, eco-sensitive areas and are to be appraised and evaluated at the central level by sector-specific EAC.
4. Notices were issued to the respondents and in compliance thereof, the respondents have filed the reply. Heard the argument and perused the record.
5. The EIA Notification dated 14.09.2006 issued by the Ministry of Environment, Forest and Climate Change with subsequent amendments after 8A and 8B prescribed note with general conditions and specific conditions which are quoted below :-

“General Condition (GC)”¹

Any project or activity specified in Category ‘B’ will be appraised at the Central Level as Category ‘A’, if located in whole or in part within 5 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972 (53 of 1972); (ii) Critically Polluted areas as identified by the Central Pollution Control Board² constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from time to time; (iii) Eco-sensitive areas as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986, and (iv) inter-State boundaries and international boundaries; provided that for River Valley Projects specified in item 1(c), Thermal Power Plants specified in item 1(d), Industrial Estates/ parks/complexes/areas, export processing zones (EPZ), Special Economic Zones (SEZs), biotech parks, leather complexes specified in item 7 (c) and common hazardous waste treatment, storage and disposal facilities (TSDFs) specified in item 7 (d), the appraisal shall be made at Central level even if located within 10 km.

Provided further that the requirement regarding distance of 5 km or 10 km, as the case may be, of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or the Union Territories sharing the common boundary in case the activity does not fall within 5 km or 10 km, as the case may be of the areas mentioned at item (i), (ii), and (iii) above.

Specific Condition (SC):

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre –defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within

¹ GC substituted vide S.O. 3067(E) dated 1 st December, 2009; substituted all entries substituted vide S.O. 1599(E) dated 25th June, 2014

² Amended vide S.O. 1939 dated 13th November, 2006

such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).”

6. Vide notification dated 07.03.2016 issued by the CPCB which modified directions under section 18(1)(b) of the water (prevention & control of pollution) act, 1974 and the air (prevention and control of pollution) act, 1981 regarding harmonization of classification of industrial sectors under red / orange / green / white categories prescribed the categories as follows :-

“WHEREAS, based on the series of consultations with SPCBs, different Government / Non- government Institutions including industries and MoEFCC, the following criteria on Range of Pollution Index for the purpose of categorization of industrial sectors has been finalized:

- Industrial Sectors having Pollution Index score of 60 and above – Red Category*
- Industrial Sectors having Pollution Index score of 41 to 59 – Orange Category*
- Industrial Sectors having Pollution Index score of 21 to 40 – Green Category*
- Industrial Sectors having Pollution Index score incl. & upto 20 - White Category*

WHEREAS, based on relative Pollution Index, the number of industries in various categories are as under:

- i. The Red category of industrial sectors: 60*
- ii. The Orange category of industrial sectors: 8*
- iii. The Green category of industrial sectors: 63 and*
- iv. The Newly introduced White category: 36*

WHEREAS, there shall be no necessity of obtaining the consent to operate for White Category of industries and an intimation to concerned SPCB/PCC shall suffice.”

7. Notification dated 11.09.2014 and 22.12.2014 was notified by the MoEF&CC which are as follows :-

i. *“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@ni.

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	<i>Building / Construction projects / Area Development Project and Township</i>			
8(a)	<i>Building and Construction Projects</i>	<i>≥20000 sq.mtrs and <1,50,000 sq.m. of built up area#</i>	<i>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.</i> <i>Note:</i> <i>(i) The projects or activities covered are residential buildings, commercial buildings, hotels, hospitals, hostels, office blocks and information technology / software development units / Parks</i> <i>(ii) "General Condition" is not applicable.</i>	
8(b)	<i>Townships and Area Development projects</i>	<i>Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq.mtrs++</i>	<i>++All projects under Item 8(b) shall be appraised as Category B1 Note: "General Condition" is not applicable."</i>	

ii. 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, subsection (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)
"8	Building or Construction projects or Area Development projects and Townships			
8(a)	Building and Construction Projects	≥20000 sq.mtrs and <1,50,000 sq.m. of built up area#	<p>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.</p> <p>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.</p> <p>(ii) "General Conditions" shall not apply.</p>	
8	Townships and Area Development projects	Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq.mtrs++	<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>	

8. In light of the order passed in O.A. No. 1038/2018 dated 19.08.2019, Ministry of Environment, Forest and Climate Change issued a notification dated 24.10.2019 with the matter listed in red and orange categories located in critically polluted areas prescribing as follows :-

1. *“Consideration of proposals for grant of Environmental clearance for new and expansion activities listed in 'Red' and 'Orange' Categories located in Critically Polluted Areas and Severely Polluted areas:*

i. *Any project or activity specified in Category B1 will be appraised at the Central Level, if located in whole or in part within 5 km from the boundary of Critically Polluted Areas or Severely Polluted Areas. However, Category B2 projects shall be considered at state level stipulating Environmental Clearance conditions as applicable for the Category 'B1' project/activities.*

ii. *Proposals located in CPAs and SPAs may be examined by the sectoral Expert Appraisal Committee (EAC) during scoping/appraisal based on the CEPI scores of Air/Water/Land Environment as published by CPCB from time to time. In such proposals, appropriate mitigation measures for the environment possessing higher CEPI score may be made by EAC in the form of recommendations/decision. These recommendations may be explicitly mentioned in the Terms of Reference/Environmental Clearance letter and to be ensured by the member secretary concerned.*

9. The notification dated 22.12.2014 was matter under consideration which was challenged before the High Court of Kerala in W.P.(C) No. 3097/2016 and vide Order dated 06.03.2024 the court, after considering the above facts, found that the notification dated 22.12.2014 was not in accordance with the law and quashed the notification dated 22.12.2014.

10. The contention of the applicant is that after quashing the notification dated 22.12.2014 the general condition as note of the original notification, 2006 will apply.
11. The submissions of the Learned Counsel for the applicant are that as per the EIA Notification dated 14.09.2006, projects and activities are categorized as Category A and B wherein Category A projects require Environmental Clearance from the Sector specific EACs at the Central level, whereas Category B projects which relatively have a lower potential impact on the Environment would require the same from the State i.e. by the respective State SEACs/ SEIAAs. This categorization is based on the '*extend of potential impacts on human health and natural and manmade resources*'. Apropos, the projects and activities of a higher and larger magnitude in terms of the potential adverse impact on the environment as a whole are appraised at the central level by sector specific EACs that constitute of Experts in the particular field. Whereas, such projects and activities having a relatively lesser impact, are appraised at the State level by respective State SEACs/ SEIAAs that consist of homogeneous mix of experts and professionals from different sectors. The schedule of the EIA 2006 notification categorizes Building and Construction Projects and Townships and Area Development Projects as Category B1 projects under item 8(a) and item 8(b) of the Schedule and thus, the appraisal is being done at the State level i.e. by respective SEACs, however it is to be appraised at the Central level if it falls in an ecologically sensitive area/ Critically polluted area or other areas as indicated in the General Conditions.
12. It is submitted that Building and Construction Projects and Townships and Area Development Projects carried out in a critically/ severally polluted area, eco-sensitive areas etc. have a higher and larger magnitude

in terms of the potential adverse impact on the environment as a whole and thus need to be appraised at the central level by sector specific EACs that constitute of experts in the particular field.

