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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

IN

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

ADDITIONAL OBJECTIONS TO THE REPORT DATED
18.03.2021

MOST RESPECTFULLY SHOWETH:

1. That the Appellant is filing the additional objections to the report dated 18.03.2021 filed by Joint committee in compliance of the Hon'ble Tribunal's Order dated 08.09.2020. The objections date 11.06.2021 (pages 1356 to 1380 may be read as part and parcel to these additional objections and is not repeated here for the sake of brevity.
2. Following are the additional objections to the report:

A. Composition of Joint Committee

S.No.	Name and Designation	Nominee/Department	As per Hon'ble Tribunal	Report signed by
1.	Sh. Kaushlesh Pratap Singh, IFS, Regional Officer	Chairman of Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore	Joint Secretary or equivalent	Sh. Kaushlesh Pratap Singh, IFS
2.	Dr. D. H . Madhadev Commissioner	Representative of BDA	CEO	Sh. B. A. Shivananda, Superintending Engineer
3.	Shri Vijaykumar	Representative of	Member	Shri Brijesh

	Gogi, IFS (Subsequently replaced by Shri Brijesh Kumar, IFS due to transfer) Principal Secretary to Govt. (Ecology and Environment) Forest Ecology and Environment Department	SEIAA Karnataka and Karnataka Wetland Authority	Secretary	Kumar
4.	Shri H.L. Prasanna, Engineer in Chief	Representative of Minor Irrigation and Ground Water Development Department	Chief Engineer	Sh. Jagadish B.K, Asst. Engineer, Minor Irrigation
5.	Shri R. Prasad (Subsequently replaced by Sh. H.N. Raghu due to transfer) Additional Director Town and Country Planning	Representative of BBMP	CEO	Sh. B. Manjesh, Joint Director, Town and Country Planning
6.	Sh. M. K. Prabhudev, Chief Environment Officer	Representative of KSPCB	Member Secretary	Sh. M. K. Prabhudev, Chief Environment Officer
7.	Sh. G. Thirumurthy (Subsequently replaced by Smt. Sowmya, Scientist D due to transfer) Additional Direction Scientist E	Representative of CPCB	Regional Director/Scientist E	Smt. Sowmya, Scientist D
8.	Sh. David Soraswamy, Survey Supervisor,	Representative of Department of Revenue (Land Records)	Collector	Sh. David Soraswamy
9.	Dr. Murli Krishna,	Co-opted member of IRO, MoEFCC,		Dr. Murli

	Joint Director Scientist D	Bangalore		Krishna
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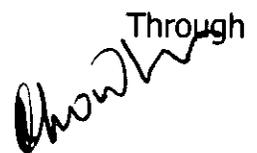
B. BUFFER ZONE AND DISTANCE FROM THE LAKE PERIPHERY TO CONSTRUCTED TOWERS:

C. KAIKONDARAHALLI LAKE AS WETLAND AND MEAN HIGH FLOOD LEVEL

The Appellant is relying on the submissions made in the Objection to the report dated 11.06.2021 (Page 1356 to 1380) and earlier Submissions made. The Appellant is also relying on the Wetland (Conservation and Management) Rules 2010, Wetland (Conservation and Management) Rules 2010 and Guidelines for implementing Wetland (Conservation and Management) Rules 2017 by Ministry of Environment, Forest and Climate Change, Government of India. The of Wetland (Conservation and Management) Rules 2010, Wetland (Conservation and Management) Rules 2010 and Guidelines for implementing Wetland (Conservation and Management) Rules 2017 by Ministry of Environment, Forest and Climate Change, Government of India is annexed as **ANNEXURE A (COLLY)**. The Appellant is filing Order dated 06.12.2018 in OA 125 of 2017 Court on its own Motion Versus State of Karnataka as **Annexure B**.

D SIZE OF THE PROJECT

On size of the project, the Appellant has already responded however the Appellant is filing table mentioned in the Conceptual plan submitted before SEIAA. The chart mentioned in the Conceptual plan is filed as **Annexure C**.

Through


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THE WETLANDS (CONSERVATION AND MANAGEMENT) RULES, 2010*

In exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules for conservation and management of wetlands, namely:—

1. Short title and commencement.—(1) These rules may be called THE WETLANDS (CONSERVATION AND MANAGEMENT) RULES, 2010.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);

(b) "Authority" means the Central Wetlands Regulatory Authority constituted under rule 5;

(c) "Dredging" means an excavation activity or operation usually carried out at least partly underwater, in shallow sea or fresh water areas with the purpose of gathering up bottom sediments and disposing them off at a different location;

(d) "National Park" means an area declared, as National Park under section 35 or section 38, or deemed to be declared as a National Park under sub-section (3) of section 66, of the Wild Life (Protection) Act, 1972 (35 of 1972);

(e) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;

(f) "UNESCO" means the United Nations Educational, Scientific and Cultural Organisation;

(g) "wetland" means an area or of marsh, fen, peatland or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six metres and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wetland and the zone of direct influence on wetlands that is to say the drainage area or catchment region of the wetlands as determined by the authority but does not include main river channels, paddy fields and the coastal wetland covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. No. 114(E), dated the 19th February, 1991, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) of dated the 20th February, 1991;

(h) "wildlife sanctuary" means an area declared as a wildlife sanctuary under the provisions of Chapter IV of the Wild Life (Protection) Act, 1972 (35 of 1972) and shall include an area deemed to be sanctuary under sub-section (4) of section 66 of the said Act.

(2) The word and expressions used in these rules and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Protected wetlands.—Based on the significance of the functions performed by the wetlands for overall well being of the people and for determining the extent and level of regulation, the following wetlands shall be regulated under these rules, namely:—

*Vide G.S.R. 951(E), dated 4-12-2010, published in the Gazette of India, Ext., Pt. II, S. 3(i), dated 4-12-2010.

(i) wetlands categorised as Ramsar Wetlands of International Importance under the Ramsar Convention as specified in the Schedule;

(ii) wetlands in areas that are ecologically sensitive and important, such as, national parks, marine parks, sanctuaries, reserved forests, wildlife habitats, mangroves, corals, coral reefs, areas of outstanding natural beauty or historical or heritage areas and the areas rich in genetic diversity;

(iii) wetlands recognised as or lying within a UNESCO World Heritage Site;

(iv) high altitude wetlands or high altitude wetland complexes at or above an elevation of two thousand five hundred metres with an area equal to or greater than five hectares;

(v) wetlands or wetland complexes below an elevation of two thousand five hundred metres with an area equal to or greater than five hundred hectares;

(vi) any other wetland as so identified by the Authority and thereafter notified by the Central Government under the provisions of the Act for the purposes of these rules.

4. Restrictions on activities within wetlands.—(1) The following activities within the wetlands shall be prohibited, namely:—

(i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified *vide* S.O. No. 966(E), dated the 27th November, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically engineered organisms or cells notified *vide* G.S.R. No. 1037(E), dated the 5th December, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified *vide* S.O. No. 2265(E), dated the 24th September, 2008;

(iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules.

(2) The following activities shall not be undertaken without the prior approval of the State Government within the wetlands, namely:—

(i) withdrawal of water or the impoundment, diversion or interruption of water sources within the local catchment area of the wetland ecosystem;

(ii) harvesting of living and non-living resources;

(iii) grazing to the level that the basic nature and character of the biotic community is not adversely affected;

(iv) treated effluent discharges from industries, cities or towns, human settlements and agricultural fields falling within the limits laid down by the Central Pollution Control Board or the State Pollution Control Committee, as the case may be;

(v) plying of motorized boat, if it is not detrimental to the nature and character of the biotic community;

(vi) dredging, only if the wetland is impacted by siltation;

(vii) construction of boat jetties;

(viii) activities within the zone of influence, as per the definition of wetlands, that may directly affect the ecological character of the wetland;

(ix) facilities required for temporary use, such as pontoon bridges, that do not affect the ecological character of the wetland;

(x) aquaculture, agriculture and horticulture activities within the wetland;

(xi) repair of existing buildings or infrastructure including reconstruction activities;

(xii) any other activity to be identified by the Authority.

(3) Notwithstanding anything in sub-rule (1) or sub-rule (2), the Central Government may permit any of the prohibited activities or non-wetland use in the protected wetland on the recommendation of the Authority.

(4) The State Government shall ensure that a detailed Environment Impact Assessment is carried out in accordance with the procedures specified in the notification of the Government of India in the Minister of Environment and Forests S.O. No. 1533(E), dated the 14th September, 2006 as amended from time-to-time.

(5) No wetland shall be converted to non-wetland use unless the Central Government is satisfied on the recommendation of the Authority that it is expedient in the public interest and reasons justifying the decision are recorded.

5. Constitution of Central Wetlands Regulatory Authority.—(1) The Central Government, in exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), hereby constitutes Central Wetlands Regulatory Authority consisting of the following Chairpersons and members for the purpose of these rules, namely:—

- (a) Secretary, Ministry of Environment and Forests, Government of India — Chairperson;
- (b) a representative (not below the rank of Joint Secretary) from Ministry of Tourism, Government of India — Member *ex officio*
- (c) a representative (not below the rank of Joint Secretary) from Ministry of Water Resources, Government of India — Member *ex officio*
- (d) a representative (not below the rank of Joint Secretary) from Ministry of Agriculture, Government of India — Member *ex officio*
- (e) a representative (not below the rank of Joint Secretary) from Ministry of Social Justice, Government of India — Member *ex officio*

- (f) Chairman or his nominee, the Central Pollution Control Board — Member *ex officio*
- (g) Joint Secretary or Adviser, dealing with the wetland in the Ministry of Environment and Forests, Government of India — Member *ex officio*
- (h) Dr. Asad R. Rahmani, Director, Bombay Natural History Society, Hornbill House, Dr. Salim Ali Chowk, Shaheed Bhagat Singh Road, Mumbai-400 023; Expert Ornithology — Member
- (i) Dr. M.R.D. Kunadangar, Darul Aloom Qasmia Lane, Botshah Mohalla, Lal Bazar, Srinagar, Kashmir; Expert Limnology — Member
- (j) Dr. C.K. Varshney, 88 Vaishali, Pitampura, New Delhi-34; Expert Ecology — Member
- (k) Dr. E.J. James, Director, Water Institute, Karunya University, Coimbatore, Tamil Nadu; Expert Hydrology — Member

¹[* * *]

²[(2) The term of the Authority shall be upto 16th September, 2016.]

(3) The Authority shall exercise the following powers and perform the following functions, namely:—

(i) appraise proposals for identification of new wetlands, projects or activities in consultations with the concerned local authorities;

(ii) identify and interface with the concerned local authorities to enforce the provisions contained under these rules and other laws for the time being in force;

(iii) grant clearances or identify in consultation with the local State Government, the areas for the grant of clearance for regulated activities in the wetlands within their respective jurisdictions;

(iv) determine, in consultation with concerned local authority, the zone of direct influence of the wetlands;

(v) issue whatever directions, necessary for the conservation, preservation and wise use of wetlands to the State Governments.

(4) The Authority shall periodically review the list of wetlands and the details of prohibited and regulated activities under the rules.

(5) The Authority shall specify the threshold levels for activities to be regulated and the mode and methodology for undertaking activities in wetland.

6. Process for identification of wetlands under different categories.—(1) Wetlands covered under item (i) of rule 3 specified under Schedule shall be the wetland to be regulated under these rules.

(2) The States Government shall prepare, within a period of one year from the commencement of these rules, "Brief Document" identifying and classifying the wetlands within their respective territories in accordance with the criteria specified under rule 3 and submit the same to Authority.

1. Omitted by G.S.R. 617(E), dated 22-8-2014 (w.e.f. 26-8-2014).

2. Substituted by G.S.R. 481(E), dated 3-5-2016.

(3) The "Brief Document" of each wetland for identification shall comprise of following information, namely:—

- (i) broad geographic delineation of the wetland;
- (ii) its zone of influence along with a map (accurate and to scale);
- (iii) the size of the wetland;

(iv) account of pre-existing rights and privileges, consistent or not consistent with the ecological health of the wetland.

(4) The Authority, shall on receipt of the "Brief document" under sub-rule (2), if consider it necessary refer in consultation with the State Government to a research institute or university having relevant multi-disciplinary expertise related to wetlands, to conduct a comprehensive survey of the wetland within a period of thirty days:

Provided that the institute or university to which the matter has been referred under sub-rule (4) shall submit a report within next ninety days from the date of such reference to Authority, which shall contain information with respect to the criteria specified under rule 3.

(5) The Authority shall, thereafter, arrive at a decision in consultation with the State Government, on the proposal, within a period of ninety days from the date of receipt of the report under sub-rule (4).

(6) The Central Government shall on the receipt of the recommendation of the Authority notify the area of wetlands as recommended by the Authority for public information inviting objections and suggestions from the general public likely to be affected to make representation to the Central Government within a period of sixty days.

(7) The Authority shall consider all the representations which the Central Government may receive under sub-rule (6) and submit its recommendation on the such representations to Central Government within a period of sixty days for final notification.

(8) The Central Government shall on receipt of the recommendations of the Authority under sub-rule (7) issue a final notification notifying therein the area of the wetland its category or classification to be regulated under these rules and display the said notification in public places in English and vernacular languages.

(9) The Authority may, *suo motu* or on application made to it, review any decision under these rules or issue direction for inclusion of wetland under these rules.

7. Overlapping provisions.—(1) The wetlands within the protected areas of the National Parks and Wildlife Sanctuaries shall be regulated by the provisions of Wild Life (Protection) Act, 1972 (35 of 1972).

(2) The wetlands within the protected or notified forest areas shall be regulated by the provisions of the Indian Forest Act, 1927 (16 of 1927); the Forest (Conservation) Act, 1980 (69 of 1980); and the Environment (Protection) Act, 1986 (29 of 1986).

(3) The gaps in the regulation of wetlands within the protected and notified forest areas, if any, under the provisions of the Indian Forest Act, 1927 (16 of 1927); Wild Life (Protection) Act, 1972 (35 of 1972); and Forest (Conservation) Act, 1980 (69 of 1980); shall be plugged by invoking provisions of the Environment (Protection) Act, 1986 (29 of 1986).

(4) The wetlands situated outside the protected or notified forest areas referred to in sub-rule (2) shall be regulated by the relevant provisions of the Environment (Protection) Act, 1986 (29 of 1986).

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8. Enforcement of regulated activities.—(1) The identified activities for management and wise use of wetlands situated within the protected or notified forest areas referred to in sub-rule (2) of rule 7 shall be regulated by the Forest Department of the State concerned.

(2) The identified activities for management and wise use of wetlands situated outside the protected or notified forest areas shall be regulated by the nodal Department or the relevant local State agencies to be designated by the State Government within a period of six months from the date of commencement of these rules.

9. Appeals against the decisions of Authority.—Any person aggrieved by the decision of the Authority may prefer an appeal to the National Green Tribunal constituted under the National Green Tribunal Act, 2010 (19 of 2010) within its period of sixty days from the date of such decision:

Provided the National Green Tribunal may entertain any appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

THE SCHEDULE

[See rule 3(i)]

LIST OF WETLANDS IN INDIA IDENTIFIED AS RAMSAR SITES UNDER RAMSAR CONVENTION ON WETLAND

Sl. No.	Name of Wetland	State
(1)	(2)	(3)
1.	Ashtamudi Wetland	Kerala
2.	Bhitarkanika Mangroves	Orissa
3.	Bhoj Wetland	Madhya Pradesh
4.	Chilika Lake	Orissa
5.	Deepor Beel	Assam
6.	East Calcutta Wetlands	West Bengal
7.	Harike Lake	Punjab
8.	Kanjli	Punjab
9.	Keoladeo National Park	Rajasthan
10.	Kolleru Lake	Andhra Pradesh
11.	Loktak Lake	Manipur
12.	Point Calimere Wildlife and Bird Sanctuary	Tamil Nadu
13.	Pong Dam Lake	Himachal Pradesh
14.	Ropar	Punjab
15.	Sambhar Lake	Rajasthan
16.	Sasthamkotta Lake	Kerala
17.	Tsomoriri	Jammu and Kashmir
18.	Vembanad-Kol Wetland	Kerala
19.	Wular Lake	Jammu and Kashmir
20.	Chandra tal	Himachal Pradesh
21.	Renuka	Himachal Pradesh
22.	Rudrasagar	Tripura
23.	Upper Ganga	Uttar Pradesh
24.	Hokarsar (Hokera)	Jammu and Kashmir
25.	Surinsar and Mansar (complex)	Jammu and Kashmir

- (4) समिति के गैर-सरकारी सदस्यों को कार्यकाल तीन वर्ष से अनधिक का नहीं होगा।
- (5) समिति प्रत्येक छह मास में कम से कम एक बार बैठक करेगी।
7. **राज्य सरकारों और संघ राज्य क्षेत्र प्रशासनों को शक्तियों और कार्यों का प्रत्यायोजन.**—(1) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन का सम्बद्ध विभाग इन नियमों के प्रकाशन की तारीख से एक वर्ष की अवधि के भीतर अधिसूचित किये जाने हेतु अभिज्ञात प्रत्येक आर्द्रभूमि के लिए एक संक्षिप्त दस्तावेज तैयार करेगा, जिसमें निम्नलिखित का उपबंध होगा:—
- (क) निर्देशांकों सहित यथार्थ डिजिटल मानचित्रों द्वारा समर्थित और जमीनी सत्यापन द्वारा विधिमान्य आर्द्रभूमि का सीमांकन;
- (ख) इसके प्रभाव क्षेत्र का सीमांकन और डिजिटल मानचित्र में संकेतित उसका भूमि उपयोग और आच्छादित भूमि क्षेत्र;
- (ग) पारिस्थितिक-स्वरूप का विवरण;
- (घ) पूर्वतः विद्यमान अधिकारों तथा विशेषाधिकारों का लेखा;
- (ङ.) आर्द्रभूमि तथा इसके प्रभाव क्षेत्र के भीतर अनुज्ञप्त स्थल-विशिष्ट क्रियाकलाप की सूची;
- (च) आर्द्रभूमि और उसके प्रभाव क्षेत्र के भीतर विनियमित किये जाने वाले स्थल-विशिष्ट क्रियाकलापों की सूची; और
- (छ) विनियमों के प्रवर्तन की रीति;
- (2) प्राधिकरण, संक्षिप्त दस्तावेज के आधार पर, आर्द्रभूमियों को अधिसूचित किये जाने के लिए राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को सिफारिश करेगा।
- (3) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन संबंधित और प्रभावित व्यक्तियों से प्राप्त आक्षेपों, यदि कोई हों, पर विचार करने के पश्चात् प्राधिकरण द्वारा की गयी सिफारिश की तारीख से दो सौ चालीस दिन से अनधिक की अवधि के भीतर राजपत्र में आर्द्रभूमियों को अधिसूचित करेगी।
- (4) (क) केन्द्रीय सरकार सीमा-पार आर्द्रभूमियों के मामले में, संक्षिप्त दस्तावेज, जिसमें उप-नियम (1) में यथा सूचीबद्ध सूचना दी गई हो, को तैयार करने में संबद्ध राज्य सरकार और संघ राज्यक्षेत्र प्रशासनों के साथ समन्वय करेगी।
- (ख) संक्षिप्त दस्तावेज के आधार पर, राष्ट्रीय आर्द्रभूमि समिति आर्द्रभूमि को अधिसूचित किये जाने के लिए केन्द्रीय सरकार को सिफारिशें करेगी।
- (ग) केन्द्रीय सरकार संबद्ध और प्रभावित व्यक्तियों से प्राप्त आक्षेपों, यदि कोई हों, पर विचार करने के पश्चात् समिति द्वारा की गई सिफारिश की तारीख से दो सौ चालीस दिन से अनधिक की अवधि के भीतर आर्द्रभूमियों को राजपत्र में अधिसूचित करेगी।
- (5) (क) केन्द्रीय सरकार आर्द्रभूमियों से संबंधित सूचना के लिए एक समर्पित वेब पोर्टल का सृजन करेगी।
- (ख) केन्द्रीय सरकार, राज्य सरकार और संघ राज्य क्षेत्र प्रशासन अपनी अधिकारिता में की आर्द्रभूमियों के विषय में, सभी संबंधित सूचना अपलोड करेगी।

[फा. सं. जे-22012/78/2003-सीएस(डब्ल्यू) पार्ट.V]

डॉ. ए. दुरैसामी, वैज्ञानिक 'जी'

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 26th September, 2017

G.S.R. 1203(E).—Whereas the wetlands, vital parts of the hydrological cycle, are highly productive ecosystems which support rich biodiversity and provide a wide range of ecosystem services such as water storage, water purification, flood mitigation, erosion control, aquifer recharge, microclimate regulation, aesthetic enhancement of landscapes while simultaneously supporting many significant recreational, social and cultural activities, being part of our rich cultural heritage;

And whereas many wetlands are threatened by reclamation and degradation through drainage and landfill, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alteration (water withdrawal and changes in inflow and outflow), over-exploitation of their natural resources resulting in loss of biodiversity and disruption in ecosystem services provided by wetlands;

And whereas clause (g) of article 51A of the Constitution stipulates that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;

And whereas the Environment (Protection) Act, 1986 is a comprehensive legislation to provide protection and improvement of the environment, including *inter-alia*, wetlands, and for matters connected therewith;

And whereas the National Environment Policy, 2006 recognises the ecosystem services provided by wetlands and emphasizes the need to set up a regulatory mechanism for all wetlands so as to maintain their ecological character, and ultimately support their integrated management;

And whereas India is a signatory to the Ramsar Convention on Wetlands and is committed to conservation and wise use of all wetlands within its territory;

And whereas the Central Government has published the Wetlands (Conservation and Management) Rules, 2010, vide number G.S.R. 951(E), dated the 4th December, 2010;

And whereas conservation and wise use of wetlands can provide substantial direct and indirect economic benefits to state and national economy, and thereby the Central Government stands committed to mainstreaming full range of wetland biodiversity and ecosystem services in development planning and decision making for various sectors;

And whereas the State Governments and Union Territory Administrations need to take into account wetland ecosystem services and biodiversity values likewise within their developmental programming and economic well-being, also taking into cognizance that land and water, two major ecological constituents of wetland ecosystems, are enlisted as State subjects as per the Constitution;

And whereas the Central Government considered it necessary to supersede the Wetlands (Conservation and Management) Rules, 2010 for effective conservation and management of wetlands in the country;

And whereas the Central Government had, in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act, 1986, published the draft Wetlands (Conservation and Management) Rules, 2016, vide number G.S.R. 385 (E) dated 31st March, 2016 for information of the public likely to be affected thereby; and notice was given that the said draft rules would be taken into consideration by the Central Government after expiry of a period of sixty days from the date on which copies of the Gazette notification is made available to the public;

And whereas the Central Government has received the suggestions and objections from the State Governments, Union Territories and its organisations, individuals and civil society organisations on the draft Wetlands (Conservation and Management) Rules, 2016;

And whereas the suggestions and objections received in response to the above mentioned draft rules have been duly considered by the Central Government in consultation with State Governments and Union Territory Administrations.

Now, therefore, in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 and section 23 of the Environment (Protection) Act, 1986 and in supersession of the Wetlands (Conservation and Management) Rules, 2010, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules for conservation and management of wetlands, namely:—

1. Short title and commencement.—

- (1) These rules may be called the Wetlands (Conservation and Management) Rules, 2017.
- (2) These shall come into force from the date of their publication in the Official Gazette.

2. Definitions.—

- (1) In these rules, unless the context otherwise requires,—
 - (a) "Act" means the Environment (Protection) Act, 1986;
 - (b) "Authority" means the State Wetlands Authority or Union Territory Wetlands Authority, as the case may be;

- (c) "Committee" means the National Wetlands Committee referred to in rule 6;
 - (d) "ecological character" means the sum of ecosystem components, processes and services that characterise the wetlands;
 - (e) "integrated management plan" means a document which describes strategies and actions for achieving wise use of the wetland and the plan shall include objectives of site management; management actions required to achieve the objectives; factors that affect, or may affect, the various site features; monitoring requirements for detecting changes in ecological character and for measuring the effectiveness of management; and resources for management implementation;
 - (f) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;
 - (g) "wetland" means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;
 - (h) "wetlands complexes" means two or more ecologically and hydrologically contiguous wetlands and may include their connecting channels/ducts;
 - (i) "wise use of wetlands" means maintenance of their ecological character, achieved through implementation of ecosystem approach within the context of sustainable development;
 - (j) "zone of influence" means that part of the catchment area of the wetland or wetland complex, developmental activities in which induce adverse changes in ecosystem structure, and ecosystem services.
- (2) The words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings assigned to them in the Act.

3. Applicability of rules.—These rules shall apply to the following wetlands or wetlands complexes, namely:—

- (a) wetlands categorised as 'wetlands of international importance' under the Ramsar Convention;
- (b) wetlands as notified by the Central Government, State Government and Union Territory Administration:

Provided that these rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.

4. Restrictions of activities in wetlands.—(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

- (2) The following activities shall be prohibited within the wetlands, namely,-
- (i) conversion for non-wetland uses including encroachment of any kind;
 - (ii) setting up of any industry and expansion of existing industries;
 - (iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
 - (iv) solid waste dumping;
 - (v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
 - (vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,
 - (vii) poaching.

Provided that the Central Government may consider proposals from the State Government or Union Territory Administration for omitting any of the activities on the recommendation of the Authority.

- 5. Wetlands Authorities.**—(1) The Central Government hereby constitutes the State Wetlands Authority in each State with the following members, namely:—
- (i) Minister In-charge of the Department of Environment/Forests of the State Government or Minister In-charge of the Department handling wetlands - Chairperson;
 - (ii) Chief Secretary of the State or Additional Chief Secretary equivalent - Vice Chairperson;
 - (iii) Secretary in-charge of the Department of Environment - Member *ex-officio*;
 - (iv) Secretary in-charge of the Department of Forests - Member *ex-officio*;
 - (v) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
 - (vi) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
 - (vii) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
 - (viii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
 - (ix) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
 - (x) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
 - (xi) Secretary in-charge of the Department of Revenue - Member *ex-officio*;
 - (xii) Director, State Remote Sensing Centre - Member *ex-officio*;
 - (xiii) Chief Wildlife Warden - Member *ex-officio*;
 - (xiv) Member Secretary, State Biodiversity Board - Member *ex-officio*;
 - (xv) Member Secretary, State Pollution Control Board - Member *ex-officio*;
 - (xvi) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change - Member *ex-officio*;
 - (xvii) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socio-economics to be nominated by the State Government; and
 - (xviii) Additional Secretary/Joint Secretary/Director in the Department of Environment/Forests or Department handling wetlands - Member Secretary.
- (2) The Central Government hereby constitutes the Union Territory Wetlands Authority for each Union Territory with the following members, namely:—
- (i) Administrator or Chief Secretary of the Union Territory - Chairperson;
 - (ii) Secretary in-charge of the Department of Environment - Vice Chairperson;
 - (iii) Secretary in-charge of the Department of Forests - Member *ex-officio*;
 - (iv) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
 - (v) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
 - (vi) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
 - (vii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
 - (viii) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
 - (ix) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
 - (x) Secretary in-charge of the Departments of Revenue - Member *ex-officio*;
 - (xi) Director, Remote Sensing Centre - Member *ex-officio*;
 - (xii) Member Secretary, Union Territory Pollution Control Committee - Member *ex-officio*;

- (xiii) Member Secretary, Biodiversity Board of the UT - Member *ex-officio*;
 - (xiv) Chief Wildlife Warden - Member *ex-officio*;
 - (xv) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change- Member *ex-officio*;
 - (xvi) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socio-economics to be nominated by the Union Territory Administration; and
 - (xvii) Additional Secretary/Joint Secretary/Director in the Department of Environment/Forests or Department handling wetlands - Member Secretary.
- (3) The State Wetlands Authority or Union Territory Wetlands Authority may co-opt other members, not exceeding three in number, if required.
- (4) The State Wetlands Authority or Union Territory Wetlands Authority shall exercise the following powers and perform the following functions, namely:-
- (a) prepare a list of all wetlands of the State or Union Territory within three months from the date of publication of these rules;
 - (b) prepare a list of wetlands to be notified, within six months from the date of publication of these rules; taking into cognizance any existing list of wetlands prepared/notified under other relevant State Acts;
 - (c) recommend identified wetlands, based on their Brief Documents, for regulation under these rules;
 - (d) prepare a comprehensive digital inventory of all wetlands within a period of one year from the date of publication of these rules and upload the same on a dedicated web portal to be developed by the Central Government for the said purpose; the inventory to be updated every ten years;
 - (e) develop a comprehensive list of activities to be regulated and permitted within the notified wetlands and their zone of influence;
 - (f) recommend additions, if any, to the list of prohibited activities for specific wetlands;
 - (g) define strategies for conservation and wise use of wetlands within their jurisdiction; wise use being a principle for managing these ecosystems which incorporates sustainable uses (such as capture fisheries at subsistence level or harvest of aquatic plants) as being compatible with conservation, if ecosystem functions (such as water storage, groundwater recharge, flood buffering) and values (such as recreation and cultural) are maintained or enhanced;
 - (h) review integrated management plan for each of the notified wetlands (including trans-boundary wetlands in coordination with Central Government), and within these plans consider continuation and support to traditional uses of wetlands which are harmonized with ecological character;
 - (i) in cases wherein lands within boundary of notified wetlands or wetlands complex have private tenancy rights, recommend mechanisms for maintenance of ecological character through promotional activities;
 - (j) identify mechanisms for convergence of implementation of the management plan with the existing State/Union Territory level development plans and programmes;
 - (k) ensure enforcement of these rules and other relevant Acts, rules and regulations and on half-yearly basis (June and December of each calendar year) inform the concerned State Government or Union Territory Administration or Central Government on the status of such notified wetlands through a reporting mechanism;
 - (l) coordinate implementation of integrated management plans based on wise use principle through various line departments and other concerned agencies;
 - (m) function as nodal authority for all wetland specific authorities within the State or Union Territory Administration;
 - (n) issue necessary directions for conservation and sustainable management of wetlands to the respective implementing agencies;

- (o) undertake measures for enhancing awareness within stakeholders and local communities on values and functions of wetlands; and
- (p) Advise on any other matter *suo-motu*, or as referred by the State Government/Union Territory Administration.
- (5) The concerned Department of the State Government or Union Territory shall provide all necessary support and act as nodal Department and Secretariat to the Authority.
- (6) The Authority shall, within ninety days of publication of these rules, shall constitute,—
 - (a) a technical committee to review brief documents, management plans and advise on any technical matter referred by the Wetland Authority; and
 - (b) a grievance committee consisting of four members to provide a mechanism for hearing and forwarding the grievances raised by public to the Authority;
- (7) The Committees referred to in sub-rule (6) shall meet at least once in every quarter to perform their functions.
- (8) The Authority shall meet at least thrice in a year.
- (9) The term of non-official members of the Authority nominated by State Government or Union Territory Administration, shall be for a period not exceeding three years.

6. Constitution of National Wetlands Committee.—(1) The Central Government, hereby constitutes the National Wetlands Committee with the following members, namely:—

- (i) Secretary, Ministry of Environment, Forest and Climate Change, Government of India - Chairperson;
- (ii) Special Secretary or Additional Secretary dealing with wetlands, Ministry of Environment, Forest and Climate Change, Government of India-Vice Chairperson;
- (iii) Additional Director General, Wildlife, Ministry of Environment, Forest and Climate Change, Government of India - Member *ex-officio*;
- (iv) Adviser or Joint Secretary dealing with wetlands, Ministry of Environment, Forest and Climate Change - Member *ex-officio*;
- (v) Joint Secretary, Ministry of Tourism, Government of India- Member *ex-officio*;
- (vi) Joint Secretary , Ministry of Water Resources, River Development and Ganga Rejuvenation, Government of India- Member *ex-officio*;
- (vii) Joint Secretary, Ministry of Agriculture and Farmers Welfare, Government of India- Member *ex-officio*;
- (viii) Joint Secretary, Ministry of Social Justice and Empowerment, Government of India- Member *ex-officio*;
- (ix) Joint Secretary, Ministry of Urban Development, Government of India- Member *ex-officio*;
- (x) Joint Secretary, Ministry of Rural Development, Government of India- Member *ex-officio*;
- (xi) The Chairman, Central Pollution Control Board - Member *ex-officio*;
- (xii) Director, Zoological Survey of India or Scientist F- Member *ex-officio*;
- (xiii) Director, Botanical Survey of India or Scientist F- Member *ex-officio*;
- (xiv) Director, Space Application Centre, Ahmedabad or Scientist F- Member *ex-officio*;
- (xv) Member, Central Water Commission - Member *ex-officio*;
- (xvi) Adviser, Niti Aayog - Member *ex-officio*;
- (xvii) Three representatives of State Government or Union Territory Administration on a rotational basis for a tenure of two years each;
- (xviii) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning & socio-economics; and

- (xix) Director/Additional Director/Joint Director dealing with wetlands, Ministry of Environment, Forest and Climate Change - Member Secretary.
- (2) The National Wetlands Committee may co-opt other members, not exceeding three in number, if required.
- (3) The National Wetlands Committee shall perform the following functions, namely:-
 - (a) advise the Central Government on appropriate policies and action programmes for conservation and wise use of wetlands;
 - (b) evolve norms and guidelines for integrated management of wetlands based on wise use principle;
 - (c) monitor implementation of these rules by the Authority;
 - (d) advise the Central Government on proposals received from State Governments or Union Territory Administrations for omission of the prohibited activities as referred in sub-rule (2) of rule 4;
 - (e) recommend designation of wetlands of international importance under Ramsar Convention;
 - (f) recommend trans-boundary wetlands for notification;
 - (g) review progress of integrated management of Ramsar sites and transboundary wetlands;
 - (h) advise on collaboration with international agencies on issues related to wetlands; and
 - (i) advise on any other matter *suo-moto*, or as referred by the Central Government.
- (4) The tenure of non-official members of the Committee shall not exceed three years.
- (5) The Committee shall meet at least once in every six months.

7. Delegation of powers and functions to the State Governments and Union Territory Administrations.—

- (1) The concerned Department of the State Government or Union Territory Administration shall, within a period of one year from the date of publication of these rules, prepare a Brief Document for each of the wetland identified for notification, providing:—
 - (a) demarcation of wetland boundary supported by accurate digital maps with coordinates and validated by ground truthing;
 - (b) demarcation of its zone of influence and land use and land cover thereof indicated in a digital map;
 - (c) ecological character description;
 - (d) account of pre-existing rights and privileges;
 - (e) list of site-specific activities to be permitted within the wetland and its zone of influence;
 - (f) list of site specific activities to be regulated within the wetland and its zone of influence; and
 - (g) modalities for enforcement of regulation;
- (2) Based on the Brief Document, the Authority shall make recommendations to the State Government or Union Territory Administration for notifying the wetlands.
- (3) The State Government or Union Territory Administration shall, after considering the objections, if any, from the concerned and affected persons, notify the wetlands in the Official Gazette, within a period not exceeding 240 days from the date of recommendation by the Authority.
- (4) (a) In case of trans-boundary wetlands, the Central Government shall coordinate with concerned State Governments and Union Territory Administrations to prepare the Brief Document containing information as listed in sub-rule (1).
 - (b) Based on the Brief Document, the National Wetlands Committee shall make recommendations to the Central Government for notification of the wetland.
 - (c) The Central Government shall, after considering the objections, if any, from the concerned and affected persons, notify the wetlands in the Official Gazette, within a period not exceeding 240 days from the date of recommendation by the Committee.

- (5) (a) The Central Government shall create a dedicated web portal for information relating to wetlands.
- (b) The Central Government, State Government and Union Territory Administration shall upload all relevant information and documents pertaining to wetlands in their jurisdiction.

[F. No. J-22012/78/2003-CS (W) Pt. V]

Dr. A. DURAISAMY, Scientist 'G'



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**Guidelines for implementing
Wetlands (Conservation and Management) Rules, 2017**

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
GOVERNMENT OF INDIA**

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I. Background and Objectives

1. The Ministry of Environment, Forest and Climate Change (MoEF&CC) has notified **Wetlands (Conservation and Management) Rules, 2017** (hereinafter **Wetlands Rules**) under the provisions of the Environment (Protection) Act, 1986 as regulatory framework for conservation and management of wetlands in India. These guidelines have been drafted to support the State Governments / Union Territory (UT) Administrations in the implementation of the Rules by providing guidance on:
 - a) Preparing a list of wetlands in the State / UT
 - b) Identifying wetlands for notification under Wetlands (Conservation and Management) Rules, 2017
 - c) Delineating wetlands, wetlands complexes and zone of influence
 - d) Preparation of Brief Document
 - e) Determining 'wise use' and ecological character
 - f) Developing a list of activities to be regulated and permitted
 - g) Developing an Integrated Management Plan
 - h) Constitution and operational matters of the Wetlands Authorities
 - i) Overlapping provisions.
2. These guidelines were drafted by a committee constituted by the MoEF&CC vide OM dated August 10, 2018. The committee comprised Mr U.A.Vora (former CCF Wildlife, Government of Gujarat), Dr Arvind Kumar (President, India Water Foundation), Dr B.C. Jha (Former Director (Wetlands), Central Inland Fisheries Research Institute), Dr P. S. N. Rao (Director, School of Planning and Architecture), Dr Afroz Ahmad (Member, Environment and Rehabilitation, Narmada Control Authority) and Dr Ritesh Kumar (Director, Wetlands International South Asia). The committee met on five occasions at MoEF&CC, New Delhi for the said purpose, and submitted final version of the guidelines to the Ministry on December 5, 2018. The draft guidelines were subsequently sent for comments to all State Governments / UT Administrations, and have been finalized after due consideration of the comments received. The Committee immensely benefitted from the discussions held with Ms Manju Pandey (Joint Secretary). The Committee also acknowledges the support received from Ms Rita Khanna (Scientist 'F'), Dr M. Ramesh (Scientist 'E'), Mr Chandan Singh (Scientist 'D'), Dr Anu Chetal (Research Assistant) and Ms Pallavi Mukherjee (Research Assistant) during the guidelines preparation process.

II. Wetlands to be regulated

3. The provisions of Wetlands Rules apply to:
 - a) Wetlands designated by the Government of India to the List of Wetlands of International Importance under the provisions of the Convention on Wetlands (Ramsar Convention). [Ref. Rule 3 (a) of Wetlands Rule]
 - b) Wetlands notified under the rules by the Central Government, State Government and UT Administration. [Ref. Rule 3 (b) of Wetlands Rule]

4. All wetlands, irrespective of their location, size, ownership, biodiversity, or ecosystem services values, can be notified under the Wetlands Rules, except:
 - a) River channels;
 - b) Paddy fields;
 - c) Human-made waterbodies specifically constructed for drinking water purposes;
 - d) Human-made waterbodies specifically constructed for aquaculture purposes;
 - e) Human-made waterbodies specifically constructed for salt production purposes;
 - f) Human-made waterbodies specifically constructed for recreation purposes;
 - g) Human-made waterbodies specifically constructed for irrigation purposes;
 - h) Wetlands falling within areas covered under the Indian Forest Act, 1927; Forest (Conservation) Act, 1980; State Forest Acts and amendments thereof;
 - i) Wetlands falling within areas covered under the Wildlife (Protection) Act, 1972 and amendments thereof;
 - j) Wetlands falling within areas covered under the Coastal Regulation Zone Notification, 2011 and amendments thereof.[Ref. Rule 2 (g) and Rule 3 of Wetlands Rules]
5. Human-made wetlands are defined as wetlands that are planned, designed and operated to meet a specific purpose (such as providing water for irrigation, producing fish through culture operations, producing salt, recreation, preventing salinity intrusion, flood control etc.). Only those human-made wetlands that have been built for purposes, mentioned at paras 4c) - 4g) above, are excluded from notification under these Rules.
6. Natural wetlands, partly or wholly used for purposes as mentioned at 4c) - 4g), attract the provisions of the Wetlands Rules.
7. Wetlands designated as Ramsar Sites may be notified under the Rules as per the process mentioned in paragraphs 57-65, even when partly or wholly overlapping with areas covered under the Indian Forest Act, 1927; Forest (Conservation) Act, 1980; State Forest Acts and amendments thereof; Wildlife (Protection) Act, 1972 and amendments thereof; Coastal Regulation Zone Notification, 2011 and amendments thereof. Regulations for parts of wetlands overlapping with 4h-4j (supra) will, however, be as per the corresponding regulatory framework. Ramsar site areas, not covered under any of the overlapping laws and rules, will attract the provisions of the Wetlands Rules (Refer illustration 1 below).

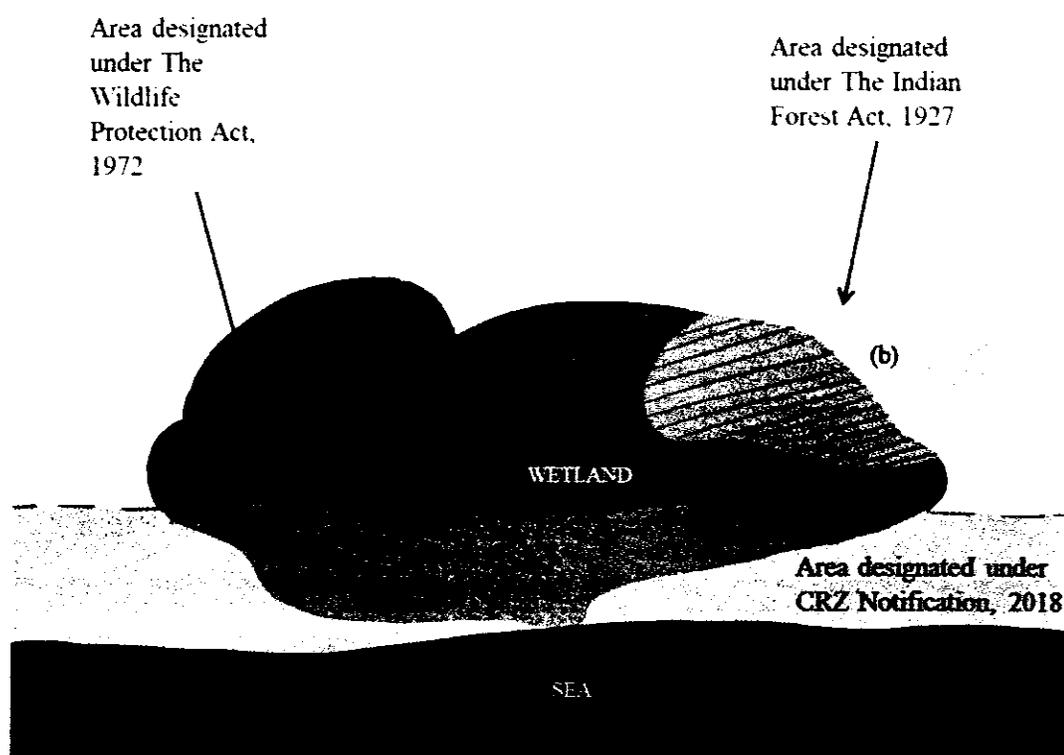


Illustration 1: Using the Wetlands Rules to fill in the gaps in situations of multiple regulations in a Ramsar Site. In the situation above, wildlife sanctuary (indicated as a) and a reserved forest (indicated as b) partly overlap with the Ramsar Site boundary. Being a coastal wetland, a part (indicated as c) also falls under Coastal Regulation Zone. In such cases, it is recommended that the entire Ramsar Site, inclusive of overlapping areas, is delineated and notified under the Wetlands Rules. The overlapping areas shall continue to be regulated as per respective Acts and Rules, and the remaining area may be regulated as per the provisions contained in Wetlands Rules. Similar approach can be taken even for wetlands that have not been designated as Ramsar Site.