13. While considering the matter in the O.A. No. 1038/2018, Principal Bench of this Tribunal vide order dated 14.11.2019, observed as follows:-

i. "After considering the said data, this Tribunal in the order dated 10.07.2019 held that the Rule of Law required prohibiting polluting activities to protect the environment and public health. While remedial action may certainly be planned, current violation of law could not be ignored and was actionable by way of stopping polluting activities, initiating prosecution and recovering compensation on 'Polluter Pays' principle. The statutory authorities are accountable for performing their statutory duties. Referring to some of the earlier orders on the subject, this Tribunal observed:

"7. Ill effects of industrial pollution on the environment and public health are well acknowledged. This has made it necessary to strictly apply the principles of 'Sustainable Development' and permit any activity to be carried out without degrading the environment. The statutory scheme under the Air Act, the Water Act and the EPA Act provides for standards for air and water quality which must be maintained and violation thereof is a criminal offence³. Any violation has to be visited with stopping of polluting activity, prosecution and compensation for restoration of environment. Accordingly, in the order dated 13.12.2018 this Tribunal observed:

³ Section 7 read with Section 15 of the EPA Act, Section 24 read with Section 41 and Section 45A of the Water Act, Section 21 and Section 22 read with Section 37 of the Air Act

“5. Purpose of economic development in any region is to provide opportunities for improved living by removing poverty and unemployment. While industrial development invariably creates more jobs in any region, such development has to be sustainable and compliant with the norms of environment. In absence of this awakening or tendency for monitoring, industrialization has led to environmental degradation on account of industrial pollution. It is imperative to ensure that steps are taken to check such pollution to uphold statutory norms. Adequate and effective pollution control methods are necessary.

6. Dust, smoke, fume and toxic gas emissions occur as a result of highly polluting industries such as thermal power plants, coal mines, cement, sponge iron, steel and ferrow alloys, petroleum and chemicals unless right technology is used and precaution taken. Industry specific clusters have not only become hazardous but also cause irreparable damage to our ecology and environment, often breaching the environment’s carrying capacity, adversely affecting public health.

7. In Karnataka Industrial Areas Development Board vs. C. Kenchappa & Ors⁴ the Hon’ble Supreme Court observed, as guiding rules for Sustainable Development, that humanity must take no more from nature than man can replenish

⁴ (2006) 6 SSC 383

and that people must adopt lifestyles and development paths that work within the nature's limit. In Vellore Citizens Welfare Forum Vs. Union of India, the Hon'ble Supreme Court recognized the Precautionary Principle and explained that environmental measures by the State Government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

8. This Tribunal has applied the same principles in deciding matters before it in terms of Section 20 of the National Green Tribunal Act 2010.

9 to 12..... xxxx.....xxxx.....xxxx

13. The action plan to be prepared in the States may be done by the Committee constituted by the Chief Secretary within one month from today as several Departments may be involved in the exercise. The final preparation of the action plan including its execution may be overseen by the Chief Secretary of the concerned State, along with the other connected major environmental issues of the States, such as pollution of river stretches, nonattainment cities in terms of air quality and solid waste management, utilization of treated sewage, covered by order of this Tribunal dated 20.09.2018 in Original Application No. 673/2018, News Item Published in 'The Hindu' authored by Shri. Jacob Koshy titled "More river stretches are now critically polluted: CPCB",

order dated 08.10.2018 in Original Application No. 681/2018, News Item Published In 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15", order dated 20.08.2018 in Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and order dated 27.11.2018 in Original Application No. 148/2016, Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors. The Chief Secretary will take meetings on all these issues once in three months (quarterly) and will forward Report to NGT by e-mail."

8. We may also note that on 16.01.2019, while considering the issue of compliance of Solid Waste Management Rules, 2016 and other Waste Management Rules in O.A. No. 606/2018, Compliance of MSW Rules, 2016, the Tribunal required the presence of the Chief Secretaries in person after monitoring the subjects mentioned in the said order which included polluted industrial clusters.

9. Accordingly, the Chief Secretaries appeared before this Tribunal and filed their respective versions on the subject. They have been asked to take necessary steps to enforce the environment norms and furnish periodical reports to this Tribunal. The directions include monitoring of important environmental issues including the issue of polluted industrial clusters by a Central Monitoring Committee with representatives from the Central Government and the Chief Secretaries

of the States, undertaking carrying capacity study of the areas where violation of environmental norms is established, training programme of the officers concerned with the enforcement of the environmental norms, preparation of annual environmental plan for the country giving status of gaps in compliance of environmental norms⁵. The Tribunal noted the private studies which may need to be verified assessing the number of deaths and diseases from pollution⁶.

“38. Death attributable to pollution to be 2.51 million in 2015, highest in the world. Air pollution, the number of deaths in India from ambient air pollution was 1.09 million, while deaths from household air pollution from solid fuels were 0.97 million. In the case of water pollution, 0.5 million deaths were caused by unsafe water source, while unsafe sanitation caused 0.32 million deaths. Deaths from air pollution were a result of diseases such as heart disease, stroke, lung cancer, and chronic obstructive pulmonary disease (COPD). Pollution has been responsible for the most non communicable disease deaths. India ranks a dismal 110 of 149 countries on the Sustainable Development Index. With rapid urbanization, the country is facing massive waste management challenge. Over 377 million urban people live in 7,935 towns and cities and generate 62 million tonnes of municipal solid waste per annum. Only 43 million tonnes (MT) of the waste is collected, 11.9 MT is treated and 31 MT is dumped in landfill sites. An alarming 80% of India’s surface water is polluted. Indian cities generate 10 billion gallons or 38 billion litres of

⁵ O.A 606/2018, order dated 17.05.2019, at para 27

⁶ Ibid

municipal waste water every day, out of which only 29% of it is treated.

40. In case extent of convictions for the environment related offences do not correspond to the extent of crime, paradigm shift in policies and strategies for implementation of law may need to be considered. Similarly, the mechanism for recovery of compensation may need to be revised on that pattern. Such review of policy cannot be left to the Local Bodies or the Pollution Control Boards but has to be at highest level in the State and further review at the national level. As noted in some of the studies, the ranking of the country in compliance of environmental norms needs to be brought to respectable higher position which may be possible only if there is change in policies and strategies for implementation of necessary norms at every level in right direction. The scale of compensation needs to be suitably revised so that the same is deterrent and adequate to meet the cost of reversing the pollution.”

14. In reply to above averments the Respondent No. 1 MoEF&CC filed the counter affidavit and argued that the Environment (Protection) Act, 1986 authorizes the Central Government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and/or operation of any projects/activity on environmental grounds.

15. That, the answering respondent in exercise of its powers under subsection (1) and clause (v) of Section 3(2) of Environment (Protection) Act, 1986 (EPA, 1986) had vide S.O. 1533(E) issued the Environment Impact Assessment Notification dated 14/09/2006 for mandating prior Environmental Clearance (EC) for certain category of projects covered in

the Schedule of the notification. The EC is granted following the due EIA process as mentioned in the notification.

16. That under the provisions of the EIA Notification, 2006, EC for Building and Construction Projects, Townships and Area Development Projects are covered under entry 8 (a) & (b) of the Schedule to the EIA Notification, 2006. Further, entries 8(a) and 8(b) are category 'B' projects under the EIA Notification, 2006 and the said projects are appraised by the concerned State/ UT Level Expert Appraisal Committees (SEACs) and the EC is granted by the State Environmental Impact Assessment Authorities (SEIAAs/UTEIA's).
17. That the EIA Notification 2006, provides for General Conditions which relate to categorization of the projects as Category 'A' if such projects are located in whole or in part, within either 5 km or 10 km, as the case may be, from the boundary of Protected Areas notified under the Wild Life (Protection) Act, 1972, Critically Polluted areas as notified by the Central Pollution Control Board from time to time, Notified Eco-sensitive areas and inter-State boundaries and international boundaries. GC in the EIA Notification, 2006, as amended reads as under:

"Any project or activity specified in Category 'B' will be appraised at the Central Level as Category 'A', if located in whole or in part within 5 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972 (53 of 1972); (ii) Critically Polluted areas as identified by the Central Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from after (Pretime: (i) Eco-sensitive areas as notified under sub. Sectioning of section 3 of the Environment (Protection) Act, 1986, and (iv) one of boundaries and international boundaries; provided that for River Valley Projects specified in item 1(c), Thermal Power Plants specified in item 1(d), Industrial Estates/ parks/ complexes/ areas,

export processing zones (EPZ), Special Economic Zones (SEZs), biotech parks, leather complexes specified in item 7 (c) and common hazardous waste treatment, storage and disposal facilities (TSDFs) specified in item 7 (d), the appraisal shall be made at Central level even if located within 10 km.

Provided further that the requirement regarding distance of 5 km or 10 km, as the case may be, of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or the Union Territories sharing the common boundary in case the activity does not fall within 5 km or 10 km, as the case may be of the areas mentioned at item (i), (ii), and (iii) above.”

18. Further contentions of the Learned Counsel for Respondent No. 1 are that the submission of the applicant is that after the quashing of the notification general condition will apply is unfounded and not supported by the order since that order was based only on the principle of natural justice and it is further submitted that there is no difference in the qualification, eligibility criteria of the EAC and the SEACs.
19. The contention of the applicant is that the directions passed in OA No. 1038/2018 must be strictly complied with, with regard to the projects and health, projects and polluting activities which are in CPA/SPA red and orange category, and no further industrial activities or expansion be allowed with regard to red and orange category units till the said areas are brought within the prescribed parameter or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms.
20. The same was clarified by the notification dated 23.08.2019 where it was observed that the MoEF&CC can forthwith devise an appropriate mechanism to ensure that new legitimate activity or expansion can take

place after due precautions are taken in the areas in question by red and orange category of units.

21. Further contentions of the applicant are that the OM dated 31.10.2019 was issued by the MoEF&CC in exercise of powers conferred under Section 5 of the Environment (Protection) Act, 1986, requiring appraisal of all projects in CPA/SPA at the central level and it is binding on the MoEF&CC while it is not being fully observed by the authorities concerned. Projects located in the CPA/SPA requires to be appraised as Category A projects at the central level by the Sectoral Expert Committee, even otherwise building construction projects located in CPA/SPA have to be appraised at the central level due to the applicability of general conditions as stipulated in the EIA Notification, 2006.
22. As per Para 7(i)III(i)(d), of the EIA, 2006 (Original - unamended), all Category A and B, Building and Construction projects or Area Development Projects and Townships (Item 8) were exempted from 'Public Consultation'. The EIA, 2006 was amended by the MoEF&CC vide Notification dated 1.12.2009 wherein the MoEF&CC withdrew the complete exemption from public consultation granted to building and constructed projects. And whereinafter such public consultation were made mandatory for Category A Building Construction Projects. That building construction projects as *per se* are Category B projects and the only manner in which they can be Category A is by the application of GC and in no other manner.
23. Para 7(i)III(i)(d) of the EIA, 2006 – before Amendment, All category A and Category B projects or activities shall undertake public consultation, except the following:

“d. all building and construction projects or Area development projects and Townships (item 8)”

Para 7(i)III(i)(d) of the EIA, 2006 – Post Amendment, All category A and Category B projects or activities shall undertake public consultation, except the following:

“d. all building and construction projects or Area development projects (which do not contain any Category A projects and activities) and Townships (item 8(a) and 8 (b) in the Schedule to the notification”

Thus, the 2009 Amendment indicates the understanding of the Respondent MOEF itself that certain Building projects would be Category A, and hence require a Public Consultation. Any other interpretation would render the said Amendment qua Para 7(i)III(i)(d) as redundant, superfluous and nugatory.

24. The Hon'ble Supreme Court in the case of *IN RE: Construction of Park at Noida Okhla Bird Sanctuary, (2011) 1 SCC 744* felt the need that certain entries in the Schedule to the EIA, 2006 were described ambiguously and while considering the issue as to whether General Conditions apply to Building and Construction projects directed that -

“...the question of application of the general conditions to the projects/ activities listed in the Schedule also needs to be put beyond any debate or dispute”.

EIA, 2006 (2014 Amendment)

The MOEF thereafter issued Notification dated 22.12.2014 whereby the EIA, 2006 was amended and interalia a Note 2 was inserted in the 5th Column of Item 8, Schedule EIA which specifically stated that '*General Conditions shall not apply*'. The said Notification dated 22.12.2014 was quashed vide Judgment dated 6.03.2024 by the Hon'ble High Court of Kerala in '*One Earth One life v. MOEF*', WP (C) No. 3097 of 2016.