8. For wetlands falling within the criteria 3 (b) (supra), the exclusions mentioned at para 4 a) - 4j) shall apply only in cases wherein the entire wetland falls under the said category. In cases wherein areas falling within para 4 a) - 4 j) form a part of larger wetland or wetlands complex, and exclusion may result in impeded ecological contiguity and connectivity, such areas may be included within the boundary of wetland being notified. Regulations within the boundaries of areas mentioned at para 4 h) - 4 j) will, however, be as per the corresponding regulatory frameworks (Refer Illustration 1 and 2).
9. Though Protected Areas and areas falling within the purview of Coastal Zone Regulation have been excluded from notification under the Wetlands Rules, management of such wetlands may benefit through the application of 'wise use' approach (within the framework of existing laws and rules) as outlined in Section VII of these guidelines.

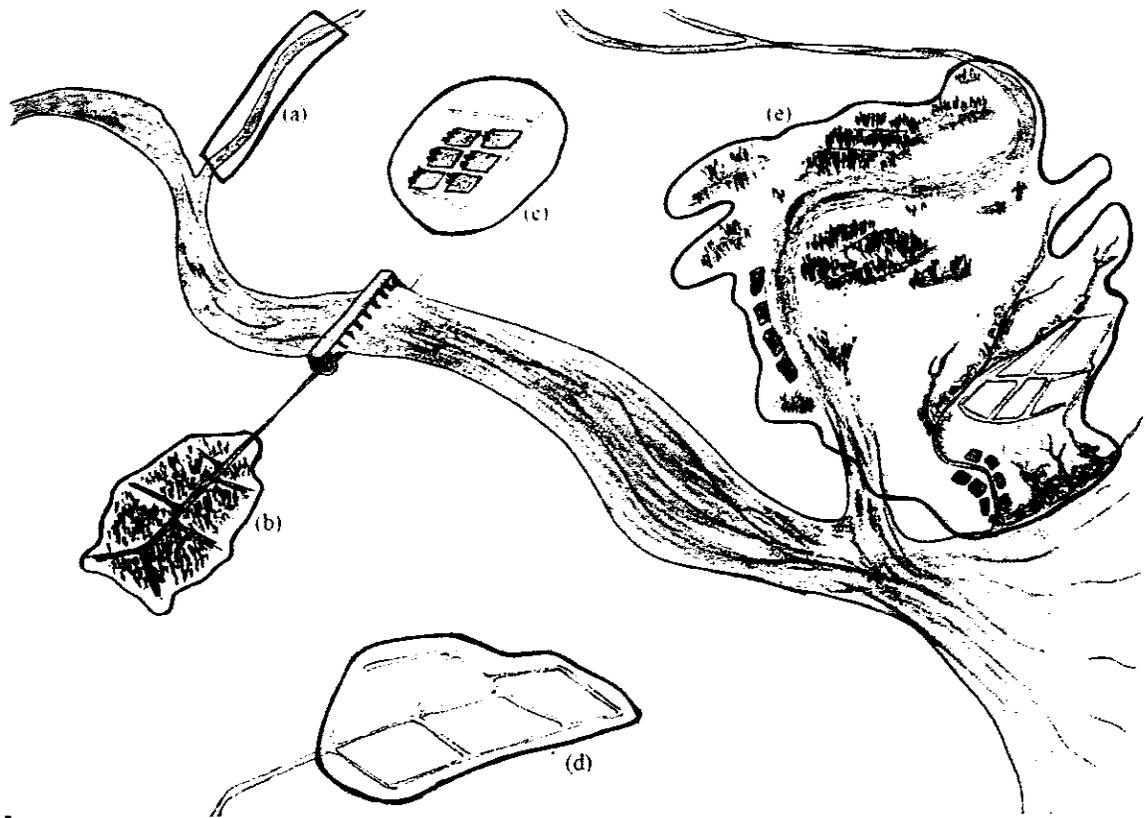


Illustration 2: Considering river stretch and human-made wetlands for notification. In situations when the entire wetland, to be notified, is a river stretch [indicated as (a)], paddy fields [indicated as (b)], human-made wetland waterbodies for irrigation [indicated as (c)], and human-made waterbodies created for aquaculture purposes [indicated as (d)], these may not be notified under the Wetlands Rules. However, in cases as in (e), wherein river channels, paddy fields, and human-made wetlands such as aquaculture areas form a part of a larger wetland or wetland complex, and excluding such area may fragment the wetland regime, the area to be notified may include river channels, paddy fields or any other human-made wetland.

10. Should the State Governments/UT Administrations be desirous, any wetland, even if included within the list of wetlands excluded from notification under Wetlands Rules, may be notified under the relevant state laws. In this regard, the approach/mechanism outlined in Wetlands Rules and these guidelines may be suitably adopted.

III. Wetlands Authorities

11. As per Rule 5 of Wetlands Rules, 2017 the Wetlands Authorities within States and UTs are deemed as constituted with the following members:
- Minister In-charge of the Department of Environment Forests of the State Government or Minister In charge of the Department handling wetlands - Chairperson;(Administrator or Chief Secretary of the UT - Chairperson in the case of UT);
 - Chief Secretary of the State or Additional Chief Secretary equivalent - Vice Chairperson;
 - Secretary in-charge of the Department of Environment - Member ex-officio; (Vice-Chairperson in the case of UT)
 - Secretary in-charge of the Department of Forests - Member ex-officio;
 - Secretary in-charge of the Department of Urban Development - Member ex-officio;

- f) Secretary in-charge of the Department of Rural Development - Member ex-officio;
 - g) Secretary in-charge of the Department of Water Resources - Member ex-officio;
 - h) Secretary in-charge of the Department of Fisheries - Member ex-officio;
 - i) Secretary in-charge of the Department of Irrigation and Flood Control - Member ex-officio;
 - j) Secretary in-charge of the Department of Tourism - Member ex-officio;
 - k) Secretary in-charge of the Department of Revenue - Member ex-officio;
 - l) Director, State Remote Sensing Centre - Member ex-officio;
 - m) Chief Wildlife Warden - Member ex-officio;
 - n) Member Secretary, State UT Biodiversity Board - Member ex-officio;
 - o) Member Secretary, State Pollution Control Board, UT Pollution Control Committee - Member ex-officio;
 - p) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change - Member ex-officio;
 - q) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socioeconomics to be nominated by the State Government / UT Administration
 - r) Additional Secretary Joint Secretary/Director in the Department of Environment, Forests or Department handling wetlands - Member Secretary
12. The Department of Environment - Forests or Department handling wetlands shall designate one expert each in the following fields for a period not exceeding three years: [Ref. Rule 5 (2) (xvi) of Wetlands Rules]
- a) Wetlands ecology
 - b) Hydrology
 - c) Fisheries
 - d) Landscape planning
 - e) Socioeconomics
13. The Wetlands Authority may co-opt other members, not exceeding three in number. It is recommended that at least one member may be drawn from civil society to enable stakeholder representation.
14. The Authority shall exercise following powers and perform the following functions:
- a) Prepare a list of all wetlands of the State or UT within three months from the date of publication of these rules;
 - b) Prepare a list of wetlands to be notified, within six months from the date of publication of these Rules, taking into cognizance any existing list of wetlands prepared, notified under other relevant State Acts;
 - c) Recommend identified wetlands, based on their Brief Documents, for regulation under these rules;
 - d) Prepare a comprehensive digital inventory of all wetlands within one year from the date of publication of these rules and upload the same on a dedicated web portal, to be developed by the Central Government for the said purpose; the inventory ought to be updated every ten years;
 - e) Develop a comprehensive list of activities, to be regulated and permitted within the notified wetlands and their zone of influence;
 - f) Recommend additions, if any, to the list of prohibited activities for specific wetlands;
 - g) Define strategies for conservation and wise use of wetlands within their jurisdiction;
 - h) Review Integrated Management Plan for each of the notified wetlands (including trans-boundary wetlands in coordination with Central Government), and within these plans to

consider continuation and support to traditional uses of wetlands that are harmonized with ecological character;

- i) Recommend mechanisms for maintenance of ecological character through promotional activities for land within the boundary of notified wetlands or wetlands complex have private tenancy rights.;
- j) Identify mechanisms for convergence of implementation of the management plan with the existing State UT level development plans and programmes;
- k) Ensure enforcement of these rules and other relevant Acts, rules and regulations and on a half-yearly basis (June and December of each calendar year) inform the concerned State Government or UT Administration or Central Government on the status of such notified wetlands through a reporting mechanism;
- l) Coordinate implementation of Integrated Management Plans based on wise use principle through various line departments and other concerned agencies;
- m) Function as a nodal authority for all wetland-specific authorities within the State or UT Administration;
- n) Issue necessary directions for the conservation and sustainable management of wetlands to the respective implementing agencies.
- o) Undertake measures for enhancing awareness within stakeholders and local communities on values and functions of wetlands; and
- p) Advise on any other matter suo-motu, or as referred by the State Government UT Administration.

[Ref. Rule 5 (4) of Wetlands Rules]

15. The State Government or UT Administration shall designate a department as nodal department for wetlands. Such department shall provide all necessary support and act as Secretariat to the Authority. The State Governments / UT Administrations may allocate sufficient budget and human resources to ensure smooth functioning of the Authority and conduct of its various activities. The Authority and the nodal department may identify a professional institute(s)/organization(s) that would assist them in their various functions such as preparing a list of wetlands, Brief Documents for notification etc.

16. The Authority shall meet at least thrice in a year. State Government / UT Administration may decide an appropriate quorum, not less than half of the members. Minutes of meetings of the Authority may be placed in the public domain within a period not exceeding two weeks from the day on which meeting has been convened. [Ref. Rule 5 (2) (8) of Wetlands Rules]

17. Each Wetlands Authority shall constitute:

- a) Technical Committee to review Brief Documents, Management Plans and advise on any technical matter referred by the Wetlands Authority; and,
- b) Grievance Committee, consisting of four members, to provide a mechanism for hearing and forwarding the grievances raised by the public to the Authority.

[Ref. Rule 5 (6)(b) of Wetlands Rules]

18. The composition of these committees may be decided by the concerned State / UT Wetlands Authority. Meetings of these committees shall be held **at least once every quarter**, and proceedings presented in the next meeting of the Authority.

19. The Wetlands Authority may empower the Grievance Committee to redress grievances at the local level and to recommend to the Authority for the finality of decisions. The State Government

UT Administration may consider appointing at least one member with a legal background in the Grievance Committee. [Ref. Rule 5(6)(b) of Wetlands Rules]

20. State or UT level Wetlands Authorities constituted before notification of Wetlands Rules, shall be deemed dissolved for the purpose of these Rules.
21. State / UT Wetlands Authorities shall serve as nodal authority for authorities / agencies created for specific wetlands. Management plans and notifications pertaining to the specific wetland shall be subject to approval and endorsement of the State / UT Wetlands Authority. Administrative matters, however, may continue to be dealt by the nodal department specified within the constitution of the wetlands specific authority.

IV Preparing a list of wetlands

22. The State / UT Wetlands Authorities are expected to prepare a list of wetlands within the boundaries of their respective States / UTs. This list should be comprehensive, and not just focus on wetlands that qualify for notification under these Rules. Therefore, it is recommended that the list is developed based on wetlands definition of the Ramsar Convention (to which India is a Contracting Party).

22.1 The Convention, ratified by Government of India, defines wetlands as 'areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which, at low tides, does not exceed six meters'. In addition, to protect coherent sites, Article 2.1 of the Convention provides that 'wetlands may include riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six meters at low tide lying within the wetlands.'

23. The National Wetlands Atlas prepared by Space Application Center under the National Wetlands Inventory and Assessment project, and available at https://vedas.sac.gov.in/vedas/downloads/atlas/Wetlands_NWIA_National_atlas.pdf has spatial data on wetlands for each State and UT.

23.1 The GIS data has already been made available by the Wetlands Division of the MoEF&CC to the representatives of the State Governments / UT Administrations during the regional consultation workshops held during 2016-18.

23.2 Wetlands Authority may seek the assistance of District Administration to validate the information provided in the Atlas. Existing land records may also be considered while developing the list of wetlands.

23.3 The final list of wetlands/wetland complexes may be prepared under the following heading:

- a) Wetland Name
- b) Geographical coordinates (latitude and longitude of the centre of the wetland)
- c) Wetland type (inland and coastal) and sub-type (natural or human-made)
- d) District(s) within which the wetland is located
- e) Approximate area of the wetland
- f) Whether the wetland falls within the category of regulated wetlands as per Wetlands Rules.

A format for compiling the list of wetlands is at **Annex 1**. This list may also contain trans-boundary wetlands (at the end) with additional details such as the bordering State/UT under which wetland is falling along with corresponding area.

24. In addition to the National Wetlands Atlas, it may also be helpful to consider the list of wetlands studied and described by various agencies, including revenue records (particularly areas recorded as any of the wetlands types such as ponds, lake, *talab*, *sarovar* etc.). The States/UTs may seek the assistance of State Remote Sensing Agencies and local experts for preparing such wetland inventory expeditiously. State Governments/ UT Administrations are also encouraged to make use of satellite images available at National Remote Sensing Center's Geo-platform Bhuvan, accessible at <http://bhuvan.nrsc.gov.in/data/download/index.php>.

V. Delineating wetlands

25. After the wetlands have been identified for notifications under the Wetlands Rules, the next step involves delineation of each of these wetlands (or wetlands complexes) and their zone of influence.
26. For delineating wetlands, it is essential to be aware of the distinguishing characteristics of these ecosystems. Wetlands arise when inundation by water produces soil dominated by anaerobic processes, which in turn forces the biota, particularly rooted plants to adapt to flooding. Wetlands, thus, have the following general distinguishing characteristics:
- a) Permanent or periodic inundation or saturated soils throughout the year or during parts of the year
 - b) Presence of macrophytes adapted to wet conditions (also known as hydrophytes)
 - c) Soil that are saturated or flooded long enough favouring development of anaerobic conditions
27. Water creates wetlands. The biological composition of wetlands, from fish to migrating waterbirds, depends on the ways water moves within a wetland. The amplitude and frequency of water level fluctuations are probably the most critical factors affecting the composition and functioning of wetlands. Hydrological regimes may, therefore, be used as the primary delineation characteristics for defining wetland boundary.
28. Wetlands boundary can be derived as the outer envelope of the maximum area under inundation, the area covered by hydrophytes, or saturation of soil near the surface during a normal monsoon year. The boundary should be such that during a normal monsoon year, the entire area is inundated for at least 15 days, or the soil is saturated roughly within one foot from the surface. It may be pertinent to exclude areas that are only intermittently inundated in the case of high floods (such as one in 100-year floods) or extreme events (such as storm surges of extreme intensity).
29. Where two or more wetlands exist with a high degree on hydrological connectivity (for example, wetlands connected during monsoon), or ecological connectivity (sharing waterbird habitats or located on migratory fish pathways), these can be delineated as a single complex. In such cases, non-wetland areas may be included within the boundary of the complex to ensure connectivity and continuity. The connotation of wetland throughout this document includes wetlands complex, as may be the case.

30. For each wetland and wetlands complex, a map should be prepared using a Geographical Information System (WGS84 datum and UTM (Universal Transverse Mercator) projection) and adopting professional cartographic standards. Essential features to be included in the map are as follows:

- a) Wetland boundary
- b) The boundary of settlements located within and around the wetland
- c) Connecting drainages, inflows and outflows
- d) Main roads and railway (if any)
- e) Major landmarks

31. Recommended scale for producing the wetlands maps is as follows:

Wetland / Wetlands complex area	Recommended scale
Below 100 ha	1: 4000
Between 100 - 500 ha	1: 10,000
Between 500- 4000 ha	1: 25,000
4000 ha and above	1: 50,000

These scales have been recommended on the basis of spatial data available for preparing wetlands maps and details that may be extracted for management planning and monitoring decisions. Resources at 2 LISS IV data that may be used for preparing map of wetlands below 100 ha renders an approximate scale of 1:4000. Even larger wetlands can be mapped using finer resolution data. However, for expedience and cost effectiveness, a lower scale may be sufficient for meeting management needs.

VI. Delineating zone of influence

32. For each wetland to be notified, a zone of influence is to be defined. The zone of influence of a wetland is an area, developmental activities wherein are likely to induce adverse changes in wetland ecosystem structure and (ecological) functioning.
33. The boundary of the zone of influence may be defined with due consideration to local hydrology and nature of land use. For wetlands with a well-defined surface drainage system, its directly and freely draining basin should be delineated as the zone of influence. This can be done using a suitable digital elevation model data and validated using toposheets. The basin should encompass all direct inflow as well as outflow areas. The river basin atlas of India (available at http://www.india-wris.nrsc.gov.in/wrpinfo/index.php?title=WRIS_Publications) may be used to support the delineation.
34. For wetlands with diffused drainage and where the slope is too gentle leading to large basin area, the zone of influence can be delineated on the basis of features that are likely to influence wetland functioning adversely. These could be based on the outer periphery of adjoining settlements, or peripheral agricultural fields that drain directly into the wetland.
35. A map should be prepared to indicate the following elements in a Geographical Information System (WGS84 datum and UTM projection) and adopting professional cartographic standards:
 - a) Zone of influence
 - b) Wetland boundary

- c) Connecting drainages, inflows and outflows
- d) Main roads and railway (if any)
- e) Major landmarks

36. The recommended scale at which the map of the zone of influence is to be produced is as follows:

Area of zone of influence	Recommended mapping scale
Below 100 ha	1: 4000
Between 100 and 500 ha	1: 10,000
More than 500 ha	1: 50,000

VII Wetland wise use and ecological character

37. Management of notified wetlands is recommended to be based on 'wise use' approach. Human beings and their use of resources form an essential component of wetland ecosystem dynamics. The 'wise use' approach recognises that restricting wetland loss and degradation requires incorporation of linkages between people and wetlands. The wise use principle emphasises that human use of these ecosystems on a sustainable basis is compatible with conservation.
38. Ramsar Convention defines the 'wise use' of wetlands as "the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development". Ecosystem approach requires consideration of the complex relationship between various ecosystem elements and promotion of integrated management of land, water and living resources. Wise use, through an emphasis on sustainable development, calls for resource use patterns which can ensure that human dependence on wetlands can be maintained not only in the present but also in the future. Seen in totality, wise use is about maintaining and enhancing wetland values and functions to ensure the maintenance of the flow of benefits from wetlands (their ecosystem services) from an inter-generational equity point of view.
39. Ecological character is "the combination of ecosystem components, processes and services that typify the wetland at a given point in time". Ecosystem components are living (biotic) and non-living (abiotic) constituents of the wetland ecosystem. These include:
- a. Geomorphic setting (landscape, catchment, river basin);
 - b. Climate (precipitation, wind, temperature, evaporation, humidity);
 - c. Physical setting (area, boundaries, topography, shape, bathymetry, habitat type and connectivity);
 - d. Water regime (inflow, outflow, balance, surface-groundwater interactions, inundation regime, tidal regime, quality);
 - e. Wetland Soil (texture, chemical and biological properties);
 - f. Biota (Plant and animal communities)
40. Ecosystem processes occur between organisms and within and between populations and communities, including interactions with the non-living environment that result in an existing ecosystem state and bring about changes in ecosystems over time. These include: Physical processes (water stratification, mixing, sedimentation, erosion); Energy - nutrient dynamics (primary production, nutrient cycling, carbon cycling, decomposition, oxidation-reduction);

Processes that maintain animal and plant population (recruitment, migration); and Species interaction (Competition, predation, succession, herbivory).

41. Ecosystem services are benefits obtained by humans from ecosystems, categorized as: Provisioning (fisheries, use of aquatic vegetation for economic propose, wetland agriculture, biochemical products); Regulating (maintenance of hydrological regimes) and Cultural (recreation and tourism, spiritual, scientific and educational value). Supporting services are included within ecosystem processes.

42. A wetland use is not 'wise-use' if:

- a. The intervention leads to adverse changes in ecosystem components and processes, such as:
 - i. Reduction in water flowing into the wetlands
 - ii. Reduction in the area under inundation, or changes in inundation regime
 - iii. Reduction and alteration of natural shoreline
 - iv. Fragmentation of wetlands into small patches of water
 - v. Reduction in water holding capacity
 - vi. Degradation of water quality
 - vii. Reduction in diversity of native species
 - viii. Introduction or emergence of invasive species
 - ix. Decline in wetlands resources, such as fish, aquatic plants, and water
- b. The intervention enhances some ecosystem services (such as food production values) while diminishing other ecosystem services (such as the ability of wetlands to moderate wetlands regime).

43. Some examples of wetlands uses that may not be 'wise-use' are as follows:

Type of wetland	Intervention	Ecosystem services likely to be enhanced	Ecosystem services likely to be diminished
Lagoon	Prawn aquaculture by creating enclosures within the lagoon area	<ul style="list-style-type: none"> • Food provision • Livelihoods for wetlands dependent communities 	<ul style="list-style-type: none"> • Water regime moderation • Flood buffering
Lake	Impounding water by regulating outflows	Increased water availability for human use	<ul style="list-style-type: none"> • Ability to moderate floods
Marsh	Construction of road connecting settlements located on the periphery	Transport	<ul style="list-style-type: none"> • Hydrological regime moderation • Flood buffering • Aesthetics
Urban lake	Concretization of shoreline for beautification	<ul style="list-style-type: none"> • Aesthetic value • Tourism and recreational benefits 	<ul style="list-style-type: none"> • Ability to accommodate monsoon flows • Habitat values

44. In several cases, the impact on ecosystem structure and functions, or tradeoffs in ecosystem services may not be immediately apparent. It is, therefore, recommended that the 'precautionary

- b) Sustainable culture fisheries practices (in private lands);
- c) Plying of non-motorized boats;
- d) Desilting, in case where wetlands inflow regimes and water-holding capacity are impacted by siltation (note that 'deepening' activities are not the same as 'desilting'); &
- e) Construction of temporary nature
50. Each activity, however, would need to be considered on a case to case basis keeping in mind the ecological character of wetland or wetlands complex. A generic listing of a set of activities for all wetlands of the State, UT may not be feasible or desirable. For example, releasing treated sewage may not be advisable for high altitude wetlands that have slow decomposition rates.
51. For each regulated activity, it may be desirable to set a threshold limit beyond which the activity may be prohibited. The thresholds can be in the form of a spatial limit (such as areas wherein capture fishing may be carried), temporal limits (such as observing closed season), ecological condition (such as maintenance of a water quality parameter within a prescribed range), number of people (such as number of tourists permitted to visit the wetland on a given day), land use (such as prohibiting use of intermittently inundated area for permanent agriculture, or construction of enclosure), or any relevant dimension. Some examples of thresholds are:

Activity (Indicative List)	Aspect on which threshold can be specified
a) Subsistence level biomass harvesting (including traditional practices)	<ul style="list-style-type: none"> • Number of people that can be permitted to harvest biomass within the wetlands • Type of harvesting gears (mesh size) and crafts • Area wherein harvesting is permitted
b) Releasing of treated sewage	Water quality parameters (such as): <ul style="list-style-type: none"> • Dissolved Oxygen, • Biological Oxygen Demand • Chemical Oxygen Demand • Concentration of heavy metals • Coliforms
c) Sustainable culture-based fisheries practices	<ul style="list-style-type: none"> • Area wherein culture-based fisheries is permitted • Stocking density • Water quality
d) Plying of non-motorized boats	<ul style="list-style-type: none"> • Area wherein plying is permitted • Number of boats
e) Desilting, in cases where wetlands inflow regimes and water holding capacity are impacted by siltation	<ul style="list-style-type: none"> • Area wherein desilting can be carried out
f) Noise Pollution	<ul style="list-style-type: none"> • Limiting below level suited for waterbird habitat
g) Washing and bathing activities	<ul style="list-style-type: none"> • Use of detergent
h) Construction of temporary nature	<ul style="list-style-type: none"> • Area wherein temporary constructions can be carried out

	<ul style="list-style-type: none"> • The period for which such structure can be maintained inside the notified wetlands
i) Change in landuse pattern within the zone of influence	<ul style="list-style-type: none"> • Land use does not alter the hydrological regime or interrupt species interactions (such as bird migration pathways)

52. The Wetlands Authority shall be responsible for enforcing the regulations, through enforcement machinery of the concerned State Government / UT Administration.

X. Demarcation of activities permitted in a notified wetland

53. Activities aligned with the 'wise use' of wetland may be permitted within the wetland (wetlands complex) or its zone of influence. The following activities are likely to be aligned with the 'wise use' approach:

- a) Ecological rehabilitation and rewilding of nature ;
- b) Wetlands inventory, assessment and monitoring;
- c) Research;
- d) Communication, environmental education and participation activities;
- e) Management planning;
- f) Habitat management and conservation of wetland-dependent species;
- g) Community-based ecotourism (with minimum construction activities);
- h) Harvesting of wetlands products within regenerative capacity; and,
- i) Integrating wetlands as nature-based solutions for climate change mitigation and adaptation.

54. Permitted activities may need to be identified considering the ecological character of each wetland to be notified. It is likely that an activity may be benign for one wetland, yet would need regulation for others. For example, ecotourism may not be desirable for all wetlands.

XI. Restriction of wetlands

55. It is advised that the State UT governments may ascertain whether the respective wetland has been registered appropriately in the land revenue records. If the wetland has not been registered as yet, necessary steps may be taken early. This would help in ensuring that the usage of wetland is not altered in future through encroachment, illegal claim of ownership etc.

XII. Account of pre-existing rights and privileges in a notified wetland

56. Each wetland is likely to be associated with a range of pre-existing rights and privileges, and it must be ensured that such rights and privileges are aligned with the 'wise use' approach. 'Privilege' is defined here as a special entitlement granted to restricted group or persons, on a conditional basis and can be revoked. 'Rights', on the other hand, may be irrevocable and inherently held by a human being. Thus, a fish lease granted in certain wetlands by the Department of Fisheries can be considered as a privilege. Privilege can also be customary and traditional (for example, the use of traditional fishing techniques, buffalo wallowing, elephant bathing, the source of drinking water for bovines, etc.). Parking a houseboat against a lease right to clean environment are examples of rights.

57. For assessing the consequence of a pre-existing right or privilege on a wetland, it may be important to consider their implication on wetland ecological character. The privilege of fishing granted along a migratory route can lead to an adverse change in fish stocks. Similarly, the disposal of untreated sewage by houseboat in a wetland can lead to pollution. Thus, such privileges are not aligned with 'wise use'. On the other hand, in many cases, the subsistence level harvest of macrophytes may help in keeping species invasion in check and therefore aligned with ecosystem health. Such considerations may need to be made while deciding whether a wetland use is to be regulated or permitted.

XIII. Notifying wetlands

58. For each wetland proposed to be notified, a 'Brief Document' containing the following information needs to be prepared:
- Demarcation of wetland boundary, supported by accurate digital maps with coordinates and validated by ground truthing;
 - Demarcation of its zone of influence alongwith land use and land cover thereof indicated in a digital map;
 - Ecological character description;
 - Account of pre-existing rights and privileges;
 - List of site-specific activities, to be permitted within the wetland and its zone of influence;
 - List of site-specific activities, to be regulated within the wetland and its zone of influence; and,
 - Modalities for enforcement of regulation.
- A format for preparing the Brief Document is at **Annex 2**.
59. The nodal department, designated by the State Government/UT Administration for wetlands, shall be responsible for preparing the Brief Documents.
60. In the case of transboundary wetlands, the respective State Governments/UT Administration may initiate the process of preparation of a common Brief Document and submit the same to MoEF&CC. If required, MoEF&CC shall coordinate with the concerned State Governments/UT Administrations for preparation of the Brief Document and addressing relevant issues. The Ministry will further process Brief Document as per process laid under Rule 7(4) of Wetlands Rules, 2017.
61. All Brief Documents shall be placed for approval of the Wetlands Authority. The Authority may endorse the Brief Document for notification to the concerned State Government / UT Administration.
62. The State Government / UT Administration shall issue a draft notification indicating the wetland (wetlands complex) to be covered under the Wetlands Rules. The notification should contain:
- Description of the wetland (wetlands complex) boundary along with its map
 - Description of the zone of influence along with a map
 - List of activities prohibited within the wetland (wetlands complex) and its zone of influence
 - List of activities regulated within the wetland (wetlands complex) and its zone of influence
 - List of activities permitted within the wetland (wetlands complex) and its zone of influence
 - Name and contact details of the nodal person, who is to be contacted for seeking permission to undertake regulated activities.

A format for notification is at **Annex 3**.

63. Each draft notification shall be placed for public consultation for sixty days.
64. The State Government after considering objections from the concerned and affected persons shall publish the final notification within a period not exceeding 240 days from the date of **draft notification**.
65. MoEF&CC shall issue the draft and final notification for transboundary wetlands.
66. All Ramsar Sites, deemed covered under these Rules, shall also be notified as per the process laid out in paragraphs 57-64. This is proposed to ensure that the site boundaries are properly delineated and the knowledge about the same is available in public domain. It is advised that the information in the 'Brief Document' may be consistent with Ramsar Site Information Sheet (RSIS), submitted to the Ramsar Convention during site designation or RSIS updated thereafter.

XIV. Integrated Management Plan

67. Wetlands are one of the most embedded and interlinked ecosystems with human livelihoods and well-being. A balanced management approach, addressing biodiversity conservation values while providing for sustainable utilisation in a way compatible with the maintenance of natural properties of the ecosystem, needs to be adopted for these ecosystems. It is, therefore, recommended that management of each notified wetland (is guided by an "Integrated Management Plan". The plan refers to a document which describes strategies and actions for achieving 'wise use' of the wetland and includes objectives of site management; management actions required to achieve the objectives; factors that affect, or may affect, various site features; monitoring requirements for detecting changes in ecological character and for measuring the effectiveness of management; and resources for management implementation. Besides identifying resources, a management plan serves several important functions including generating baseline information, communication with stakeholders and ensuring compliance with regulatory frameworks and policy commitments.
68. While it is recognized that each wetland has its own distinctive ecological and hydrological features and thereby distinctive management needs, the following broad planning principles need to be kept in mind while formulating integrated management plans:

- **Integrated planning:** Aquatic and terrestrial ecosystems are intimately linked by the process of the water flowing through them. Every land use decision has a consequence on water availability. Delineating a basin or a coastal zone enables demarcation of a distinct hydrological unit which is the natural integration of all hydrological processes within its boundary and therefore an ideal and rational unit for soil, water and bio-resources conservation and management. Thus, management planning for wetlands should not be restricted to a defined administrative boundary, but rather take into account wider planning and management context of the basin or coastal zone within which the site is located.

The process of development and implementation of management plans for wetlands often needs to be accompanied by governance improvements at basin and coastal zone level. Such an approach underpins Integrated Lake Basin Management framework that calls for

achieving 'sustainable management of wetlands through gradual, continuous and holistic improvement of basin governance, including sustained efforts for integration of institutional responsibilities, policy directions, stakeholder participation, scientific and traditional knowledge, technological possibilities, and funding prospects and constraints.

Achieving close relationship between planning and governance is critical, considering multiple stakeholder and sectoral interests which underlie and, to a large extent, structure wetland biodiversity and ecosystem service values, and the need to secure people's involvement and participation in basin-scale management for considerably long periods of time.

Reflection upon the following six pillars of basin-scale governance may thus be useful:

- **Institutions:** Development of effective organisations and governance frameworks
 - **Policies:** Setting broad directions and specific rules
 - **Participation:** Expanding the circle of involvement
 - **Technology:** Possibilities and limitations
 - **Information:** Pursuing sources of knowledge and wisdom, and
 - **Finance:** Seeking sustainable sources at the appropriate level
- **Use of diagnostic approaches for defining management approach and actions:** Given the uniqueness associated with each wetland, it is important that 'one size fit all' approach is replaced with a diagnostic approach, wherein the ecological, hydrological, socioeconomic and institutional features are comprehensively assessed and trends therein determined to be able to spell out management objectives and actions clearly.
 - **Adaptable management:** Wetlands are influenced by a range of drivers and pressures that act at multiple spatial, temporal and political scales. Their management plan, therefore, needs to be accommodative of uncertainties and challenges. This can be achieved by using an adaptable management approach that allows for suitable modification of management based on continuous site monitoring and assessment of new information.
 - **Stakeholder participation:** The condition of any wetland is an outcome of actions by a range of stakeholders, which are linked to the ecosystem in a number of ways. Management planning, therefore, needs to recognise these linkages, and build a mechanism for participation of stakeholders in design, review and implementation processes.
 - **Governance:** Being located at the interface of land and water, wetlands are influenced by a range of developmental activities that take place within their direct and indirect basins and coastal zones. Institutional arrangements for managing wetlands need to be such that they are capable of integrating activities across multiple sectors (such as agriculture, water resources, forests, rural development, urban development, forests and wildlife and others), and balancing the needs of a group of diverse stakeholders while ensuring that ecological integrity of these fragile ecosystems is not adversely affected.
- In the above context, association of entities or individuals as 'Wetland Mitras' can encourage stakeholder participation and overall governance.

69. An integrated wetlands management plan can be developed in the following steps, thus enabling a systematic diagnosis of wetlands features and their governing factors to arrive at management objectives and activities.

Step 1	Preamble	Concise policy statement describing the rationale for the application of human, technical and financial resources for the wetland management
Step 2	Description of wetland features	Collation and synthesis of data to describe: wetland location and extent, catchment, hydrological regimes, biodiversity, ecosystem services, socioeconomic and livelihoods
Step 3	Evaluation of wetland features	Based on the description of features, identification of priority wetland features that need to be maintained, and key threats that adversely affect these features
Step 4	Institutional arrangements	<ul style="list-style-type: none"> • Provide an overview of the current institutional arrangements in the context of wetlands management; • Discuss why the current institutional arrangements are insufficient in ensuring wetlands conservation and wise use; • Propose institutional arrangement for wetland management, with specific focus on: <ul style="list-style-type: none"> a) Nodal Agency b) Role of various departments and agencies and coordination mechanism, and c) Role of civil society and communities. • Develop an organogram for management plan implementation. • Regulatory regime specifying activities prohibited within wetlands, activities to be regulated within wetlands and zone of influence and regulation thresholds and activities permitted
Step 5	Setting Management Objectives	<ul style="list-style-type: none"> • Provide a statement of the overall goal that the management plan seeks to achieve; • Summarize the ecological and economic benefits that are expected from management plan implementation; • Enlist specific objectives; • Describe strategy(ies) for achieving each of the management objectives; • Provide a strategy for implementing regulatory regime - including list of activities liable to be prohibited, regulated and permitted within the wetland (wetlands complex)
Step 6	Monitoring and Evaluation Plan	<ul style="list-style-type: none"> • Present an overview of monitoring the wetland, and management plan implementation; • Describe monitoring parameters, the frequency of monitoring and the agency that will be responsible for monitoring; • Describe how coordination between different monitoring agencies will be achieved; • Discuss the infrastructure and human resource requirement for implementing the management plan. (As far as possible, include local universities, research organizations and NGOs in wetlands monitoring); • Discuss the frequency in which reporting shall be done and the responsible agency; Discuss how the monitoring outcomes will be used to adapt management
Step 7	Action Plan	Listing of management components and specific activities to achieve management objectives. For each activity,

		implementation location, prioritisation, implementing agency and timeline should be specified.
Step 8	Budget	Assessment of financial resources required for implementing the management plan and sources of funds.

A description of each step and format for the compilation of integrated management plan is at **Annex 4**.

70. **The management plans should be presented to the Wetlands Authority. The implementation shall begin only after receiving their endorsement. Management plans for Ramsar Sites and transboundary wetlands shall also be reviewed and endorsed by the MoEF&CC.**
71. The diagnostic management planning process, as described above, may also be used to guide management of wetlands excluded from notification under Wetlands Rules.
- XV. Violations and penal provisions
72. The Wetlands Authorities are entrusted with the responsibility of ensuring enforcement of Wetlands Rules and other relevant Acts, Rules and Regulations. Provisions of the relevant Central and State Government Acts are applicable.
73. All prohibited and regulated activities beyond their thresholds, if taken up within the wetlands and its zone of influence, shall be deemed violations under the Wetlands Rules.
74. The violations of the Wetlands Rules shall attract the penal provisions as per the Environment (Protection) Act, 1986.
75. Complaints may need to be filed in the case of violations. In exercise of powers conferred under clause (a) of section 19, the Central-Government has authorised the officers and authorities listed, in the Table (p. 238) vide S.O. 394 (E) published in the Gazette No. 185 dated 16-4-87, S.O. 237(E) published in Gazette No. 171 dated 29-3-89 and S.O. 656(E) published in the Gazette No. 519 dated 21-8-89, and amendments thereafter, if any.
76. The Authority should evolve a mechanism for continuous watch and ward of wetlands within their jurisdiction. At the local level, the concerned Gram Panchayat and Urban Local Body may be entrusted with watch and ward in association with any body constituted by the State Wetlands Authority, such as a Wetlands Management Unit for a specific Wetland. At District levels, the responsibility may be entrusted to the DDO, CDO (District Chief Development Officer)/CEO (Chief Executive Officer), Chief Programme Officer of the Wetland level body, such as a Wetlands Management Unit.
77. The State Governments should proactively ensure incorporation of wetlands within land records.
78. The Wetlands Authority shall report the status of notified wetlands on half yearly basis to the State Government/UT Administration and Central Government (recommended proforma at Annex 5).

79. The MoEF&CC has created a web-portal for sharing information regarding implementation of Wetlands Rules. The portal may be accessed at MoEF&CC website. The Central Government, State Government and UT Administration are required to upload all relevant information and documents pertaining to wetlands in their jurisdiction. State Governments / UT Administrations are encouraged to develop their own portals and hyperlink the same to the national portal. The State Governments and UT Administrations are also encouraged to upload other project documents and publications to enable sharing and exchanging good practices related to wetlands management in general, and implementation of regulatory framework in particular.

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Item Nos. 01 & 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 125/2017
(M.A. No. 1337/2018)

With

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

Court on its own Motion		Applicant(s)
	Versus	
State of Karnataka		Respondent(s)

With

D. Kupendra Reddy		Applicant(s)
	Versus	
State of Karnataka		Respondent(s)

Date of hearing: 06.12.2018

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s): Mr. Sajan Poovayya, Sr. Advocate and Mr. Paransh Jain,
Advocate for impleaded applicant - Namma Bengaluru
Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s): Mr. Devraj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mehta, Advocate

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s): Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr.
P. Ramaprakash and Mr. Sandeep Mishra, Advocates
For Respondents (s): Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA

ORDER

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

residential/commercial/industrial buildings in violation of statutory provisions of the Water (Prevention And Control of Pollution) Act, 1974, particularly Section 25 thereof. It is said that the said water bodies have also been subjected to severe pollution on account of inefficient management of solid waste management as well as discharge of untreated sewage waste, apart from industrial effluents. Toxic snowy froth was widely reported in the media having potential health hazard. The Bellandur lake is said to be 130 years old across 9,000 acres of land. The lake was habitat for several species of birds, reptiles and aquatic life which is now severely affected by pollution. It has also affected ground water recharge. Waste dumping has resulted in foul stench around the lake. The major cause for foam formation is considered to be the discharge of untreated sewage through open drains. Requisite de-silting of the lake has not been done from time to time nor have steps been taken to stop the flow of untreated sewage into the water bodies. There is also failure to prevent dumping of municipal solid waste and undertaking other requisite measures on 'Precautionary Principle', basis such as plantation around the Tank of the lake, fencing of the lake, providing screens in major storm drains to prevent carry over waste, construction of adequate STPs and other equipment.

2. The matter was first taken up by this Tribunal in the year 2014 and considered in the light of reports prepared by the Lake Development Authority, Bangalore (LDA) and the Regional Office of the Ministry of Environment, Forest and Climate Change (MoEF&CC) dated 12.06.2013 and 14.08.2013.
3. Vide order dated 07.05.2015 in *Original Application No. 222/2014, The Forward Foundation Vs. State of Karnataka & Ors.*¹, the Tribunal dealt with the issue of encroachments around drains called *Rajakaluves* resulting in pollution of the water bodies and affecting

¹ 2015 ALL (1) NGT REPORTER (2) (DELHI) 81

the ecologically sensitive area of the above lakes. The Tribunal noted the order of the Karnataka High Court in *Environment Support Group and Another V. State of Karnataka*² appointing a Committee headed by Hon'ble Mr. Justice N.K. Patil to suggest remedial action to remove encroachments. The Central Government issued an advisory on the subject. Certain Project were still allowed to be developed within the prohibited range from the water bodies. The projects included Information Technology Park, residential apartments, malls, hotels and office buildings with or without Environmental Clearance.

4. After consideration of the matter and after noticing encroachment on land by the land-mafia or otherwise and violation of environment norms, the Tribunal constituted a Committee to inspect the projects where encroachment was alleged on wetland and *Rajakaluves* and submit a report about the adverse impact on the environment. The project proponents *Mantri Techzone Private Limited, formerly called Manipal ETA P Ltd, and Core-mind Software and Services Private Limited* were required to pay compensation for damage to the environment. The said issue is said to be pending before the Hon'ble Supreme Court in *Civil Appeal No. 4829 of 2014 and 4832 of 2015*.
5. Expert Members of the National Green Tribunal inspected the site. The report in pursuance of the above order was considered and the matter was then dealt with by judgment dated 04.05.2016 in *Forward Foundation & Ors v. State of Karnataka & Ors*³. The Tribunal directed that distance specified in the said order be maintained for any construction near the *Rajakaluves*, maintaining buffer/clean zone as no construction zone. STPs be upgraded to ensure that no untreated sewage is discharged in the water bodies. Water requirement in construction and operation phase should be

² Writ Petition No. 817/2008

³ 2016 NGTR (2) PB 1

assessed in advance. With regard to the project proponents required to pay compensation for the damage to the environment, further directions were issued for restoration of the damage to the environment and further conditions being incorporated for the Environmental Clearance already granted.

6. The present matter was again taken up afresh for the third time on 22.02.2017 in the light of the media reports projecting environmental disaster, including fire in the lake (perhaps on account of gases in polluted water), emitting highly polluting fumes and creating thick clouds of smoke. The source of fire is also said to be garbage dumps around the lake.
7. On 22.02.2017, learned counsel for the statutory authorities conceded and stated that the fire took place on account of burning of municipal solid waste, including plastics, etc.
8. On 19.04.2017, this Tribunal noticed circular dated 30.03.2017 issued by Bruhat Bangalore Mahanagara Palike (BBMP) to circumvent the orders of this Tribunal while sanctioning illegal construction. The circular was later withdrawn.
9. The Karnataka Pollution Control Board (KPCB) found chemical in the water of the lake of which the source was domestic sewage. The STP was not able to treat and remove Nitrates and Phosphates.
10. The rejuvenation plan was prepared by the State after consultation with the stake holders. It was also stated on behalf of the Lake Development Authority that the lake was in bad condition and stringent measures were required to be taken. Orders for stopping dumping of waste into the lake were not being complied with.
11. The Tribunal noticed that apathy of the State and its instrumentalities was patent. Development of projects was being sanctioned without ensuring preventive, restorative and controlling measures. Accordingly, the industries causing pollution were directed to be closed and direction was issued against dumping of

any waste into the lake or in the buffer zone. The Committee headed by the Additional Chief Secretary of Urban Development, State of Karnataka was to undertake cleaning of the lake through a specialized agency. The sewage was required to be transported to a designated site at a distance for scientific disposal. The builders and developers were to be required to pay damages on 'Polluter Pays' principle'.

12. Further directions were issued on 18.05.2017 which included direction for a joint inspection of the STPs and installation of STPs in all complexes in the catchment area.

13. On 22.08.2017, the officers of the State who were summoned to the Tribunal were required to work on day-to-day basis to remedy the situation.

14. On 29.01.2018, the matter was again reviewed in the light of the status report dated 04.09.2017 suggesting short term and long terms measures. It was noted that 99 apartment projects had still not installed STPs. The State was directed to prepare a comprehensive plan for rejuvenation or remediation of all the three lakes in a holistic manner.

15. On 11.04.2018, there was further consideration. It was noted that the water body had shrunk in size on account of dumping of waste and there was failure to set up the requisite STPs. Accordingly, the Tribunal appointed a Committee headed by a Senior Advocate of the Tribunal to assess the factual situation and suggest review of the action plan. Accordingly, report has been submitted on 31.05.2018.

16. We have perused the report and also other record with the assistance of learned counsel for the parties. The report shows that the members of the Committee visited the site on 14th and 15th April, 2018 and found construction of a road within the lake itself by dumping construction and demolition (C&D) waste in the garb of laying a pipeline. The Committee also noted various fire incidents on

account of burning of garbage and the extent of discharge of untreated waste water. The lake was found covered with a thick green cover with patches of foul smelling water. There was huge mounds of the de-weeded hydrophytes along with plastic waste etc. There was no facility to do composting at the site. Wet compost had a potential for further damage. Dumping of municipal solid waste particularly the C&D waste was taking place. CCTV cameras were installed at five places with the sign board prohibiting dumping of garbage. Eight home guards were also said to have been deployed apart from 18 marshals. Four watchtowers were being constructed. The conclusion of the Committee is that the authorities have neglected their duties and have done too little too late. Foam was being formed in the lakes due to sustained inflow and agitation of sewage. Large number of illegal immigrants had encroached the buffer zone on the lake. Untreated sewage was being discharged into the lake through storm water drains. Untreated sewage was flowing into the lake through *Rajakalaves* which had also been encroached.

17. The water quality had high level of "Oil and Grease (24.74 mg/l) high BOD, (148 mg/l) COD (315 mg/l) and Sulphide (1.0 mg/l). The Dissolved Oxygen is reported nil for all locations in Bellandur and Varthur lakes and their inlets. The study by the Indian Institute of Science, Bangalore found heavy metals in the lakes, sediments and water. 873 complexes were found to have been identified which required STPs of which 496 had established STPs. 326 projects did not have STPs, out of 326, 271 projects were discharging sewage in the sewers with permission of the BWSSB. The remaining 55 complexes did not have any STP. The direction of the Tribunal to remedy the situation had not been complied with in letter and spirit and untreated effluents and sewage indiscriminately continued to pollute the lakes.

18. Varthur lake was downstream of Bellandur lake which was the second largest lake of the city with catchment area of 279 sq. km. and 96 cascading interlinked lakes. The Committee observed a horrific site. A wide road had been constructed in the lake bed which was over a kilometer long with an average width of 15 mts. and a depth of 4 mts. by using the debris.

19. Finally, following recommendations have been made:

*"1. The crux of the present environmental disaster is indiscriminate discharge of untreated sewage into the lakes. Admittedly, currently approximately 183 MLD, if not more, of untreated sewage is being discharged into the lake. **This is nothing short of a state of environmental emergency.** Consequently, it is of utmost importance that the under construction and planned STPs are commissioned on a war footing. **The Commission is of the view that there is no proper justification on the part of the authorities not to expedite the completion of the STPs as indicated particularly in respect of the 150 MLD K & C Valley STP.** The authorities (BWSSB, BDA and KSPCB) must mobilize all available resources to ensure that the STPs are commissioned as expeditiously as possible preferably by March 2019 or within such time as this Hon'ble Tribunal may deem fit.*

*2. Less Phosphorous means less weeds in the water body. One of the major source of Phosphate are soaps and detergents. In several countries stringent limits have been specified for Phosphate in soaps and detergents as it leads to eutrophication of water bodies. **M&C in conjunction with other ministries need to prescribe limits for Phosphorus in soaps and detergents by progressively reducing it to 2.2% of permissible phosphorous content. The STPs that are being set up and those which have already been set up must provide for treating/removing Phosphorous and Nitrogen nutrients.***

*3. As per the reports submitted before the Hon'ble Tribunal, the authorities have already identified all the sewage and effluent entry points into the lake. **Therefore it is imperative that the authorities must simultaneously ensure that all the sewage generated in the catchment area is channelized and linked to the Rajakaluves for appropriate treatment by the STPs.***

4. No further channelization and concretization of Rajakaluves.

*5. **All existing and new industries or commercial establishments or apartments / townships or institutions within the catchment area of the lakes must be made Zero Discharge.***

6. (a) The authorities must conduct a survey in the buffer zone of the lake to identify the encroachments and appropriate exercise should be undertaken to remove them.

(b) Complete Fencing of lake area including the buffer zone to prevent any further mushrooming of illegal encroachments. As

per the reports submitted by the Authorities before this Hon'ble Tribunal, the fencing work is currently in progress at a fast pace and should be completed by 30.06.2018. The authorities must abide by the said timeline.

7. (a) The Commission recommends that CCTVs should be installed at appropriate locations for ensuring that no C&D waste is dumped in the buffer zone area of the lake.
- (b) Security Guards should be deployed at the most vulnerable locations to keep vigilance on illegal dumping of debris and to prevent encroachment activities.
- (c) In case anyone is found to be dumping C&D waste or debris into the lake or its buffer zone, a penalty of Rs. 5 Lakhs be imposed for each offence in terms of the Order passed by this Hon'ble Tribunal on 19.04.2017.
8. No new facility or expansion of existing facility, whether for commercial or non-commercial purpose, to be permitted within the territorial jurisdiction of Municipal Corporations of catchment area of the lake, which generates sewage, until the commissioning of the STPs except public toilets.
9. No new facility or expansion of existing facility within 75 meters (buffer zone) of Rajakaluves / SWDs to be permitted. No fresh permission or sanction ought to be given by the municipal authorities to any project or facility within the buffer zone.
- 10. Structures, between 30-75 meters of Rajakaluves, which have already been constructed prior to 07.05.2015 (Forward Foundation Judgment) but are uninhabited, not to be occupied without the prior permission of the Hon'ble Tribunal and in any event not until the commissioning of the STPs in order to prevent generation of more sewage.**
- 11. Structures between 30-75 meters of Rajakaluves, which are under construction, be restrained from constructing further without the prior permission of the Hon'ble Tribunal and in any event not until the commissioning of the STPs.**
12. Permission or sanction or consent or EC for structures between 30-75 meters of Rajakaluves where construction was below 25% of the total built up area as on 07.05.2015 (Forward Foundation Judgment) be withdrawn. The Hon'ble Tribunal may issue appropriate directions and orders keeping in view the interests of the buyers who would eventually suffer financial loss.
13. Strict Compliance of environmental laws for apartments/ townships or commercial establishments:

Sl. No	Violation	Environmental Damage
1.	Where STP is required as per the EC/ Consent, but the facility has not constructed the STP despite generating sewage.	Rs. 10 Lakhs per month from the date of completion certificate or date of completion
2.	Where actual capacity of STP is less than the capacity as shown in the EC/ Consent.	Rs. 20,000/- per day from the date of inspection till final upgradation.

3.	Where the number of flats/ units actually constructed is more than the number of flats / units disclosed to KSPCB while obtaining Consent.	Rs. 1 Lakh per unit per month from the date of construction until the grant of fresh requisite consent.
4.	Where STP is not functioning or parameters are not being met or untreated sewage is being bypassed from the STP or being otherwise diverted.	Rs. 5 lakhs per default.

All damages so collected to be deposited in a separate account to be maintained by CPCB and to be exclusively utilized for upgradation, control and management of sewage.

14. The estimated 480 MLD of sewage, which flows into Bellandur Lake eventually via Varthur Lake, finally discharges into South Putakini River, a tributary of River Cauvery. Hence, it would be advisable that the de-siltation process of Bellandur Lake commences after reasonably treated water has reduced the pollutants, which have proved to be ecologically fatal for the lake. As per the material on record, admittedly the storage capacity of the lake has decreased by 71.45%. Once the quality of water has improved, it would be ecologically fair that the treated water flowing from Rajkaluves into Bellandur is diverted towards the waste were leading to Varthur Lake. Thereafter the task of de-silting and de-sedimentation ought to be undertaken. The process of de-silting and de-sedimentation would restore the original storage capacity and ecology of the lake.
15. The Commission observed that the current exercise of de-weeding is not only slow but also futile as the growth rate of the weeds is much more than the rate at which is being removed due to unhampered inflow of nutrients through the sewage. The Commission is of the view that the exercise of de-silting and de-weeding can be carried out simultaneously since the water content would be substantially reduced due to the diversion of treated water. Post completion of de-silting and de-sedimentation process, the diversion so created for treated water can be removed.
16. Post removal of waste from the Lake and from the Rajakaluves, the State ought to prepare a detailed project report with respect to disposal of the same.
17. The Commission is of the view that after achieving the above, the authorities must install adequate number of water fountains in order to sustain ecology of the lake water.
18. The Commission recommends constitution of a Task Force of experienced senior officers consisting of BDA, KSPCB, Minor Irrigation Department, Lake Development Authority, CPCB and a Professor from IIS for strict and timely implementation of the present recommendations. The Task Force can be headed by an independent individual preferably a former Expert Member of the Hon'ble Tribunal who may, after taking assistance of the other members, submit monthly action taken reports to this Hon'ble Tribunal.

19. The approximately over 1.5 km road laid upon the lake bed and within the boundary of Varthur lake by dumping of C & D debris should be removed forthwith. The entire project including laying of pipeline as per work order was to be completed within 24 months from June 2016.

20. **Hon'ble Tribunal may order an independent enquiry to examine the guilt of the officers involved in the dumping of thousands of Cubic meter of C & D debris on the Varthurlake bed for an ostensible object of laying of pipeline.**

21. **Apparently there is absolute non-compliance of Construction and Demolition Waste Management Rules, 2016. The concerned authorities in compliance with the said rules should identify appropriate suitable sites for deposit of C & D debris. All environment clearances granted prior to or after the notification of the C & D Rules 2016 must comply with the same."**

(Emphasis added)

20. Since no objection has been filed to the report, the same is accepted.

We note that even after reports which was filed more than 6 months back, to which no objection was filed, steps suggested in the report are **not** shown to have been taken.

21. It is obvious from the resume of the facts and reports noted above that there is a failure of very high magnitude on the part of the State of Karnataka and its authorities, including the BBMP, in protecting the three lakes and also in keeping the Rajakaluves joining the lake clean and free from encroachments.

22. The Water (Prevention and Control of Pollution) Act, 1974 has been enacted to prevent and control water pollution and to maintain wholesomeness of water. The Act provides for standards of water to be laid down, to be maintained and prohibits discharge of pollutants in the water which is made criminal offence apart from provision for closing such process which results in pollution. The State Governments are authorized to frame rules and to set up and control the Pollution Control Boards. The Pollution Control Boards have statutory powers to carry out inspection and take coercive measures to protect the water. Statutory functions of the Pollution Control Boards include comprehensive plan for prevention, control and abatement of pollution of water bodies. The Pollution Control Board is bound by

every direction of the State Government. The local bodies have been entrusted the duties specified in 12th Schedule to the Constitution, read with Article 243 W. The 12th Schedule includes the issues of public health, sanitation, solid waste management, etc. Environment (Protection) Act, 1986 empowers measures for environment protection. Under the said Act, solid waste, plastic waste, e-waste, hazardous waste, bio-medical and other rules have been framed. Air (Protection) Act, 1981 provides for measures to control air pollution. In spite of comprehensive statutory framework, the State of Karnataka as well as the BBMP, even after repeated orders of this Tribunal, have failed to perform their duties.

23. Orders of this Tribunal are statutorily treated to be decree of civil court and can be executed in such manner as may be found necessary, having regard to the nature of the order to be executed. This Tribunal also has jurisdiction to require damages to be paid for the damage to the environment on "Polluter Pays" principle⁴. Public Trust Doctrine is a part of our jurisprudence. The State as a trustee of all natural resources which are by nature meant for public use enjoyment. Public at large is the beneficiary of the sea-shore running waters, air, forest & ecologically fragile lands. The State as a trustee is under a legal duty to protect the natural resources.⁵ The authorities responsible have equal liability to pay compensation for restoring the damage to the environment and to prevent further damage.⁶ The officers charged with the responsibility of public duties are accountable for their failure. It may be worthwhile to recall several earlier executable orders on the subject of water pollution, air pollution, requirement of setting up STPs/ETPs, checking encroachments in catchment of water bodies⁷.

⁴ Section 20, NGT Act, 2010

⁵ M.C Mehta v. Kamal Nath (1997) 1 SCC 388

⁶ M.C Mehta v. UOI & Ors, W.P © No. 13029/1985 order dated 24.10.2017

⁷ All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors. E. A No. 11/2017 dtd. 16.10.2018, Venkatesh O.A No. 711 of 2018 dtd. 22.10.2018, Subhas Datta v. State of West Bengal & Ors. O.A No. 171/2016 dated 01.10.2018, Shobha Singh & Ors v. State of Punjab & Ors. dated 14.11.2018, Saloni Ailwadi v. Union of India & Or, O.A no. 509/2015 dated 16.11.2018.

24. Pan- India, environment degradation is severely affecting public health on a large scale⁸. References may be made to orders of the Tribunal on the subject of non-compliance of Solid Waste Management Rules, 2016,⁹ 351 river stretches being polluted,¹⁰ 102 non-attainment cities in terms of ambient air quality¹¹. Remedial measures are required which include awareness creation as well as coercive measures in the interest of public health.

25. There is thus, clear need to require the State and the BBMP to forthwith perform their duties to remedy the situation by preparing the requisite action plan, providing funds. In spite of admitted grave situation, the State/BBMP have not taken any coercive measures against polluters or the concerned officers for their failure. No prosecution is shown to have been launched. No serious steps are shown to have been taken to remedy the situation. Thus, the State and BBMP are also liable to pay compensation for the past failure. We have heard detailed submissions on the subject as well as quantum of the amount to be paid/set apart and the mechanism to be followed.

26. Accordingly, having regard to the facts and circumstances, we find it appropriate and necessary to issue following directions:

- i. Recommendations of the Committee dated 31.05.2018 may be carried out with a view to ensure that no polluted waste water is discharged into the water bodies and no solid waste is dumped therein. The encroachments from catchment areas must be removed. Karnataka SPCB in consultation with the CPCB may set up Real Time Water Quality Monitoring Systems in three

India ranked no.1 in pollution related deaths ⁸ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>

1.2 million people died from effects of air pollution in 2015

<https://www.livemint.com/Opinion/V2CgeiUq89k1k2fDwJXML/Swachh-Bharats-waste-management-problem.html>

<https://timesofindia.indiatimes.com/home/environment/pollution/80-of-Indias-surface-water-may-be-polluted-80%of-India-s-surface-water-is-polluted-report-by-international-body-says/articleshow/47848532.cms>

<https://www.mapsofindia.com/my-india/society/river-pollution-in-india-who-will-bell-the-cat>

⁹ In the matter of non-compliance of MSW Rules, 2016 O.A No. 606/2018 order dated 20.08.2018

¹⁰ NEWS ITEM PUBLISHED IN 'THE HINDU' AUTHORED BY SHRI. JACOB KOSHY Titled "More river stretches are now critically polluted: CPCB" O.A No. 673 of 2018 dated 20.09.2018

¹¹ 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" O.A No. 681/2018 dated 08.10.2018

lakes at appropriate locations to monitor parameters which are critical like Dissolved Oxygen, Ammonia and others. The online data may be displayed for information. The activities around the three lakes may also be monitored by using drones and satellite imageries.

ii. Overall responsibility to carry out these directions will be of the Additional Chief Secretary, Urban Development (UD), Karnataka and the BBMP. An action plan be prepared by the State/BBMP forthwith, within one month from today, indicating the timelines for the actions including the budgetary provisions and same should be placed on the website of State UD and BBMP. Execution of such plan may be completed by 30.06.2019.

iii. The compliance of the above directions will be overseen by a Committee as follows:

A. Justice Santosh Hegde, former Judge, Supreme Court of India - Chairman

B. Professor T.V. Ramachandra, Indian Institute of Science, Bangalore - Member

C. Nominee of Central Pollution Control Board who should be a senior level officer - Member

D. Nominee of the Karnataka Pollution Control Board - Member.

iv. KSPCB may provide logistics support to the Committee and coordinate as per directions of the Chairman of the Committee.

v. The Committee will have such powers as are necessary to ensure execution of this order within reasonable time. The State and all concerned Authorities will cooperate and provide all assistance as may be necessary. The Committee may issue necessary instructions to the authorities from time to time for the purpose. The Committee will be at liberty to co-opt any

other expert or take assistance from such person or persons as may be deemed necessary.

- vi. The Committee may set up its own website for receiving and disseminating information and suggestions, including inviting volunteers, as may be deemed proper. Achievements may be put on website so that the same can be replicated wherever relevant.
- vii. The Committee may oversee the timelines in the action plan to be prepared by the State UD of Karnataka/ BBMP.
- viii. The State of Karnataka will transfer an amount of Rs. 500 crores in an Escrow Account for execution of the action plan within one month from today.
- ix. The State of Karnataka will deposit a sum of Rs. 50 crores by way of interim compensation for restoration of the environment with the CPCB. For delay, an interest @ 12% will be payable.
- x. The BBMP will be required to deposit a sum of Rs. 25 crores in this regard to CPCB separately in the same manner as (ix).
- xi. Out of the amount so deposited, a sum of Rs. 10 crores will be transferred by CPCB to the Karnataka PCB. The SPCB will defray all expenses of the Committee to provide logistics or otherwise.
- xii. The amount can be recovered by the State/BBMP from polluters and the erring officers.
- xiii. The State of Karnataka will furnish a Performance Guarantee to the CPCB to execute the action plan in a time bound manner, subject to the timelines being approved by the above Committee. The Performance Guarantee will undertake to pay amount of Rs. 100 crores for the failure in the execution of the action plan before 30.06.2019.
- xiv. The State of Karnataka must identify and declare the persons responsible for executing the action plan and any failure in

their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. Since failure of preventing the pollutants being discharged in water bodies (including lakes) and failure to implement solid and other waste management rules are too frequent and widespread, the CPCB must lay down specific guidelines to deal with the same, throughout India, including the scale of compensation to be recovered from different individuals/authorities, in addition to or as alternative to prosecution. The scale may have slabs, depending on extent of pollution caused, economic viability, etc. Deterrent effect for repeated wrongs may also be provided.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

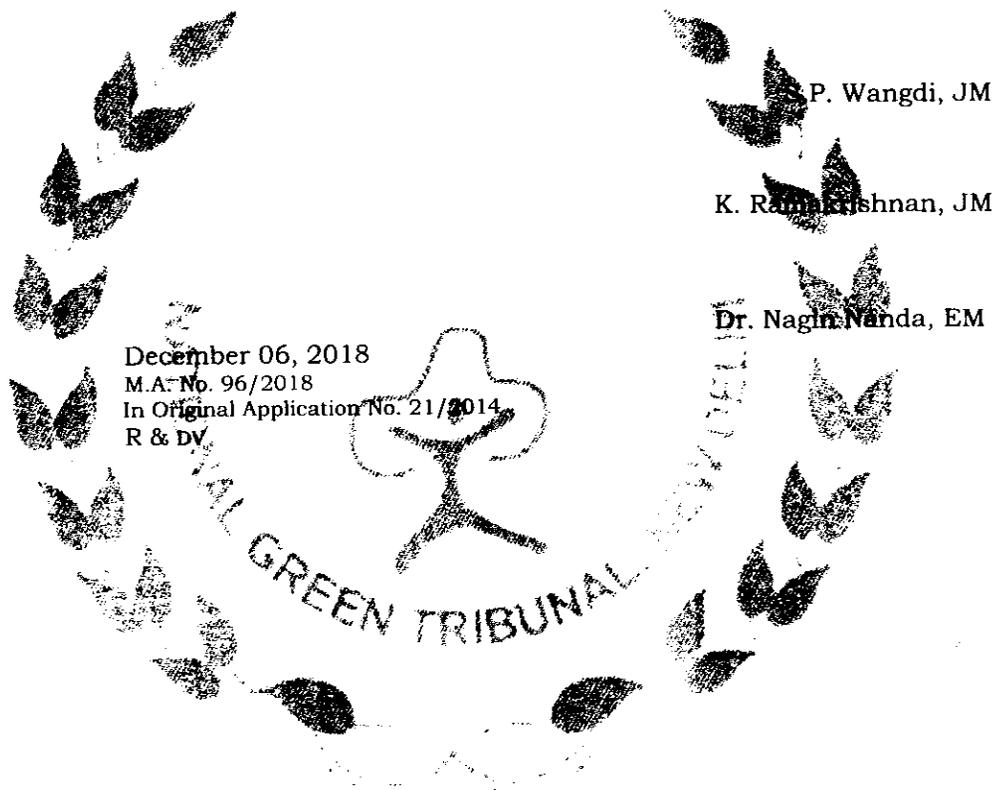
27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

30. The Committee will also be at liberty to furnish interim or final report from time to time to this Tribunal by e-mail at ngt.filing@gmail.com.
31. A copy of this order be forwarded to the State PCB by e-mail. For coordination. The Applications stand disposed of.
32. If any report is received, the same may be put up for consideration.

Adarsh Kumar Goel, CP



SUMMARY OF RESIDENTIAL - BLOCK-01								
Floors	Gross Area (Sqm)	Deductions for Shafts / Closets (Sqm)	Built Up Area (Sqm)	Lifts & Ramps (Sqm)	Parking (Sqm)	OTS Terraces	Net FAR Deductions (Sqm)	FAR (Sqm)
Basement-2	5,690.00	135.60	5,554.40	263.00	4,856.40	0.00	5,119.40	435.00
Basement-1	5,690.00	280.60	5,409.40	295.00	4,759.40	0.00	5,054.40	355.00
Ground Floor	5,255.00	280.60	4,974.40	295.00	4,219.40	0.00	4,514.40	460.00
Total Basement	16,635.00	696.80	15,938.20	853.00	13,835.20	0.00	14,688.20	1,250.00
1st Floor	2,665.20	323.95	2,341.25	31.05	0.00	0.00	31.05	2,378.20
2nd Floor	2,154.75	323.95	1,830.80	31.05	0.00	0.00	31.05	1,799.75
3rd Floor	2,154.75	323.95	1,830.80	31.05	0.00	0.00	31.05	1,799.75
4th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
5th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
6th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
7th Floor	2,661.45	323.25	2,338.20	31.05	0.00	0.00	31.05	2,307.15
8th Floor	2,655.25	323.25	2,332.00	31.05	0.00	0.00	31.05	2,300.95
9th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
10th Floor	2,661.40	323.25	2,338.15	31.05	0.00	0.00	31.05	2,307.10
11th Floor	2,655.20	323.25	2,331.95	31.05	0.00	0.00	31.05	2,300.90
12th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
13th Floor	2,653.35	323.95	2,329.40	31.05	0.00	0.00	31.05	2,298.35
14th Floor	2,605.45	322.30	2,283.15	31.05	0.00	0.00	31.05	2,252.10
15th Floor	2,583.95	322.30	2,261.65	31.05	0.00	0.00	31.05	2,230.60
16th Floor	2,647.60	424.05	2,223.55	31.05	0.00	0.00	31.05	2,192.50
17th Floor	2,647.60	442.05	2,205.55	31.05	0.00	0.00	31.05	2,174.50
18th Floor	2,321.10	279.95	2,041.15	31.05	0.00	0.00	31.05	2,010.10
19th Floor	2,150.00	571.25	1,578.75	31.05	0.00	0.00	31.05	1,540.70
terrace/20th floor	743.50	11.20	570.30	0.00	0.00	70.00	70.00	500.30
Total of Block-1								41,816.70
GRAND TOTAL								43,066.70

SUMMARY OF RESIDENTIAL - BLOCK-02									
Sl No	Floors	Gross Area (Sqm)	Deductions for Shafts / Closets (Sqm)	Built Up Area (Sqm)	Lifts & Ramps (Sqm)	Parking (Sqm)	OTS Terraces	Net FAR Deductions (Sqm)	FAR (Sqm)
1	Basement-2	6,892.75	145.00	6,747.75	247.00	5,915.75	0.00	6,162.75	585.00
2	Basement-1	6,892.75	280.60	6,612.15	295.00	5,877.15	0.00	6,172.15	440.00
3	Ground Floor	6,892.75	280.60	6,612.15	295.00	5,812.15	0.00	6,107.15	505.00
	Total Basement	20,678.25	706.20	19,972.05	837.00	17,605.05	0.00	18,442.05	1,530.00
4	1st Floor	2,923.00	215.75	2,707.25	48.00	0.00	0.00	48.00	2,659.25
5	2nd Floor	2,523.75	215.75	2,308.00	48.00	0.00	0.00	48.00	2,260.00
6	3rd Floor	2,523.75	215.75	2,308.00	48.00	0.00	0.00	48.00	2,260.00
7	4th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
8	5th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
9	6th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
10	7th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
11	8th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
12	9th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
13	10th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
14	11th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
15	12th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
16	13th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
17	14th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
18	15th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
19	16th Floor	2,923.00	219.75	2,703.25	48.00	0.00	0.00	48.00	2,655.25
20	17th Floor	2,678.00	214.75	2,463.25	48.00	0.00	0.00	48.00	2,415.25
21	18th Floor	2,640.00	216.75	2,423.25	48.00	0.00	0.00	48.00	2,375.25
22	19th Floor	2,295.00	212.00	2,083.00	48.00	0.00	0.00	48.00	2,035.00
23	terrace/20th	517.00	145.00	372.00	0.00	0.00	68.00	68.00	304.00
	Total of Block-2								48,827.00
GRAND TOTAL									50,357.00

UNIT MATRIX RESIDENTIAL - BLOCK-1						
Sl No	Module	TYPE - A	TYPE - B	TYPE - C	TYPE - D	TOTAL
1	01 BHK (EWS)	27	0	0	0	27
2	02.50BHK	17	40	3	3	63
3	03BHK	36	32	28	36	132
4	04BHK	35	0	0	0	35
5	04BHK DUPLEX	2	2	2	2	8
TOTAL UNITS						265

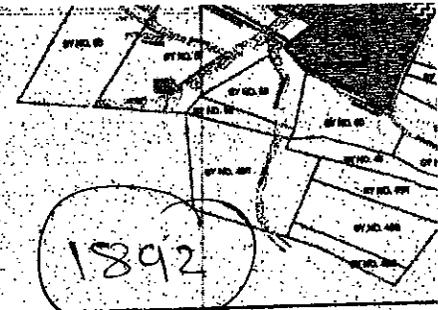
UNIT MATRIX RESIDENTIAL - BLOCK-02						
Sl No	Module	TYPE - A	TYPE - B	TYPE - C	TYPE - D	TOTAL
1	01 BHK (EWS)	28	12	0	0	40
2	02.00BHK	70	127	0	0	197
3	03BHK	36	111	0	0	147
4	03.50 / 04 BHK DUPLEX	2	4	0	0	6
TOTAL UNITS						390

Water Calculation: (BLOCK-01)									
Sl No	Description of Module	NO OF UNITS	Rate of Occupancy/ Unit	No of Persons	Domestic water demand in lpcd	Flushing water demand in lpcd	Domestic water reqt in liter/day	Flushing water reqt in liter/day	Total water demand in lpcd
1	1 BHK	27	4	108	90	45	5,720	1,860	14,580
2	2.5 BHK	63	6	378	90	45	14,070	17,010	31,080
3	3 BHK	132	6	792	90	45	71,280	35,640	106,920
4	4 BHK	40	7	280	90	45	37,260	13,860	51,120
5	Club House	1	152	152	70	45	18,480	6,254	24,734
TOTAL		264		1,670			153,810	76,307	230,117

Water Calculation: (BLOCK-02)									
Sl No	Description of Module	NO OF UNITS	Rate of Occupancy/ Unit	No of Persons	Domestic water demand in lpcd	Flushing water demand in lpcd	Domestic water reqt in liter/day	Flushing water reqt in liter/day	Total water demand in lpcd
1	1 BHK (EWS)	28	4	112	90	45	5,720	1,860	14,580
2	02.00BHK	70	6	420	90	45	14,070	17,010	31,080
3	03BHK	36	6	216	90	45	71,280	35,640	106,920
4	03.50 / 04 BHK DUPLEX	2	7	14	90	45	37,260	13,860	51,120
TOTAL		136		762			153,810	76,307	230,117

A	TOTAL NUMBER OF UNITS PROPOSED	360	NOS
B	TOTAL NUMBER OF UNITS BELOW 225 SQ.M	360	NOS
C	NUMBER OF CAR PARKS REQD FOR ABOVE @ 1 Car/unit	360	NOS
D	TOTAL NUMBER OF UNITS ABOVE 225 SQ.M	0	NOS
E	NUMBER OF CAR PARKS REQD FOR ABOVE @ 2 Car/unit	0	NOS
F	NUMBER OF EWS UNITS PROPOSED	40	NOS
G	NUMBER OF CAR PARKS REQD FOR EWS Units	40	NOS
H	TOTAL NUMBER OF CAR PARK FOR RESIDENTIAL UNITS	360	NOS
J	NUMBER OF VISITOR CAR PARKS (10% of #H)	39	NOS
K	FAR AREA OF CLUB HOUSE FOR EVERY 50 SQ.M OF FAR AREA 1 CAR PARK REQD	21	
L	CAR PARK REQD FOR CLUB HOUSE	21	NOS
M	TOTAL NUMBER OF CAR PARKS REQUIRED (F+G+J+K+L)	460	NOS

Total Number of car parks provided	
No of car park in open	33
No. of Car Parks in Ground floor	130
No. of Car Parks in Upper Basement	145
No. of Car Parks in Lower Basement	152
TOTAL NUMBER OF CAR PARKS PROVIDED	460

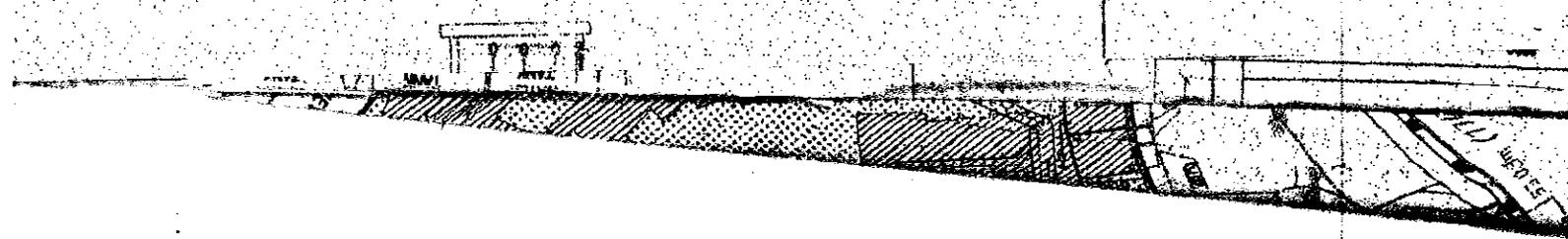


LEGEND :-

	FLOW DIRECTION
	RAIN WATER PIPE
Cap	CAPACITY
Cum	CUBIC METER
M	METER
	NRV NON RETURN VALVE
	BFV BUTTERFLY VALVE

Total site area including kharab land (12Acres 31Guntas)	51,718.83	Sq.Mts
Kharab land (13guntas)	1,335.92	Sq.Mts
Total Site Area in consideration (12Acres 18Guntas)	50,382.91	Sq.Mts
Civic amenities @5.00%	2,519.15	Sq.Mts
Civic amenities provided @5.01%	2,524.18	Sq.Mts
Total Site Area in consideration (12Acres 18Guntas)	47,858.73	Sq.Mts
Area of park and open spaces @ 10%	4,785.87	Sq.Mts
Area of park and open spaces PART 01	1,962.35	Sq.Mts
Area of park and open spaces PART 02	2,871.40	Sq.Mts
Area of park and open spaces provided@10.01%	4,833.73	Sq.Mts
FAR in consideration	2.25	
Total FAR area to be achieved	107,682.13	Sq.Mts
Total FAR area achieved	93,423.70	Sq.Mts
Total FAR area to be achieved	1,159,080.78	Sq.Ft.
Total FAR area achieved	1,005,607.67	Sq.Ft.
FAR achieved	1.952	

Sl No	Residential Precinct	% of total FAR	Total BUA	
			Sq.Mts	Sq.Ft.
1	BLOCK 02	46.76%	50,357.00	542,037.71
2	BLOCK 01	39.99%	43,066.70	463,569.96
			93,423.70	1,005,607.67



T.C.
 (P)

1893

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

**IN
APPEAL NO. 54 OF 2018**

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

LIST OF DATES AND EVENT

- 2007** The State Govt. issued the Revised Master Plan, 2015 (with effect from 2007) which demarcates a prohibited buffer zone to be maintained around the water bodies as well as rajakaluves (storm water drains) in the city of Bengaluru.
- 19.01.2016** The State Govt. issued Notification No. FEE 316 EPC 2015 whereby it states that the Bruhat Bengaluru Municipal Corporation (BBMP) and the Bangalore Development Authority (BDA) shall approve plan for construction of buildings only after production of the copy of Consent for Establishment (CFE) issued under the Water Act, 1974 by the Karnataka State Pollution Control Board (KSPCB).
- 04.05.2016** The buffer zones demarcated in the Revised Master Plan, 2015, were subsequently expanded by the Hon'ble NGT in the matter of **Forward Foundation v. State of Karnataka and Ors.** reported in **2016 SCC OnLine NGT 1409** to the following extent:
- "(i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.*

(ii) 50m from the edge of the primary Rajkulewas.

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(iii) 35m from the edges in the case of secondary Rajkulewas

(iv) 25m from the edges in the case of tertiary Rajkulewas"

10.01.2018 Environmental Clearance granted in favour of the Respondents No.11 for the purpose of construction of a high-rise residential apartment project for lands bearing municipal Khata number 4131 on Survey Number 61/2, 62 and 63/2, Kasavanahalli Village. The Clearance was granted for built up area of 1,28,193.9 sq mt with 655 units.

05.03.2018 The BDA sanctions the Development Plan in favour of the Project Proponent. The Development Plan grants permission for construction of 2,35,076 sq mt of built-up area with 688 units. At the time of sanction of the Development plan, the consent to establish had not been issued by the KSPCB and therefore, the issuance of the said Development Plan is in violation of the prohibition/direction vide Gazette Notification issued by the State govt. on 19.01.2016.

09.04.2018 The Appellant herein filed Appeal No.54 of 2018 challenging the grant of EC on several grounds including but not limited to deliberate concealment of material facts, illegal construction on the prohibited buffer zone and non-application of mind by the SEIAA while appraising the impugned project.

22.06.2018 The BBMP, Respondent No. 5 to Appeal No. 54 of 2018, issued a Confirmation Order directing for the demolition of the unauthorised constructions raised by the Project

Proponent on the ground that the impugned project was being constructed in violation of the Karnataka Municipal Corporations Act, 1976.

13.07.2018 In light of the continued construction activities being undertaken by the Project Proponent, the BBMP issued a detailed Show Cause Notice as to why strict action should not be taken in this regard. (At page 403)

05.09.2018 BBMP filed a detailed response in Appeal No. 54 of 2018 whereby they stated that the Project Proponents have resorted to various illegalities of environmental, municipal norms and even the revised master plan, 2015 during the construction of the impugned project-

- a. It is stated by BBMP that project lands are infact wetlands and is abutting the Kaikondrahalli lake.
- b. There is a nalla passing through the adjacent land in survey No. 57 and 25 meters buffer line indicated to the extent of said buffer line that falls inside the project land. However, inside this 25 mt. buffer line/zone which is prohibited area, permission for proposed development of 12 meters of wide drive way and installation of gas bank/infrastructure for LPG piped line is approved.
- c. In survey No. 61/1 a 25 meter buffer zone indicated and inside this 25 meter buffer zone 8 meter wide Fire Drive way, an installation of organic waste converter and LPG gas bank is approved.
- d. It was affirmed that the Project Proponents had substantially deviated from the scope of the project as enshrined in the Environmental Clearance to the extent of an **additional 1,06,882.91 sq mtrs.**

e. It was stated that the permissions obtained by the Project Proponents, including the building plan and building license, were invalid and not in accordance with the KMC Act.

f. In light of the above-mentioned infractions, no further permissions, sanction or approvals were to be granted under Section 505 of the KMC Act, 1976.

12.10.2018 Despite being a party to the Appeal and having perused the reply of BBMP qua the illegal construction being undertaken by the Project Proponent, KSPCB issued the Consent to Establish to the Project Proponent in respect of the impugned project.

30.10.2018 The Bangalore Water Supply and Sewerage Board has granted a No Objection Certification ('NOC') in favour of the Project Proponent, whereunder the total built up area of the project is 1,71,755.37 sq. mtr. In light of the fact that the built up area as mentioned in the NOC is above 1,50,000 sq. mtr, the Project in question would fall squarely within Item 8(b) (Category B1) of the EIA Notification, 2006, thereby it is a mandatory requirement to submit an EIA Report and undergo fresh appraisal under the appropriate categorisation.

11.03.2019 A conservation action group by the name of Mahadevpura Parisara Samrakshane Mattu Abhivrudhi Samiti (MAPSAS) filed Original Application No. 281 of 2019 for the revival and rejuvenation of the Kaikondrahalli lake, particularly, in light of the illegal construction projects being undertaken on the prohibited buffer zone of the lake. It is imperative to

mention that this application was an overarching petition and not confined to any one particular construction project.