The Relevant portion of the said Judgment dated 6.03.2024 is extracted as under:

“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.”

Therefore, the Applicant submits that post the quashing of the MOEF Notification dated 22.12.2014, *General Conditions* are undisputedly applicable, and all such projects in Schedule 8 located in a CPA/SPA, Eco sensitive areas ought to be appraised and evaluated at the Central Level.

25. It is further contended that the mandate of the EIA, 2006 is to ensure Environmental protection and uphold citizens' fundamental rights under Article 21 of the Constitution of India. The aim and objective of the EIA, 2006 is to assess the impact that a project or activity would have upon the environment and to ensure protection of the environment in the face of development. Thus, the rule of reasonable interpretation in conjunction with liberal/ purposive construction ought to be applied whereby that approach for interpretation must be applied which advances the objectives and legislative intent behind issuance of the EIA, 2006.

This Tribunal in *Vikrant Tongad v. DTTC*, [2015 SCC Online NGT 3 (judgment dated 12.02.2015)], *Karukampally Vijayan Biju v. UOI*, [2017 SCC Online NGT 1296 (Judgment dated 27.07.2017)] and *M/s Ardent Steel Limited v. MoEF*, Appeal No. 05/2014 (Judgment dated 27.05.2014) have accepted

this approach of liberal interpretation of the entries mentioned in the Schedule to the EIA, 2006 and held as under:

Vikrant Tongad v. DTTC (2015 SCC Online NGT 3)

“18. Having deliberated upon the relevant provisions of the Regulations of 2006, now we would deal with the principles applicable to interpretations of such Entries. The Hon'ble Supreme Court in its various judgments has stressed upon the liberal interpretation of a statute, if it is a social welfare legislation. For instance, in the case of The Authorised Officer, Thanjavur v. S. Naganatha Ayyar, (1979) 3 SCC 466, the Court held that:

“1. While dealing with welfare legislation of so fundamental a character as agrarian reform, the court must constantly remember that the statutory pilgrimage to ‘destination social justice’ should be helped, and not hampered, by judicial interpretation.”

In the case of Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation, (1985) 4 SCC 71, the Court held that:

“4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and ‘Human Rights’ legislation are not to be put in procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its mis-application must be recognised and reduced. Judges ought to be more concerned with the ‘colour’, the ‘content’ and the ‘context’ of such statutes.”

In the case of Securities and Exchange Board of India v. Ajay Agarwal, (2010) 3 SCC 765, the Court held that:

“41. It is a well known canon of construction that when Court is called upon to interpret provisions of a social welfare legislation the paramount duty of the Court is to adopt such an interpretation as to further the purposes of law and if possible eschew the one which frustrates it.”

19. The Courts have also evoked the principle of purposive construction in relation to social welfare legislations. The statute and its provisions have to be given an expanded meaning that would tilt in favour of the object of the Act, curing or suppressing the evil by enforcing the law. While interpreting an Entry in a Schedule to an Act, the ordinary rule of construction requires to be applied to understand the Entries. There is a functional difference between a body of the statute on the one hand and the Schedule which is attached thereto on the other hand. The Sections in these Acts are enacting provisions. In contrast, the Schedule in an Act sets down things and objects and contains their names and descriptions. The sections of and the Schedule to the Act, have to be co-jointly read and construed, keeping in view the purpose and object of the Act while keeping a clear distinction between a fiscal and a social welfare legislation in mind. Social welfare programmes projected by the State and object of the statute are of paramount consideration while interpreting and construing such Entries. The law is always intended to serve the larger public purpose. In fact, welfare of the people is the supreme law and an enacted law should be administered lawfully, i.e., salus populi est suprema lex. It is not possible even for the legislature to comprehend and provide solution to all the evils or obstacles that are likely to arise in implementation of the enacted laws. Therefore, the Tribunal must adopt an approach for interpretation of these Entries which would further the cause of the Act and the intent of the legislation and be not unduly influenced by the rule of restricted interpretation.

30. Thus, clearly, the mandate of the Regulations of 2006 is to ensure protection of environment and ecology in face of rapid developmental activities, which are even the need of the hour. Since the object of the Regulations of 2006 is to provide developmental activities while ensuring presence of a safer environment, it can be termed as welfare legislation. Thus, the rule of reasonable constructions in conjunction with the liberal construction would have to be applied...

33. In case of a social or beneficial legislation, the Tribunal should adopt a liberal or purposive construction as opposed to the rule of literal construction. The words used therein are required to be given a liberal and expanded meaning. The object and purpose of the Act of 1986 and the Schedule of Regulations of 2006 thereto was held to be of utmost relevance. In the case of present kind, if no checks and balances are provided and expert minds does not examine and assess the impacts of such projects or activities relating to development, consequences can be very devastating, particularly environmentally. Normally, the damage done to environment and ecology is very difficult to be redeemed or remedied. Thus, a safer approach has to be adopted to subject such projects to examination by Expert Bodies, by giving wider meaning to the expressions used, rather than to frustrate the object and purpose of the Regulations of 2006, causing irretrievable ecological and environmental damage. ”

Karukampally Vijayan Biju v. UOI, (2017 SCC Online NGT 1296)

“22. The reasoning given by the High Court can be safely adopted by the Tribunal to arrive at the conclusion that the expression ‘pesticide’ takes within its ambit insecticides as well. The expression ‘pesticide’ appearing in Entry-5(b) must receive liberal construction. The Act of 1986 and the Notification of 2006 is social welfare legislation and has been primarily enacted to protect the environment and public health. An interpretation which would further the cause and object

should be adopted in contradistinction to an interpretation which would frustrate the object of the Act.”

M/s Ardent Steel Limited v. MoEF & Anr., (Appeal No. 05/2014)

“13.. From the above discussion, it is clear that to an Entry of the Schedule of a social welfare legislation, the principle of reasonable and/or liberal construction should be adopted to ensure that the object and purpose of the Act is undefeated by such interpretation. Most suitable interpretation would be one which would further the cause of the Act and ensure prevention and control of pollution rather than provide escape route to the industry from taking anti-pollution measures and complying with the provisions of the Act.”

26. The contention of the applicant is that there is no ambiguity on the issue as to whether ‘General Conditions’ apply to Item 8 of the Schedule to the EIA, 2006, in as much as, the intention vide the 2009 Amendment ostensibly indicates and supports the same, and the 22.12.2014 Amendment stating that GC does not apply has been quashed. However, even otherwise, a view that GC apply is in consonance with the intent and purpose of the EIA, 2006 which is a social welfare legislation, and also the directions passed by this Tribunal in OA No. 1038 of 2018 wherein certain areas requires a higher degree of scrutiny and expert appraisal.
27. That Building and constructions projects located in CPA/SPA, Eco-sensitive areas were being continued to be appraised at the State level due to the operation of the MOEF Amendment Notification dated 22.12.2014 whereby GC was made not applicable to Schedule 8, however post the quashing of the Notification dated 22.12.2014, GC is undisputedly applicable, and all such projects in Schedule 8 located in a CPA/SPA, eco-sensitive areas ought to be appraised and evaluated at the Central Level by sector specific EACs.