- 11.03.2019** The Hon'ble. Tribunal in OA 281 of 2019 constituted an expert committee comprising of representatives from the CPCB, KSPCB, BBMP and the BDA to look into the matter and submit a factual report of the same.
- 12.07.2019** The Appellant herein filed Original Application No. 602 of 2019 seeking compliance of EC conditions by the project proponent with regard to the impugned project.
- 19.07.2019** In Original Application No. 602 of 2019 the Hon'ble Tribunal constituted a Joint Committee comprising of representatives from the CPCB, the Karnataka SEIAA, the KSPCB.
- 23.09.2019** An inspection report was submitted by the expert committee constituted in OA 281 of 2019 filed by MAPSAS qua all encroachments and illegal constructions surrounding the Kaikondrahalli lake. In the list, the impugned project being undertaken by the project proponent herein has been highlighted and it was noted that a certain portion of the project lands did infact fall within the prohibited buffer zone of the Kaikondrahalli lake.
- 03.02.2020** The Hon'ble Tribunal disposed of Appeal 54 of 2018, OA 602 of 2019 and OA 281 of 2019. By this order dated 03.02.2020 in Appeal No. 54 of 2018 the Hon'ble Tribunal quashed the environment clearance dated 10.01.2018. The findings of the three cases have been tabulated below for the convenience of this Hon'ble Court-

CASE NO.	CAUSE OF ACTION/ ISSUE INVOLVED	FINDINGS OF THE HON'BLE TRIBUNAL
Appeal No. 54/2018	Statutory Appeal filed under Section 16 of the NGT Act, 2010 against the EC granted to the Respondent No.11.	<p>On the basis of the pleadings and finding of the expert committee the Hon'ble Tribunal opined that no EC could have been granted which permitted construction on the buffer Zone of the lake and drains merely by imposing condition that no such construction will be raised. Hon'ble Tribunal further held that it is clear that the project stipulates construction in the buffer zone, in violation of zoning Plan and judgement of this Tribunal as affirmed by the Hon'ble Supreme Court.</p> <p>Accordingly, Appeal was allowed and EC was quashed.</p>
OA 602/2019	<p>Application filed against Project Proponent for-</p> <ol style="list-style-type: none"> 1. Non-compliance of EC Conditions 2. Non-compliance of CFE conditions. 	<p>The Hon'ble Tribunal held that in light of the fact that the EC issued was quashed, nothing further remains to be adjudicated upon.</p> <p>OA disposed of. It is submitted that The report sought in this Application was not filed by the committee.</p>

	<p>3. Action to be taken against erring officials for granting illegal permissions by violating directions issued under Section 5 of Environment Protection Act, 1986.</p> <p>4. Prayer to enforce the demolition order issued by the BBMP.</p>	
OA 281/2019	<p>An overarching application seeking restoration and revival of the Kaikondarahalli lake, specifically in light of encroachments along the buffer zone of the lake.</p>	<p>An inspection report was signed and submitted by the MoEF, CPCB, KSPCB, BBMP and BDA wherein a tabulation of all illegal constructions were demarcated.</p> <p>One such construction was noted to be the impugned project in the present case undertaken by the Respondent in Appeal No. 54 of 2018.</p> <p>OA disposed of.</p>

02.-03.2020

The Project Proponent challenged the order dated 03.02.2020 in Appeal No. 54 of 2018 before Hon'ble Supreme Court by way of Civil Appeal No. 1713 of 2020.

Notice was issued in the matter and it was also directed that the report sought in OA No. 602 of 2019 shall be filed.

14.07.2020

The report as directed by Hon'ble Supreme Court was filed alongwith affidavit dated 7.07.2020 by KSPCB.

11.08.2020

The Hon'ble Supreme Court partly allowed the Civil Appeal No. 1713 of 2020 and remitted the matter to Hon'ble Tribunal to restore Appeal No. 54 of 2018 and reconsider the Appeal by taking into consideration the report of the joint Committee prepared in OA No. 602 of 2019. It is pertinent to point out that the Hon'ble Supreme Court did not revive the EC also no construction was allowed in the meantime.

08.09.2020

The Hon'ble Tribunal heard the Appeal 54 of 2018 and OA 602 of 2019 and observed that "The two reports submitted by the representatives of the statutory authorities need to be reconciled and if necessary, a larger Committee constituted with senior representatives of the concerned departments, to put the matter beyond controversy."

The Hon'ble Tribunal by this order constituted joint committee to submit an independent report.

18.03.2021

The Joint committee constituted by the this Hon'ble Tribunal by order dated 08.09.2020 filed their report.

THROUGH



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RAHUL CHOUDHARY

COUNSEL FOR THE APPELLANT

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New Delhi - 110048

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH AT NEW DELHI****APPEAL NO. 54 OF 2018****IN THE MATTER OF :-**

H. P. RAJANNA

... APPELLANT

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

LIST OF DOCUMENTS BY APPELLANT

S. NO.	DOCUMENTS	PAGE NO.
1	Order dated 3.02.2020. Original Application No. 602 of 2019 In the matter of H.P. Rajanna Vs. Union of India and ors.	1903-1908
2	Order dated 3.02.2020. Appeal No. 54 of 2018 In the Matter of H.P. Rajanna Vs. Union of India and ors.	1909-1936
3	Order Dated 2.03.2020, 7.08.2020 and 11.08.2020 in Civil Appeal 1713 of 2020 Wonder Project Development Pvt. Ltd. Vs. Union of India and ors.	1937-1953
4	Order dated 8.09.2020 in Appeal 54 of 2018 in the matter of H.P. Rajanna vs. Union of India and ors.	1954-1213
5	Report dated 14.07.2020/ 29.06.2020 by Joint Committee Original Application No. 602 of 2019	1214-1288
6	Objection dated 19.08.2020 by the Appellant to report	1289-1308

	dated 14.07.2020 & 29.06.2020	
7	Additional Objection dated 26.08.2020. 14.07.2020 by Appellant to the report	1309-1326
8	Written Submission by BBMP dated 27.08.2020	1327-1337
9	Copy of Form-I dated October 2017 along with Conceptual & Plan Submitted before SEIIA(Page 1049)	1338-1356
10	Copy of Environment Clearance dated 10.01.2018	1357-1365
11	Reply to the Appeal dated 5.09.2018 by Respondent No. 5 BBMP	1366-1406
12	Building Development Plan approved by BDA	1407
13	Village Map	1408
14	Joint Committee Report dated 18.03.2021.	1409-1478
15	Objection dated 11.06.2021 to the report dated 18.03.2021	1479-1503
16.	RMP 2015 -	1504-1505

THROUGH

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Email:- Litigation.life@gmail.com

PLACE:- DELHI

DATED :- 18.06.2021

Item No. 05

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 602/2019

H. P. Rajanna

Applicant(s)

Versus

Union of India & Ors.

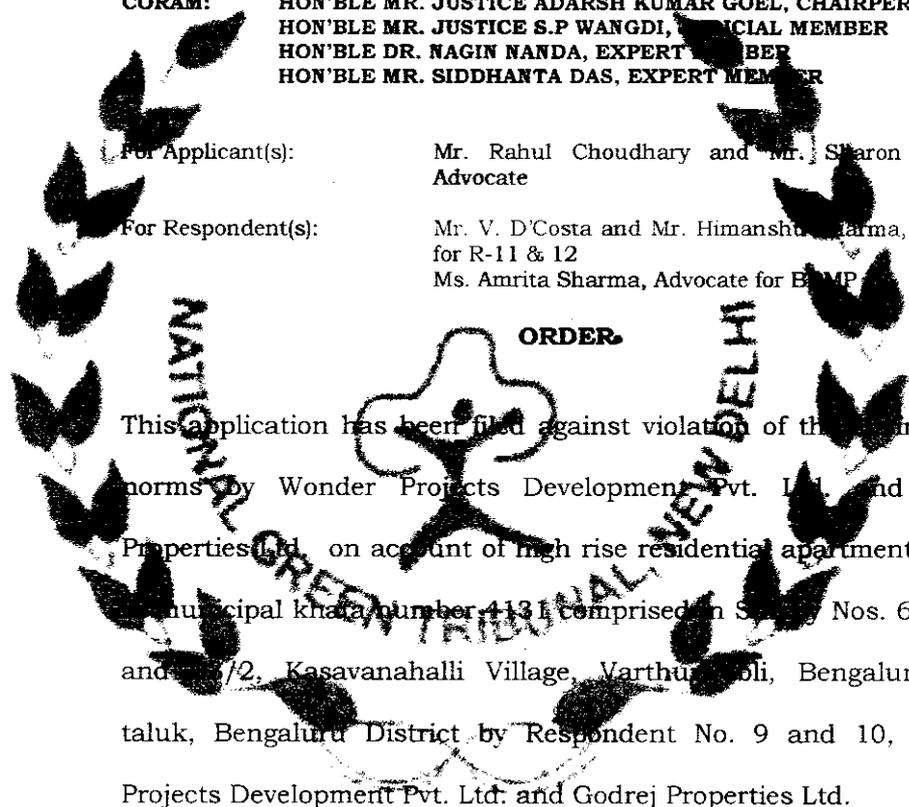
Respondent(s)

Date of hearing: 03.02.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

For Applicant(s): Mr. Rahul Choudhary and Mr. Sharon Mathew, Advocate

For Respondent(s): Mr. V. D'Costa and Mr. Himanshu Sharma, Advocate for R-11 & 12
Ms. Amrita Sharma, Advocate for B&MP



ORDER

This application has been filed against violation of the environment norms by Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. on account of high rise residential apartment project in municipal khata number 4131 comprised in Survey Nos. 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East taluk, Bengaluru District by Respondent No. 9 and 10, Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd.

2. The matter was considered on 19.07.2019 as follows:-

“According to the applicant, the project is in prohibited area of buffer zone of the lake and the Rajakaluves crossing the project lands. The area is eco-fragile zone. Environmental Clearance was granted on 10.01.2018 against which an appeal is pending and is fixed for 13.08.2019. The Environmental Clearance is in violation of order of this Tribunal dated 04.05.2016 in O.A. No. 222/2014, Forward Foundation vs. State of Karnataka and Ors. against which an appeal was decided by the Hon'ble Supreme

Court vide judgment dated 05.03.2019 in Civil Appeal No. 5016/2016, Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Ors.

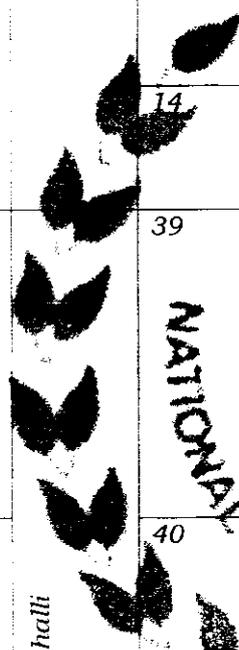
In view of above, let a factual and action taken report in the matter be furnished by joint Committee representing Central Pollution Control Board (CPCB), Karnataka State Environment Impact Assessment Authority (SEIAA), Karnataka State Pollution Control Board (KSPCB), Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. The SPCB will be the nodal agency for coordination and compliance. The report may be furnished within one month by e-mail at judicial-ngt@gov.in.”

3. A joint Committee has filed its report through the Karnataka State PCB on 23.09.2019 in connected O.A. No. 281/2018 . The report refers to a survey report submitted by the Department of Survey to the State PCB on 11.09.2019 as follows:-

“Existing properties in Kaikondrahalli Lake buffer area and violation, if any noticed are tabulated below:

S. No.	Sl. No.	Activity	Violation of Buffer
A	3	Vacant site	No violation
	5	Vacant site	No violation
	6	Grave Yard	Not permitted activity
	7	Vacant Site	No violation
	8	Establishing cross road, Commercial buildings where Ananda Sweet and Nanda's Multicusine, Sri Parrajeshwari condiments shop, BM Care and Beng fruits and vegetables shop	Portion of lake area is encroached
	9	Renuka High School with play ground and toilet, Sports Centre, Raksha Car service, Residential building and Private car service garage in buffer zone.	Not permitted activity
	10/3	Private grocery shops and commercial establishment in the buffer zone	Not permitted activity
	11	Kidzee School and cross road established	Not permitted activity
	11/2	Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"	The project authorities have

			established, swimming pool, club house and approach road in the lake buffer area, which is not permitted activity.
	11/2	ALPS Prime Spaces Pvt Ltd, established residential apartment by name "Alps estate	South east portion of the project area where STP and Exit gate situated is in buffer area, which is not permitted activity.
	14	Private building and commercial establishment in the buffer area.	Not a permitted activity.
B	39	C & D wastes are dumped and used for Solid Waste segregation by BBMP contractor.	C & D waste debris shall be removed and solid waste segregation has to be supervised by BBMP. Not a permitted activity.
	40	There is no construction activity except establishment of temporary labor shed after some distance.	BBMP has to verify whether these shed falling under buffer or not.
Kasavanahalli	62	Project by name "W... Projects Development Pvt.Ltd. have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahlli Tank. Project under construction.	Sy No. 62 and 63 falls under Lake buffer area. As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate



			report will be submitted by the committee.
	63/1	Vacant site	No Violation
	68	SJR Enterprises Pvt. Ltd., established Residential Apartment by name SJR Water Mark	Project authorities have established rain water harvesting tank, park, tennis court and portion of drive way at 1 acre 17 guntas falling under the buffer area.
	69	There are some residential building and establishment of park and road in the lake buffer area.	Not permitted activity
	71/2	Residential sheet houses construction in the area of 1 acre 4 guntas and 1 acre 6 guntas is vacant. Further, the owner of the Sy No. 72/2 is started leveling land adjoin to the lake. Sheet building construction in Sy No. 73 still exists.	Not permitted activity
Kasavu Talli	71/1 71/2 72/1 72/2 73 74/5A 74/5B	Nala Khrab of Sy No. 71/1 of 1 gunta, 71/2 of 1 gunta, 72/1 of 1 gunta, 72/2 of 2 guntas, 73 of 01 guntas, 74/5A of 2 guntas and 74/5B of 4 guntas of Hulla Khrab is encroached and nala area is being used for approach road.	Not permitted activity

On the above listed properties, the following properties have obtained Environmental Clearance from SEIAA and Consent to Establishement & Operation from KSPCB.

- Sy No. 68: SJR Enterprises Pvt Ltd., established Residential Apartment by name SJR Water Mark.
- Sy No. 11/2: Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley".
- Sy No 11/2: ALPS Prime Spaces Pvt Ltd, established residential apartment by name "Alps estate".
- Sy Nos 61/2, 62 and 63/2: Godrej by name "Wonder Projects Development Pvt Ltd"-under construction.

The relevant photographs on Violation of Buffer are attached as Annexure 4.

4.0 OBSERVATION OF COMMITTEE ON THE REPRESENTATION SUBMITTED BY THE MAHADEVAPURA PARISARA SMRAKSHNE MATTU ABHIRUDHI SAMITI (MPSMAS)

The Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samiti (MPSMAS) through Managing Trustee Sri Subramanian Sankrana submitted updated representation to Karnataka State Pollution Control Board (KSPCB). The pointwise observation of the Joint Committee is given as Annexure 5.

Further, as noticed by the committee during the restoration work under taken by BBMP, BBMP established walkway by rising the lake bed around the periphery of the lake and constructed toilet and amphitheater within the lake area.

5. OVERALL OBSERVATION AND SUGGESTION OF THE COMMITTEE

The observations of the committee are:

There are three main feeder drains to the Kasavanahalli Lake, one on south Eastern side, second on Western side and third one towards Southern Side of the lake. The total lake area is 48 acres 23 Guntas.

- The Lake is rejuvenated jointly by BBMP & MPSMAS in the year 2011 with two sewage diversion lines to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering to the lake. Other than this there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake. BBMP has to clear the diversion line to avoid the overflowing of sewage from the manhole into the Lake and plan to have a terminal Sewage Treatment Plant to treat the entire sewage and only to allow the storm water to the lake through wetland.
- BBMP storm water drain, Mahadevapura zone marked the drain area which is originating from Kasavanahalli road to the lake from eastern side and work pertaining to restoration of the drain is in progress.
- BESCO authorities have disconnected the power supply to residential houses in Sy No. 71/1,71/2,72/2,72/1,72/2,74/5B and 73 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru urban district.

- The residential sheet houses constructed at Sy No. 72/2 coming under the lake buffer are demolished. But, residential houses constructed in Sy No. 73 are still exists, the same need to be removed. Vacant area of the Sy No. 71/2 & 72/2 adjoining to lake is being filled with new soil for leveling.
- Sy No. 71/2: The land adjoining to lake is being used for solid waste segregation by BBMP, the same need to be stopped and segregation of waste are to be done at the generation and collection point itself. The dumping and segregation of solid waste at the lake belt to be stopped and cleared.
- Sy No. 39: The land adjoining to lake is being used for dumping of C & D waste, BBMP shall be directed to take appropriate steps to clear the same.
- The temporary labour sheds constructed existing in Sy No. 40 need to be verified by the BBMP whether the sheds are within Lake Buffer or not and to take appropriate action.

"The concern authorities shall be directed to take appropriate action to clear the violations/encroachment notices in the existing properties & activities in the buffer area."

4. By separate orders passed today in Appeal No. 54/2018 and O.A. No. 281/2019 the above report has been directed to be acted upon by the concerned authorities.
5. In view of the above, no further order is necessary as the issue raised is already covered by the above orders.

The application stands disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

February 03, 2020
Original Application No. 602/2019
A

1909

Item No. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 54/2018
(M.A. No.541/2018, I.A. No.140/2019,
I.A. No.352/2019 & I.A. 54/2020)

H. P. Ranjanna

Appellant(s)

Versus

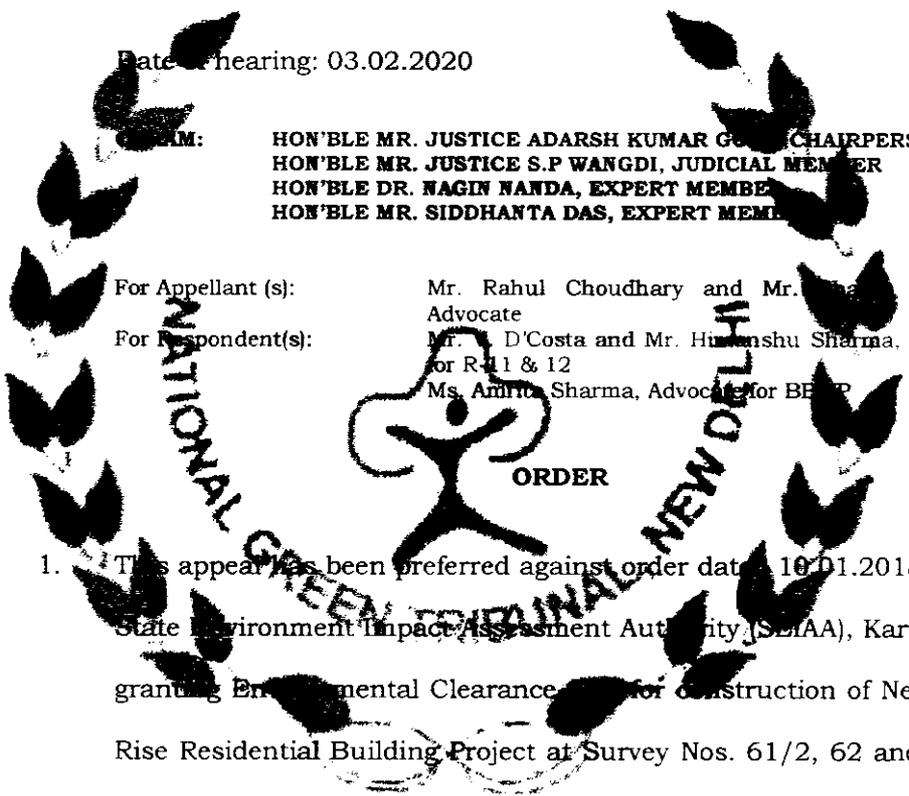
Union of India & Ors.

Respondent(s)

Date of hearing: 03.02.2020

JUDICIAL MEMBER:
HON'BLE MR. JUSTICE ADARSH KUMAR GOUD, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

For Appellant (s): Mr. Rahul Choudhary and Mr. Mathew,
Advocate
For Respondent(s): Mr. D'Costa and Mr. Himanshu Sharma, Advocate
for R-11 & 12
Ms. Amrita Sharma, Advocate for BEEP



ORDER

1. This appeal has been preferred against order dated 10.01.2018 of the State Environment Impact Assessment Authority (SEIAA), Karnataka, granting Environmental Clearance for construction of New High Rise Residential Building Project at Survey Nos. 61/2, 62 and 63/2, Kasavanahalli village, Varthur Hobli, Bengaluru East Taluk, Bengaluru District by M/s Wonder Projects Developments Pvt. Ltd. Construction is proposed on a plot area of 50,382.91 sq.m. with total built up area 1,28,193.9 sq.m. The project will consist of two residential block having, two basements plus ground floor plus upper floors with 655 units. Total parking space proposed is for 877 Nos. of

Cars (site plan/ layout drawing). Total water consumption is 534 KLD. It is proposed to construct two sewage treatment plants with a capacity of 210 KLD and 280 KLD.

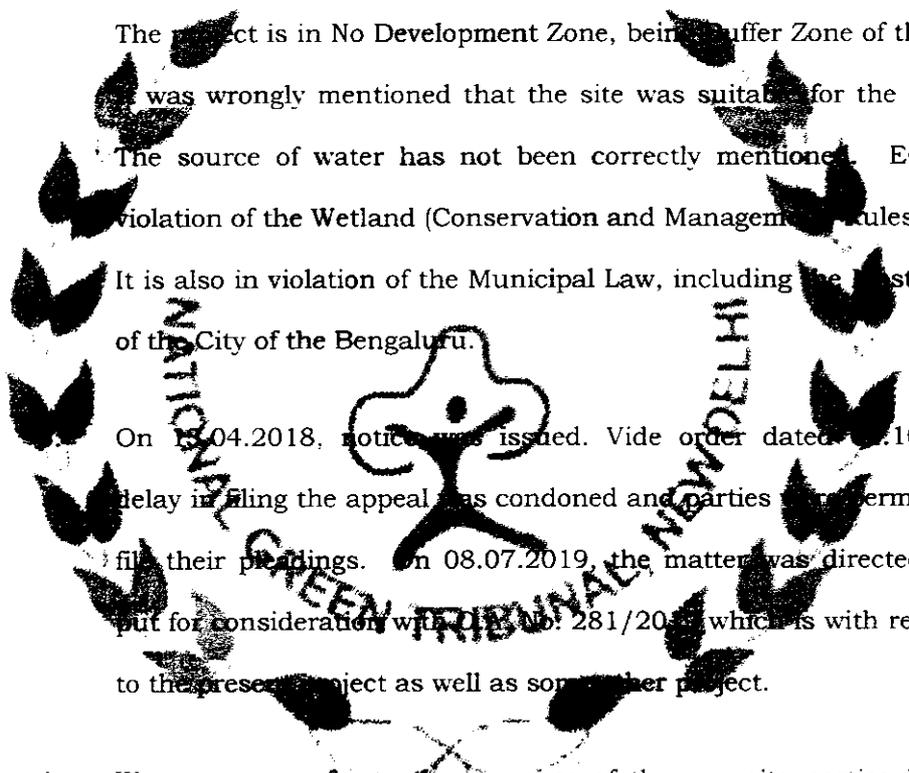
2. Grievance against the above EC is that the construction is in the buffer zone of the Kaikondarahalli Lake, apart from one primary and two secondary Rajulewas. The area is eco-fragile and environmental load by the project would be much more than carrying capacity of the area. The project proponent deliberately concealed relevant data.

The project is in No Development Zone, being Buffer Zone of the lake. It was wrongly mentioned that the site was suitable for the Project. The source of water has not been correctly mentioned. EC is in violation of the Wetland (Conservation and Management) Rules, 2017.

It is also in violation of the Municipal Law, including the Master Plan of the City of the Bengaluru.

On 13.04.2018, notice was issued. Vide order dated 27.10.2018, delay in filing the appeal was condoned and parties were permitted to file their pleadings. On 08.07.2019, the matter was directed to be put for consideration with O.A. No. 281/2019 which is with reference to the present project as well as some other project.

4. We may now refer to the response of the opposite parties in their pleadings. The stand of the Bruhat Bengaluru Mahangara Palike (BBMP) in its reply filed on 05.09.2019 is that the project is illegal. It has issued stop work notice to the project proponent on 13.07.2018 on account of violation of the Zoning Regulation No. 4.12.1 (ii) of the Revised Master Plan - 2015 which prescribes a buffer of No



Development Zone of 30 meters around the lake. Relevant averments in the reply of BBMP are:-

7. ***It is humbly submitted that the project lands are in fact Wetlands and it is situated abutting the Kaikondarahalli Lake. The project lands fall inside/within the two kinds of buffer zones defined in the Judgment (04.05.2016, Forward Foundation's case), namely, The Lake Buffer zone limits (75 meters from the periphery of the lake) and Nalla/Rajakaluve Buffer zone limits (35 meters) on either sides from the edges of the Nalla/Rajakaluve. Both these buffer zone limits are prohibited areas in terms of the judgment in Forward Foundation's case supra and directions issued therein (at direction No.3 stated above) that no permissions for the purposes of sanctioning any construction project can be granted by any authority for any construction project, including the project in question named, GODREJ REFLECTIONS.***

8. As regards the prayer in the above case that directions to Respondent authorities including BBMP to strictly enforce the judgment of the NGT in Forward Foundation's case is concerned. In the humble submission of the Respondent No.5, this Hon'ble Tribunal in the said case has passed various directions for protection of environment and ecology for the city of Bengaluru and has made several observations regarding the environment situation in Bengaluru and regarding the water scarcity in Bengaluru. Forward Foundation's case in Original Application No.222 of 2014 was disposed of by its main judgment dated 07.05.2015. While doing so at Para No. 59 therein various directions were issued and a High Power Committee was constituted and to submit a report to the Tribunal. BBMP was one of the members of High Power Committee.

Subsequently, pursuant to the High Power Committee's report this Hon'ble Tribunal passed another judgment dated 04.05.2016 and has therein issued three types of directions: (1) General Conditions or Directions; (2) Specific Conditions/Directions for Respondent No.9; and (3) General Directions.

The third direction at Para no. 63 is already stated above and it is applicable for the above case.

9. It is humbly submitted that in the above said judgment dated 07.05.2015 in Forward Foundation's case, it is clearly stated regarding Wetlands as under:

"56. Wetlands are amongst the most productive ecosystems on the Earth, and provide many important services to human society. However, they are also ecologically sensitive and adaptive systems. "Free" services provided by wetlands are often taken for granted, but they can easily be lost as wetlands are altered or degraded in a watershed. Estimates of the per acre value of wetland services run as high as \$370,000/acre in 1992 dollars (Heimlich et al. 1998). The exact value can be attributed to the type and location of the wetland, the services it provides, and the economic methods and assumptions used.

57. Ecosystem goods provided by the wetlands mainly include: water for irrigation; fisheries; non timber forest products; water supply; Pollution removal, Flood attenuation, Groundwater recharge, Shoreline protection, Wildlife habitat and recreation. Major services include: carbon sequestration, flood control, groundwater recharge, nutrient removal, toxics retention and biodiversity maintenance (Turner et al., 2000).

58. Various services provided by wetlands include Carbon Cycle/Carbon Sequestration: Swamps, mangroves, peat lands, mires and marshes play an important role in carbon cycle. Though wetlands contribute about 40% of the global methane (CH4) emissions, they have the highest carbon (C) density among terrestrial ecosystems and relatively greater capacities to sequester additional carbon dioxide (CO2). Wetlands provide for habitat for more aquatic, terrestrial, and avian species on an area basis than any other habitat type, making them one of the most ecologically and economically important ecosystems on earth. Thus, wetlands provide for soil life, habitat, biodiversity maintenance and recreation. Wetlands are a service provider to Nutrient Removal, Flood attenuation and Water supply and Ground water recharge and even are a source of employment [Ref: Pant et. al, 2003; Groffman and Crawford, 2003; Juliano and Simonovic, 1999; Olewiler, 2004; MFPED, 2004]. It is essential to provide an effective institutional framework to manage water bodies through governmental and even non-governmental organizations.

59. Bengaluru has many artificial lakes, built for various hydrological purposes and mainly to serve the



needs of irrigated agriculture and other allied purposes. The studies placed on record show that lakes of Bengaluru occupy about 4.8 per cent of the city's geographical area (640 square meters) covering both urban and non-urban areas (Krishna M.B. et al., 1996). The number of these lakes has rapidly fallen from 262 in 1960 to 81 in 1985. The quality of water has reduced due to discharge of industrial effluents and domestic sewage. Conversion of lakes for residential, agricultural and industrial purposes has engulfed many lakes. Similarly, between 1973 and 2007, this region lost 66 lakes with a water spread area of around 1100 hectares due to urban sprawl (Nitin Bassiet al.,

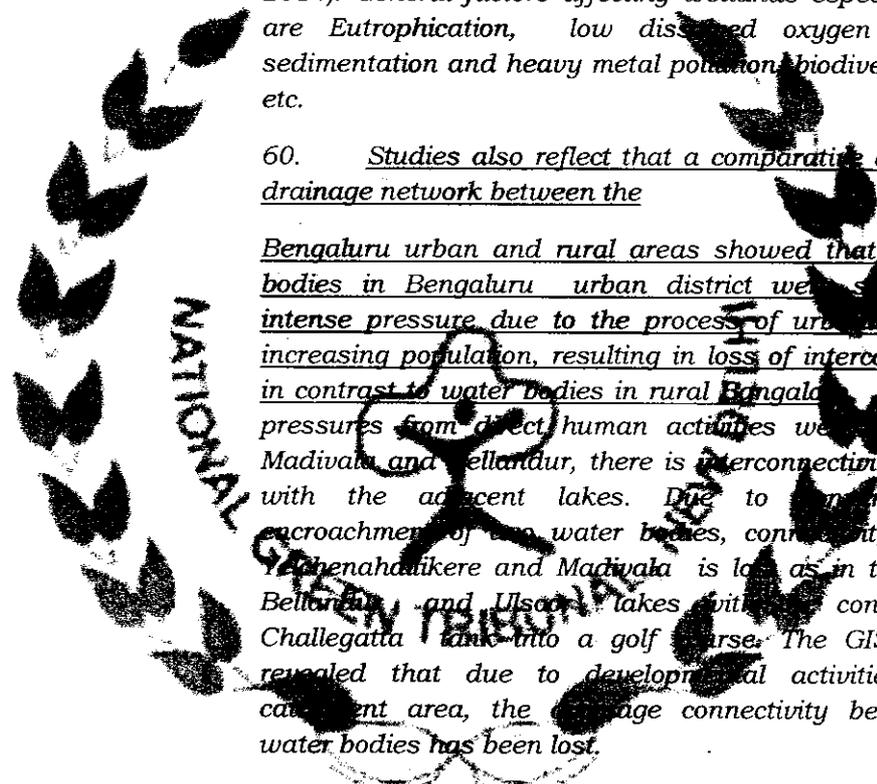
2014). General factors affecting wetlands especially lakes are Eutrophication, low dissolved oxygen and pH, sedimentation and heavy metal pollution, biodiversity loss, etc.

60. Studies also reflect that a comparative analysis of drainage network between the

Bengaluru urban and rural areas showed that the water bodies in Bengaluru urban district were subjected to intense pressure due to the process of urbanization and increasing population, resulting in loss of interconnectivity, in contrast to water bodies in rural Bengaluru where less pressures from direct human activities were noticed. At Madivala and Bellandur, there is interconnectivity of lakes with the adjacent lakes. Due to encroachment and conversion of two water bodies, connectivity between Yehenahalikere and Madivala is lost as in the case of Bellandur and Ulsar lakes with the conversion of Challegatta tank into a golf course. The GIS analysis revealed that due to developmental activities in the catchment area, the drainage connectivity between the water bodies has been lost.

61. The loss in wetland interconnectivity in Bangalore district is attributed to the enormous increase in population and the reclamation of tanks for various developmental activities

65. The wetland management program generally involves activities to protect, restore, manipulate, and provide for the functions and values emphasizing both quality and acreage by still advocating sustainable usage of them [Walters, C. 1986]. Management of wetland ecosystems requires an intense monitoring, increased interaction and co-operation



among the various agencies (state departments concerned with environment, soil, natural resource management, public interest groups, citizen groups, agriculture, forestry, urban planning and development, research institutions, government, policy makers, etc.). **Such management goals should not only involve buffering wetlands from any direct human pressures that could affect the wetlands normal functions, but also in maintaining important natural processes that operate on them that may be altered by human activities. Wetland management has to be an integrated approach in terms of planning, execution and monitoring requiring effective knowledge on a range of subjects from ecology, economics, watershed management, and planners and decision makers, etc.** All this would help in understanding wetlands better and evolving a more comprehensive solution for long-term conservation and management strategies.

67 It was opined that this activity is contrary to Sustainable Development as the natural resources, lakes and wetlands get affected due to such activity. **Removal of Rajakaluve (storm water drains) and gradual encroachment over them amounts to removal of lake connectivity, which enhances the episodes of flood and associated disasters. The Supreme Court of India, in Civil Appeal No. 132/2011 while expressing concern regarding encroachment, particularly over lakes, had directed the State Governments to remove encroachments on all community lands.**

67 **Multi-storied buildings have come up on some lake beds that have totally intervene the natural catchment flow leading to sharp decline and deteriorating quality of water bodies. This is correlated with the increase in built up area from the concentrated growth model focusing on Bangalore, adopted by the state machinery, affecting severely open spaces and in particular water bodies. Some of the lakes have been restored by the city corporation and the concerned authorities in recent times. Threats faced by lakes and drainages of Bangalore:**

1. Encroachment of lakebed, flood plains, and lake itself;
2. **Encroachment of rajakaluves/storm water drains and loss of interconnectivity;**
3. Lake reclamation for infrastructure activities;

4. Topography alterations in Lake Catchment;

- 5. Unauthorized dumping of municipal solid waste and building debris;
- 6. Sustained inflow of untreated or partially treated sewage and industrial effluents;
- 7. Removal of shoreline riparian vegetation;
- 8. Pollution due to enhanced vehicular traffic.

These anthropogenic activities particularly, indiscriminate disposal of industrial effluents and sewage wastes, dumping of building debris have altered the physical, chemical as well as biological integrity of the ecosystem. This has resulted in the ecological degradation, which is evident from the current ecosystem valuation of wetlands. Global valuation of coastal wetland ecosystem shows a total of 14,785/ha US\$ annual economic value. Valuation of relatively pristine wetland in Bangalore shows the value of Rs. 10,435/ha/day while the polluted wetland shows the value of Rs.20/ha/day (Ramachandra et al., 2005). In contrast to this, Varthur, a sewage feeding wetland has a value of Rs.118.9/ha/day (Ramachandra et al., 2011). The pollutants and subsequent contamination of the wetland has telling effects such as disappearance of native species, dominance of invasive species (such as African catfish, water hyacinth etc) in addition to profuse breeding of disease vectors and pathogens. Water quality analyses revealed of high phosphates (4.22-5.76 ppm) levels in addition to enhanced BOD (119-140 ppm), decreased DO (1.06 ppm). The amplified decline of ecosystem goods and services with degradation of water quality necessitates the implementation of sustainable management strategies to recover the lost wetland benefits



10. It is humbly submitted that this Hon'ble Tribunal has also clearly stated regarding the tripartite namely, Wetlands, zone of influence/catchment area and water bodies/lakes in the case of Diwan Singh & Another vs Union of India & Others (Larger Bench ruling) in Original Application No. 299 of 2016, the relevant para's is reproduced as under:

"15. Water bodies and wetlands play an extremely crucial role in ground water recharge, maintenance of aquatic biodiversity, provide habitat for avifauna as

well as aquatic life, help regulate temperature and humidity in the locality, and thereby ameliorate the severity of extreme temperature and also provide drinking water during critical months to the wild life. Besides, a water body receives the surplus run off, subsurface and base flow from the adjoining catchment area during the monsoons and helps in the recharge of aquifers, thereby providing a dynamic equilibrium with the catchment as well as the aquifers underneath. Protection of water bodies is, therefore, critical to the associated aquatic and terrestrial ecosystem of the area. However, the capacity of the water bodies can be severely impacted adversely in the absence of a proper vegetative cover, unregulated flow of domestic sewage and industrial effluent into the water body or dumping of municipal waste which some of the water bodies

"18. The Apex Court has held that the government is duty bound to clean and develop ponds which are drying up, so that ecological disaster may be prevented and better environment provided to people at large in the matter of **Hinch Lal Tiwari V. Kamala Devi** [(2001) 4 SCC 496]. Relevant portion is reproduced as follows :

"It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc., are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities ..., Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large."

The emphasis of the above enunciated law is that all the concerned authorities should exercise their powers within the framework of law to protect forests, lakes, rivers and wildlife. The failure on the part of the Authorities to do so causes a dual damage. Firstly, the loss of water bodies and secondly, unauthorized or impermissible development activity on the wetland. Both of them cumulatively have serious adverse impacts on environment and ecology."

11. In fact the project lands/wetlands are situated in the catchment areas of Bellandur and/or Varthur lakes and particularly abutting the Kaikondarahalli lake. The Project

Proponents i.e. M/s Wonder Project Development Pvt. Ltd. have submitted an application on 17.11.2017 to BBMP for sanction of building plan and building license for the purpose of construction of high rise residential building project (i.e. Godrej Reflections/impugned project) from the BBMP in Application No. **BBMP/Add.Dir/JD/NORTH/0202/2017-18** in respect of the lands in BBMP Khata No.4131, Survey No.61/2, 62, 63/2 totally measuring 12 acres 18 guntas situated in Kasavanahalli, Varthur Hobli Bangalore East Taluk, BBMP Ward No.150 (Bellandur Ward), Mahadevpura Zone, Bangalore.

12. For the purpose of launching this project, the Project Proponents have resorted to various illegalities. In fact, the Project Proponents had widely issued full page public advertisements in leading English daily newspapers (including advertisement copy produced on page no.8 of MA No.541/2018 in the above case), advertising for the project and in continuation of the same the Project Proponents have in fact illegally and unauthorizedly raised constructions of model flat comprising of ground floor and first floor measuring 2500 square feet and there was on-going constructions, therefore, BBMP issued Show Cause Notice-cum-Stop Work Notice dated 13.07.2018 as stated above.



In fact the construction of Model Flat measuring 2500 sq.ft. was raised even in the absence of Mandatory written permission from the BBMP for the purpose of putting up any construction in the project lands and in the absence of approved Building Plan and Building License which is a condition precedent. In fact, there is clear violation of Section 300 of KMC Act, 1976. Therefore, the said construction in the project lands are completely illegal and unauthorized. Section 300 of the KMC Act, 1976 is as under:

"300. Prohibition against commencement of work without permission.- The construction or re-construction of a building shall not be begun unless and until the Commissioner has granted permission for the execution of the work."

In this context, it is relevant to mention that this Hon'ble Tribunal in Forward Foundation's case (4.5.2016) at Para 34 has defined the meaning of construction and it is reproduced as under:

"34. Construction does not mean construction of only the building. Construction envisages different processes starting from clearing the land, excavating the land for the foundation, building the foundation and the work till the entire construction is completed"

In this background, Condition Nos. 45 and 46 of the Environment Clearance are relevant and are reproduced as under:

"45. The proponent shall take up the construction activity only after obtaining NOC from BWS&SB or clearance from the competent authority for assured supply of water as the case may be.

46. The Project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, FAR etc., shall be adhered to."

Therefore, BBMP has issued necessary orders to remove the illegal and unauthorized structures and has therefore issued Provisional Orders (PO) under section 321(1) & (2) of the KMC Act, 1976 dated **06.06.2018** and followed by Confirmation Order (CO) under section 321(3) of KMC Act, 1976 dated **22.06.2018**. The photographs at page No.6 of the Rejoinder Affidavit filed by the Appellant on **22.05.2018** is the very same illegal constructions raised in the project lands in which BBMP has issued the above said orders to remove the unauthorized constructions.

14. In fact, the application dated 17.11.2017 submitted by Project Proponent seeking sanction of building plan and building license is invalid and is not according to the mandatory requirements under the KMC Act and BBMP Building Bye-laws, 2003. Building Bye-law no.3.2 is as under:

"3.2 Application and documents to be submitted with the application. - Every person who intends to erect or re-erect or alter a building, including temporary structures for the purpose of exhibition, trade fair or circus or execute any of the works other than repairs, as specified in Section 299, 304 or 312 of the Act, shall give an application in writing to the Authority in the Form set forth in Schedule II and such application shall be accompanied by plans, documents and information as required hereunder:

Schedule-II (Building Bye-law No.3.2) i.e. Form of application for building license required that:

"3. Site Plan, showing the existing features like trees, well etc. (Block levels to be furnished in cases where the gradient of the land exceeds 5% (1:20) or where

basement/cellar floors are proposed below ground level).

10. **No objection certificate from agencies like, BDA, BESCOM, BWSSB, KSCB, District Magistrate, Director of Factories and Boilers, Controller of Explosives, Railways, Fire Force Department, Airport Authority of India, Government Health Department and any other authority wherever applicable.**"

The mandatory requirements at Serial Nos.3 and 10 is not complied with by the Project Proponents, despite the Show Cause Notice-cum-Stop Work Notice dated **13.07.2018** wherein the BBMP has requested the Project Proponents to produce documents stated in para no.19 of the said Notice. However, the Project Proponents have till today not furnished these required documents. BBMP at Para no.19 has specifically sought for the mandatory permission "Consent to Establish (CFE) from Karnataka State Pollution Control Board for the project in question; and No Objection Certificate (NOC) from the BWSSB for the project in question."

PROJECT PROPONENTS HAVE NOT OBTAINED THE MANDATORY CONSENT REQUIRED UNDER SECTION 25 OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974.

15. In this context the material on record itself discloses that Annexure R-4 produced by the Project Proponents in their reply to the Appeal dated **19.5.2018** clearly discloses that the very application form seeking the mandatory consent to establish the project u/s 25 of the Water (Prevention and Control of Pollution) Act, 1974 for establishing the project and seeking mandatory consent for the project from 2018 was submitted only on **01.01.2018**. This, itself clearly shows that the application seeking building plan and building licenses were not in accordance with the mandatory requirements under BBMP by-law no.3.2 and Sections 299, 304 and 312 of the KMC Act. Moreover, it is mandatory to first obtain the consent to establish the project as it is clearly stated by the Hon'ble Supreme Court of India at Paragraph No.50 in the case of *Anirudh Kumar vs Municipal Corporation of Delhi & Ors, 2015 (7) SCC 779*.

Therefore, it was incumbent on the Project Proponents first to obtain the consent to establish the project and thereafter to proceed with further stages of obtaining the building plan and building license. But the Project Proponents without complying with Section 25 of the Water Act, 1974 i.e. by not obtaining the mandatory consent to establish the project and without obtaining

the building plan and building license from the BBMP have illegally constructed the model flat for launching the project with wide public advertisements. Since BBMP has issued demolition orders and Show Cause Noticecum-Stop Work Notice, however, the Project Proponents have falsely stated and mis-represented that they have not raised any constructions.

Apart from all this, the project site discloses the illegal construction activity at the far end (on the Eastern side) of the project and that there is vast extent of earth excavated even as on **14.05.2018** and dumping this excavated earth in the form of hillocks along the periphery of the Kaikondarahalli lake and in other parts of the project site.

16. Insofar as the other permission from, the Respondent No.9-Water Supply and Sewage Board/RWSSB is concerned, the Water Board has in its letter dated 23.05.2017 addressed to the Project Proponents in respect of the project lands regarding the request for issuance of the statutorily required permission/No Objection Certificate/NOC, have stated as under:

"The above area falls under jurisdiction of 110 villages and water supply and UGD is maintained by BBMP.

Since the work of providing water supply to 110 villages is taken up by the Board. Until the completion of the work issue of NOC has been withheld

17. In this regard, based on the drawings submitted to the BBMP by the Project Proponents for the purpose of sanction of building plan and building license indicates that the proposed constructions of two blocks of residential apartment buildings i.e. Block No.1 (63.60 mtrs in height) is at the end of the project lands, while Block No.2 is at the entrance of the project lands. In this background the Zoning Regulation No.3.12 framed under the provisions of Karnataka Town and Country Planning Act, 1961 is applicable to the project and the application seeking building plan and building license. Zoning Regulation No. 3.12 is reproduced as under:

3.12) No Objection Certificates:

i. For all Development Plans, **Apartment buildings** and Residential layouts which come under the category stipulated by the KSPCB, **necessary NOC from KSPCB** (KSPCB shall mention the need for environment clearance if any in the NOC) shall be furnished.

ii. For **all buildings with a height of 24.0m and above**, NOC from Fire Force in addition to **NOC from Pollution Control Board** (KSPCB shall mention the need

for environment clearance if any in the NOC) shall be furnished

It is therefore clear that there is non-compliance of the above said Zoning Regulation No.3.12 because the height of the proposed building is clearly above 24 meters, the requirement of clearance/consent/NOC from Pollution Control Board is mandatorily required and the Project proponents have not complied with the said requirement for the purpose of sanction of building plan and building license.

VIOLATION OF ZONING REGULATIONS AND/OR BUFFER ZONE VIOLATIONS

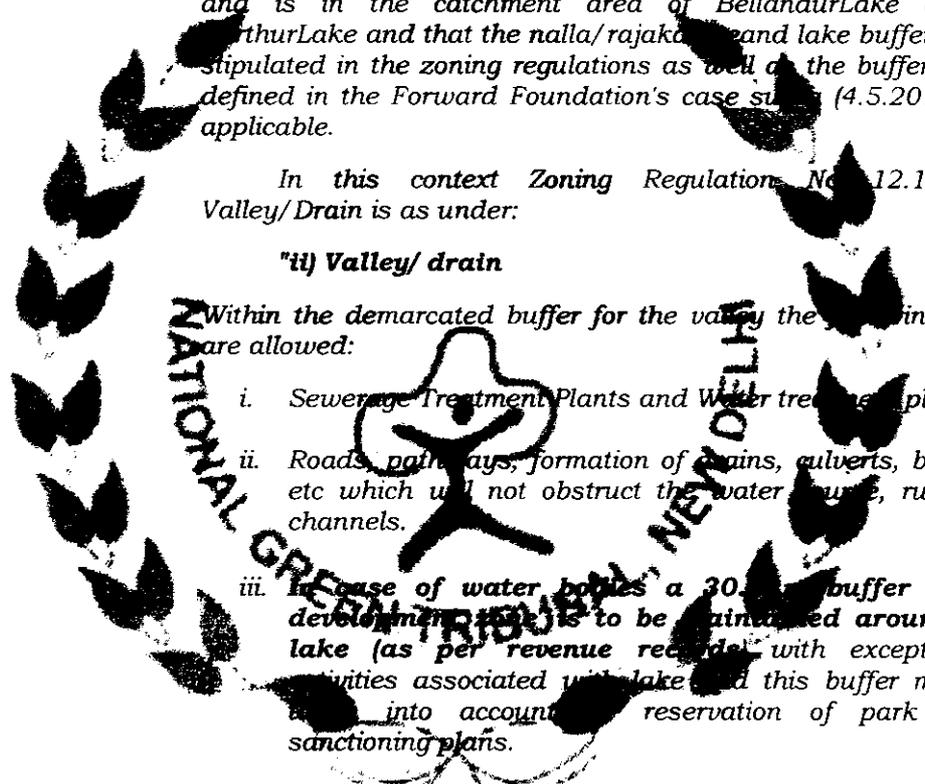
18. It is humbly submitted that as already stated above the project lands being wetlands and abutting Kaikondarhalli Lake and is in the catchment area of Bellandur Lake and/or Athur Lake and that the nalla/rajakal and lake buffer zones stipulated in the zoning regulations as well as the buffer zones defined in the Forward Foundation's case study (4.5.2016) are applicable.

In this context Zoning Regulations No. 12.1(ii) — Valley/ Drain is as under:

"ii) Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plant.
- ii. Roads, paths ways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies a 30 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP2015. Fresh



permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning authority."

Having regard to the fact BBMP has already initiated action vide Stop work notice stated supra, at this juncture it is relevant to state the Judgment of this Honble Tribunal in the matter of Ramesh Chandvs State of H.Pandya reported in 2018 NGTR(1) PB147, Para 10 is reproduced as under:

"10. Once the provision of the Town and Country Planning Act, 1977 (hereinafter referred as 'Act') are made applicable and in furtherance thereto the Development Plan becomes operative. It is mandatory for any person to raise constructions strictly in accordance with the Plan and subject to the Development Plan being sanctioned by the Competent Authority. The Competent Authority is under statutory obligation to take into consideration the various stated factors before sanctioning the plans. The Plans must and ought not to be sanctioned in a routine or in a casual manner without taking into consideration the environmental impact assessment thereof in accordance with law

9. I humbly submit that the project proponent had submitted to the BBMP the Development Plan (DP) issued by the BDA dated 5.3.2015 i.e. permission for scheme of development of the project (not permission for construction of building) and by relying upon the said DP, the project proponent has sought for building plan and building license from the BBMP. Further, in view of the above stated DP issued by BDA it clearly discloses that there is nalla passing through the adjacent land in Survey No.57 and that 25 meters buffer line indicated to the extent of the said buffer line that falls inside the project land. However, inside this 25 meter buffer line/zone which is a prohibited area, permissions for proposed development of 12 meters wide drive way and installation of gas bank/infrastructure for LPG piped line is approved.

In fact, the above said drive way of 12 meters continues and passes through primary nallaas can be seen in the DP and that the various portions of the said 25 meters wide drive way falls inside the 50 meter buffer line on both sides of the said 50 meter buffer zone. This 50 meters buffer zone on either sides of the primary nalla is also a prohibited area and not an area of regulated activity. In so far as 70 meters lake buffer zone is concerned, which is also a prohibited area and not an area of regulated activity, yet permission for creation of ramp and drive way was approved in respect of both Block No.1 and Block No.2.

20. Similarly, the permission/DP also indicated another nallah in Survey No.61/1 which is adjacent to Survey No.61/2 and that 25 mtr buffer zone is indicated. However, inside this 25 meter buffer zone/prohibited area permission for 8 meters wide Fire Driveway and installation of Organic Waste Converter (OWC)and installation of gas bank/infrastructure for LPG piped gas line is approved and on the basis of such a permission/DP approval for building plan and building license from the BBMP is sought for. Because BBMP cannot issue any permission including building plan and building license, contrary to the directions issued by the NGT in Forward Foundation's case, judgment dated 4.5.2016 in OA No.222/2014 which already stated above

ALTERED PROJECT AND LACK OF FRESH ENVIRONMENTAL CLEARANCE AND ITS NEXUS FOR SEEKING PERMISSIONS FROM BBMP

21. In addition to the permission/development plan being contrary to the directions issued by the Full Bench of His Hon'ble Tribunal in Forward Foundation's case supra, the said development plan permitting the scheme of development for the entire project is far greater than the extent for which Environment Clearance is obtained and this is explained hereinbelow. The impugned EC dated 2018 for the construction project is for a total built up area of 1,28,193.9 square Meters.

In this background reference can usefully be made to the latest decision of the Hon'ble Supreme Court of India in the matter of M/s Goei Ganga Developers Pvt. Ltd. vs. Union of India in Civil Appeal No.10854 of 2016 and connected matters decided on **10.08.2018** has clearly held at Para 14 as under:

"14. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the

adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. **Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble etc., all of which will impact the environment.** Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. **Therefore, when EC is granted for a particular construction it includes both FSI and non-FSI areas** 11

(Emphasis supplied)

22. Applying the above said legal position to the facts of the case on hand it will clearly demonstrate that in view of the said permission namely development plan (DP) issued by Respondent No.4- BDA permitting a scheme of developments as a result of altered project with change in the scope and configuration which is different from the project conceived by the project proponent in terms of the impugned EC dated 10.1.2018. The following table with facts and figures will explain the above said facts:

Sl. No.	Particulars	Area measurement in sq. meters based on Environment Clearance	Area measurement in sq. meters based on Development Plan
1.	Area	1,23,193.9 (Excluding Non-FAR Area)	2,35,076.81 (FAR + Non-FAR)
2.	Number of units/Apartments	655	877
3.	Total number of parking spaces	877	758
4.	Total number of floors	2 basement floors + GF+20 upper floors	2 basement floors+GF+20 upper floors +terrace floor
5.	<p>Difference in altered project (area, scope and configuration) for which NO Environment Clearance is obtained,</p> <p>Total area permitted based on Development Plan minus area approved in the impugned EC: 235076.81-</p>		

128193.9=106882.91 sqm.

It is therefore clear that there is apparent violation of Condition No.46 of the Environment Clearance on the one hand, wherein Condition No.46 specifically states that construction activity **shall be strictly in accordance with approved site plan/layout drawing annexed to the environment clearance** (Conceptual Plan submitted to SEIAA is at Page No.57/Annexure-A-3), while on the other hand based on the altered project as explained above permissions/development plan is obtained even without Environment Clearance for such an altered project of change in the scope and configuration of the project. Furthermore, there is apparent violation of Condition No.5 of the General Conditions of the EC and consequently condition No.6 is also relevant. In this background, **Condition No.5 and 6 of the General Conditions of EC** is reproduced as under:

"5. In case of **any change(s)** in the scope of the project, the project proponent **would require a fresh appraisal** by its Authority."

"6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protection) Act, 1986."

23. Therefore, under these circumstances also and on the basis of such permission DP, BBMP has not issued any sanction of building plan and building license and on account of the above mentioned contraventions and non-compliances of provisions of Zoning Regulations, RMC-2015, Karnataka Town and Country Planning Act, 1961 and directions issued in Forward Foundation's case supra BBMP has already issued the 'fore-said stay order' cum show cause notice' dated 17.2.2018.

24. Therefore, under the facts and circumstances the application dated 17.11.2017 for sanction of building plan and building license is contrary to the Supreme Court decision passed in the case of Ritesh Tewari & another V/s. State of UP and others at Para nos.32to 34, (2010) 10 SCC677. The relevant paragraphs are reproduced as under:

"32. It is settled legal proposition that if an order is bad in its inception, it does not get sanctified at a later stage. A subsequent action/development cannot validate an action which was not lawful at its inception, for the reason that the illegality strikes at the root of the order. **It would be beyond the competence of any authority to validate such an order.** It would be ironical to permit & person to rely upon a law, in violation of which he has obtained the benefits

33. In *C. Albert Morris v. K. Chandrasekaranand Ors.* (2006) 1 SCC228, this Court held that **a right in law exists only and only when it has a lawful origin.**

34. In *Mangal Prasad Tamoli (dead) by L.Rs.v. Narvadeshwar Mishra(dead) by L.Rs. and Ors.* (2005) 3 SCC 422, this Court held that if an order at the initial stage is bad in law, then all further proceedings consequent thereto will be non-est and have to be necessarily set aside."

VIOLATIONS OF THE PROVISIONS OF THE KARNATAKA MUNICIPAL CORPORATIONS ACT, 1976 (KMC ACT)

25. In view of the Zoning Regulations violations/Buffer Zone violations and consequently non-compliance of the provisions of the Karnataka Town and Country Planning Act, 1961, there is violation of Section 505(ii) of the KMC Act, 1976. Section 505 of the KMC Act is reproduced below:

505. Exercise of powers by a corporation to be in conformity with the provisions of the Karnataka Town and Country Planning Act, 1961.-

Notwithstanding anything contained in this Act, a corporation or any officer or other authority required by or under this Act to exercise any power, or perform any function or discharge any duty,-

(i) with regard to any matter relating to land use or development as defined in the Explanation to section 14 of the Karnataka Town and Country Planning Act, 1961, shall exercise such power, or perform such function or discharge such duty with regard to such land use or development plan or where there is no development plan, with the concurrence of the Planning Authority;

(ii) shall not grant any permission, approval or sanction required by or under this Act to any person if it relates to any matter in respect of which compliance with the provisions of the Karnataka Town and Country Planning Act, 1961 is necessary unless evidence in support of having complied with the provisions of the said Act is produced by such person to the satisfaction of the corporation or the officer or other authority, as the case may be."

It is clear that because of the above said non compliances and violations, BBMP has not issued building plan and building license on the basis of any type of permission(s) that are in violation of Zoning Regulations i.e. Regulation No.4.12.1 (ii) and Revised Master Plan-2015 (RMP) framed under the provisions of Karnataka Town and Country Planning Act, 1961. Cumulatively, there is non-compliance of provisions of Karnataka Town and Country Planning Act, 1961. Hence there is violation of Section 505 (ii) of KMC Act, 1976.

APPLICATION SEEKING BUILDING PLAN AND BUILDING LICENSE PURSUANT TO THE IMPUGNED ENVIRONMENT CLEARANCE AND VARIOUS VIOLATIONS OF THE CONDITIONS OF THE EC

26. It is humbly submitted that, in this context the specific conditions of construction phase i.e. Condition Nos,42, 46, 47, 48 and 49 of the Environmental Clearance (EC) is application and are reproduced as under:

"42. The project proponent shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only.

45. The Proponent shall take up the construction activity only after obtaining NOC from BWS&S and clearance from the competent authority for assured supply of water as the case may be.

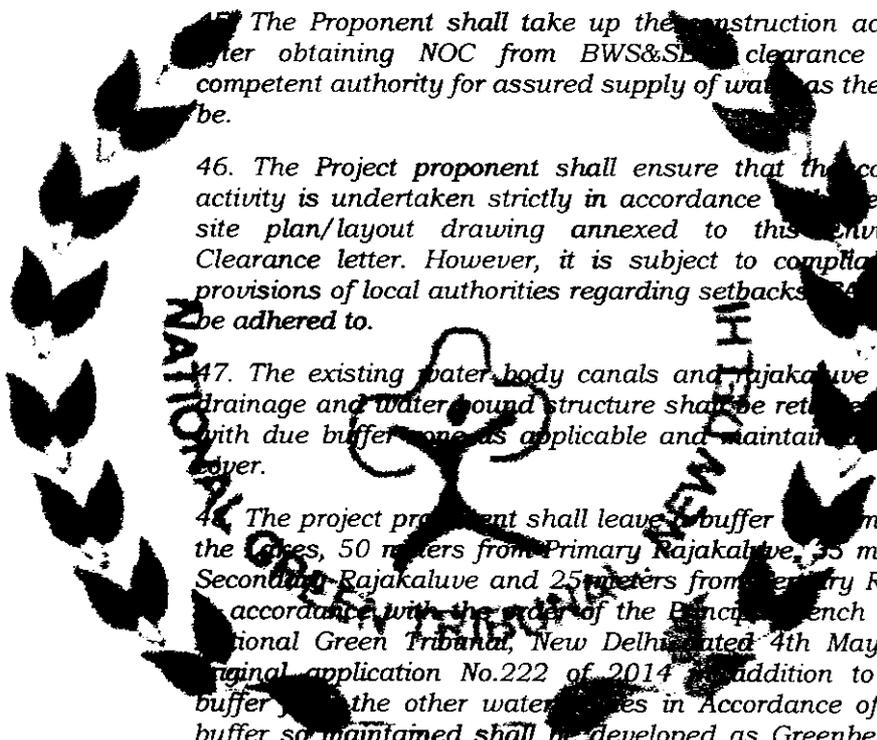
46. The Project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, etc., shall be adhered to.

47. The existing water body canals and Rajakaluve and other drainage and water bound structure shall be retained unaltered with due buffer zone as applicable and maintained under tree cover.

48. The project proponent shall leave a buffer zone of 10 meters from the edges, 50 meters from Primary Rajakaluve, 35 meters from Secondary Rajakaluve and 25 meters from Tertiary Rajakaluve in accordance with the order of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated 4th May, 2016 in original application No.222 of 2014 in addition to sufficient buffer zone for the other water bodies in Accordance of law. The buffer so maintained shall be developed as Greenbelt planting with indigenous tree species such as Neem, Akash Mallige, Mahagoni, hongē, Kadamba Ficus, etc., and maintained as green belt. No construction activity shall be undertaken in the said buffer zone.

49. The natural sloping pattern of the project site other than the area excavated for the purpose of construction of proposed building shall remain unaltered and the natural hydrology of the area be maintained as it is to ensure natural flow of storm water."

While Condition No.6 of the operation phase is as under:



"6. The project proponent shall develop a minimum of 43% of the total project site i.e., minimum 21,667.7 sqm. area of green belt. The proponent shall undertake plantation of heavy foliage, indigenous trees species such as Mahagoni, Honge, Neem, Akash Mallige, Kadamba, Ficus and Ashoka, etc., at an escapement of 3 mtrs. x 3 mtrs i.e. 1111 plants/hectare."

27. As already explained above, in addition to violation of Condition No.45 of the EC, there is apparent violation of Condition No.46 because the DP dated 5.3.2018 issued by the BDA is clearly at variance with the conceptual plan/drawings (Annexure-A/3, Page No.57) submitted by the project proponents before the SEIAA for obtaining the EC. It is therefore clear that the project proponents have misrepresented before different public authorities and have obtained different permissions.

28. Insofar as violation of Condition No.6 is concerned, the following aspect of the matter is relevant. In this background, the application form submitted for obtaining consent from the Pollution Control Board dated 10.1.2018 (consent fee paid on 11.01.2018), is produced by the project proponent along with their Reply at AnnexureR-4 (pages 271- 279). The said document clearly states as under:

"I/whereby apply for the Consent for Establishment for the new Proposed Residential Apartment Project, consisting of various Residential buildings and facilities for other required amenities, under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 (6 of 1974) for establishing or taking any steps for establishment of industry / operation process or any treatment and disposal system to bring into use any new / modified for the discharge of sewage / trade effluent or continuing to make discharge of sewage / trade effluent from land / premises owned by M/s Wonder Projects Development Pvt. Ltd. and consent for the period from 2018, the other relevant information is given below:

16(c) Nature of plantation carried Out
 Attach Agricultural Management plan,
 provided (proposed)

Lawns, Shrubs, Horticultural & Ornamental Plants as per Landscape Plan"

Further, at Serial No.29 (Page No.279) of the above said consent application is reproduced as under:

"I/We further declare that the above furnished information is true & correct to the best of my/our knowledge. I am aware that any wrong information furnished, is punishable under section 44 of the Act."

Hence, it is clear that on the one hand irrespective of what is stated at Serial No.16(c) before the Pollution Control Board, is contrary to the requirements at Condition No.6 of the impugned

EC, while on the other the project proponents have furnished wrong information before the Pollution Control Board. In fact, the proposed developments are contrary to all the above said conditions of the EC and that the constructions that is carried out in the project lands, including ground leveling is also contrary to Condition No.49 of the EC as well as Section 300 of the KMC Act.

29. Under all these facts and circumstances, it is clear that BBMP has taken all appropriate measures and steps for protection of environment and ecology in the context of municipal laws and precautionary principle. Hence, BBMP is not responsible for payment of any compensation that is claimed against BBMP in the above case and on behalf of BBMP there is no non-adherence to statutory duties. It is also clear that BBMP is promptly complying with the judgment in Forward Foundation's case as well as all the laws in force. Hence, these facts and circumstances will also explain that reliefs claimed against BBMP does not arise."

5. It may note that the Hon'ble Supreme Court in its judgment reported in 2019 SCC Online SC 322, Mantri Techzone Pvt. Ltd. v. Forward Foundation & Ors. restored the buffer zones in terms of the zonal plan and set aside the expansion thereof. As mentioned in the reply above the original buffer zone as per zonal plan is 30m around the lake and 50m from mouth of the Rajkalewas in the case of primary Rajkalewas, 25m in the case of secondary Rajkulewas and 15m in the tertiary Rajkulewas.

6. The reply of the project proponent that safeguards have been incorporated in the EC so as to not disturb the buffer zone.

7. The stand of the SIEAA, Karnataka is that EC has been granted based on Form I and IA and conceptual plan and is subject to leaving the buffer zone in accordance with law. The stand of the State PCB is identical. It is not necessary to refer to the Reply of the State Fire and Emergency Services. It may also be mentioned connected O.A. No.

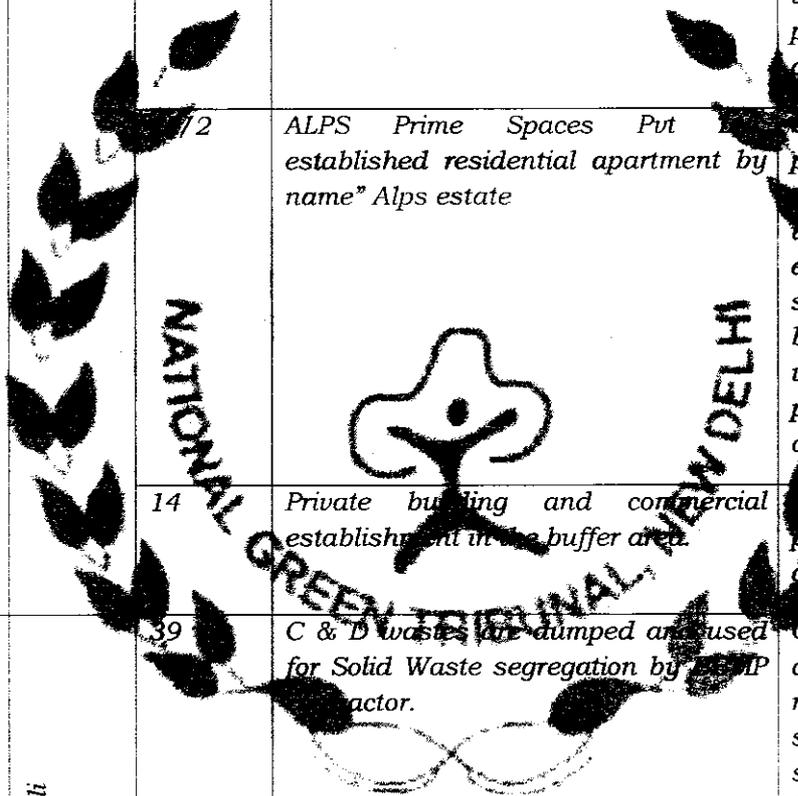
281 of 2019 and O.A. No. 602 of 2019 also raised an identical issue. The said matters are being contemporaneously disposed of by a separate orders. In O.A. No. 281/2019, vide order dated 11.03.2019 sought a joint report from State PCB, CPCB, BBMP and BDA. Accordingly, reports dated 11.04.2019, 27.04.2019 and 23.09.2019 were received. It may be worthwhile to refer to the order in O.A. No. 281/2019, reproducing the report dated 23.09.2019:-

"The joint Committee has filed its report through the State PCB on 23.09.2019 finding as follows:-

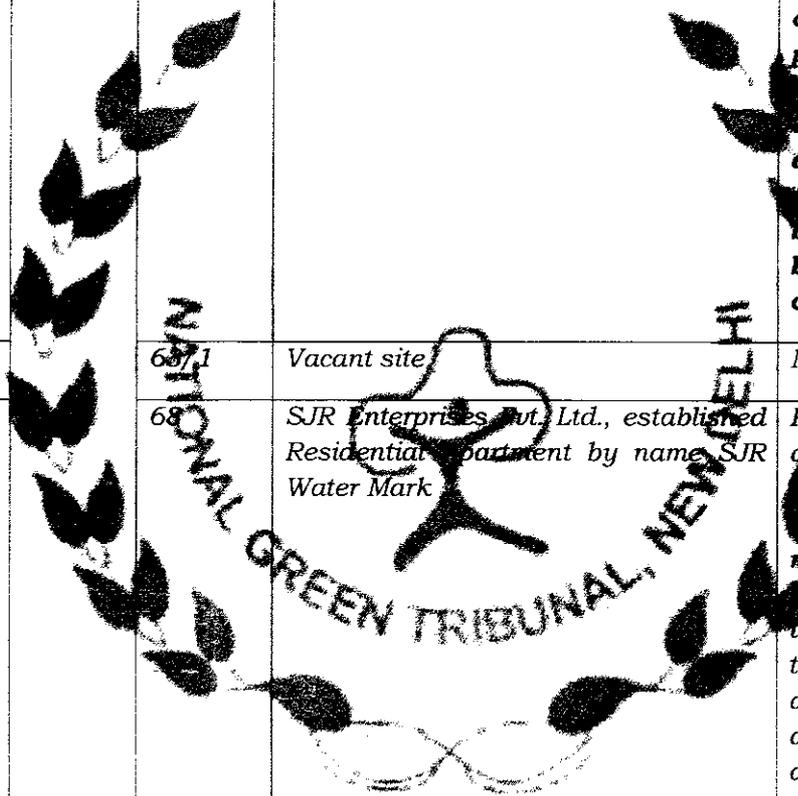
Existing properties in Kaikondrahalli lake buffer area and violation, if any noticed are tabulated below.

S. No.	Village	Sy No.	Activity	Violation of
A	Kaikondrahalli	3	Vacant site	No violation
		5	Vacant site	No violation
		6	Grave Yard	Not a permitted activity
		7	Vacant Site	No violation
		8	Establishing cross roads, Commercial buildings, Nanda's Multicusine, Sri jeshwari condiments shop, 3M Car Care and Bengauru fruits and vegetables shop	Portion of lake area is encroached
		9	Renuka High School with play ground and toilet, Sports Centre, Raksha Car service, Residential building and Private car service garage in buffer zone.	Not a permitted activity
		10/3	Private grocery shops and commercial establishment in the buffer zone	Not a permitted activity

		11	Kidzee School and cross road established	Not a permitted activity
		11/2	Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"	The project authorities have established, swimming pool, club house and approach road in the lake buffer area, which is not permitted activity.
		17/2	ALPS Prime Spaces Pvt established residential apartment by name" Alps estate	South east portion of the area where STP and Exit gate is in buffer area, which is not permitted activity.
		14	Private building and commercial establishment in the buffer area.	Not permitted activity.
B	Kasavanahalli	39	C & D wastes are dumped and used for Solid Waste segregation by BBMP factor.	C & D waste debris shall be removed and solid waste segregation has to be stopped by BBMP. Not a permitted activity
		40	There is no construction activity except establishment of temporary labour shed after some distance.	BBMP has to verify whether these shed falling under



			buffer or not.
	62	Godrej by name "Wonder Projects Development Pvt. Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahlli Tank. Project under construction.	Sy No. 62 and 63 falls under Lake buffer area. As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 09.7.2019 and separate report will be submitted by the committee.
	63/1	Vacant site	No Violation
	68	SJR Enterprises Pvt. Ltd., established Residential apartment by name SJR Water Mark	Pr... authorities have... lished rain water harvesting tank, park, tennis court and portion of drive way at 1 acre 17 guntas falling under the buffer area.
	69	There are some residential building and establishment of park and road in the lake buffer area.	Not a permitted activity
	71/2	Residential sheet houses constructed in the area of 1 acre 4 guntas and 1 acre 6 guntas is vacant. Further, the	Not a permitted



	72/2	owner of the Sy No. 72/2 is started activity leveling land adjoin to the lake. Sheet building construction in Sy No. 73 still exists.	
	73		
Kasavanahalli	71/1 71/2 72/1 72/2 73 74/1	Nala Khrab of Sy No. 71/1 of 1 gunta, 71/2 of 1 gunta, 72/1 of 1 gunta, 72/2 of 2 guntas, 73 of 01 guntas, 74/5B of 3 guntas and 74/5B of 4 guntas of Halla Khrab is encroached and nala area is being used for approach road.	Not a permitted activity

On the above listed properties, the following properties have obtained Environmental Clearance from SEIAA and Consent to Establishment & Operation from the KSPCB.

- Sy No. 68: SJR Enterprises Pvt Ltd., established Residential Apartment by name SJR Water Mark.
- Sy No. 11/2: Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"
- Sy No. 11/2: ALPS Prime Spaces Pvt Ltd. established residential apartment by name "Alps estate"
- Sy Nos 61/2, 62 and 63/2: Godrej's name "Wonder Projects Development Project" under construction

The relevant photographs on violation of Bangalore are attached as Annexure 4.

OBSERVATION OF COMMITTEE ON THE REPRESENTATION SUBMITTED BY THE MAHADEVAPURA PARISARA SMRAKSHNE MATTU ABHIRUDHI SAMITI (MPSMAS)

The Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samiti (MPSMAS) through Managing Trustee Sri Subramanian Sankrana submitted updated representation to Karnataka State Pollution Control Board (KSPCB). The pointwise observation of the Joint Committee is given as Annexure 5.

Further, as noticed by the committee during the restoration work under taken by BBMP, BBMP established walkway by rising the

lake bed around the periphery of the lake and constructed toilet and amphitheater within the lake area.

5.0 OVERALL OBSERVATION AND SUGGESTION OF THE COMMITTEE

The observations of the committee are:

- There are three main feeder drains to the Kainkondrahalli Lake, one on south Eastern side, second on Western side and third one towards Southern Side of the lake. The total lake area is 48 acres 23 Guntas.
- The Lake is rejuvenated jointly by BBMP & MPSMAS in the year 2011 with two sewage diversion lines to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering the lake. Other than this, there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake. BWSSB has to clear the diversion line to avoid overflowing of sewage from the manhole into the Lake and plan to have a terminal Sewage Treatment Plant to treat the entire sewage and only to allow the storm water to the lake through western side.
- BBMP storm water drain, Mahadevapura side near the drain area which is originating from Kasavanahalli road to the lake from eastern side and work pertaining to restoration of the drain is in progress.
- BESCOM authorities have disconnected the power supply to residential houses in Sy No. 71/1, 71/2, 72/1, 72/2, 74/5B and 73 of Kasavanahalli Village, Varadola Hobli, Bengaluru East Taluk, Bengaluru urban district.
- The residential sheet houses constructed at Sy No. 72/2 coming under the lake buffer are demolished. But, residential houses constructed in Sy No. 73 are still exists, the same need to be removed. Vacant area of the Sy No. 71/2 & 72/2 adjoining to lake is being filled with new soil for leveling.
- Sy No. 71/2: The land adjoining to lake is being used for solid waste segregation by BBMP, the same need to be stopped and segregation of waste are to be done at the generation and collection point itself. The dumping and segregation of solid waste at the lake belt to be stopped and cleared.

- *Sy No. 39: The land adjoining to lake is being used for dumping of C & D waste, BBMP shall be directed to take appropriate steps to clear the same.*
- *The temporary labour sheds constructed and existing in Sy No. 40 need to be verified by the BBMP whether the sheds are within Lake Buffer or not and to take appropriate action.*
- *The concern authorities shall be directed to take appropriated action to clear the violations/encroachment noticed in the existing properties & activities in the buffer area.”*

8. In view of the above, stand of the project proponent that the project is permissible cannot be accepted. No EC could have been granted which permitted construction on the Buffer Zone of the lake and drains merely by imposing a condition that no such construction will be raised. It is clear that the project stipulates construction in the buffer zone, in violation of Zoning Plan and judgment of this Tribunal as affirmed by the Hon'ble Supreme Court.

Accordingly, the appeal is allowed and the EC is quashed.

The SEIAA, Karnataka, State PCB, BBMP Bengaluru Development Authority may take further action accordingly in accordance with law.

The appeal stands disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

February 03, 2020
Appeal No. 54/2018
(M.A. No.541/2018, I.A. No.140/2019,
I.A. No.352/2019 & I.A. 54/2020)
A



ITEM NO.1502 Court 1 (Video Conferencing) SECTION XVII
 (FOR JUDGMENT)
 SUPREME COURT OF INDIA
 RECORD OF PROCEEDINGS

Civil Appeal No(s). 1713/2020

WONDER PROJECTS DEVELOPMENT PVT. LTD. & ANR. Appellant(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
 ([HEARD BY HON'BLE THE CHIEF JUSTICE, HON'BLE A.S. BOPANNA AND
 HON'BLE V. RAMASUBRAMANIAN, JJ.]
 IA No. 64734/2020 - EARLY HEARING APPLICATION
 IA No. 31845/2020 - EX-PARTE STAY
 IA No. 64737/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 31846/2020 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES)

Date : 11-08-2020 This matter was called on for pronouncement of judgment today.

For Appellant(s) Mr. Venancio D'Costa, Advocate
 Mr. Faisal Sherwani (AOR)
 Ms. Astha Ojha, Advocate
 Mr. Himanshu Sharma, Advocate
 Ms. Gauri Goel, Advocate

For Respondent(s) Mr. Abhimanue Shrestha, AOR

 Mr. Darpan K.M., Adv.
 Ms. Amrita Sharma, Adv.
 Mr. Hetu Arora Sethi, AOR

 Mr. S.J. Amith, Adv.
 Mr. Purushottam Sharma Tripathi, AOR
 Mr. Mukesh Kumar Singh, Adv.

 Mr. R.S.Hegde, Advocate
 Mrs. Farhat Jahan Rehmani, AOR

The Bench comprising Hon'ble the Chief Justice of India,
 Hon'ble Mr. Justice A.S. Bopanna and Hon'ble Mr. Justice V.
 Ramasubramanian pronounced the judgment today.

The appeal is allowed in part in terms of the signed non-



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reportable judgment.

Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)
AR-CUM-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

(Signed non-reportable judgment is placed on the file)

1939

ITEM NO.14 Court 1 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1713/2020

WONDER PROJECTS DEVELOPMENT PVT. LTD. & ANR. Appellant(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
(IA No. 64734/2020 - EARLY HEARING APPLICATION
IA No. 31845/2020 - EX-PARTE STAY
IA No. 64737/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 31846/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)
Date : 07-08-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Dr. A. M. Singhvi, Sr.Adv.
Mr. Pinaki Misra, Sr.Adv.
Mr. Joy Basu, Sr.Adv.
Mr. Venancio D'Costa, Advocate
Mr. Faisal Sherwani (AOR)
Ms. Astha Ojha, Advocate
Mr. Himanshu Sharma, Advocate
Ms. Gauri Goel, Advocat

For Respondent(s) Mr. N Venkatraman, ASG
For Ministry of Mr. Gurmeet Singh Makker, AOR
Environ and Forests Ms. Priyanka Das, Adv.
Mr. Adit Khorana, Adv.

R.No.2 Mr. Rahul Chaudhary, Adv.
Ms. Sharon Mathew, Adv.
Mr. Abhimanue Shrestha, AOR

R.Nos.6&10 Mr. Darpan K.M., Adv.
Ms. Amrita Sharma, Adv.
Mr. Hetu Arora Sethi, AOR

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Date: 2020/08/07
Time: 13:14

Mr. S.J Amith, Adv.
Mr. Purushottam Sharma Tripathi, AOR
Mr. Mukesh Kumar Singh, Adv.

R.No.9 Mr. R.S.Hegde Advocate
Mr. Farhat Jahan Rehmani, AOR

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel appearing on behalf of the parties.

Hearing concluded.

Judgment reserved.

(MADHU BALA)
AR-CUM-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

ITEM NO.20

COURT NO.1
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION XVII

194;

Civil Appeal No(s).1713/2020

WONDER PROJECTS DEVELOPMENT PVT. LTD. & ANR. Appellant(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(FOR ADMISSION and IA No.31845/2020-EX-PARTE STAY and IA No.31846/2020-
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-03-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s) Dr. A.M. Singhvi, Sr. Adv.
Mr. Pinaki Misra, Sr. Adv.
Mr. Joy Basu, Sr. Adv.
Mr. V. D. Costa, Adv.
Ms. Astha, Adv.
Mr. Himanshu Sharma, Adv.
Ms. Gauri Goel, Adv.
Mr. Kanak Bose, Adv.
Mr. Faisal Sherwani , AOR

For Respondent(s) Mr. P.S. Patwalia, Sr. Adv.

Mr. Abhimanue Shrestha, AOR*

Mr. Hetu Arora Sethi, AOR
Mr. Darpan K.M, Adv.
Mr. Rahul Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue notice both on the present appeal as also on the application
for *ad interim ex parte* stay.

As prayed for, the respondents may file their respective reply
affidavit within a period of ten days. Rejoinder affidavit, if any, be
filed by the appellants within one week thereafter.

List the matter after three weeks.

In the meantime, the report in O.A. No.602/2019 shall be filed in
the Registry of this Court.

Signature Not Verified

Digitally signed by
SANJAY KUMAR
Date: 2020.03.02
17:42:00+05:30
Reason: I am the signatory

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA****CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO. 1713 OF 2020**

Wonder Projects Development Pvt. Ltd.
& Anr.

..Appellant(s)

Versus

Union of India & Ors.

..Respondent(s)

J U D G M E N T

1. The appellants are before this Court claiming to be aggrieved by the order dated 03.02.2020 passed by the National Green Tribunal, Principal Bench, New Delhi ('NGT' for short) in Appeal No. 54/2018. The appellants herein were arrayed as respondent Nos. 11 and 12 in the appeal before the NGT. By the order impugned herein, the NGT has set aside the Environmental Clearance ('EC' for short) issued by the State Environment Impact Assessment

Authority ('SEIAA' for short), Karnataka, in favour of the appellants through its order dated 10.01.2018.

2. The brief facts are that the appellants herein are undertaking the construction of New High Rise Residential Building. The project is being undertaken in Survey Nos.61/2, 62 and 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru District. The construction is proposed on a plot area of 50,382.91 sq. m. with total built up area of 1,28,193.9 sq.m. In respect of the said project the appellants had sought for issue of EC from the SEIAA, Karnataka which is the Competent Authority in that regard. The SEIAA having considered the project report of the appellants has granted the EC through its order dated 10.01.2018. The respondent No.2 herein being aggrieved that the construction being undertaken by the appellants herein is in the buffer zone of the Kaikondarahalli Lake, apart from being on the primary and secondary Rajkaluve and, therefore, the area being eco-fragile had assailed the EC granted in favour of the appellants by filing the appeal before the NGT. The appellants herein had appeared and

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filed their objection statements denying the allegations made in the appeal. In addition to the appellants being respondents in the said appeal, the Bruhat Bengaluru Mahangara Palike ('BBMP' for short) within whose jurisdiction the proposed project is being undertaken was also one of the respondents in the appeal. The BBMP had filed a detailed reply dated 05.09.2019 and had in fact contended that the project is illegal and they have also issued the 'stop work' notice to the project proponent on 13.07.2018 since there is violation of these Zoning Regulation of the Revised Master Plan - 2015.

3. Based on the pleadings since a factual determination was required to be made by the NGT, the NGT also constituted a Joint Committee comprising of the Central Pollution Control Board ('CPCB' for short), SEIAA, Karnataka, State Pollution Control Board ('KSPCB' for short) and the Ministry of Environment, Forest and Climate Change ('MOEF&CC' for short). The said Joint Committee was required to make a spot inspection and submit a report.

4. When this was the position the Joint Committee submitted one of its reports dated 23.09.2019 indicating the details of the property situate in the various Survey Numbers, the activity carried out therein and the remarks relating to the violation if any in the buffer zone. The NGT on taking note of the pleadings of the parties, more particularly the reply filed by the BBMP and the Joint Committee Report dated 23.09.2019 has in that background taken note of the decision rendered by this Court in the case of **Mantri Techzone Pvt. Ltd. Vs. Forward Foundation & Ors.** 2019 SCC Online SC 322 wherein it was ordered to restore the buffer zones in terms of the zonal plan. The NGT in that regard has also taken note that the original buffer zone as per zonal plan is 30 mtrs. around the lake and 50 mtrs. from middle of the Rajkaluves in the case of primary Rajkaluves and 25 mtrs. in the case of secondary Rajkaluves and 15 mtrs. in the case of tertiary Rajkaluves. Resultantly the NGT has arrived at the conclusion that the EC could not have been granted so as to permit construction in the buffer zone of the lake and drain by

imposing conditions. The appellants are therefore aggrieved.

5. Heard Dr. Abhishek Manu Singhvi, learned Senior Counsel for the appellants, Mr. N. Venkatraman, learned Additional Solicitor General, Mr. Darpan for respective respondents and perused the appeal papers.

6. While reiterating the grounds urged in the appeal the learned Senior Counsel for the appellants *inter alia* contended that the very manner in which the NGT has proceeded to decide the appeal is not justified. Apart from referring to the nature of the construction being put up by the appellants it was contended that though a Joint Committee had been appointed by the NGT and a report was sought, the appeal was considered and disposed of despite the report relating to the construction in the property in question not being available with the NGT. It was contended that as such the consideration made based on the report dated 23.09.2019 is not justified since the Committee had indicated that a separate report will be submitted in respect of the instant project. Though the

respective learned counsel for the respondents sought to justify the order of NGT on merits by seeking to contend that there is violation of the zoning regulation and the construction being put up by the appellants in the buffer zone cannot be permitted and the learned Senior Counsel for the appellants while seeking to controvert the said position sought to refer to the project details, we are of the opinion that the merits of the rival contentions relating to the permissibility or otherwise of the project need not engage our attention at this juncture. We are of the said opinion for the reason that the point which requires consideration at the outset at this juncture is as to whether the entire material including the report of the Joint Committee which was relevant to consider the case of the parties herein was available before the NGT and as to whether the NGT was justified in proceeding with the matter in the manner as it has presently done.