28. The EIA, 2006 categorizes projects into Category 'A' and 'B'. Category 'A' projects require EC from Central sector-specific EAC, while Category 'B' projects require EC from State SEACs/ SEIAAs. This classification is based on potential environmental impacts, with projects having higher environmental impacts being assessed centrally and those with lesser impacts assessed at the State level.
29. The members of the EAC/SEACs comprise of Expert and Professionals who are appointed on the basis of the qualifications mentioned in Appendix VI, EIA, 2006, whereby the members of the EAC shall be experts and only in the event that Experts are not available, professionals made be considered. Conversely, the members of the State SEACs are not required to be Experts as such, and can constitute professionals, despite the availability of Experts.
30. The Respondent, MOEF has constituted 8 (eight) Expert Appraisal Committees which deal with sector specific projects under the EIA Notification, 2006 that are of more serious and significant in nature. The EACs at the Central level constitutes of members with greater competence and knowledge than the State Level Expert Appraisal Committee. A Higher level of expertise is needed for appraisal of building and construction projects in CPA/SPA areas, and sector specific EAC would be much better suited to appraise potential ecological damage and considered the impact assessment of the project submitted by the project proponent, as the said sector specific EAC would include all expert members qua the sector for which EC is being sought.
31. It is further contended that by allowing the Category 'A' projects to be appraised at the SEAC level, substantially dilutes the standard of assessment, evaluation and appraisal of violation projects that were initially sought to be done by sector specific Expert appraisal committees

which are only available at the central level. The sector specific EACs constitute of experts in the particular sector and opposed to the SEACs at the state level which do not constitute experts from a particular sector, but comprises of a homogeneous mix of experts and professionals from different sectors. Since building and construction projects located in a CPA/SPA have a higher and larger magnitude in terms of the potential adverse impact on the environment, an expert scrutiny with a higher level of expertise is needed for appraisal of building and construction projects in CPA/SPA areas.

32. Sectoral specific EAC for Infrastructural projects would be much better suited to appraise the Environmental Impact Assessment Report (EIA)/ Environmental Management Plan (EMP) submitted by the project proponent, as the said sector specific EAC would include all expert members qua the Building sector. It is submitted that the said Building sector specific would correctly and more accurately identify the possible ramifications on the Environment damage and recommend measures to mitigate the same.
33. The submission of the MoEF&CC are that the scrutiny by at the central and state level is the same but the notification dated 14.09.2006 issued by the MoEF&CC prescribes different criteria and qualification which is quoted as below :-

“COMPOSITION OF THE SECTOR/ PROJECT SPECIFIC EXPERT APPRAISAL COMMITTEE (EAC) FOR CATEGORY A PROJECTS AND THE STATE/UT LEVEL EXPERT APPRAISAL COMMITTEES (SEACs) FOR CATEGORY B PROJECTS TO BE CONSTITUTED BY THE CENTRAL GOVERNMENT

The Expert Appraisal Committees (EACs) and the State/UT Level Expert Appraisal Committees (SEACs) shall consist of

only professionals and experts fulfilling the following eligibility criteria:

Professional: The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA/MSc Degree, or (ii) in case of Engineering /Technology/Architecture disciplines, 4 years formal training in a professional training course together with prescribed practical training in the field leading to a B.Tech/B.E./B.Arch. Degree, or (iii) Other professional degree (e.g. Law) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional association (e.g. Chartered Accountancy), or (v) a University degree , followed by 2 years of formal training in a University or Service Academy (e.g. MBA/IAS/IFS). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

Expert: A professional fulfilling the above eligibility criteria with at least 15 years of relevant experience in the field, or with an advanced degree (e.g. Ph.D.) in a concerned field and at least 10 years of relevant experience.

Age: Below 70 years. However, in the event of the non-availability of /paucity of experts in a given field, the maximum age of a member of the Expert Appraisal Committee may be allowed up to 75 years.

2.7 The Members of the EAC shall be Experts with the requisite expertise and experience in the following fields or /disciplines. In the event that persons fulfilling the criteria of “Experts” are not available, Professionals in the same field with sufficient experience may be considered:

- *Environment Quality: Experts in measurement, monitoring, analysis and interpretation of data in relation to environmental quality.*
- *Sectoral Project Management: Experts in Project Management or Management of Process or Operations or Facilities in the relevant sectors.*

⁷ Para substituted vide S.O. 1737 (E) dated 11th October, 2007; word in Para-2 amended & point-4 inserted vide S.O. 2600(E) 9th October, 2014 and amended vide S.O. 3752 dated 20.10.2020

- *Environmental Impact Assessment Process: Experts in conducting and carrying out Environmental Impact Assessments (EIAs) and preparation of Environmental Management Plans (EMPs) and other Management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process*
- *Risk Assessment*
- *Life Science (Floral and Faunal Management)*
- *Forestry and Wildlife*
- *Environmental Economics with experience in project appraisal*
- *Public Administration or Management covering various developmental sectors and environmental issues.*

3. *The Membership of the EAC shall not exceed 15 (fifteen) regular Members. However, the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.*

4.⁸ *The Chairperson shall be an eminent person having experience in environmental policy related issues, in management or in public administration dealing with various developmental sectors.*

5. *The Chairperson shall nominate one of the Members as the Vice Chairperson who shall preside over the EAC in the absence of the Chairman / Chairperson.*

6. *A representative of the Ministry of Environment and Forests shall assist the Committee as its Secretary.*

7. *The maximum tenure of a Member, including Chairperson, shall be for 2 (two) terms of 3 (three) years each.*

Provided that wherever considered necessary and expedient, the Central Government may extend the term of such member for a further period not exceeding twelve months⁹.

8. *The Chairman / Members may not be removed prior to expiry of the tenure without cause and proper enquiry.”*

34. The notification says that the members of the EAC shall be experts with the requisite expertise and experiences in the field quoted in the notification which is different from the minimum qualification of the

⁸ Omitted vide S.O. 1737 dated 11th October, 2007; and inserted vide S.O. 2600(E) dated 9th October, 2014

⁹ Entry inserted vide notification number S.O 1562 (E) dated 21st May 2020; Substituted word vide S.O 3752 (E) dated 20th Oct, 2020

professionals. In the EAC there are Expert Appraisal Committee while SEAC shall consists the professionals and it shall fulfilling the conditions which are different in category in professional and the experts. The Experts eligibility criteria are at-least 15 years of relevant experience in the field are with an advance degree i.e. Ph.D in a concerned field and at-least 10 years of relevant experience while the qualification of the professionals are 5 years of formal university training in the concerned discipline leading to a M.A./M.Sc. degree. Which is lesser qualification than the experts.