7. In order to consider this aspect, a careful perusal of the order dated 03.02.2020 impugned herein would disclose that the reply filed by the BBMP is extensively extracted. It

is no doubt true that contention has been urged by BBMP with regard to the project not being permissible. In the light of the rival pleadings since the tribunal was to render a factual finding the report by the Joint Committee after making a spot inspection was necessary so as to assist the NGT in arriving at a conclusion. As indicated above, the NGT has no doubt taken note of one of the reports submitted by the Joint Committee dated 23.09.2019. The said report has been extracted in the course of the impugned order which refers to the existing properties in Kaikondarahalli Lake buffer area and in the tabulated form the survey number, activity and violation of buffer if any is indicated as a remark. In respect of certain other properties, the remarks have been made either with regard to there being no violation or the activity not being a permitted activity. Insofar as the property bearing Survey No.62 of Kasavanahalli Village which is one of the survey numbers wherein the project of the appellants is being developed, a reference is made and in the remark; it is recorded as hereunder:

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S.No	Activity	Violation of Buffer
62	Godrej by name "Wonder Projects Development Pvt. Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos.61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahalli Tank. Project under construction.	Sy No.62 and 63 falls under Lake buffer area. <u>As there is separate O.A.602/2019 on this project, the same will be inspected by the committee as per the order dated 19.07.2019 and separate report will be submitted by the committee.</u>

(emphasis supplied)

8. A perusal of the remark extracted and emphasised herein would indicate that a separate O.A. No.602/2019 is also filed in respect of the instant project and the Committee has indicated that a separate report will be submitted by it. The NGT in the course of the impugned order dated 03.02.2020 at para 7 has recorded that O.A. No.281/2019 and O.A. No.602/2019 which are also raised on an identical issue are being contemporaneously disposed of by separate orders. The same would disclose that as on the date when the appeal wherein the impugned order is passed was

disposed of along with O.A. No.602/2019 the report relating to the project of the appellant was not available on record before the NGT if the remarks extracted above are kept in view, since the Joint Committee was yet to complete the inspection.

9. In this regard it is to be noted that while ordering notice in this appeal on 02.03.2020 the parties were permitted to file the report in O.A. No.602/2019 in the Registry of this Court. The respondent No.7 herein along with the affidavit has filed the report of the Joint Committee, which at the outset indicates that it is with regard to the project relating to the appellants herein. Further on referring to certain aspects relating to the project the details of the inspection carried out by the Joint Committee is referred at Clause 6.0. It is indicated therein that in order to finalize the report the Joint Committee comprising of the members whose details are indicated made another round of inspection and meeting on 05.02.2020. It is thus evident that as on the date the impugned order was passed i.e. 03.02.2020 the final round of inspection had not been

completed and as such the NGT did not have the benefit of the final report by the Joint Committee for making a factual determination, to arrive at a conclusion keeping in view the legal position. Though the report of the Joint Committee is presently placed before this Court, it would not be appropriate for this Court to advert to the details of the report and in that background take note of the rival contentions on merits since first appellate authority, based on the same has not made a factual determination so as to consider the correctness or otherwise of the same in an appeal of the present nature.

10. Presently since the report of the Joint Committee is available in O.A. No.602/2019 relating to the same project, the said report is required to be taken as a part of the consideration of the Appeal No.54/2018 which is disposed of through the impugned order by the NGT and a factual determination in accordance with law is required to be made. To enable the same we find it appropriate to set aside the impugned order dated 03.02.2020 and restore Appeal No.54/2018 to the file of the NGT so as to enable it

to reconsider the appeal by taking into consideration the report of the Joint Committee prepared in O.A. No.602/2019, which shall be made available to the NGT by respondent No.7 herein. It is made clear that in the circumstances under which the order dated 03.02.2020 is set aside, the validity or otherwise of the EC will remain subject to the fresh decision that would be taken by the NGT and the EC shall not stand revived at this juncture. This Court has not expressed any opinion on merits and all contentions are left open.

11. Taking note of the urgency indicated by the learned Senior Counsel for the appellants we request the NGT to dispose of the appeal after reconsideration within a period of six weeks from the first date on which the parties appear before the NGT. For the said purpose the NGT shall on receipt of this order indicate a date for appearance which shall be voluntarily ascertained by the parties herein without expecting fresh notice to be issued by the NGT. The NGT shall also provide opportunity to all the parties to put forth any additional documents or objections if any to the

report and thereafter consider the matter in accordance with law.

12. In the result, the appeal is allowed in part. The order dated 03.02.2020 is set aside and the matter is remitted to the NGT to restore Appeal No.54/2018 and reconsider the same in the manner indicated above. No construction shall be put up in the meanwhile. There shall be no order as to costs.

13. Pending applications, if any, shall stand disposed of.

.....CJI.
[S.A. BOBDE]

.....,J.
[A.S. BOPANNA]

.....,J.
[V. RAMASUBRAMANIAN]

New Delhi,
August 11, 2020

1954

Corrected on 17.09.2020

Item Nos. 01 & 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Appeal No. 54 of 2018

(For rehearing in view of order of the Hon'ble Supreme Court)

H. P. Ranjana	Versus	Appellant(s)
Union of India & Ors.	AND	Respondent(s)

M.A. No. 49/2020
IN
Original Application No. 602/2019

(for revival of the matter in view of order of the Hon'ble Supreme Court)

H. P. Rajanna	Versus	Appellant(s)
Union of India & Ors.		Respondent(s)

Date of hearing: 28.08.2020
Date of uploading of order: 08.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. Appeal No. 54/2018 was preferred on 9.4.2018 against the Environmental Clearance (EC) granted by the State Level Environment Impact Assessment Authority (SEIAA), Karnataka vide order dated 10.01.2018 for construction of "New Residential Building project at Survey Nos. 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk", Bengaluru District by M/s Wonder Projects

Development Pvt. Ltd. Later, OA 602/2019 was filed by the same person on 17.07.2019, seeking compliance of EC conditions. The appellant in the appeal and the applicant in the OA will be hereafter described as the appellant.

2. According to the impugned EC, the project involves construction of new residential building on a plot area of 50,382.91 Sqm. The total built up area is 1,28,193.9 Sqm. It consists of two residential blocks having 2 Basements + Ground Floor + 20 Upper Floors with 655 units. Total parking space proposed is for 877 Nos. of Cars. Total water consumption is 534 KLD (Fresh water + Recycled water). The total wastewater discharge is 482 KLD. It is proposed to construct 2 sewage Treatment Plants with capacity of 210 KLD & 280 KLD. The EC is subject to specified conditions during the construction and operation phases, apart from general conditions.

3. The appeal was filed on 12.04.2018. Notice was issued on 13.04.2018. Vide order dated 01.10.2018, delay in filing the appeal was condoned. Parties filed their respective pleadings. Till 8.7.2019, the matter was being considered by Bench II in this Tribunal but vide order dated 08.07.2019, the matter was directed to be heard alongwith OA 281/2019, involving the issue of constructions in buffer zone of lake in question, including the present project, which matter was being considered by Bench I. Therein, the Tribunal had sought a factual report from statutory authorities (BDA, BBMP, State PCB and CPCB) with reference to the allegation of several constructions, including the present project being in buffer zone. Thereafter, OA 602/2019 was filed on 17.07.2019 which came up for hearing on 19.07.2019. Therein also, the Tribunal sought a report from a joint Committee (CPCB, State PCB,

MoEFF&CC and SEIAA) and directed listing of the matter with Appeal No. 54/2018.

4. The appeal came up for hearing on 03.02.2020 and was allowed by this Tribunal and EC was quashed. The Tribunal referred to the stand of the Bruhat Bengaluru Mahangara Palike (BBMP) in its reply dated 05.09.2018 to the effect that the project was within 30 meters of the lake and thus within the buffer zone, in violation of Zoning Regulation No. 4.12.1(ii) of the Revised Master Plan-2015¹. BBMP also submitted that the area of the project was much more than for which the EC was granted in the light of the judgment of the Hon'ble Supreme Court in *M/s Goel Ganga Developers Pvt. Ltd. vs. Union of India*.² Non-FSI area had not been taken into account, which is required to be included. According to BBMP, the total area is 2,35,076.81 (FAR + NON-FAR) and not 1,28,193.9 (excluding Non-FAR area). On this ground, the BBMP issued stop work notice cum show cause notice dated 13.07.2018 and did not

¹ii) Valley/ drain

Within the demarcated buffer for the valley, the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plant.
- ii. Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies, a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning Authority."

² (2018) 18 SCC 257

grant the sanction plan. BBMP also submitted that zoning regulations are framed under the Karnataka Town and Country Planning Act, 1961 (1961 Act) and thus grant of building plan was in violation of Section 505 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), which requires adherence to the 1961 Act. Further submission was that the project was in violation of EC conditions prohibiting use of *Kharab* land (common land meant for general public use). During the constructions, existing water bodies could not be affected. The condition no. 6 of the EC during operation phase required development of 43% area of green belt which was not done. The Tribunal also referred to the proceedings in *OA 281/2019* wherein vide order dated 11.03.2019 a joint Committee had submitted reports dated 11.04.2019, 27.04.2019 and 23.09.2019 (to be referred to as report dated 23.9.2019 or the first report) with respect to several projects in the buffer zone of the *Kaikondrahalli* Lake, including the present project. Accordingly, the Tribunal also decided *OA 281/2019* seeking restoration of *Kaikondrahalli* Lake in Bengaluru city in the light of the same joint Committee report by directing BBMP, BDA, SEIAA, Karnataka and State PCB to proceed in accordance with the said report. *OA 602/2019* seeking enforcement of environmental norms by the project proponent was also decided in the light of the same report.

5. The project proponent preferred *Civil Appeal No. 1713/2020* before the Hon'ble Supreme Court and submitted that the joint Committee constituted in *OA 602/2019* had not submitted its report when the Tribunal had passed the order dated 03.02.2020, on the basis of the report dated 23.09.2019, submitted in *OA 281/2019*. Since the report in *OA 602/2019* was exclusively about the present project, decision based on the report in *OA 281/2019* was erroneous. The joint Committee in *OA*

602/2019 submitted its report in the Hon'ble Supreme Court, as per order passed in proceedings there, after disposal of the matter by the Tribunal, in July 2020 (which may be called the second report). The said report is in favour of the project proponent. The Hon'ble Supreme Court in its order dated 11.8.2020 observed:

*"8. A perusal of the remark extracted and emphasized herein would indicate that a separate O.A. No. 602/2019 is also filed in respect of the instant project and the Committee has indicated that a separate report will be submitted by it. The NGT in the course of the impugned order dated 03.02.2020 at para 7 has recorded that O.A. No.281/2019 and O.A. No.602/2019 which are also raised on an identical issue are being contemporaneously disposed of by separate orders. The same would disclose that as on the date when the appeal wherein the impugned order is passed was disposed of along with O.A. No.602/2019 **the report relating to the project of the appellant was not available on record before the NGT if the remarks extracted above are kept in view, since the Joint Committee was yet to complete the inspection.**"*

6. The Hon'ble Supreme Court further observed that this Tribunal did not have the benefit of the second report of the joint Committee in OA 602/2019 which was filed for the first time before the Hon'ble Supreme Court. In that view of the matter, it was appropriate that the order of this Tribunal is set aside and the Tribunal reconsider the appeal after taking into consideration the second report of the joint Committee and that the EC would remain subject to the fresh decision to be taken by this Tribunal.

7. Accordingly, the matter was taken up by the Tribunal on 20.08.2020 for hearing in the light of the judgment of the Hon'ble Supreme Court dated 11.08.2020. Arguments were substantially heard but on the request of the learned Counsel for the parties seeking further hearing by physical appearance, the matter was deferred to 27.08.2020. The Tribunal heard the matter on 27.08.2020 and 28.08.2020 and

reserved the order giving further opportunity to them to file notes of submissions within one week.

8. We have considered rival submissions and perused the record. We have perused the submissions filed on behalf of the appellant on 03.09.2020 and a short note filed on behalf of Respondent Nos. 11 and 12 on 04.09.2020.

9. The major issue that has been raised on behalf of the appellant is that there was no proper appraisal by the Expert Appraisal Committee (EAC) as per Environment Impact Assessment (EIA) Notification dated 14.09.2006 and grant of EC was vitiated on account of the project being wrongly treated as Category B2 under entry 8 (a), instead of category B-1 under entry 8(b) of the Schedule to the 2006 notification and also being in violation of statutory regulations laying down the buffer zone under the 1961 Act and the statutory requirements of the Wetlands (Conservation and Management) Rules, 2017 (Wetlands Rules, 2017). There is no proper and adequate disclosure in Form-1 with regard to area being eco fragile. Complete disclosure about the water bodies/wetlands has not been given in the said application. The extent of construction has not been correctly described and evaluated by SEIAA, Karnataka in violation of principles laid down by the Hon'ble Supreme Court in *M/s Goel Ganga Developers Pvt. Ltd. (supra)*. SEIAA was also not mindful of the mandate of the Wetlands Rules, 2017 and the judgment of the Hon'ble Supreme Court in *M.K. Balakrishnan and Ors. v. Union of India and Ors.*³ Reference has been made to 'National Wetland Atlas' prepared by the MoEF with the assistance of the Space Application Centre, Indian Space Research Organization (ISRO) and Remote Sensing

³ (2017) 7 SCC 805 ¶ 23

Application Centre wherein *Kaikondarahalli* Lake has been identified as a wetland. Extracts from the Atlas have been filed on 25.05.2019 by the appellant with IA 352/2019. The Map annexed to the 'National Wetland Atlas' (Annexure A-7) prominently shows the *Kaikondarahalli* Lake. The second report is contrary to the first report dated 23.09.2019 filed in OA 281/2019 though two participants in the report are common. The report is also against counter affidavit filed by the BBMP before this Tribunal. As against the report dated 23.09.2019 (in OA 281/2019), finding the project to be within the buffer zone of the lake, the second report (in OA 602/2019) holds to the contrary. The representatives of CPCB and State PCB are common in both the Committees. In the first Committee, BBMP and BDA were included but in the second Committee SEIAA, Karnataka and MoEF&CC were included, apart from CPCB and the State PCB, without BDA and BBMP. The two reports submitted by the representatives of the statutory authorities need to be reconciled and if necessary, a larger Committee constituted with senior representatives of the concerned departments, to put the matter beyond controversy. Moreover, the second report assumes that the lake in question is not a wetland and the restrictions of the Wetland Rules do not apply to the entire area of the project which finding may be in conflict with the Atlas prepared by the MoEF&CC. It has been observed by the Committee that the Wetland Rules should be followed. The rules require demarcation with reference to the flood line, which is not shown to have been done or considered. The correct size of the project needs to be determined as per parameters in *Goel Ganga* judgment, supra so that if the area is more than 1.50 lacs sq. meters, appraisal is carried out as per category B-1 and not as B2 as has been assumed.

10. Thus, following main points emerge from the submissions of the appellant:

- A. The project proponent has concealed material information in statutory Form 1A submitted to State Expert Appraisal Committee (SEAC) in respect of particulars of the ecologically sensitive areas, including the water bodies and forests. Having regard to extent of the constructions required to be taken into account in terms of judgment in *Goel Ganga*, supra, the project has more than 1.5 lac sq. meters of construction on account of which it will fall under category 'B-1' in view of Para 8 (b) of the EIA Notification dated 14.09.2006, and not B2 under para 8 (a), to be appraised differently.
- B. The lake being a wetland as mentioned in the Atlas published by the MoEF&CC, the project may be hit by the Wetland Rules. Under Rule 4 of the Wetlands Rules, 2017, construction within 50 meters from the *mean high flood level observed in past 10 years from the date of commencement of the Rules* is not allowed. No demarcation of the *mean high flood level* has been done or referred to determine whether the present constructions are within 50 meters of such level. The Committee while observing that Wetlands Rules, 2017 should be followed, has observed that the area is not falling under the wetland definition without noting the 'National Wetland Atlas' showing that the area may be hit by the Wetland Rules.
- C. The Committee has wrongly assumed the drain to be secondary drain even though in the application of the project proponent itself it is mentioned as primary drain.

D. The Committee has observed that the project proponent is constructing box type storm water drain passing through the project site. The storm water drain, as per para 8.0 of the report, originates from the lake and flows towards the lake between the two blocks. To approach Block-I, it has to cross secondary drain. The area of secondary drain is *kharab* land, measuring 13 *guntha*. BBMP had granted approval to construct the new type RCC drain and two RCC culverts without deviating from the original alignment and measurement of the drain. Thus, even if BBMP has granted permission, use of *kharab* land and construction of RCC box type drain through secondary drain is contrary to statutory regulations under the 1961 Act.

E. There is conflict in the reports dated 23.09.2019 in OA 281/2019 and second report in OA 602/2019. Both the reports cover this project. In both the reports CPCB and PCB are parties. In first report BBMP and BDA are included. They are not in second report. MoEF&CC and SEIAA are also not in second report. Stand of BBMP before this Tribunal is against the second report.

F. According to written submissions filed by BBMP on 27.08.2020 the project proponent has violated statutory requirements in obtaining building plan without first obtaining 'Consent to Establish' under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974. There is encroachment of water stream and primary *rajkaluve* connecting two lakes, viz upstream lake (*Kasavanahalli* lake) and downstream lake (*Kaikondarahalli* lake). The conceptual plan shows that there is a primary drain crossing the project land and there also are *kharab* lands (meant for common use). The

kharab land cannot be used by the project proponent in view of condition no. 42 of the EC and a board is required to be displayed to that effect. The same is sought to be encroached for construction of internal drive way. Internal drive way is within the buffer zone. Various activities of the project proponent are in the buffer zone.

11. As against the above stand of the appellant which is supported by the BBMP, stand of the project proponent is that there was a mistake in relying upon the report dated 23.9.2019 submitted in OA 281/2019 which did not deal with the present project and the second report submitted in OA 602/2019 is in respect of the project in question which is by a credible Committee and finds the project fully compliant. Since the said report was not available earlier, the appeal be dismissed in the light of the said report. Dealing with the objections of the appellant and the BBMP, it is submitted that the project has been rightly evaluated as B2 category based on construction size mentioned in application for EC, Form I, supported by conceptual plan giving details. The project proponent will not construct more than that. The project is not in the buffer zone of the lake or the drains nor is it hit by the wetland rules. Sanction plan has been duly granted by BBMP. U type RCC structure for storm water drain has also been duly approved by the BBMP. Even if the Committee wrongly took the primary drain as secondary, the project is beyond buffer zone of the primary drain also. Sequence of obtaining consent to establish under the Water Act does not affect the substance being a procedural matter, not going to the root of legality of the project. Even if there is violation of any condition of EC, the same can be rectified. EC is not vitiated.

12. We have considered the rival submissions. The main issue which falls for consideration is whether there is contradiction in the first report dated 23.9.2019, submitted in OA 281/2019 and the second report submitted in OA 602/2019. If so, what is the effect on the project. Whether second report can be accepted without going into the objection with regard to size of the constructions, statutory regulations dealing with the buffer zone of drains/lake, Wetland rules and Form I not giving all relevant details and the same being accepted by the Expert Appraisal Committee of SEIAA without verification in accordance with the procedure laid down in EIA notification dated 14.09.2006.

13. With regard to first question, we find that scope of OA 281/2019 and OA 602/2019 is overlapping. OA 281/2019 came up before Bench I on 11.3.2019 when a fact-finding report was sought. Appeal 54/2018 was listed before Bench II. The said matter was transferred by Bench II to be heard with OA 281/2019 seeking restoration of the lake by removing encroachments from buffer zone, including the present project on 8.7.2019. On 17.7.2019, OA 602/2019 was filed and was taken up on 19.7.2019 before Bench I. Without reference to order dated 11.3.2019 in OA 281/2019, the Tribunal sought a factual report with reference to issue of project being within the buffer zone of the lake/drains, as is generally the order of this Tribunal in such matters, to independently ascertain facts from the concerned statutory authorities. The report dated 23.9.2019 found the present project as well as some other constructions to be in buffer zone of the lake, though it was stated that the report was interim and further report will be filed in relation to the present project. The Tribunal accepted the said report being in consonance with counter affidavit of BBMP in the present matter. On 3.2.2020, all the three matters, OA 281/2019, OA 602/2019 and Appeal

No.54/2018 were taken up for hearing together and were disposed of in the light of the said report. It is only after the Tribunal passed the order dated 3.2.2020 that second report in OA 602/2019 was submitted in the proceedings pending in Supreme Court. The said report makes no reference to report dated 23.9.2019 in OA 281/2019 though representatives of CPCB and State PCB are included in both the reports. While the report in OA 602/2019 is only with regard to this project and is in favour of the project proponent but the report in OA 281/2019 also covers this project (apart from other constructions) and was, therefore, relied upon while passing the order dated 3.2.2020. Since order in Appeal No. 54/2018 has been set aside and is common basis for orders in OA 281/2019, OA 602/2019 and Appeal No. 54/2018 in the said report, all the three matters will require consideration afresh as far as this project is concerned. OA 602/2019 and OA 281/2019 will have to be revived for fresh consideration in respect of this project. We order accordingly. M.A. 49/2020 is disposed of.

14. Relevant part of report in OA 281/2019 is reproduced below:

“Existing properties in Kaikondrahalli Lake buffer area and violation, if any noticed are tabulated below:

S. No	Village	Sy No.	Activity	Violation of Buffer
A	Kaikondrahalli	3	Vacant site	No Violation
		5	Vacant site	No violation
		6	Grave Yard	Not a permitted activity
		7	Vacant Site	No violation
		8	Establishing cross road, Commercial buildings where Ananda Sweet and	Portion of lake area is

			Nanda's Multicusine, Sri Rajrajeshwari condiments shop, 3M Car Care and Bengaluru fruits and vegetables shop	encroached
		9	Renuka High School with play ground and toilet, Sports Centre, Raksha Car service, Residential building and Private car service garage in buffer zone.	Not permitted activity a
		10/3	Private grocery shops and commercial establishment in the buffer zone	Not permitted activity a
		11	Kidzee School and cross road established	Not permitted activity a
		11/2	Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"	The project authorities have established, swimming pool, club house and approach road in the lake buffer area, which is not permitted activity.
		11/2	ALPS Prime Spaces Pvt. Ltd, established residential apartment by name" Alps estate	South east portion of the project area where STP and Exit gate situated is in buffer area, which is not permitted activity.
		14	Private building and commercial establishment in the buffer area.	Not permitted activity. a
B	Kasavanahalli	39	C & D wastes are dumped and used for Solid Waste segregation by BBMP	C & D waste debris shall be removed and

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		contractor.	solid waste segregation has to be stopped by BBMP. Not a permitted activity
	40	There is no construction activity except establishment of temporary labour shed after some distance.	BBMP has to verify whether these sheds falling under buffer or not.
	62	Godrej by name "Wonder Projects Development Pvt Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahlli Tank. Project under construction.	Sy No. 62 and 63 falls under Lake buffer area. As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.
	63/1	Vacant site	No Violation
	68	SJR Enterprises Pvt. Ltd., established Residential Apartment by name SJR Water Mark	Project authorities have established rain water harvesting tank, park, tennis court and portion of drive way at 1 acre 17

			guntas falling under the buffer area.
	69	There are some residential building and establishment of park and road in the lake buffer area.	Not permitted activity a
	71/2 72/2 73	Residential sheet houses constructed in the area of 1 acre 4 guntas and 1 acre 6 guntas is vacant. Further, the owner of the Sy No. 72/2 is started leveling land adjoin to the lake. Sheet building construction in Sy No. 73 still exists.	Not permitted activity a
Kasavanahalli	71/1 71/2 72/1 72/2 73 74/5B	Nala Khrab of Sy No. 71/1 of 1 gunta, 71/2 of 1 gunta, 72/1 of 1 gunta, 72/2 of 2 guntas, 73 of 01 guntas, 74/5B of 3 guntas and 74/5B of 4 guntas of Halla Khrab is encroached and nala area is being used for approach road.	Not permitted activity a

Of the above listed properties, the following properties have obtained Environmental Clearance from SEIAA and Consent to Establishment & Operation from the KSPCB.

- a) Sy No. 68: SJR Enterprises Pvt Ltd., established Residential Apartment by name SJR Water Mark.
- b) Sy No. 11/2: Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"
- c) Sy No 11/2: ALPS Prime Spaces Pvt Ltd, established residential apartment by name "Alps estate"
- d) **Sy Nos 61/2, 62 and 63/2: Godrej by name "Wonder Projects Development Pvt Ltd"-under construction**

The relevant photographs on Violation of Buffer are attached as Annexure 4.

4.0 OBSERVATION OF COMMITTEE ON THE REPRESENTATION SUBMITTED BY THE MAHADEVAPURA PARISARA SMRAKSHNE MATTU ABHIRUDHI SAMITI (MPSMAS)

The Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samiti (MPSMAS) through Managing Trustee Sri Subramanian

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Sankrana submitted updated representation to Karnataka State Pollution Control Board (KSPCB). The pointwise observation of the Joint Committee is given as Annexure 5.

Further, as noticed by the committee during the restoration work under taken by BBMP, BBMP established walkway by rising the lake bed around the periphery of the lake and constructed toilet and amphitheater within the lake area.

5.0 OVERALL OBSERVATION AND SUGGESTION OF THE COMMITTEE

The observations of the committee are:

- There are three main feeder drains to the Kainkondrahalli Lake, one on south Eastern side, second on Western side and third one towards Southern Side of the lake. The total lake area is 48 acres 23 Guntas.
- The Lake is rejuvenated jointly by BBMP & MPSMAS in the year 2011 with two sewage diversion lines to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering to the lake. Other than this, there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake. BWSSB has to clear the diversion line to avoid the overflowing of sewage from the manhole into the Lake and plan to have a terminal Sewage Treatment Plant to treat the entire sewage and only to allow the storm water to the lake through wetland.
- BBMP storm water drain, Mahadevapura zone marked the drain area which is originating from Kasavanahalli road to the lake from eastern side and work pertaining to restoration of the drain is in progress.
- BESCOM authorities have disconnected the power supply to residential houses in Sy No. 71/1, 71/2, 72/2, 72/1, 72/2, 74/5B and 73 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru urban district.
- The residential sheet houses constructed at Sy No. 72/2 coming under the lake buffer are demolished. But, residential houses constructed in Sy No. 73 are still exists, the same need to be removed. Vacant area of the Sy No. 71/2 & 72/2 adjoining to lake is being filled with new soil for leveling.

- Sy No. 71/2: The land adjoining to lake is being used for solid waste segregation by BBMP, the same need to be stopped and segregation of waste are to be done at the generation and collection point itself. The dumping and segregation of solid waste at the lake belt to be stopped and cleared.
- Sy No. 39: The land adjoining to lake is being used for dumping of C & D waste, BBMP shall be directed to take appropriate steps to clear the same.
- The temporary labour sheds constructed and existing in Sy No. 40 need to be verified by the BBMP whether the sheds are within Lake Buffer or not and to take appropriate action.
- The concern authorities shall be directed to take appropriate action to clear the violations/encroachment noticed in the existing properties & activities in the buffer area.”

Order passed by the Tribunal in OA 281/2019 was challenged before the Hon'ble Supreme Court by one of the affected parties and the appeal being Civil Appeal No. 5195/2019 was dismissed on 05.07.2019. The project proponent did not challenge the said order separately but in view of order of the Hon'ble Supreme Court, it will be appropriate to revisit the said order qua the present project.

15. Report in OA 602/2019 does not take into account the above report wherein the present project has been found to be in the buffer zone of the lake. Finding with regard to compliance with buffer zone is as follows:

Judgment of Hon'ble NGT is OA 222/2014, dated 14.05.2016	Judgement of Hon'ble Supreme court in Civil Appeal No. 5016/2016 dated 05.03.2019	Actual Buffer Zone maintained by the project proponent
A. From Lake Boundary		
➤ 75m from the periphery of water body to be maintained as green belt and buffer zone	➤ Minimum 30 m buffer zone to be maintained from Lake Boundary	➤ As per report, the measured distance from lake edge to Block-I Building line is ranges between 77.45 m to 77.9 m, which is complying with Buffer zone.

		<ul style="list-style-type: none"> ➤ The distance from Lek edge to Block-2 Building line is 79.40m, which is also complying with Buffer Zone.
B. From Primary Drain/nala		
<ul style="list-style-type: none"> ➤ 50 m from the edge of the primary Rajkulewas 	<ul style="list-style-type: none"> ➤ Minimum 50 m buffer from middle of drain 	<ul style="list-style-type: none"> ➤ No Primary Drain. Not applicable
C. From secondary Drain/nala		
<ul style="list-style-type: none"> ➤ Minimum 35 m buffer zone is to be maintained from edge of Secondary Rajakaluve/ Nala 	<ul style="list-style-type: none"> ➤ Minimum 25 m buffer zone to be maintained from middle of Secondary Rajakaluve/ nala 	<ul style="list-style-type: none"> ➤ As per report the measured distance from secondary drain to Block-1 Building line is ranges between 51.20 m to 54.8 m, which is complying with Buffer zone. ➤ The distance from secondary drain to Block-2 Building line is 59.40m, which is also complying with Buffer zone.
C. From Tertiary Drain/nala		
<ul style="list-style-type: none"> ➤ Minimum 25 m buffer zone is to be maintained from edge of Tertiary Rajakaluve/ nala 	<ul style="list-style-type: none"> ➤ Minimum 15 m buffer zone is to be maintained from edge of Tertiary Rajakaluve / nala 	<ul style="list-style-type: none"> ➤ There is a storm water drain passing at Sy. No. 61 of southern side of the project site as per village map. But, in the development plan approved by BDA and building plan approved by BBMP, the nala / storm water drain is shown outside the boundary of the project site. ➤ As per report measured the distance from tertiary drain to Block-1 Building line is 26.40 m which is complying with Buffer zone.

The above table reveals that the project proponent have maintained required buffers from Lake, Secondary nala and Tertiary nala for the building line of Block-1 (Godrej Reflections) and Block-2 (Godrej Lake Gardens). Complying with buffer zone."

The above finding of the project being outside the buffer zone is in conflict with the finding in the first report dated 23.09.2019 submitted in OA 281/2019.

16. Coming now to the second question of acceptability of the second report, we find that it is not possible to accept the same straightaway for more than one reason. We are not doubting the bonafides of the officers who have given the report but the report is vulnerable for the following reasons:

- a) Even though two authorities are common to the two reports, the reports are contradictory with regard to the project being or not being in buffer zone. The second report does not refer to or explain the first.
- b) The size of the project has to be determined with reference to the observations of the Hon'ble Supreme Court in *Goel Ganga (supra)* which has neither been done by any authority nor by the Committee in the second report. Learned counsel for the SEIAA fairly stated that no independent verification has been done and the EC is based only on Form I. Relevant observations in *Goel Ganga (supra)* are:

"16. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent

must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble etc., all of which will impact the environment. Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. Therefore, when EC is granted for a particular construction it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered construction, which is not open to the sky is to be treated as built up area in terms of the EIA Notification dated 14.09.2006."

- c) The second report holds that there is no wetland relevant for the project without demarcation in terms of the Wetland Rules which becomes imperative in view of Atlas published by the MoEF&CC and orders of the Hon'ble Supreme Court in M.K. Balakrishnan, supra. Extract from the second report on the subject is as follows:

*"It is clear from the above definitions of Wetland, Records of RTC and Google images that **only lake area of 48 Acres 23 Guntas can be considered as Wetland, not the surroundings including the area in question in this case. The total land of the project was earlier used for agricultural activities/cultivation - such as paddy, ragi, etc. as per Record of Rights, Tenancy and Crop Information (RTC), Thus, it is not falling under wetland definition.**"*

As against above, the observations in the M.K. Balakrishnan, supra are:

"23. Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventories all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State

Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

"4.(1). (i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated the 27th November, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically engineered organisms or cells notified vide GSR No. 1037(E), dated the 5th December, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated the 24th September, 2008;

(iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules."

- d) The Committee has taken the sanction granted by BBMP for construction of RCC structure for storm water drain, crossing secondary drain and also involving *kharab* land,

to be conclusive and valid without going into the question of violation of statutory rules (the RMP), while the BBMP itself has submitted before this Tribunal that sanction was wrongly granted.

17. As held in *Hanuman Laxman Aroskar v. Union of India*,⁴ EC can be granted strictly in accordance with the procedure laid down in the Notification dated 14.09.2006. Parameters and procedure for evaluation of different categories of projects is different. Category of the present project depends on size of construction. If it is found to be more than 1.5 lac sq. meters, as against the claim of being less than that size and, therefore, the impugned EC treating the project as B2 will be invalid. In the said judgement, the process of EIA has been explained in detail. It involves four stages as follows:

47. SCREENING – *This step is restricted only to Category ‘B’ projects. This stage entails an examination of whether the proposed project or activity requires further environmental studies for the preparation of an EIA for its appraisal prior to the grant of an EC. Those projects requiring an EIA are further categorized as Category ‘B1’ projects and remaining projects are categorized as Category ‘B2’ projects. Category ‘B2’ projects do not require an EIA. The categorization is in accordance with the guidelines issued in this regard by the MoEFCC from time to time.*

48. SCOPING – *At this stage, the EAC or the SEAC, as the case may be, formulates detailed and comprehensive Terms of Reference which address all relevant environmental concerns for the preparation of the EIA. Amongst other things, the information furnished by the applicant in Form 1/Form 1A along with the proposed ToR by the applicant form the basis for the preparation of the ToR. The ToR must be conveyed to the applicant within 60 days of the receipt of Form 1, failing which, the ToR proposed by the applicant shall be deemed as approved. Significantly, applications for EC may be rejected by the regulatory authority at this stage itself on the recommendation of the EAC or the SEAC, as the case may be, and the decision along with reasons is to be communicated to the applicant within 60 days of receipt of application.*

49. PUBLIC CONSULTATION – *Prior to this stage, a Summary EIA is prepared in the format given in Appendix IIIA on the basis of*

⁴ (2019) 15 SCC 401

the ToR furnished to the applicant. This stage involves the process "by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view of taking into account all the material concerns in the project or activity design as appropriate." **The detailed procedure is stipulated in Appendix IV. Subject to the exceptions provided in the 2006 notification, all Category 'A' and Category 'B1' projects shall undertake the public consultation process.**

50. This stage comprises two components:

- (i) A public hearing at the site or in its close proximity – district-wise to be carried out in the manner prescribed in Appendix IV; and
- (ii) Procurement of written responses from concerned persons having a plausible stake in the environmental aspects surrounding the project.

51. The State Pollution Control Board⁴³ or the Union Territory Pollution Control Committee⁴⁴ is charged with conducting the public hearing in the manner stipulated in Appendix IV and forwarding the proceedings to the regulatory authority within 45 days of a request from the applicant. The regulatory authority is empowered to engage another public agency or authority to carry out the process within a further period of forty-five days in case the SPCB or the UTPCC does not adhere to the prescribed time period stipulated in the notification. The public hearing should be arranged in a "systematic, time bound and transparent manner" to ensure the "widest possible public participation at the project site(s) or in its close proximity District-wise". The public hearing proceeding is filmed and a copy of the video is submitted to the concerned regulatory authority.

52. Within seven days of receiving a written request to initiate the public consultation process, the SPCB or the UTPCC shall place the Summary EIA and the application on their website and invite responses. The concerned authority may also make use of other appropriate media in addition to publication on their website to ensure wide publicity of the project. On a written request from any concerned person, the authority will make available a hard copy of the Draft EIA for inspection at a notified place during office hours till the date of the public hearing. A duty is placed on the authority to forward all responses and comments received at this stage to the applicant through the quickest available means.

53. After the public consultation process, the applicant is duty bound to address all the material environmental concerns expressed during the process and make appropriate changes to the Draft EIA and EMP. The applicant shall then forward the final EIA report to the regulatory authority to initiate the next stage. Alternatively, the applicant may submit a supplementary report to the Summary EIA and EMP.

54. **APPRAISAL** - This stage involves detailed scrutiny by the EAC or the SEAC of all the documents submitted by the applicant

for the grant of EC. The appraisal is carried out in a transparent manner in a process to which the applicant shall be invited for furnishing clarification in person or through an authorized representative. Appendix V stipulates that the following documents are also submitted to the regulatory authority:

- (i) Final EIA Report
- (ii) A copy of the video tape or CD of the public hearing proceedings
- (iii) A copy of the final layout plan
- (iv) A copy of the project feasibility report.

55. The regulatory authority must examine the documents "strictly with reference to the ToR" and communicate any inadequacy to the EAC or the SEAC, as the case may be, within 30 days of receipt of the documents. Within sixty days of the receipt of all the documents, the EAC or the SEAC, as the case may be, shall complete the appraisal process as prescribed in Appendix V. Within the next fifteen days, the EAC or the SEAC shall make categorical recommendations to the concerned regulatory authority to either grant the EC on the stipulated terms and conditions or reject the application, together with reasons. **The appraisal of projects which are not required to undergo the public consultation process or the submission of an EIA is to be carried out on the basis of the prescribed application Form 1 or Form 1A, as applicable.**

56. The MoEFCC or the SEIAA shall thereafter consider the recommendations of the EAC or the SEAC and convey its decision to the applicant within 45 days of receipt of the recommendations. The regulatory authorities shall normally accept the recommendations of the EAC or the SEAC, as the case may be. Where there is a disagreement, the regulatory authority shall ask for a reconsideration of the recommendation within 45 days of the receipt of the recommendations. This decision shall be conveyed to the applicant. The EAC or the SEAC shall then reconsider its recommendation within a further period of 60 days and make its recommendations to the regulatory authority. The regulatory authorities shall then take a decision after considering the views communicated to it and convey the decision to the applicant within the next 30 days.

57. If no decision is communicated to the applicant within the time prescribed, the applicant may proceed according to the recommendation of the EAC or the SEAC recommending either the grant or rejection of the EC. The decision of the regulatory authority and the final recommendations of the EAC or the SEAC shall be public documents on the expiry of the prescribed timelines. **Deliberate concealment and/or the submission of false or misleading information material to the steps involved in the grant of an EC make the application liable for rejection and cancellation of any EC granted on that basis.**

62 Under the 2006 notification, the process of obtaining an EC commences from the production of the information stipulated in

Form 1/Form 1A. Crucial information regarding the particulars of the proposed project is sought to enable the EAC or the SEAC to prepare comprehensive ToR which the applicant is required to address during the course of the preparation of the EIA. Some of the information sought is produced thus:

- (i) Construction, operation or decommissioning of the project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.);
- (ii) Use of natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are nonrenewable or in short supply);
- (iii) Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about the actual or perceived risks to human health;
- (iv) Production of solid wastes during construction, operation or decommissioning;
- (v) Release of pollutants or any hazardous, toxic or noxious substances to air;
- (vi) Generation of noise and vibration, and emissions of light and heat;
- (vii) Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea;
- (viii) Risk of accidents during construction or operation of the project, which could affect human health or the environment; and
- (ix) **Environment sensitivity which includes, amongst other things, the furnishing of the following details:**
 - a. **Areas protected under international and national legislation;**
 - b. **Ecologically sensitive areas; and**
 - c. **Areas used by protected, important or sensitive species of flora or fauna.**

63. Under the 2006 notification, the EC process is based on the information provided by the applicant in Form 1. That the information provided in Form 1 is crucial can be borne from the following circumstances:

- (i) The EAC or the SEAC, as the case may be, formulates comprehensive ToRs on the basis of the information furnished in Form 1 which addresses all possible environmental concerns. It is on the basis of the ToR, that further studies and the EIA are carried out on the impact of the proposed project on the environment;
- (ii) At the appraisal stage, the regulatory authority examines the documents submitted by the applicant "strictly with reference to the ToR" and communicates any inadequacy to the EAC or the SEAC;

- (iii) Category B2 projects, which do not require scoping, are evaluated by the SEAC on the basis of the information furnished by the applicant in Form 1 alone;
- (iv) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an EIA report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable; and
- (v) An application for extension of the validity of the EC for certain projects is to be made by submitting a revised Form 1 within the validity period.

64. **The information provided in Form 1 serves as a base upon which the process stipulated under the 2006 notification rests.** An applicant is required to provide all material information stipulated in the form to enable the authorities to formulate comprehensive ToR and enable concerned persons to provide comments and representations at the public consultation stage. The depth of information sought in Form 1 is to enable the authorities to evaluate all possible impacts of the proposed project and provide the applicant an opportunity to address these concerns in the subsequent study. Missing or misleading information in Form 1 significantly impedes the functioning of the authorities and the process stipulated under the notification. For this reason, any application made or EC granted on the basis of a defective Form 1 is liable to be rejected immediately. Clause (vi) of paragraph 8 of the notification provides thus:

“Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

77. There can be no manner of doubt that Form 1 is an important ingredient in the entire process envisaged under the 2006 notification. Hence, clause (vi) of para 8 of the 2006 notification provides that deliberate concealment or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection and lead to the cancellation of a prior EC granted on that basis. The declaration which is required of the project proponent is to a similar effect.

88. The failure on part of a project proponent to disclose material information in Form 1 as stipulated under the 2006 notification has a cascading effect on the salient objective which underlies the 2006 notification. **The 2006 notification represents an independent code with the avowed objective of balancing the development agenda with the protection of the environment. An applicant cannot claim an EC, under the**

2006 notification, based on substantial or proportionate compliance with the terms stipulated in the notification.

The terms of the notification lay down strict standards that must be complied with by an applicant seeking an EC for a proposed project. The burden of establishing environmental compliance rests on a project proponent who intends to bring about a change in the existing state of the environment. Whereas, in the present case, there has thus been a patent failure on part of the project proponent to make mandatory disclosures stipulated in Form 1 under the 2006 notification, that must have consequences in law. There can be no gambles with the environment: a 'heads I win, tails you lose' approach is simply unacceptable; unacceptable if we are to preserve environmental governance under the rule of law."

18. Stand of the SEIAA, Karnataka is that it has gone by information in Form-I without any physical visit to the site or independent evaluation. The two reports cover the same project and though two authorities represented therein are common, the reports are contradictory. With regard to wetland, the 'National Wetland Atlas' has not been considered. Once the area in question is wetland, compliance of the statutory rules was required to be gone into in the light of judgment of the Hon'ble Supreme Court in M.K. Balakrishnan (supra). The extent of constructions needs to be evaluated in terms of M/s Goel Ganga Developers Pvt. Ltd. (supra). Even if the project as such is beyond the buffer zone of the drain, it has to be ensured that there are no other development activities in the said zone, including RCC storm water drain passing through the existing drain/*kharab* land. It has to be examined whether box type constructions/ civil work in any manner affects the catchment area of the drains. The Committee has taken the BBMP approval as conclusive without independent evaluation. The BBMP itself has stated that its approvals are against law. SEIAA, Karnataka does not claim to have made independent evaluation as required.

19. In *Tata Housing Development Company v. UOI*, 2019 SCC Online SC 1419, the Hon'ble Supreme Court upheld the quashing of EC for a

housing project at Chandigarh on account of violation of environmental norms. The project was held to be in the buffer zone of Sukhna Wildlife sanctuary. It was held, following judgements in Vellore Citizen's forum v UOI, (1996) 5 SCC 647 (paras 10, 16), Indian Council for Enviro Legal Action Vs UOI, (1996) 5 SCC 281 (pr 41) MC Mehta v Kaman Nath, (1997) 1 SCC 388 (pr 25) and M C Mehta Vs UOI, (1997) 3 SCC 715, that principle of sustainable development was required to be enforced. The Court has to ensure compliance of laid down environmental norms. Public Trust doctrine required the State agencies to protect the environment. Carrying capacity of the environment to sustain a particular development activity had to be kept assessed and kept in mind. Thus, it is necessary to ascertain status of compliance of environmental norms at the ground level.

20. In view of the above, we find it necessary to have an independent report by another joint Committee which we now constitute. The joint Committee will comprise apart from the representatives of the four authorities represented in the Committee which has given second report, five other authorities/institutions need to be involved. BBMP and BDA were party to report dated 23.9.2019, they need to be involved to reconcile the two reports. Nominee of Irrigation & Flood Control Department, Government of Karnataka and nominee of Revenue Department, Government of Karnataka are required for demarcation of mean high flood level as per the Wetland Rules. Karnataka State Wetland Authority is to be added for relevant expertise. Thus, there will be nine (09) members in all. The nominee of the MoEF&CC will be the Coordinator/Chairman of the Committee who, in the circumstances, should be of the level of Joint Secretary or equivalent. The nominee of CPCB will be the Regional Director/Scientist E. The nominees of SEIAA,

Karnataka, State Wetland Authority and State PCB will be the respective Member Secretaries. The nominee of Irrigation & Flood Control Department will be the Chief Engineer and nominee of Revenue Department, Govt. of Karnataka will be the Collector. Nominees of BBMP and BDA will be the respective CEOs. The Coordinator may call first meeting at the earliest.

21. The Committee will be at liberty to involve any other expert/institution. It will be open to hold meetings by video conferencing, if so decided but it may visit the site, look into the earlier reports and the above points, particularly size of the project, compliance of statutory rules relating to buffer zone/wetland and furnish its report within two months of its first meeting by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

22. It will be open to the appellant and the project proponent to give their representations to the coordinator of the Committee mentioning brief points not beyond 10 pages, apart from documents relied upon within one week from today through the regional office of the MoEF&CC. The matter will be considered further after the receipt of the report of the joint Committee.

List for further consideration on 15.01.2021.

A copy of this order be sent to MoEF&CC, CPCB, SEIAA, Karnataka, State PCB, BBMP, BDA, Secretaries, Irrigation and Flood Control Department, and Revenue Department, Government of Karnataka and Karnataka State Wetland Authority by e-mail for compliance.

1983

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 08, 2020
Appeal No. 54 of 2018 &
M.A. No. 49/2020 IN
Original Application No. 602/2019
DV

1984

Item Nos. 01 & 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Appeal No. 54 of 2018

(For rehearing in view of order of the Hon'ble Supreme Court)

H. P. Ranjana Appellant(s)
Versus

Union of India & Ors. Respondent(s)

AND

M.A. No. 49/2020

IN

Original Application No. 602/2019

(for revival of the matter in view of order of the Hon'ble Supreme Court)

H. P. Rajanna Appellant(s)
Versus

Union of India & Ors. Respondent(s)

Date of hearing: 28.08.2020

Date of uploading of order: 08.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. Appeal No. 54/2018 was preferred on 9.4.2018 against the Environmental Clearance (EC) granted by the State Level Environment Impact Assessment Authority (SEIAA), Karnataka vide order dated 10.01.2018 for construction of "New Residential Building project at Survey Nos. 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk", Bengaluru District by M/s Wonder Projects

Development Pvt. Ltd. Later, OA 602/2019 was filed by the same person on 17.07.2019, seeking compliance of EC conditions. The appellant in the appeal and the applicant in the OA will be hereafter described as the appellant.

2. According to the impugned EC, the project involves construction of new residential building on a plot area of 50,382.91 Sqm. The total built up area is 1,28,193.9 Sqm. It consists of two residential blocks having 2 Basements + Ground Floor + 20 Upper Floors with 655 units. Total parking space proposed is for 877 Nos. of Cars. Total water consumption is 534 KLD (Fresh water + Recycled water). The total wastewater discharge is 482 KLD. It is proposed to construct 2 sewage Treatment Plants with capacity of 210 KLD & 280 KLD. The EC is subject to specified conditions during the construction and operation phases, apart from general conditions.

3. The appeal was filed on 12.04.2018. Notice was issued on 13.04.2018. Vide order dated 01.10.2018, delay in filing the appeal was condoned. Parties filed their respective pleadings. Till 8.7.2019, the matter was being considered by Bench II in this Tribunal but vide order dated 08.07.2019, the matter was directed to be heard alongwith OA 281/2019, involving the issue of constructions in buffer zone of lake in question, including the present project, which matter was being considered by Bench I. Therein, the Tribunal had sought a factual report from statutory authorities (BDA, BBMP, State PCB and CPCB) with reference to the allegation of several constructions, including the present project being in buffer zone. Thereafter, OA 602/2019 was filed on 17.07.2019 which came up for hearing on 19.07.2019. Therein also, the Tribunal sought a report from a joint Committee (CPCB, State PCB,

MoEFF&CC and SEIAA) and directed listing of the matter with Appeal No. 54/2018.

4. The appeal came up for hearing on 03.02.2020 and was allowed by this Tribunal and EC was quashed. The Tribunal referred to the stand of the Bruhat Bengaluru Mahangara Palike (BBMP) in its reply dated 05.09.2018 to the effect that the project was within 30 meters of the lake and thus within the buffer zone, in violation of Zoning Regulation No. 4.12.1(ii) of the Revised Master Plan-2015¹. BBMP also submitted that the area of the project was much more than for which the EC was granted in the light of the judgment of the Hon'ble Supreme Court in *M/s Goel Ganga Developers Pvt. Ltd. vs. Union of India*.² Non-FSI area had not been taken into account, which is required to be included. According to BBMP, the total area is 2,35,076.81 (FAR + NON-FAR) and not 1,28,193.9 (excluding Non-FAR area). On this ground, the BBMP issued stop work notice cum show cause notice dated 13.07.2018 and did not

¹ii) Valley/ drain

Within the demarcated buffer for the valley, the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plant.
- ii. Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies, a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning Authority."

² (2018) 18 SCC 257

grant the sanction plan. BBMP also submitted that zoning regulations are framed under the Karnataka Town and Country Planning Act, 1961 (1961 Act) and thus grant of building plan was in violation of Section 505 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), which requires adherence to the 1961 Act. Further submission was that the project was in violation of EC conditions prohibiting use of *Kharab* land (common land meant for general public use). During the constructions, existing water bodies could not be affected. The condition no. 6 of the EC during operation phase required development of 43% area of green belt which was not done. The Tribunal also referred to the proceedings in *OA 281/2019* wherein vide order dated 11.03.2019 a joint Committee had submitted reports dated 11.04.2019, 27.04.2019 and 23.09.2019 (to be referred to as report dated 23.9.2019 or the first report) with respect to several projects in the buffer zone of the *Kaikondrahalli* Lake, including the present project. Accordingly, the Tribunal also decided *OA 281/2019* seeking restoration of *Kaikondrahalli* Lake in Bengaluru city in the light of the same joint Committee report by directing BBMP, BDA, SEIAA, Karnataka and State PCB to proceed in accordance with the said report. *OA 602/2019* seeking enforcement of environmental norms by the project proponent was also decided in the light of the same report.

5. The project proponent preferred *Civil Appeal No. 1713/2020* before the Hon'ble Supreme Court and submitted that the joint Committee constituted in *OA 602/2019* had not submitted its report when the Tribunal had passed the order dated 03.02.2020, on the basis of the report dated 23.09.2019, submitted in *OA 281/2019*. Since the report in *OA 602/2019* was exclusively about the present project, decision based on the report in *OA 281/2019* was erroneous. The joint Committee in *OA*

602/2019 submitted its report in the Hon'ble Supreme Court. as per order passed in proceedings there, after disposal of the matter by the Tribunal, in July 2020 (which may be called the second report). The said report is in favour of the project proponent. The Hon'ble Supreme Court in its order dated 11.8.2020 observed:

*"8. A perusal of the remark extracted and emphasized herein would indicate that a separate O.A. No. 602/2019 is also filed in respect of the instant project and the Committee has indicated that a separate report will be submitted by it. The NGT in the course of the impugned order dated 03.02.2020 at para 7 has recorded that O.A. No.281/2019 and O.A. No.602/2019 which are also raised on an identical issue are being contemporaneously disposed of by separate orders. The same would disclose that as on the date when the appeal wherein the impugned order is passed was disposed of along with O.A. No.602/2019 **the report relating to the project of the appellant was not available on record before the NGT if the remarks extracted above are kept in view, since the Joint Committee was yet to complete the inspection.**"*

6. The Hon'ble Supreme Court further observed that this Tribunal did not have the benefit of the second report of the joint Committee in OA 602/2019 which was filed for the first time before the Hon'ble Supreme Court. In that view of the matter, it was appropriate that the order of this Tribunal is set aside and the Tribunal reconsider the appeal after taking into consideration the second report of the joint Committee and that the EC would remain subject to the fresh decision to be taken by this Tribunal.

7. Accordingly, the matter was taken up by the Tribunal on 20.08.2020 for hearing in the light of the judgment of the Hon'ble Supreme Court dated 11.08.2020. Arguments were substantially heard but on the request of the learned Counsel for the parties seeking further hearing by physical appearance, the matter was deferred to 27.08.2020. The Tribunal heard the matter on 27.08.2020 and 28.08.2020 and

reserved the order giving further opportunity to them to file notes of submissions within one week.

8. We have considered rival submissions and perused the record. We have perused the submissions filed on behalf of the appellant on 03.09.2020 and a short note filed on behalf of Respondent Nos. 11 and 12 on 04.09.2020.

9. The major issue that has been raised on behalf of the appellant is that there was no proper appraisal by the Expert Appraisal Committee (EAC) as per Environment Impact Assessment (EIA) Notification dated 14.09.2006 and grant of EC was vitiated on account of the project being wrongly treated as Category B under entry 8 (a), instead of category B-1 under entry 8(b) of the Schedule to the 2006 notification and also being in violation of statutory regulations laying down the buffer zone under the 1961 Act and the statutory requirements of the Wetlands (Conservation and Management) Rules, 2017 (Wetlands Rules, 2017). There is no proper and adequate disclosure in Form-1 with regard to area being eco fragile. Complete disclosure about the water bodies/wetlands has not been given in the said application. The extent of construction has not been correctly described and evaluated by SEIAA, Karnataka in violation of principles laid down by the Hon'ble Supreme Court in *M/s Goel Ganga Developers Pvt. Ltd. (supra)*. SEIAA was also not mindful of the mandate of the Wetlands Rules, 2017 and the judgment of the Hon'ble Supreme Court in *M.K. Balakrishnan and Ors. v. Union of India and Ors.*³ Reference has been made to 'National Wetland Atlas' prepared by the MoEF with the assistance of the Space Application Centre, Indian Space Research Organization (ISRO) and Remote Sensing

³ (2017) 7 SCC 805 ¶ 23

Application Centre wherein *Kaikondarahalli* Lake has been identified as a wetland. Extracts from the Atlas have been filed on 25.05.2019 by the appellant with IA 352/2019. The Map annexed to the 'National Wetland Atlas' (Annexure A-7) prominently shows the *Kaikondarahalli* Lake. The second report is contrary to the first report dated 23.09.2019 filed in OA 281/2019 though two participants in the report are common. The report is also against counter affidavit filed by the BBMP before this Tribunal. As against the report dated 23.09.2019 (in OA 281/2019), finding the project to be within the buffer zone of the lake, the second report (in OA 602/2019) holds to the contrary. The representatives of CPCB and State PCB are common in both the Committees. In the first Committee, BBMP and BDA were included but in the second Committee SEIAA, Karnataka and MoEF&CC were included, apart from CPCB and the State PCB, without BDA and BBMP. The two reports submitted by the representatives of the statutory authorities need to be reconciled and if necessary, a larger Committee constituted with senior representatives of the concerned departments, to put the matter beyond controversy. Moreover, the second report assumes that the lake in question is not a wetland and the restrictions of the Wetland Rules do not apply to the entire area of the project which finding may be in conflict with the Atlas prepared by the MoEF&CC. It has been observed by the Committee that the Wetland Rules should be followed. The rules require demarcation with reference to the flood line, which is not shown to have been done or considered. The correct size of the project needs to be determined as per parameters in *Goel Ganga* judgment, supra so that if the area is more than 1.50 lacs sq. meters, appraisal is carried out as per category B-1 and not as B as has been assumed.

10. Thus, following main points emerge from the submissions of the appellant:

- A. The project proponent has concealed material information in statutory Form 1A submitted to State Expert Appraisal Committee (SEAC) in respect of particulars of the ecologically sensitive areas, including the water bodies and forests. Having regard to extent of the constructions required to be taken into account in terms of judgment in *Goel Ganga*, supra, the project has more than 1.5 lac sq. meters of construction on account of which it will fall under category 'B-1' in view of Para 8 (ii) of the EIA Notification dated 14.09.2006, and not B under para 8 (i), to be appraised differently.
- B. The lake being a wetland as mentioned in the Atlas published by the MoEF&CC, the project may be hit by the Wetland Rules. Under Rule 4 of the Wetlands Rules, 2017, construction within 50 meters from the *mean high flood level observed in past 10 years from the date of commencement of the Rules* is not allowed. No demarcation of the *mean high flood level* has been done or referred to determine whether the present constructions are within 50 meters of such level. The Committee while observing that Wetlands Rules, 2017 should be followed, has observed that the area is not falling under the wetland definition without noting the 'National Wetland Atlas' showing that the area may be hit by the Wetland Rules.
- C. The Committee has wrongly assumed the drain to be secondary drain even though in the application of the project proponent itself it is mentioned as primary drain.

- D. The Committee has observed that the project proponent is constructing box type storm water drain passing through the project site. The storm water drain, as per para 8.0 of the report, originates from the lake and flows towards the lake between the two blocks. To approach Block-I, it has to cross secondary drain. The area of secondary drain is *kharab* land, measuring 13 *guntha*. BBMP had granted approval to construct the new type RCC drain and two RCC culverts without deviating from the original alignment and measurement of the drain. Thus, even if BBMP has granted permission, use of *kharab* land and construction of RCC box type drain through secondary drain is contrary to statutory regulations under the 1961 Act.
- E. There is conflict in the reports dated 23.09.2019 in OA 281/2019 and second report in OA 602/2019. Both the reports cover this project. In both the reports CPCB and PCB are parties. In first report BBMP and BDA are included. They are not in second report. MoEF&CC and SEIAA are also not in second report. Stand of BBMP before this Tribunal is against the second report.
- F. According to written submissions filed by BBMP on 27.08.2020 the project proponent has violated statutory requirements in obtaining building plan without first obtaining 'Consent to Establish' under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974. There is encroachment of water stream and primary *rajkaluve* connecting two lakes, viz upstream lake (*Kasavanahalli* lake) and downstream lake (*Kaikondarahalli* lake). The conceptual plan shows that there is a primary drain crossing the project land and there also are *kharab* lands (meant for common use). The

kharab land cannot be used by the project proponent in view of condition no. 42 of the EC and a board is required to be displayed to that effect. The same is sought to be encroached for construction of internal drive way. Internal drive way is within the buffer zone. Various activities of the project proponent are in the buffer zone.

11. As against the above stand of the appellant which is supported by the BBMP, stand of the project proponent is that there was a mistake in relying upon the report dated 23.9.2019 submitted in OA 281/2019 which did not deal with the present project and the second report submitted in OA 602/2019 is in respect of the project in question which is by a credible Committee and finds the project fully compliant. Since the said report was not available earlier, the appeal be dismissed in the light of the said report. Dealing with the objections of the appellant and the BBMP, it is submitted that the project has been rightly evaluated as B category based on construction size mentioned in application for EC, Form I, supported by conceptual plan giving details. The project proponent will not construct more than that. The project is not in the buffer zone of the lake or the drains nor is it hit by the wetland rules. Sanction plan has been duly granted by BBMP. U type RCC structure for storm water drain has also been duly approved by the BBMP. Even if the Committee wrongly took the primary drain as secondary, the project is beyond buffer zone of the primary drain also. Sequence of obtaining consent to establish under the Water Act does not affect the substance being a procedural matter, not going to the root of legality of the project. Even if there is violation of any condition of EC, the same can be rectified. EC is not vitiated.

12. We have considered the rival submissions. The main issue which falls for consideration is whether there is contradiction in the first report dated 23.9.2019, submitted in OA 281/2019 and the second report submitted in OA 602/2019. If so, what is the effect on the project. Whether second report can be accepted without going into the objection with regard to size of the constructions, statutory regulations dealing with the buffer zone of drains/lake, Wetland rules and Form I not giving all relevant details and the same being accepted by the Expert Appraisal Committee of SEIAA without verification in accordance with the procedure laid down in EIA notification dated 14.09.2006.

13. With regard to first question, we find that scope of OA 281/2019 and OA 602/2019 is overlapping. OA 281/2019 came up before Bench I on 11.3.2019 when a fact-finding report was sought. Appeal 54/2018 was listed before Bench II. The said matter was transferred by Bench II to be heard with OA 281/2019 seeking restoration of the lake by removing encroachments from buffer zone, including the present project on 8.7.2019. On 17.7.2019, OA 602/2019 was filed and was taken up on 19.7.2019 before Bench I. Without reference to order dated 11.3.2019 in OA 281/2019, the Tribunal sought a factual report with reference to issue of project being within the buffer zone of the lake/drains, as is generally the order of this Tribunal in such matters, to independently ascertain facts from the concerned statutory authorities. The report dated 23.9.2019 found the present project as well as some other constructions to be in buffer zone of the lake, though it was stated that the report was interim and further report will be filed in relation to the present project. The Tribunal accepted the said report being in consonance with counter affidavit of BBMP in the present matter. On 3.2.2020, all the three matters, OA 281/2019, OA 602/2019 and Appeal

No.54/2018 were taken up for hearing together and were disposed of in the light of the said report. It is only after the Tribunal passed the order dated 3.2.2020 that second report in OA 602/2019 was submitted in the proceedings pending in Supreme Court. The said report makes no reference to report dated 23.9.2019 in OA 281/2019 though representatives of CPCB and State PCB are included in both the reports. While the report in OA 602/2019 is only with regard to this project and is in favour of the project proponent but the report in OA 281/2019 also covers this project (apart from other constructions) and was, therefore, relied upon while passing the order dated 3.2.2020. Since order in Appeal No. 54/2018 has been set aside and is common basis for orders in OA 281/2019, OA 602/2019 and Appeal No. 54/2018 in the said report, all the three matters will require consideration afresh as far as this project is concerned. OA 602/2019 and OA 281/2019 will have to be revived for fresh consideration in respect of this project. We order accordingly. M.A. 49/2020 is disposed of.

14. Relevant part of report in OA 281/2019 is reproduced below:

“Existing properties in Kaikondrahalli Lake buffer area and violation, if any noticed are tabulated below:

S. No	Village	Sy No.	Activity	Violation of Buffer
A	Kaikondrahalli	3	Vacant site	No Violation
		5	Vacant site	No violation
		6	Grave Yard	Not a permitted activity
		7	Vacant Site	No violation
		8	Establishing cross road, Commercial buildings where Ananda Sweet and	Portion of lake area is

			<i>Nanda's Multicusine, Sri Rajrajeshwari condiments shop, 3M Car Care and Bengaluru fruits and vegetables shop</i>	<i>encroached</i>
		9	<i>Renuka High School with play ground and toilet, Sports Centre, Raksha Car service, Residential building and Private car service garage in buffer zone.</i>	<i>Not a permitted activity</i>
		10/3	<i>Private grocery shops and commercial establishment in the buffer zone</i>	<i>Not a permitted activity</i>
		11	<i>Kidzee School and cross road established</i>	<i>Not a permitted activity</i>
		11/2	<i>Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"</i>	<i>The project authorities have established, swimming pool, club house and approach road in the lake buffer area, which is not permitted activity.</i>
		11/2	<i>ALPS Prime Spaces Pvt. Ltd, established residential apartment by name" Alps estate</i>	<i>South east portion of the project area where STP and Exit gate situated is in buffer area, which is not permitted activity.</i>
		14	<i>Private building and commercial establishment in the buffer area.</i>	<i>Not a permitted activity.</i>
<i>B</i>	<i>Kasav anaha lli</i>	39	<i>C & D wastes are dumped and used for Solid Waste segregation by BBMP</i>	<i>C & D waste debris shall be removed and</i>

		contractor.	solid waste segregation has to be stopped by BBMP. Not a permitted activity
	40	There is no construction activity except establishment of temporary labour shed after some distance.	BBMP has to verify whether these sheds falling under buffer or not.
	62	Godrej by name "Wonder Projects Development Pvt Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahlli Tank. Project under construction.	Sy No. 62 and 63 falls under Lake buffer area. As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.
	63/1	Vacant site	No Violation
	68	SJR Enterprises Pvt. Ltd., established Residential Apartment by name SJR Water Mark	Project authorities have established rain water harvesting tank, park, tennis court and portion of drive way at 1 acre 17

			<i>guntas falling under the buffer area.</i>
	69	<i>There are some residential building and establishment of park and road in the lake buffer area.</i>	<i>Not permitted activity</i> a
	71/2 72/2 73	<i>Residential sheet houses constructed in the area of 1 acre 4 guntas and 1 acre 6 guntas is vacant. Further, the owner of the Sy No. 72/2 is started leveling land adjoin to the lake. Sheet building construction in Sy No. 73 still exists.</i>	<i>Not permitted activity</i> a
<i>Kasavanahalli</i>	71/1 71/2 72/1 72/2 73 74/5B	<i>Nala Khrab of Sy No. 71/1 of 1 gunta, 71/2 of 1 gunta, 72/1 of 1 gunta, 72/2 of 2 guntas, 73 of 01 guntas, 74/5B of 3 guntas and 74/5B of 4 guntas of Halla Khrab is encroached and nala area is being used for approach road.</i>	<i>Not permitted activity</i> a

Of the above listed properties, the following properties have obtained Environmental Clearance from SEIAA and Consent to Establishment & Operation from the KSPCB.

- a) Sy No. 68: SJR Enterprises Pvt Ltd., established Residential Apartment by name SJR Water Mark.*
- b) Sy No. 11/2: Sri Mitra Builders & Developers, established residential apartment by name "Sri Mitra Spring Valley"*
- c) Sy No 11/2: ALPS Prime Spaces Pvt Ltd, established residential apartment by name "Alps estate"*
- d) Sy Nos 61/2, 62 and 63/2: Godrej by name "Wonder Projects Development Pvt Ltd"-under construction**

The relevant photographs on Violation of Buffer are attached as Annexure 4.

4.0 OBSERVATION OF COMMITTEE ON THE REPRESENTATION SUBMITTED BY THE MAHADEVAPURA PARISARA SMRAKSHNE MATTU ABHIRUDHI SAMITI (MPSMAS)

The Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samiti (MPSMAS) through Managing Trustee Sri Subramanian Sankrana submitted updated representation to Karnataka

State Pollution Control Board (KSPCB). The pointwise observation of the Joint Committee is given as Annexure 5.

Further, as noticed by the committee during the restoration work under taken by BBMP, BBMP established walkway by rising the lake bed around the periphery of the lake and constructed toilet and amphitheater within the lake area.

5.0 OVERALL OBSERVATION AND SUGGESTION OF THE COMMITTEE

The observations of the committee are:

- There are three main feeder drains to the Kainkondrahalli Lake, one on south Eastern side, second on Western side and third one towards Southern Side of the lake. The total lake area is 48 acres 23 Guntas.
- The Lake is rejuvenated jointly by BBMP & MPSMAS in the year 2011 with two sewage diversion lines to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering to the lake. Other than this, there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake. BWSSB has to clear the diversion line to avoid the overflowing of sewage from the manhole into the Lake and plan to have a terminal Sewage Treatment Plant to treat the entire sewage and only to allow the storm water to the lake through wetland.
- BBMP storm water drain, Mahadevapura zone marked the drain area which is originating from Kasavanahalli road to the lake from eastern side and work pertaining to restoration of the drain is in progress.
- BESCOM authorities have disconnected the power supply to residential houses in Sy No. 71/1, 71/2, 72/2, 72/1, 72/2, 74/5B and 73 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru urban district.
- The residential sheet houses constructed at Sy No. 72/2 coming under the lake buffer are demolished. But, residential houses constructed in Sy No. 73 are still exists, the same need to be removed. Vacant area of the Sy No. 71/2 & 72/2 adjoining to lake is being filled with new soil for leveling.

- Sy No. 71/2: The land adjoining to lake is being used for solid waste segregation by BBMP, the same need to be stopped and segregation of waste are to be done at the generation and collection point itself. The dumping and segregation of solid waste at the lake belt to be stopped and cleared.
- Sy No. 39: The land adjoining to lake is being used for dumping of C & D waste, BBMP shall be directed to take appropriate steps to clear the same.
- The temporary labour sheds constructed and existing in Sy No. 40 need to be verified by the BBMP whether the sheds are within Lake Buffer or not and to take appropriate action.
- The concern authorities shall be directed to take appropriate action to clear the violations/encroachment noticed in the existing properties & activities in the buffer area.”

Order passed by the Tribunal in OA 281/2019 was challenged before the Hon'ble Supreme Court by one of the affected parties and the appeal being Civil Appeal No. 5195/2019 was dismissed on 05.07.2019. The project proponent did not challenge the said order separately but in view of order of the Hon'ble Supreme Court, it will be appropriate to revisit the said order qua the present project.

15. Report in OA 602/2019 does not take into account the above report wherein the present project has been found to be in the buffer zone of the lake. Finding with regard to compliance with buffer zone is as follows:

Judgment of Hon'ble NGT is OA 222/2014, dated 14.05.2016	Judgement of Hon'ble Supreme court in Civil Appeal No. 5016/2016 dated 05.03.2019	Actual Buffer Zone maintained by the project proponent
A. From Lake Boundary		
➤ 75m from the periphery of water body to be maintained as green belt and buffer zone	➤ Minimum 30 m buffer zone to be maintained from Lake Boundary	➤ As per report, the measured distance from lake edge to Block-I Building line is ranges between 77.45 m to 77.9 m, which is complying with Buffer zone.

		<ul style="list-style-type: none"> ➤ The distance from Lek edge to Block-2 Building line is 79.40m, which is also complying with Buffer Zone.
B. From Primary Drain/nala		
<ul style="list-style-type: none"> ➤ 50 m from the edge of the primary Rajkulewas 	<ul style="list-style-type: none"> ➤ Minimum 50 m buffer from middle of drain 	<ul style="list-style-type: none"> ➤ No Primary Drain. Not applicable
C. From secondary Drain/nala		
<ul style="list-style-type: none"> ➤ Minimum 35 m buffer zone is to be maintained from edge of Secondary Rajakaluve/ Nala 	<ul style="list-style-type: none"> ➤ Minimum 25 m buffer zone to be maintained from middle of Secondary Rajakaluve/ nala 	<ul style="list-style-type: none"> ➤ As per report the measured distance from secondary drain to Block-1 Building line is ranges between 51.20 m to 54.8 m, which is complying with Buffer zone. ➤ The distance from secondary drain to Block-2 Building line is 59.40m, which is also complying with Buffer zone.
C. From Tertiary Drain/nala		
<ul style="list-style-type: none"> ➤ Minimum 25 m buffer zone is to be maintained from edge of Tertiary Rajakaluve/ nala 	<ul style="list-style-type: none"> ➤ Minimum 15 m buffer zone is to be maintained from edge of Tertiary Rajakaluve / nala 	<ul style="list-style-type: none"> ➤ There is a storm water drain passing at Sy. No. 61 of southern side of the project site as per village map. But, in the development plan approved by BDA and building plan approved by BBMP, the nala / storm water drain is shown outside the boundary of the project site. ➤ As per report measured the distance from tertiary drain to Block-1 Building line is 26.40 m which is complying with Buffer zone.

The above table reveals that the project proponent have maintained required buffers from Lake, Secondary nala and Tertiary nala for the building line of Block-1 (Godrej Reflections) and Block-2 (Godrej Lake Gardens). Complying with buffer zone.”

The above finding of the project being outside the buffer zone is in conflict with the finding in the first report dated 23.09.2019 submitted in OA 281/2019.

16. Coming now to the second question of acceptability of the second report, we find that it is not possible to accept the same straightaway for more than one reason. We are not doubting the bonafides of the officers who have given the report but the report is vulnerable for the following reasons:

- a) Even though two authorities are common to the two reports, the reports are contradictory with regard to the project being or not being in buffer zone. The second report does not refer to or explain the first.
- b) The size of the project has to be determined with reference to the observations of the Hon'ble Supreme Court in *Goel Ganga (supra)* which has neither been done by any authority nor by the Committee in the second report. Learned counsel for the SEIAA fairly stated that no independent verification has been done and the EC is based only on Form I. Relevant observations in *Goel Ganga (supra)* are:

"16. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent

must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble etc., all of which will impact the environment. Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. Therefore, when EC is granted for a particular construction it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered construction, which is not open to the sky is to be treated as built up area in terms of the EIA Notification dated 14.09.2006.”

c) The second report holds that there is no wetland relevant for the project without demarcation in terms of the Wetland Rules which becomes imperative in view of Atlas published by the MoEF&CC and orders of the Hon'ble Supreme Court in M.K. Balakrishanan, supra. Extract from the second report on the subject is as follows:

*“It is clear from the above definitions of Wetland, Records of RTC and Google images that **only lake area of 48 Acres 23 Guntas can be considered as Wetland, not the surroundings including the area in question in this case. The total land of the project was earlier used for agricultural activities/cultivation - such as paddy, ragi, etc. as per Record of Rights, Tenancy and Crop Information (RTC), Thus, it is not falling under wetland definition.**”*

As against above, the observations in the M.K. Balakrishanan, supra are:

“23. Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventories all these 2,01,503 wetlands with the assistance of the State Governments and

will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

"4.(1). (i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated the 27th November, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically engineered organisms or cells notified vide GSR No. 1037(E), dated the 5th December, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated the 24th September, 2008;

(iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules."

- d) The Committee has taken the sanction granted by BBMP for construction of RCC structure for storm water

drain, crossing secondary drain and also involving kharab land, to be conclusive and valid without going into the question of violation of statutory rules (the RMP), while the BBMP itself has submitted before this Tribunal that sanction was wrongly granted.

17. As held in *Hanuman Laxman Aroskar v. Union of India*,⁴ EC can be granted strictly in accordance with the procedure laid down in the Notification dated 14.09.2006. Parameters and procedure for evaluation of different categories of projects is different. Category of the present project depends on size of construction. If it is found to be more than 1.5 lac sq. meters, as against the claim of being less than that size and, therefore, the impugned EC treating the project as B will be invalid. In the said judgement, the process of EIA has been explained in detail. It involves four stages as follows:

*“47. **SCREENING** – This step is restricted only to **Category ‘B’** projects. This stage entails an examination of whether the proposed project or activity requires further environmental studies for the preparation of an EIA for its appraisal prior to the grant of an EC. Those projects requiring an EIA are further categorized as **Category ‘B1’ projects and remaining projects are categorized as Category ‘B2’ projects.** Category ‘B2’ projects do not require an EIA. The categorization is in accordance with the guidelines issued in this regard by the MoEFCC from time to time.*

*48. **SCOPING** – At this stage, the EAC or the SEAC, as the case may be, formulates detailed and comprehensive Terms of Reference which address all relevant environmental concerns for the preparation of the EIA. Amongst other things, **the information furnished by the applicant in Form 1/Form 1A along with the proposed ToR by the applicant form the basis for the preparation of the ToR.** The ToR must be conveyed to the applicant within 60 days of the receipt of Form 1, failing which, the ToR proposed by the applicant shall be deemed as approved. Significantly, applications for EC may be rejected by the regulatory authority at this stage itself on the recommendation of the EAC or the SEAC, as the case may be, and the decision along with reasons is to be communicated to the applicant within 60 days of receipt of application.*

⁴ (2019) 15 SCC 401

49. **PUBLIC CONSULTATION** - Prior to this stage, a Summary EIA is prepared in the format given in Appendix IIIA on the basis of the ToR furnished to the applicant. This stage involves the process "by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view of taking into account all the material concerns in the project or activity design as appropriate." **The detailed procedure is stipulated in Appendix IV. Subject to the exceptions provided in the 2006 notification, all Category 'A' and Category 'B1' projects shall undertake the public consultation process.**

50. This stage comprises two components:

- (iii) A public hearing at the site or in its close proximity – district-wise to be carried out in the manner prescribed in Appendix IV; and
- (iv) Procurement of written responses from concerned persons having a plausible stake in the environmental aspects surrounding the project.

51. The State Pollution Control Board⁴³ or the Union Territory Pollution Control Committee⁴⁴ is charged with conducting the public hearing in the manner stipulated in Appendix IV and forwarding the proceedings to the regulatory authority within 45 days of a request from the applicant. The regulatory authority is empowered to engage another public agency or authority to carry out the process within a further period of forty-five days in case the SPCB or the UTPCC does not adhere to the prescribed time period stipulated in the notification. The public hearing should be arranged in a "systematic, time bound and transparent manner" to ensure the "widest possible public participation at the project site(s) or in its close proximity District-wise". The public hearing proceeding is filmed and a copy of the video is submitted to the concerned regulatory authority.

52. Within seven days of receiving a written request to initiate the public consultation process, the SPCB or the UTPCC shall place the Summary EIA and the application on their website and invite responses. The concerned authority may also make use of other appropriate media in addition to publication on their website to ensure wide publicity of the project. On a written request from any concerned person, the authority will make available a hard copy of the Draft EIA for inspection at a notified place during office hours till the date of the public hearing. A duty is placed on the authority to forward all responses and comments received at this stage to the applicant through the quickest available means.

53. After the public consultation process, the applicant is duty bound to address all the material environmental concerns expressed during the process and make appropriate changes to the Draft EIA and EMP. The applicant shall then forward the final EIA report to the regulatory authority to initiate the next stage. Alternatively, the applicant may submit a supplementary report to the Summary EIA and EMP.

54. **APPRAISAL** - This stage involves detailed scrutiny by the EAC or the SEAC of all the documents submitted by the applicant for the grant of EC. The appraisal is carried out in a transparent manner in a process to which the applicant shall be invited for furnishing clarification in person or through an authorized representative. Appendix V stipulates that the following documents are also submitted to the regulatory authority:

- (v) Final EIA Report
- (vi) A copy of the video tape or CD of the public hearing proceedings
- (vii) A copy of the final layout plan
- (viii) A copy of the project feasibility report.

55. The regulatory authority must examine the documents "strictly with reference to the ToR" and communicate any inadequacy to the EAC or the SEAC, as the case may be, within 30 days of receipt of the documents. Within sixty days of the receipt of all the documents, the EAC or the SEAC, as the case may be, shall complete the appraisal process as prescribed in Appendix V. Within the next fifteen days, the EAC or the SEAC shall make categorical recommendations to the concerned regulatory authority to either grant the EC on the stipulated terms and conditions or reject the application, together with reasons. **The appraisal of projects which are not required to undergo the public consultation process or the submission of an EIA is to be carried out on the basis of the prescribed application Form 1 or Form 1A, as applicable.**

56. The MoEFCC or the SEIAA shall thereafter consider the recommendations of the EAC or the SEAC and convey its decision to the applicant within 45 days of receipt of the recommendations. The regulatory authorities shall normally accept the recommendations of the EAC or the SEAC, as the case may be. Where there is a disagreement, the regulatory authority shall ask for a reconsideration of the recommendation within 45 days of the receipt of the recommendations. This decision shall be conveyed to the applicant. The EAC or the SEAC shall then reconsider its recommendation within a further period of 60 days and make its recommendations to the regulatory authority. The regulatory authorities shall then take a decision after considering the views communicated to it and convey the decision to the applicant within the next 30 days.

57. If no decision is communicated to the applicant within the time prescribed, the applicant may proceed according to the recommendation of the EAC or the SEAC recommending either the grant or rejection of the EC. The decision of the regulatory authority and the final recommendations of the EAC or the SEAC shall be public documents on the expiry of the prescribed timelines. **Deliberate concealment and/or the submission of false or misleading information material to the steps involved in the grant of an EC make the application liable for rejection and cancellation of any EC granted on that basis.**

62 Under the 2006 notification, the process of obtaining an EC commences from the production of the information stipulated in Form 1/Form 1A. Crucial information regarding the particulars of the proposed project is sought to enable the EAC or the SEAC to prepare comprehensive ToR which the applicant is required to address during the course of the preparation of the EIA. Some of the information sought is produced thus:

- (x) Construction, operation or decommissioning of the project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.);
- (xi) Use of natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are nonrenewable or in short supply);
- (xii) Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about the actual or perceived risks to human health;
- (xiii) Production of solid wastes during construction, operation or decommissioning;
- (xiv) Release of pollutants or any hazardous, toxic or noxious substances to air;
- (xv) Generation of noise and vibration, and emissions of light and heat;
- (xvi) Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea;
- (xvii) Risk of accidents during construction or operation of the project, which could affect human health or the environment; and
- (xviii) **Environment sensitivity which includes, amongst other things, the furnishing of the following details:**
 - d. Areas protected under international and national legislation;**
 - e. Ecologically sensitive areas; and**
 - f. Areas used by protected, important or sensitive species of flora or fauna.**

63. Under the 2006 notification, the EC process is based on the information provided by the applicant in Form 1. That the information provided in Form 1 is crucial can be borne from the following circumstances:

- (vi) The EAC or the SEAC, as the case may be, formulates comprehensive ToRs on the basis of the information furnished in Form 1 which addresses all possible environmental concerns. It is on the basis of the ToR, that further studies and the EIA are carried out on the impact of the proposed project on the environment;
- (vii) At the appraisal stage, the regulatory authority examines the documents submitted by the applicant "strictly with reference to the ToR" and communicates any inadequacy to the EAC or the SEAC;

- (viii) Category B2 projects, which do not require scoping, are evaluated by the SEAC on the basis of the information furnished by the applicant in Form 1 alone;
- (ix) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an EIA report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable; and
- (x) An application for extension of the validity of the EC for certain projects is to be made by submitting a revised Form 1 within the validity period.

64. The information provided in Form 1 serves as a base upon which the process stipulated under the 2006 notification rests. An applicant is required to provide all material information stipulated in the form to enable the authorities to formulate comprehensive ToR and enable concerned persons to provide comments and representations at the public consultation stage. The depth of information sought in Form 1 is to enable the authorities to evaluate all possible impacts of the proposed project and provide the applicant an opportunity to address these concerns in the subsequent study. Missing or misleading information in Form 1 significantly impedes the functioning of the authorities and the process stipulated under the notification. For this reason, any application made or EC granted on the basis of a defective Form 1 is liable to be rejected immediately. Clause (vi) of paragraph 8 of the notification provides thus:

“Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”

77. There can be no manner of doubt that Form 1 is an important ingredient in the entire process envisaged under the 2006 notification. Hence, clause (vi) of para 8 of the 2006 notification provides that deliberate concealment or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection and lead to the cancellation of a prior EC granted on that basis. The declaration which is required of the project proponent is to a similar effect.

88. The failure on part of a project proponent to disclose material information in Form 1 as stipulated under the 2006 notification has a cascading effect on the salient objective which underlies the 2006 notification. **The 2006 notification represents an independent code with the avowed objective of balancing the development agenda with the protection of the environment. An applicant cannot claim an EC, under the**

2006 notification, based on substantial or proportionate compliance with the terms stipulated in the notification.

The terms of the notification lay down strict standards that must be complied with by an applicant seeking an EC for a proposed project. The burden of establishing environmental compliance rests on a project proponent who intends to bring about a change in the existing state of the environment. Whereas, in the present case, there has thus been a patent failure on part of the project proponent to make mandatory disclosures stipulated in Form I under the 2006 notification, that must have consequences in law. There can be no gambles with the environment: a 'heads I win, tails you lose' approach is simply unacceptable: unacceptable if we are to preserve environmental governance under the rule of law."

18. Stand of the SEIAA, Karnataka is that it has gone by information in Form-I without any physical visit to the site or independent evaluation. The two reports cover the same project and though two authorities represented therein are common, the reports are contradictory. With regard to wetland, the 'National Wetland Atlas' has not been considered. Once the area in question is wetland, compliance of the statutory rules was required to be gone into in the light of judgment of the Hon'ble Supreme Court in M.K. Balakrishnan (supra). The extent of constructions needs to be evaluated in terms of M/s Goel Ganga Developers Pvt. Ltd. (supra). Even if the project as such is beyond the buffer zone of the drain, it has to be ensured that there are no other development activities in the said zone, including RCC storm water drain passing through the existing drain/kharab land. It has to be examined whether box type constructions/ civil work in any manner affects the catchment area of the drains. The Committee has taken the BBMP approval as conclusive without independent evaluation. The BBMP itself has stated that its approvals are against-law. SEIAA, Karnataka does not claim to have made independent evaluation as required.

19. In *Tata Housing Development Company v. UOI*, 2019 SCC Online SC 1419, the Hon'ble Supreme Court upheld the quashing of EC for a

housing project at Chandigarh on account of violation of environmental norms. The project was held to be in the buffer zone of Sukhna Wildlife sanctuary. It was held, following judgements in Vellore Citizen's forum v UOI, (1996) 5 SCC 647 (paras 10, 16), Indian Council for Enviro Legal Action Vs UOI, (1996) 5 SCC 281 (pr 41) MC Mehta v Kaman Nath, (1997) 1 SCC 388 (pr 25) and M C Mehta Vs UOI, (1997) 3 SCC 715, that principle of sustainable development was required to be enforced. The Court has to ensure compliance of laid down environmental norms. Public Trust doctrine required the State agencies to protect the environment. Carrying capacity of the environment to sustain a particular development activity had to be kept assessed and kept in mind. Thus, it is necessary to ascertain status of compliance of environmental norms at the ground level.