35. The submission of the learned counsel for the RSPCB Mr. Rohit Sharma are that the matter is with regard to the work of issuing EC which is to be dealt by the MoEF&CC and SEIAA and PCB has no concern with the above activities. Similarly, the CPCB has submitted that the CPCB has revised CEPL evaluation methodology that Central Pollution Control Board (C.P.C.B.) carried out a Comprehensive Environmental Pollution Index (C.E.P.L.) Monitoring of the Industrial Clusters in the country in association with I.LT. Delhi in 2009. Based on C.E.P.I., a total of 88 industrial clusters were identified as Polluted Industrial Areas (P.I.As). Out of the identified 88 P.LAs, 43 industrial clusters were having a CEP.1. score of more than 70 and are categorized as Critically Polluted Areas (CPAs); and 32 industrial clusters with C.E.PL. scores between 60 & below 70 are categorized as Severely Polluted Areas (S.P.As)
36. Further, the CPCB revised C.E.P.I. evaluation methodology in concurrence with the MoEF&CC and issued directions on 26/4/2016 to all SPCBS/PCCs for adoption of the revised C.E.P.I. methodology, which also includes preparation of action plans for C.P.As and S.P.As by respective SPCBs/PCCs and it is further submitted that the CPCB is not involved the

process of granting Environmental Clearance, thus, no further reply is required.

37. Submission of the learned counsel Ms. Parul Bhadoria - State Pollution Control Board, Madhya Pradesh are that the compliance of the EIA Notification, 2006 or to the Ministry of Environment, Forest and Climate Change and PCB are not involved in the grant of environmental clearance and the imposition of conditions of the EC and further that the same is within the domain of MoEF&CC and SEIAA.
38. Hon'ble the Supreme Court of India, in re-construction of park at Noida Okhla Bird Sanctuary (2011), 1SCC Page 744, felt the need of the entries in the schedule to the EIA 2006 and described the ambiguity while considering the issue as to whether general condition apply to building and construction projects directed that the question of application of the general condition to the projects activities listed in the schedule also needs to be put beyond any debate or dispute and referred the construction of the park project to MoEF&CC to appraised by Sectoral Specific Expert Appraisal Committee at Central Level considering the importance of location of the project near the Okhla Bird Sanctuary, an ecologically protected area and thereby indirectly applied general condition to the project. The EIA 2006 categorizes projects activities into Category A and B. Category A projects are appraised at Central Level by Sectoral Specific EAC, while Category B Projects are appraised at State Level by SEAC and not by a Sectoral Specific SEAC.
39. The classification is based on potential environmental impacts, with projects having higher environmental impacts assessed at central level and those with lesser impacts are assessed at the state level. Building and construction projects which are located within 5 km within of (i) Ecologically protected areas (ii) CPA/SPA (iii) Eco-sensitive areas (iv) Inter-

state boundaries and international boundaries and have a higher and larger magnitude in terms of potential adverse impacts on the environmental and therefore, a greater level of in-depth scrutiny is needed for appraisal of such building and construction projects and for which sectoral specific appraisal is needed at central level by sectorial specific experts who are part of sectorial specific EAC. There are eight (8) sectoral specific EAC at central level and each of the sectoral specific EAC appraises and deals with specific project activity as per the EIA 2006.

40. In view of the above submissions, arguments and records and notification, we are of the view that after quashing the notification dated 22.12.2014, vide order dated 06.03.2024, in W.P.(C) No. 3097/2016, GC is undisputedly applicable and all such projects in Schedule 8 of EIA 2006 located within 5 km. of ecologically protected areas, CPA/SPA, eco-sensitive areas, inter-state boundaries and international boundaries are to be appraised and evaluated at the central level by sector specific EAC.
41. Accordingly, we direct the MoEF&CC to strictly enforce the notification dated 14.09.2006 attached to Category 8 in the note general conditions and we direct the MoEF&CC to appraise all those building and construction projects that are located in whole or in part within 5 km. of the protected area notified under the Wildlife (Protection) Act, 1972, critically polluted areas and severely polluted areas as identified by the CPCB, eco-sensitive areas notified under Section 3(2) of the Environment (Protection) Act, and the projects located at inter-state boundaries as Category A projects and to be appraised by the central level by the Sectoral Expert Appraisal Committee.
42. The MoEF&CC is directed to strictly comply the notification or to make a clarity by issue of notification. The copy of the order be communicated to

the MoEF&CC for clarification and issue of necessary notification or to comply the EIA, Notification, 2006 in letter and spirit.

43. With these observations the application is allowed and **Original Application no. 93/2024** stands **disposed of** accordingly.

Sheo Kumar Singh, JM

Dr. A Senthil Vel, EM

09th August, 2024
O.A No. 93/2024(CZ)
PN

750 ANNEXURE-2

Item No.13

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

ORIGINAL APPLICATION NO.38 OF 2025 (WZ)

M/s Achalare Realtors Pvt. Ltd.

.....Applicant

Versus

MoEF&CC & 3 Ors.

....Respondents

Date of hearing: 30.04.2025

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Saurabh Kulkarni, Advocate
Respondents : Mr. Aniruddha Kulkarni, Advocate for R-2/SEIAA
Mr. Shubham Rathod, Advocate and
Mr. Rahul Garg, Advocate for R-3/CPCB
Ms. Pooja Natu, Advocate h/f
Ms. Manasi Joshi, Advocate for R-4/MPCB

ORDER

1. We are passing this order in continuation to the earlier orders dated 21.03.2025 and 07.04.2025.
2. From the side of Respondent No.2- SEIAA, reply affidavit dated 29.04.2025 has been filed, wherein in para no.8, it is submitted that SEIAA is willing to consider the application for grant of EC of the present applicant, once it receives clarification regarding the latest CEPI scores in the State of Maharashtra and once the issue regarding applicability of the order dated 09th August, 2024 in Original Application No.93/2024 passed by the Bhopal Bench of this Tribunal to the State of Maharashtra, is clarified.

3. It is also mentioned in this affidavit by Respondent No.2 that SEIAA considered the proposal of the Project Proponent on 13th August, 2024 and observed that the Bhopal Bench of this Tribunal in O.A. No.93/2024 had passed an order dated 09th August, 2024 regarding applicability of the General Conditions to EIA Notification 2006 - Category 8 projects, whereby directions were issued to the MoEF&CC to appraise all those building and construction projects, that are located in whole or in part within 5 kms. of “... Critically Polluted Areas (CPAs) and Severely Polluted Areas (SPAs) as identified by the CPCB”.

4. It is also mentioned in this affidavit by Respondent No.2 that according to the satellite map, the project of the applicant is within 2.12 km. from the boundary of PCMC, which is within 5 km, as stated in the general conditions of the EIA Notification, 2006. Based on this, SEIAA in Minutes of 269th meeting held on 03rd November, 2023 decided to defer the proposal in view of the order of NGT, Bhopal Bench.

5. A perusal of above-mentioned conditions would show that any project or activity specified in Category- 'B' will be appraised at the Central Level as Category 'A' if it is located in whole or in part within 5 kms. from the boundary of Critically Polluted Area as identified by the Central Pollution Control Board (CPCB).

6. In the case in hand, learned counsel for the applicants has provided a copy of the Comprehensive Environmental Pollution Index (CEPI) in descending order along-with status of environment of Industrial Areas/Clusters monitored by CPCB during 2018, which has been downloaded from the website of CPCB, Delhi (http://www.cepi.cpcb.gov.in/cpcb_cepi/doc/CEPI2018scoresinascendingorderupload.pdf) wherein at serial no.86, in Column 2, the name of

Polluted Industrial Areas (PIAs) is recorded to be Pimpri- Chinchwad and its CEPI Score is recorded in Column 7 as 52.16 and Column 9 has category of PIA Recorded as “OPA” (Other Polluted Areas) and not “CPA”(Critically Polluted Area).

Central Pollution Control Board, Delhi

The Comprehensive Environmental Pollution Index (CEPI) in descending order, along-with status of environment, of Industrial Areas/Clusters monitored by CPCB, during 2018

Sl No.	Name of Polluted Industrial Areas (PIAs)	State	Air EPI	Surface Water EPI	Land EPI	CEPI Scores	# Status of Environment	Category of PIA
86.	Pimpri- Chinchwad	Maharashtra	52.00	6.25	5.25	52.16	As_Wn_Ln	OPA

7. We also find mention in the e-mail dated 02.09.2024, at page 231 of the paper book, sent by Director & DH- IPC - VI & VII, CPCB in response to queries raised by CREDAI Pune Metro that as per the revised methodology 2016, PIA (Polluted Industrial Areas) are classified based on CEPI Score as follows:-

S.No	CEPI Score	Categorization of Industrial Areas
1.	70 and above	Critically Polluted Areas
2	60 and above - below 70	Severely Polluted Areas
3.	Less than 60	Other Polluted Areas

8. Perusal of above documents make it quite clear that the Pimpri-Chinchwad area is not a “CPA-Critically Polluted Area”. Therefore, the SEIAA ought to have considered the project without waiting for any response from the CPCB.

9. From the side of Respondent No.3- CPCB, learned counsel Mr. Shubham Rathod, holding brief of learned counsel Mr. Rahul Garg, has appeared and states that he has appeared in this case before this Tribunal for the first time, pursuant to the notice received. But we find no ground to grant adjournment in this matter for filing reply affidavit from their side

because the only thing, which we had enquired from him, as to whether the information, which has been submitted regarding the Comprehensive Environmental Pollution Index (CEPI), which has been downloaded from the website of CPCB, Delhi is correct or not? Later on, he has given his answer that the score, which is given in the document, extended by the applicant, is correct document.

10. In view of our observations above, we are of the view that the present application needs to be disposed of and is accordingly disposed of with a direction that SEIAA shall consider the application of the applicant for environmental clearance within one month from the date of uploading of this order.

11. Pending I.A., if any, also stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 30, 2025

ORIGINAL APPLICATION NO.38 OF 2025 (WZ)

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4803 OF 2025

1. CREDAI Pune Metro
Through its secretary Mr. Ashwin .
Trimal Having its office at T-1, T-2
and T-3, 3rd Floor, Nucleus
Jeejeebhoy Towers Church Road,
Pune 411 011.

2. Shakuntal Developers A.
partnership firm Having their
address: Office 110 111 112, Jai
Ganesh Samrajya H Wing, Spine
Road, Bhosari, Pune 411 039

3. M/s Meridian (Association of
Persons) Having address at:
S.No. 37/1/1, 37/1/1 (P) + 37/1/1,
37/1/1/ (P) Plot No.1, Village
Baner, Taluka Haveli, District Pune

... Petitioners

Versus

1. The State of Maharashtra
Through its Secretary Ministry of
Environment and Climate Change,
having office at Mantralaya,
Mumbai 400 020.

2. State Environment Impact
Assessment Authority,
Maharashtra Through its
Secretary Having address at
Mantralaya, Mumbai 400 020.

3. Union of India, Through the
Secretary Ministry of Environment,
Forest and Climate Change Having

address at Indira Paryavaran
Bhawan, Jorbagh Road, New Delhi. 110 003.

4. Maharashtra Pollution Control Board
Through the Secretary
Having address at Kalpataru Point,
3rd and 4th Floor, Sion Circle,
Mumbai 400 022

.... Respondents

Mr. Nikhil Sakhardande, Senior Advocate with Mr. Pralhad Paranjpe a/w
Mr. Aditya Mhase with Mr. Ativ Patel and Viloma Shah i/b. AVP
Partners for the Petitioner.

Mr. O.A. Chandurkar, Addl.G.P. with Mrs. G.R. Raghuwanshi, AGP for
Respondent No.1.

Ms. Jaya Bagwe for Respondent No.2 (SEIAA. and Respondent No. 4
(MPCB.

**CORAM : ALOK ARADHE, CJ &
M.S.KARNIK, J.**

DATE : 30th APRIL, 2025

ORDER [PER M.S. KARNIK, J.] :

1. The petitioner–CREDAI Pune Metro and others invoke the jurisdiction of this Court under Article 226 of the Constitution of India seeking directions to respondent no.2-State Environment Impact Assessment Authority, Maharashtra to decide upon the proposals received by it for seeking Environmental Clearance (“EC”) in Pimpri-Chinchwad area by considering the present day Comprehensive

Environmental Pollution Index (“CEPI”) scores as updated/published by respondent no.4- Maharashtra Pollution Control Board (“MPCB”) in accordance with Email dated 02/09/2024 issued by Central Pollution Control Board (“CPCB”), independent of and without relying upon the notification dated 29/01/2025 issued by respondent no.3.

2. We have heard Shri Sakhardande learned Senior Advocate for the petitioners, Shri Chandurkar learned Additional Government Pleader for respondent no.1 and Ms. Jaya Bagwe for respondents no. 2 and 4. Few facts necessary to be stated are thus:

3. Respondent No. 3 issued a notification stating that for construction projects mentioned in Category 'B' of the schedule to the EIA Notification, 2006, prior EC from relevant State Environment Impact Assessment Authority (“SEIAA”) (in the present case Respondent No. 2) was necessary, before commencement of the said construction project. Under EIA Notification, 2006, Entry 8(a) provides that building and construction projects with a built-up area of 20,000 sq. meters to 1,50,000 sq. meters are classified as Category 'B' and Entry 8(b) provides that township projects covering over 50 hectares or with a built-up area exceeding 1,50,000 sq.meters are classified as Category ‘B1’. Category

B1 project requires more detailed environmental assessment.

4. Respondent No. 3 vide office memorandum dated 24/05/2011 clarified that EIA Notification, 2006, as amended on 04/04/2011 for entry 8(a) & 8(b) of schedule to EIA Notification, 2006 the 'General Condition' as mentioned hereinabove would not apply. Respondent No. 3, through a notification dated 22/12/2014 further amended the EIA Notification, 2006. The amendment substituted Entry 8 relating to Building/Construction Projects, Area Development Projects, and Townships in the schedule. It was clarified that the 'General Conditions' would not apply to the projects listed under Entry 8(a) and 8(b).

5. The validity of the Notification dated 22/12/2014 issued by respondent no. 3 came up for consideration before the Kerala High Court which came to a conclusion that Notification dated 22/12/2014 had not been issued by following due process of law and therefore quashed and set it aside by granting liberty to respondent no. 3 to issue a fresh Notification by following due process of law. The Notification dated 22/12/2014 was set aside by Kerala High Court on 06/03/2024 which was almost after 10 years of the said Notification being in existence. Respondent No.2 – SEIAA in its 279th meeting held on 13/08/2024 deferred the proposal seeking EC of many members.

6. The CPCB vide its email dated 02/09/2024 clarified the position of the petitioners wherein it has stated that CEPI scores are dynamic and cannot be static. Since there was no positive response to the representations, the petitioners were constrained to approach this Court by preferring Writ Petition No. 501 of 2025. During the hearing held on 03/02/2025, respondent no.3 placed on record a Notification dated 29/01/2025 issued by respondent no.3 i.e. Ministry of Environment Forest and Climate Change. Respondent no.3 vide the said Notification amended the schedule to the erstwhile Notification dated 14/09/2006 excluding the applicability of General Conditions to Projects falling under category 8(a) and 8(b). In view of above, Writ Petition No. 501 of 2025 was disposed of.

7. Thereafter the Hon'ble Supreme Court of India in WP(C) No. 166 of 2025 preferred by one Vanashakti, vide its order dated 24/02/2025 stayed the operation and implementation of the Notification dated 29/01/2025.

8. Learned Senior Advocate for the petitioners submitted as under:-
That the petitioners addressed a representation dated 17/03/2025 to respondent no.2 pointing out that the area of Pimpri-Chinchwad is

neither severely nor critically polluted which is evident from the CEPI score communicated by CPCB via Email dated 02/09/2024. CPCB clarified that a sub-index score alone (air, land or water) cannot determine pollution status; only the overall CEPI score is determinative. The latest CEPI score for Pimpri-Chinchwad (December 2023) as per MPCB is 32.52, which is well below the threshold for “critically/severely polluted” classification. The proposals of CREDAI members were deferred again by SEIAA on an erroneous assumption that Pimpri-Chinchwad is critically/severely polluted, contrary to the CPCB clarification. In view of the High Court’s directions dated 03/02/2025 and the clarifications, respondent no. 2 SEIAA was bound to take a decision expeditiously on the pending EC proposals. That deferring of the proposals for grant of environmental clearance by respondent no,2- SCIAA is arbitrary and contrary to the Notification, 2006. That CPCB itself in its reply dated 02/09/2024 has clarified that Pimri-Chinchwad area is not critically polluted or severely polluted and the latest CEPI score for 2024 was 32.52 as per MPCB report dated 23/01/2024 which is significantly below the threshold required for such classification. The deferral is not only arbitrary but also contrary to the express provisions of EIA notification. That the SEIAA has erred in concluding that the project falls within 5 km of Critically Polluted Areas

and Severely Polluted Areas as identified by CPCB while deferring the proposals. It is submitted that SEIAA has failed to exercise its jurisdiction under the EIA notification, 2006. As per the scheme of EIA Notification, 2006, projects must be appraised by the authority having jurisdiction based on their category and location. Since the petitioner's project is a Category B project located in an area that is not Critically Polluted or Severely Polluted, respondent no. 2 SEIAA is the appropriate authority for its appraisal. That the deferral of the petitioners's project, without lawful jurisdiction and in contravention of statutory provisions, amounts to a failure on the part of SEIAA to exercise its jurisdiction.

9. Learned counsel Ms.Bagwe appearing for respondents no. 2 and 4 opposes the petition. It is submitted that respondent no.2 has to obtain necessary clarification from CPCB and response of CPCB is awaited. It is submitted that it is only after that necessary clarifications are forthcoming from the CPCB that the proposals made by the member of petitioner can be considered.

10. In our opinion, consideration of the proposals received by respondent no. 2 from the member of the petitioner cannot be indefinitely deferred. The deferment of the consideration of the

proposals of the petitioners in this manner is not justified. The petitioners have right to have its proposals considered in accordance with law within a reasonable time. We are inclined to grant reasonable time to the respondent no.2 to obtain necessary clarification from CPCB. However, we are not inclined to accede to the request made by learned counsel Ms.Bagwe that respondent no.2 will consider the proposal after the necessary clarification are forthcoming from the CPCB.

11. The Hon'ble Supreme Court vide order dated 24/02/2025 has stayed the operation and implementation of the Notification dated 29/01/2025. According to the petitioners, proposals made by the member of the petitioner seeking EC need to be considered on the basis of present day CEPI scores as updated /published by respondent no,4-MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB.

12. In such view of the matter, we are inclined to dispose of this petition by issuing the following direction.

The proposals made by the petitioner seeking EC from the respondent no, 2-SCIAA be considered in accordance with law on the basis of the present day CEPI scores as updated

/published by respondent no.4- MPCB for Pimpri-Chinchwad area in accordance with Email dated 02/09/2024 issued by CPCB or in accordance with the clarification if received from CPCB, within a period of eight weeks from the date of uploading of the order.

13. We may not be understood to have made any observations on merits of the rival contentions.

14. The writ petition is disposed of in the above terms.

(M.S.KARNIK, J.)

(CHIEF JUSTICE)