20. In view of the above, we find it necessary to have an independent report by another joint Committee which we now constitute. The joint Committee will comprise apart from the representatives of the four authorities represented in the Committee which has given second report, five other authorities/institutions need to be involved. BBMP and BDA were party to report dated 23.9.2019, they need to be involved to reconcile the two reports. Nominee of Irrigation & Flood Control Department, Government of Karnataka and nominee of Revenue Department, Government of Karnataka are required for demarcation of mean high flood level as per the Wetland Rules. Karnataka State Wetland Authority is to be added for relevant expertise. Thus, there will be nine (09) members in all. The nominee of the MoEF&CC will be the Coordinator/Chairman of the Committee who, in the circumstances, should be of the level of Joint Secretary or equivalent. The nominee of CPCB will be the Regional Director/Scientist E. The nominees of SEIAA,

Karnataka, State Wetland Authority and State PCB will be the respective Member Secretaries. The nominee of Irrigation & Flood Control Department will be the Chief Engineer and nominee of Revenue Department, Govt. of Karnataka will be the Collector. Nominees of BBMP and BDA will be the respective CEOs. The Coordinator may call first meeting at the earliest.

21. The Committee will be at liberty to involve any other expert/institution. It will be open to hold meetings by video conferencing, if so decided but it may visit the site, look into the earlier reports and the above points, particularly size of the project, compliance of statutory rules relating to buffer zone/wetland and furnish its report within two months of its first meeting by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

22. It will be open to the appellant and the project proponent to give their representations to the coordinator of the Committee mentioning brief points not beyond 10 pages, apart from documents relied upon within one week from today through the regional office of the MoEF&CC. The matter will be considered further after the receipt of the report of the joint Committee.

List for further consideration on 15.01.2021.

A copy of this order be sent to MoEF&CC, CPCB, SEIAA, Karnataka, State PCB, BBMP, BDA, Secretaries, Irrigation and Flood Control Department, and Revenue Department, Government of Karnataka and Karnataka State Wetland Authority by e-mail for compliance.

1213

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 08, 2020
Appeal No. 54 of 2018 &
M.A. No. 49/2020 IN
Original Application No. 602/2019
DV

BEFORE THE SUPREME COURT OF INDIA, NEW DELHI

Civil Appeal No. 1713 of 2020

IN THE MATTER OF :

Wonder Projects Development Pvt. Ltd. & Anr.

APPELLANTS

VERSUS

Union of India & ORS.

RESPONDENTS

AFFIDAVIT IN COMPLAINE WITH ORDER DATED 02.03.2020

ON BEHALF OF RESPONDENT NO. 7

(Karnataka State Pollution Control Board)

I, Syeed Khaja Mohiddin, S/o. Shri Syeed Kareem Saheb aged about 54 years, presently working in the post of Senior Environmental Officer , Karnataka State Pollution Control Board, Parisara Bhavan No. 49 Church Street Bangalore - 560001 Karnataka state do hereby solemnly affirm and state as under:

1. That I am presently working in the post of Senior Environmental Officer , Karnataka State Pollution Control Board, Bangalore impleaded as Respondent No. 7 in the instant Civil Appeal and am well aware of the facts and circumstance of the instant case and hence competent to swear this affidavit.
2. That vide its order dated 02.03.2020, this Hon'ble Court gave the following directions:

rs



"Issue notice both on the present appeal as also on the application for ad interim ex parte stay.

As prayed for, the respondents may file their respective reply affidavit within a period of ten days. Rejoinder affidavit, if any, be filed by the appellants within one week thereafter.

List the matter after three weeks.

In the meantime, the report in O.A. No.602/2019 shall be filed in the Registry of this Court."

Copy of the order dated 02.03.2020 passed by this Hon'ble Court in Civil Appeal No. 1713 of 2020 is annexed herewith and marked as

ANNEXURE -1 (pg 6)

3. That the instant Affidavit is being filed in compliance with the order dated 02.03.2020.

4. That it is submitted that in terms of the orders dated 19.07.2019 and 29.07.2019 passed by the Hon'ble National Green Tribunal in *OA No. 602 of 2019 [H.P. Ranjanna v. Union of India & Ors. w.r.t. construction of Highrise residential apartment Project in the Buffer Zone of Kaikondarahalli Lake]* a Joint Committee was formed comprising of members from Respondent No. 1 (MoEF&CC, Govt. of India), Respondent No. 4 (KSEIAA) Respondent No. 7 (KSPCB) & Central Pollution Control Board (CPCB) to submit a factual report.



5. That the Joint Committee visited the Project Site first time on 26.07.2019 for inspection. Thereafter it re-visited the Project Site second time on

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30.12.2019 for re-inspection. A Third Final Inspection of the Project Site was undertaken by the Joint Committee on 05.02.2020.

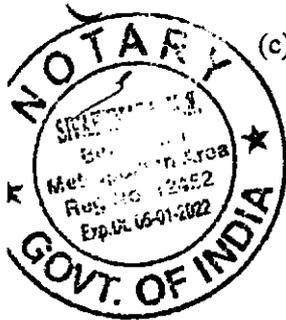
1216

6. That the Joint Committee in its Report to the Hon'ble NGT made the gave its opinion as under:

- (a) The residential projects in question have not encroached upon or have been constructed on Wetlands and Rajakaluves.
- (b) The construction is carried out as per the Modified Sanction Plan of BBMP by leaving Buffer Zone and Drains.
- (c) The construction is in accordance with the approved drawings.
- (d) Adequate space is earmarked for development of Green Belt and Holding Surface run off rain as per EC condition stipulated by KSEIAA.

However the Report also opined that the project proponent /Concerned Departments be directed to implement the following

- (a) Project Proponent be directed to strictly adhere to the building plan and secondary drain RCC Construction
- (b) To comply with the conditions imposed/directed by BBMP in sanctioned plan, EC conditions of KSEIAA, CFE from KSPCB, NOC from BSSWB etc. The built up area mentioned in various sanctioned needs to be amended as per Modified Sanction Plan of BBMP i.e. 1,25,663.06 square meters.
- (c) To remove soil dumps in the buffer zones of lake and drains and to store properly without causing any damage to the environment. Use such excavated soils for use in horticulture / landscape development within the project site as per EC.



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- 3000 - 1217
- (d) To take necessary measures to control fugitive dust emission from construction site by providing tall wind barriers at all sides of the project, sprinklers to stop re-suspension of dust from the roads, adequate measures during material handling etc.
 - (e) To prepare list of all wetlands of the State and notify as per Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017 by the concerned authority to potentially protect these tanks from encroachment and solid waste dumping as well as the construction of roads within in future.
 - (f) To maintain diversion line (UGD) property by BSSWB to avoid overflow of sewage from manholes into the Kaikondarahalli Lake. Also to identify the missing links in the lake catchment and to have a terminal Sewage Treatment Plant to treat the entire sewage generated from the Kaikondarahalli catchment. The Lake shall be filled either with storm water or with treated sewage only, and protected from entry of untreated sewage.
 - (g) In case of any violations noticed, the concerned department / authority shall initiate action to levy Environmental Compensation as per CPCB Guidelines.



Copy of Report of the Joint Committee submitted before the Hon'ble National Green Tribunal in O.A No. 602 of 2019 with Annexures is annexed herewith and marked as ANNEXURE - 2 (pg 2 to 3).

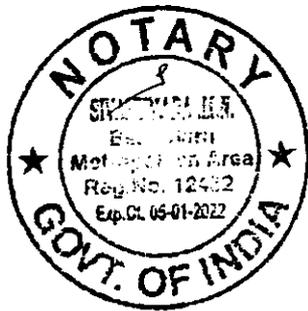
7. That vide its order dated 03.02.2020 in Appeal No. 54 of 2018, the Hon'ble NGT directed that no construction are permitted in the buffer zone of the Kaikondarahalli lake Catchment and the Environmental Clearances (EC) granted for a project covering buffer zone has been quashed.
- [Handwritten Signature]*

8. That aggrieved by the order dated 03.02.2020, the Petitioner has filed the instant Civil Appeal before this Hon'ble Court.

9. That the Respondent No. 7 (KSPCB) most respectfully prays that this Hon'ble Court may be pleased to pass such further/other orders as this Hon'ble Court may deem fit and proper in the facts and circumstance of the case.

DEPONENT

Verified at Bangalore , on this 6th day of July 2020 that the contents of this Affidavit is true to the best of my knowledge and belief.



DEPONENT

SWORN TO BEFORE ME

SIVAKUMARA .M.N.
ADVOCATE & NOTARY PUBLIC
GOVT. OF INDIA
No. 8/B, I.G.F. Akshaya Apts,
7th Main, K.H.M. Block, Ganganagar,
R.T. Nagar Post, Bengaluru - 560 032.
M: 9448061543

Notary Reg. No. 89
Book 03
Page 29 Date 7 JUL 2020

ITEM NO.20

COURT NO.1
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

SECTION XVII

1219

Civil Appeal No(s).1713/2020

WONDER PROJECTS DEVELOPMENT PVT. LTD. & ANR.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

{FOR ADMISSION and IA No.31845/2020-EX-PARTE STAY and IA No.31846/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES}

Date : 02-03-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s)

Dr. A.M. Singhvi, Sr. Adv.
Mr. Pinaki Misra, Sr. Adv.
Mr. Joy Basu, Sr. Adv.
Mr. V. D. Costa, Adv.
Ms. Astha, Adv.
Mr. Himanshu Sharma, Adv.
Ms. Gauri Goel, Adv.
Mr. Kanak Bose, Adv.
Mr. Faisal Sherwani, AOR

For Respondent(s)

Mr. P.S. Patwalia, Sr. Adv.
Mr. Abhimanue Shrestha, AOR*
Mr. Hetu Arora Sethi, AOR
Mr. Darpan K.M, Adv.
Mr. Rahul Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue notice both on the present appeal as also on the application for *ad interim ex parte* stay.

As prayed for, the respondents may file their respective reply affidavit within a period of ten days. Rejoinder affidavit, if any, be filed by the appellants within one week thereafter.

List the matter after three weeks.

In the meantime, the report in O.A. No.602/2019 shall be filed in the Registry of this Court.



(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

True Copy

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

REPORT OF THE JOINT COMMITTEE, AS PER NGT ORDERS IN THE MATTER OF ORIGINAL APPLICATION 602 OF 2019 (H.P. RAJANNA V/S. UNION OF INDIA & OTHERS) WITH RESPECT TO CONSTRUCTION OF HIGH RISE RESIDENTIAL APARTMENT PROJECT IN THE BUFFER ZONE OF KAIKONDARAHALLI LAKE

1.0 PREAMBLE

In the Original Application 602 of 2019 filed by Mr. H.P. Rajanna v/s Union of India & Ors., the Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi issued Orders dated 19.07.2019 (Annexure 1), and directed that "a factual and action taken report from a joint committee comprising representing Central Pollution Control Board (CPCB), Karnataka State Environment Impact Assessment Authority (SEIAA), Karnataka State Pollution Control Board (KSPCB), Wonder Projects Development Pvt. Ltd and Godrej Properties Ltd. The KSPCB will be nodal agency for co-ordination and compliances".

Subsequently, the Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi issued Orders dated 29.07.2019 (Annexure 2), stating that "names of Project Proponents i.e. Wonder Projects Development Pvt. Ltd., and Godrej Properties Ltd have been added by mistake which were not intended to be added in the order and the same are deleted. The plea that SEIAA and KSPCB should not be included in the Committee as they have dealt with the matter is without any merit and is rejected. However, representatives of Ministry of Environment, Forest and Climate Change (MoEF & CC) may be added in the Committee. Order dated 19.07.2019 modified accordingly."

In compliance of above mentioned order, the Karnataka State Pollution Control Board (KSPCB) has constituted monitoring committee comprising following members as per Hon'ble NGT order and the constitutions of the committee are:

S. No.	Name & Designation of Members	Department
1.	Dr. Murali Krishna, Scientist D	Ministry of Environment, Forests and Climate Change (MoEF & CC), South zone office, Kendriya Sadan, 4 th Floor,

d

S. No.	Name & Designation of Members	Department
		Koramangala, Bengaluru -560034
2.	Shri. G.V. Ravi Prasad, Scientific Officer	Karnataka State Environment Impact Assessment Authority (SEIAA) R.No.710, 7th Floor, IV Gate, M. S. Building, Bangalore - 560001
3.	Shri. G. Thirumurthy, Additional Director	Regional Directorate, Central Pollution Control Board (CPCB), Nisargha Bhavan, 1 st Floor, 7 th D Main, Shivanagar, Bangalore - 560079
4.	Shri. Shanmukhappa, Senior Environmental Officer	Karnataka State Pollution Control Board (KSPCB), 3 rd Floor Nisargha Bhavan, Shivanagar, Bengaluru - 560079

2.0 ABOUT NEW RESIDENTIAL BUILDING PROJECT & LAKE

The infrastructure project of New High Rise Residential Building project is coming up at Survey Nos. 61/2, 62 and 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru District. This project is being developed and constructed by Wonder Projects Development Pvt. Ltd which is an associate company of Godrej Properties Ltd. The total area of the project is 12 acres and 18 Guntas i.e. 50382.95 m². The project site is located adjacent to Kaikondarahalli Lake.

The Bruhath Bangalore Mahanagara Palike (BBMP) has sanctioned the building plan for the construction of Block 1 on 30.08.2018 and the plan is further modified inclusive of Block 2 on 28.05.2019 with validity up to 27.05.2021 (3 Years) as per the Zoning Regulations of Revised Master Plan - 2015 and Building Bye Laws - 2003. The sanction accorded is only for Residential Use. The total built up area and FAR area of the project is:

- o Site Area : 51,698.16 m²
- o Area deducted under Kharab : 1,315.21 m²
- o Net Site Area : 50,382.95 m²



- o Area Reserved for Park & Open spaces : 05,093.87 m²
- o Area Reserved for Civic Amenities : 02,540.66 m²
- o Net Site Area for Residential Development (95%) : 47,842.29 m²

The said project will be having two Blocks, constructed in two phases (Godrej Reflections Phase-1 and Godrej Lake Gardens Phase -2), the details are:

Block / Phase	Basement Floor	Ground Floor	Upper Floors	Height (m)	No. of Units	Ground Coverage Area (m ²)
1	2	1	20	60.15	265	5,202.76
2	1	1	20	60.15	360	5,622.84
Total					625	10,825.60

The Revised Master Plan -2015 (Volume 3), Clause 6.1 (b) i.e. Area for Residential development conditions that apart from the provision for amenities and open spaces the area for residential development shall be up to a maximum of 55% of the total area. The said project (Block 1 & 2) has ground coverage area of 22.63% which is well within the permitted ground coverage area of BBMP in its sanction plan i.e. <50%.

The map showing the project site and the Kaikondarahalli Lake below:



Map showing Project site and Lake

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The project site is bounded by:

- North side: Kaikondarahalli lake
- South side: M/s. Sriram Chirping Apartment & Residential Buildings.
- East side: Vacant Land
- West side: Road and Residential Layout

2.1 Kaikondarahalli Lake:

Kaikondarahalli Lake is situated adjacent to this project at north, having total area of 48 Acres 23 Guntas, perimeter of 2.17 km, located on Sarjapura Road close to Kaikondarahalli Village. The lake area has two survey numbers i.e. 18 Acres 18 Guntas comes under the Sy. No.8 of Kaikondarahalli village and 30 Acres and 5 Guntas comes under Sy. No 70 of Kasavanahalli village limits. There are three main feeder drains to the Kainkondarahalli Lake, one on south Eastern side, second on Western side and third one towards Southern Side of the lake.

The Lake is rejuvenated jointly by BBMP & the Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samiti (MPSMAS) in the year 2011 with two sewage diversion lines to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering to the lake. Other than this, there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake.

3.0 APPROVALS FROM VARIOUS DEPARTMENTS / AUTHORITY

Any infrastructural project requires the following approvals from the concern department / authorities.

- 1) The Land Conversion Agricultural to Non-Agricultural Residential Purposes from the Deputy Commissioner, Bangalore Urban District, GoK
- 2) Government Order for Change of Land use from Industrial (Hi-Tech) to Residential from Urban Development Department (UDD)

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- 3) Change Of Land Use from Industrial (Hi-Tech) to Residential from Bangalore Development Authority (BDA)
- 4) NOC from Fire and Emergency Services on fire safety norms
- 5) NOC from Airport Authority of India for height clearances
- 6) Environment Clearance (EC) from SEIAA, GoK
- 7) Relinquishment of area for the Park and Open space from BDA
- 8) Development Plan approval from Bangalore Development Authority
- 9) Building Plan approval from BBMP
- 10) Registration of property under Real Estate and Regulation Act (RERA) - 2016
- 11) Consent to Establishment form Karnataka State Pollution Control Board (KSPCB)

According to above, the project proponent has obtained the following NOC/ approvals from the concern department / authorities, the details are as follow:

S. No.	Approval Obtained	Date	Department/ Authority
1.	Land Conversion Agricultural to Non-Agricultural Residential Purposes > Sy. No. 61/2 - 3 Acres 05 Guntas > Sy. No. 62 - 3 Acres 02 Guntas > Sy. No. 63/2 -6 Acres 21 Guntas	31.03.2006	DC - Bangalore Urban District
2.	NOC for height clearance	21.09.2016	AAI
3.	NOC for height Clearance	20.12.2016	BSNL
4.	Permission for Construction of RCC Drain & RCC culvers	02.08.2017	BBMP
5.	Change of Land use from Industrial (Hi-Tech) to Residential	24.10.2017	UDD
6.	Conformation letter of Change of Land Use	08.12.2017	BDA

→ Urban Dev Dept.

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7.	NOC for Construction - Block 1 for Fire & Emergency Services	22.12.2017	Director General of Police
8.	Issue of Environment Clearance	10.01.2018	SEIAA-Karnataka
9.	NOC - Temporary Power connection	31.01.2018	BESCOM
10	Relinquishment of area for the Park and Open space	19.02.2018	BDA
11	Lay out plan approval - Block 1	07.03.2018	BDA
12	Registration Certificate of Project	29.03.2018 & 25.05.2019	Real Estate Regulatory Authority (RERA)
13	NOC for Construction - Block 2 for Fire & Emergency Services	20.04.2018	Director General of Police
14.	Consent to Establishment	12.10.2018	KSPCB
15.	NOC - for Water supply & UGD	30.10.2018	BWSSB
16.	Modified Plan Sanction approval - Block 2	28.05.2019	BDA
17.	Civic Amenities Site Building Plan Approval	29.11.2019	BDA

4.0 CHANGE OF LAND USE

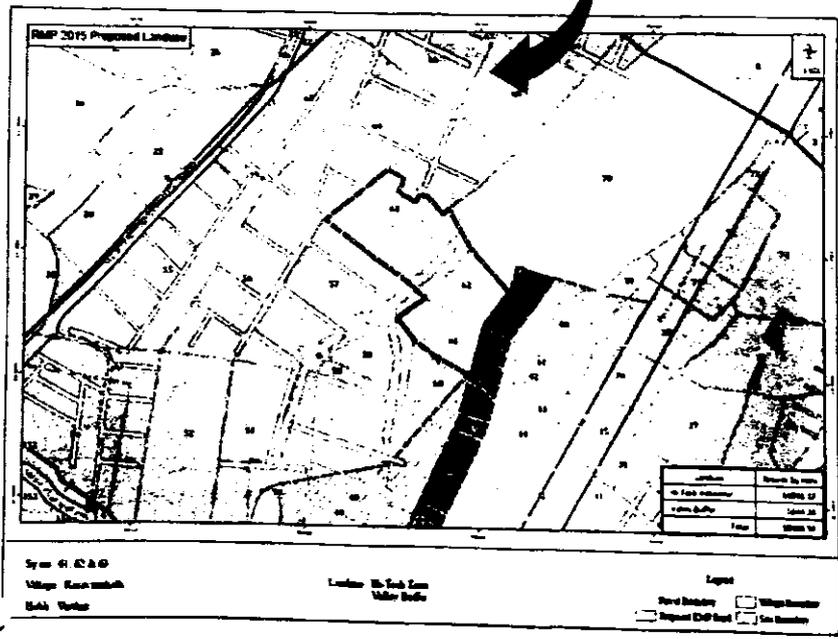
As per Section 95 (2), 95 (4) and 95 (7) of Karnataka Land Revenue Act 1964 and Rule 107 (1) of Karnataka Land Revenue (Amended) Rules 1964, the conversion of land is granted by the Office of Deputy Commissioner on 31.03.2006 for non-agricultural residential purpose in respect of the property bearing Sy. No.61/2 measuring 3 Acres 05 Guntas, Sy. No. 62 measuring 3 Acres 02 Guntas and Sy. No. 63/2 measuring 6 Acres 21 Guntas. The total land area is 12 Acres 28 Guntas.

✓ As per the Revised Master Plan (RMP)-2015, the project was earmarked for Industrial (High Tech) Zone. The land use map and the map showing the project site (Sy. Nos. 61, 62 & 63) and the adjacent Kaikondarahalli Lake (Sy. No. 70 & 8) is shown below:

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RMP 2015 - Land Use Plan map



Project site detailed as per RMP-2015

The above land use plan map of the project site reveals that out of total area of 50585.50 Sq. mts., the land use area of 44891.12 Sq. mts is Hi-Tech Industrial (88.74%) and 5694.38 is Valley Buffer (11.26%). In view of above, the Land

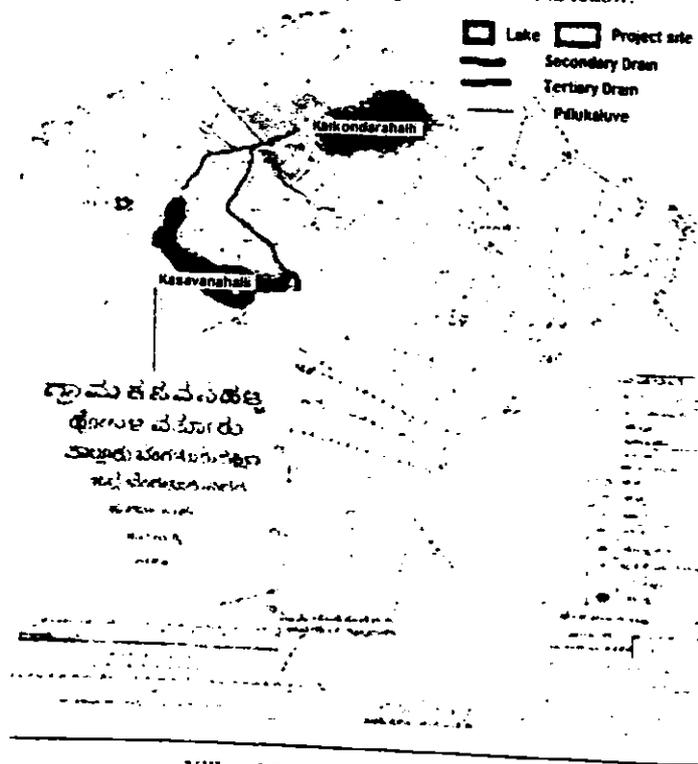
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utilization is considered as Residential use. The copy of the RMP 2015 and Site area maps are enclosed as Annexure 3 & 3A.

The Metropolitan Commissioner, Bangalore Metropolitan Region Development Authority (BMRDA) submitted proposal for conversion of said land from Industrial use to Residential vide letter dated. 04.10.2017. Accordingly, the Department of Urban Development, Govt of Karnataka vide order NAE 476 BJS 2017 dated 24.10.2017 given approval for conversion of total 12 Acres 18 Guntaas from Industrial to Residential as per Section 14 (a) of Karnataka Town and Country Planning Act, 1961. The copy of the approval is attached as Annexure 4. In continuation, the project proponents have obtained confirmation letter of Change in Land use from Bangalore Development Authority (BDA) on 08.12.2017 for the change of land use from Industry (Hi-Tech) use to Residential use. The copy enclosed as Annexure 4A.

5.0 DETAILS OF PRIMARY/SECONDARY/TERTIARY NALA'S

The Joint Committee referred the village map, the details are as follow:



Village Map showing Drains & Lake

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❖ Secondary Drain

There are two streams originates from Kasavanahalli Lake and flow towards Kaikondarahalli Lake. Out of two streams, one stream flow inside the Sy. Nos. 51, 57 and 63, and the second stream flow in Sy. Nos. 31, 47, 48, 46, 58 & 59 and joins in Sy. No. 57, and further flow in Sy. No.63.

The said streams flow in Kharab area of respective survey numbers and both streams joins together in Sy. No. 57 and further flow in Sy.No.63, ultimately joining into Kaikondarahalli Lake. The said drain flowing in Sy. No. 63 to be considered as Secondary Drain.

❖ Tertiary Drain

There is one more single drain on Southern East side of the project originating from Sy. No.61, pass through Sy. No. 43, 35 and 37. Since, this single line drains runs in various survey numbers, the same is to be considered as Tertiary Drain.

❖ Pillu Kaluve

A single line drain is spotted (Agricultural drain or feeder channel) in Sy. Nos. 56 & 57, adjacent to Sy. No.63. the single line drain ends on Secondary drain. Since, the single line drain terminates at Secondary drain; the same is to be considered as Pillu Kaluve or a Lead drain for which buffer zone is not applicable.

The large size of village map showing above details is given at Annexure 5.

6.0 THE JOINT COMMITTEE INSPECTIONS

As per the Hon'ble NGT order, the Joint Committee visited the project site **FIRST TIME** on 26.07.2019. The committee members and other official present during inspections are:

A. Members Present		
1.	Shri. G.V. Ravi Prasad, Sci. Off.	Representative from SEIAA
2.	Shri. G. Thirumurthy Additional Director	Representative from CPCB

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3.	Shri. Sadique Ahamed, Senior Environmental Officer	Representative from KSPCB
B. Other Officers Present		
1.	Sri. Anil Kumar M. Environmental Officer	Regional Office- Bommanahalli, KSPCB
2.	Smt. Malathi Executive Engineer	BBMP - Storm Water Drain (SWD) Mahadevapura Division
3.	Shri. David Supervisor	Assistant Director Land Records, Survey Department - Bangalore East

The Joint Committee had preliminary visit and discussion with representative of BBMP and Asst. Director Land Records (ADLR) and requested the Engineers of BBMP Storm Water Drain Division, Mahadevapura and ADLR to carry out the survey of the storm drain and its buffer area with respect to the Wonder Project to verify the same. Accordingly, KSPCB has addressed a letter to concern departments on 11.09.2019 to carry out survey and submit report.

Accordingly, the Deputy Director Land Records (DDLr), Bangalore Urban District has submitted the Survey report through letter dated 24.09.2019. Based on the survey reports received from DDLR, the Joint Committee comprising of following members has re-inspected the project location **SECOND TIME** on 30.12.2019 to ascertain the same.

A. Members Present		
1.	Shri. Ravi Kumar. J.K. Scientific Officer	Representative from SEIAA
2.	Shri. G.Thirumurthy Additional Director	Representative from CPCB
3.	Shri. Shanmukhappa Senior Environmental Officer	Representative from KSPCB
4.	Dr. Murali Krishna, Scientist D	Representative from MoEF & CC
B. Other Officers Present		
1	Shri. Jayasimha Asst. Executive Engineer	BBMP - Storm Water Drain (SWD) Mahadevapura Division.
2	Shri. David Supervisor	Assistant Director Land Records, Survey Department - Bangalore East

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Observations of the Joint Committee as on 30.12.2019

- a. The project proponent has constructed model house at Western north corner of the said land and the same is being used as site office by the project proponent. The total area of construction is about 2500 Sq. ft, presently there are about 12 employees working.
- b. The Civil construction of Block-1 at southern east side of the project site in progress, the photograph of the same is shown below:



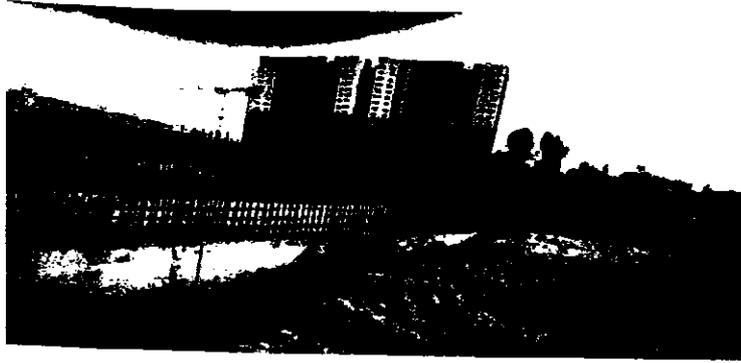
- c. Similarly, the earth working of Block-2 at western side of the project site started and the photograph of the same is shown below:



- d. The project proponent is constructing the box type storm water drain passing within the project site. The Joint Committee Members requested the BBMP and ADLR officials to furnish details of the Report on Drains and Buffers maintained

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and necessary approval for the same. The photographs of Box Type Storm Water drain is shown below:



Further, in order to finalize the report, the Joint Committee comprising of following members made another round of inspection and meeting on 05.02.2020.

A. Members Present		
1.	Dr. Dola Chatterjee, Scientific Officer	Representative from MoEF & CC
2.	Shri. G.Thirumurthy Additional Director	Representative from CPCB
3.	Shri. Shanmukhappa, Senior Environmental Officer	Representative from KSPCB
B Other Officers Present		
1.	Shri. Anil Kumar Environmental Officer	Regional Office- Bommanahalli, KSPCB
2.	Shri. Jayasinha Assistant Executive Engineer	BBMP - Storm Water Drain (SWD) Mahadevapura Division.
3.	Shri. David Supervisor	Assistant Director Land Records, Survey Department -Bangalore East

In the meeting, the Joint Committee requested the official of BBMP and ADLR to submit their report at the earliest.

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70 COMPLIANCE STATUS OF BUFFER ZONE W.R.T SECONDARY / TERTIARY DRAINS

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The Joint Committee referred the orders passed by Hon'ble NGT & Supreme Court, RMP - 2015 in respect of Buffer Zone and Environmental Clearance by SEIAA, etc. which are detailed below:

A. Buffer area as per Hon'ble NGT order dated 04.05.2016 (O.A. 222 of 2014)

In O.A. 222 of 2014, the Hon'ble NGT, Principal Bench, Delhi directed that the distance from Rajkulewas, Waterbodies and wetlands shall be maintained as below:

- i. In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.
- ii. 50m from the edge of the primary Rajkulewas.
- iii. 35m from the edges in the case of secondary Rajkulewas
- iv. 25m from the edges in the case of tertiary Rajkulewas

This buffer/green zone would be treated as no Construction zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

B. Buffer area as per Hon'ble Supreme Court order in respect of CA No.5016 dated: 05.03.2019

Appeals have been preferred under Section 22 of the National Green Tribunal Act, 2010 challenging the above judgment order passed by the Principal Bench of the National Green Tribunal, New Delhi. In this matter, the Hon'ble Supreme court passed the following order:

- ❖ Direction /Condition No.1 of Hon'ble NGT Order dated: 04.05.2016 (OA 125/2007) has been set aside except the direction issued against respondent Nos. 9 and 10.

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C. Buffer area as per Revised Master Plan - 2015 of the BDA

- a) Revised Master Plan (RMP) 2015 Bangalore 2007, Volume - III on Zoning of Land use and Regulations (Approved by Govt. vide G.O. No UDD 540 BEM AA SE 2004, Dated: 22.06.2007 as part of the Revised Master Plan 2015)

4.12.2 Regulations as per RMP 2015

i) Permissible land uses

- i. Uses permissible include: Sports grounds, stadium, playgrounds, parks, swimming pools, cemeteries, garden land and crematoria.
- ii. Uses permissible under special circumstances by the authority: Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, libraries, milk booths, HOPCOMS, the area of such use shall not exceed 5% of the total area and shall not be more than G+ 1 floor in any case.
- iii. Setbacks for the above will be decided by the Authority taking into account the surrounding development and traffic scenario in that area.

ii) Valley / drain within the demarcated buffer for the valley the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plants
- ii. Roads, pathways, formation of drains, culverts, bridges, etc. which will not obstruct the water course, run offs, channels.
- iii. *In case of water bodies a 30 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.*
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.

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- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning authority.

D. Buffer area as per Environmental Clearance (EC) issued by SEIAA

The Environmental Clearance issued by the SEIAA- Karnataka mandates vide Clause 48 that "the project proponent shall leave a buffer of 75m from the Lake, 50m from Primary Rajakaluve, 35m from Secondary Rajakaluve and 25m from Tertiary Rajakaluve in accordance of the order of the Principal Bench of Hon'ble NGT, New Delhi dated 4th May 2016 in O.A. 222 of 2014 in addition to sufficient buffer from the other water bodies in accordance of Law. The buffer so maintained shall be developed as Greenbelt planting with indigenous tree species such as Neem, Akash Mallige, Mahagoni, Honge, Kadamba Ficus etc. and maintained as green belt. No construction activity shall be undertaken in the said buffer area."

E. Buffer area as per Bangalore Development Authority (BDA)

The confirmation letter of Change in Land use issued by the BDA on 08.12.2017 for the change of land use from Industry (Hi- Tech) use to residential use of land also mandated for buffer zone i.e. "Buffer zone to be reserved as per NGT order in O.A. 222/2014 made on 4.5.2016, for surroundings of Lake /Canal / Rajakaluve border"

7.1 Compliance Status w.r.t Buffer Zone:

The Department of Survey, Settlement and Land Records, Revenue Department submitted the detailed survey report of buffer area for the said project to KSPCB on 06.03.2020, the copy of the report is enclosed as Annexure 6 and the BBMP,

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Storm Water Drain, Mahadevapura Division has submitted their final Report on 07.03.2020, the copy of the report is enclosed as Annexure 7. The Joint Committee reviewed the survey report submitted by the Department of Land Records.

The copy of the survey map of ADLR is shown below:



ADLR Survey map

The compliance to the buffer zone regulations as per the ADLR survey is detailed below:

Judgement of Hon'ble NGT in OA 222/2014, dated: 14.05.2016	Judgement of Hon'ble Supreme Court in civil Appeal No. 5016/2016 dated 05.03.2019.	Actual Buffer Zone maintained by the project proponent
A. From Lake Boundary		
<ul style="list-style-type: none"> ➤ 75m from the periphery of water body to be maintained as green belt and buffer zone 	<ul style="list-style-type: none"> ➤ Minimum 30 m buffer zone to be maintained from Lake Boundary. 	<ul style="list-style-type: none"> ➤ As per report, the measured distance from Lake edge to Block-1 Building line is ranges between 77.45 m to 77.9m, which is complying with Buffer zone. ➤ The distance from Lake edge to Block-2 Building line is 79.40m, which is also complying with Buffer zone.

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B. From Primary Drain / nala		
➤ 50 m from the edge of the primary Rajkulewas	➤ Minimum 50 m buffer from middle of drain.	➤ No Primary Drain, Not applicable
C. From Secondary Drain / nala		
➤ Minimum 35 m buffer zone is to be maintained from edge of Secondary Rajakaluve / nala	➤ Minimum 25 m buffer zone to be maintained from middle of Secondary Rajakaluve / nala	➤ As per report the measured distance from secondary drain to Block-1 Building line is ranges between 51.20 m to 54.8m, which is complying with Buffer zone. ➤ The distance from secondary drain to Block-2 Building line is 59.40m, which is also complying with Buffer zone.
C. From Tertiary Drain / nala		
➤ Minimum 25 m buffer zone is to be maintained from edge of Tertiary Rajakaluve/nala	➤ Minimum 15 m buffer zone is to be maintained from edge of Tertiary Rajakaluve /nala	➤ There is a storm water drain passing at Sy. No. 61 of southern side of the project site as per village map. But, in the development plan approved by BDA and building plan approved BBMP, the nala /storm water drain is shown outside the boundary of the project site. ➤ As per report measured the distance from tertiary drain to Block-1 Building line is 26.40m, which is

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		complying with Buffer zone.
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The above table reveals that the project proponent have maintained required buffers from Lake, Secondary nala and Tertiary nala for the building line of Block-1 (Godrej Reflections) and Block -2 (Godrej Lake Gardens), complying with buffer zone.

7.2 Compliance Status w.r.t. Permitted activity in Buffer zone

The committee reviewed the approved sanction plan to know the activities proposed in the Buffer zone of Lake and Drains. The same is summarized below

S. No.	Activity	Area	Permitted or not	RMP -2015
A. Lake Buffer				
1.	8 m Drive way	679.80 m ²	Permitted	As per Clauses 4.12.1 & 4.12.2 (i) (ii)
2.	Transformer Yard	140.00 m ²	Permitted	
3.	Parks & Open Space	5093.87 m ²	Permitted	
B. Secondary Nala Buffer				
1.	8 m Drive way	2366.00 m ²	Permitted	-do-
C. Tertiary Nala Buffer				
1.	8 m Drive way	1761.5 m ²	Permitted	-do-
2.	Extent of STP	236.05 m ²	Permitted	
Total area		10277.22 m²		

→ B. 199 (233²)

The map showing the activities planned in the Lake and drains (secondary and tertiary) is shown in map and attached as Annexure 8. From above table, the activities planned in the Buffers of lake, secondary & tertiary drains are permitted activity as per Clauses 4.12.1 & 4.12.2 (i) (ii) of RMP -2015.

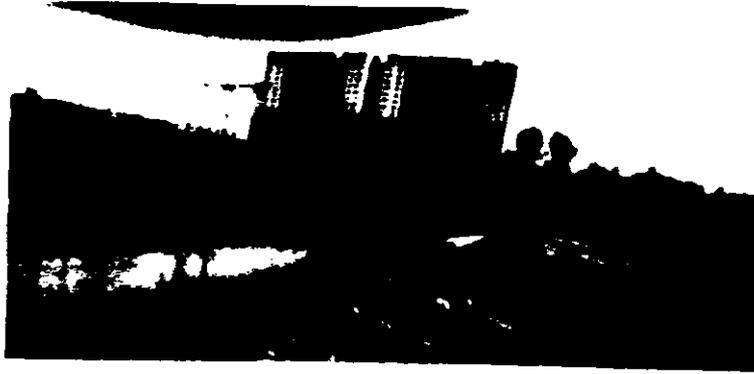
✓ 8.0 CONSTRUCTION OF RCC STORM WATER DRAIN AND CULVERTS

The storm water drain originates from Kasavanahalli Lake and flow towards Kaikondarahalli Lake in Survey No. 63/2, this drain passes in-between two residential blocks of the project. To approach Block 1, one has to cross the secondary drain from Block 2. The total area of Secondary nala Kharab is 13 Guntas (1315.18 M²).

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BBMP has given approval to the project proponent to construct U-type E.C.C. drain and 2 Nos of RCC box culverts without deviating the original alignment and measurement of the storm water drain. The E.C.C. U-Type drain measurement is 5.40m x 1.0m and two culverts of 12 m E.C.C. block type as per the approval. The land along the drain is 10.40m in which 5.4m width is for U-type drain and remaining area is divided as 2.5 m on either side of the Secondary Drain and reserved. The copy of the order and its translation, engineering drawings are given as Annexure 9. The total length of drain from the Kasivanahalli Lake outlet to Kankondarahalli Lake inlet is 525 m. Out of 525 m, the length of the drain passing in the said project is 130 m i.e. from CH 39.0m to CH 52.5m. The details drawing showing length of drain, width of construction of U-Type drain and remaining area of nala kharab reserved i.e. 2.5 m on each side is shown as Annexure 10.

The project proponent is constructing the box type storm water drain passing within the project site, as per the approval of BBMP. The photographs of Box Type Storm Water drain is shown below:



The committee noticed that for the construction of U-type drain and RCC box culverts, the existing drain was diverted temporarily and the construction U-type drain is partially completed. The excavated soils are stored adjacent. The construction is being carried out as per the approval.

9.0 COMPLIANCE TO WETLAND

As per GOI, MoEF Notification dated 26.09.2017, at Page No 9 sub clause of 2(1)g, "wetland" means an area of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide

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does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies / tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;

As per International Union for the Conservation of Nature and Natural Resources (IUCN), "wetland" means "Submerged or water saturated lands, both natural and man-made, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed 6 meters".

Ramsar Convention : "Areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters".

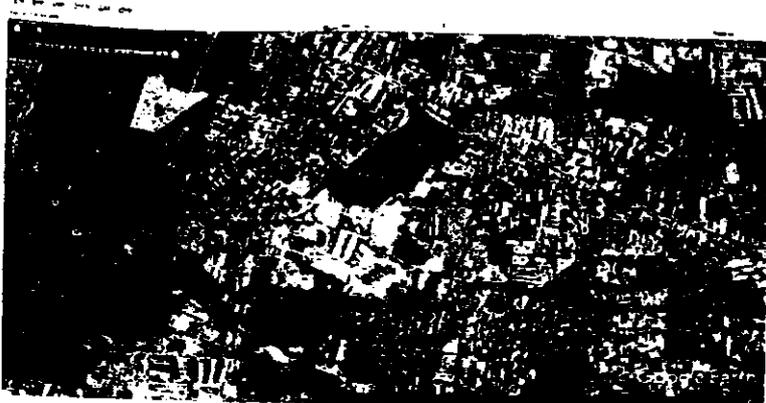
Further, wet land is classified based on Wetland hydrology, i.e. manifestation of water on the satellite imagery. Wetland vegetation - mainly hydrophytes and other aquatic vegetation in a part or whole of the wetland as observed on satellite data.

The committee reviewed the Record of Rights, Tenancy and Crop Information (RTC) of Sy. No 61/2 - 3 Acres 5 Guntas, Sy. No. 61/2 - 3 Acres 2 Guntas, and Sy. No. 63/2 - 6 Acres 21 Guntas from Year 1953 to till date. It reveals that out of total 12 Acres 28 Guntas, only 12 Acres 18 Guntas was sold and 10 Guntas was retained by the Mr. Ramprasad. As per RTC the land in question was used for growing crops i.e. Paddy, Ragi, Hurali, Jowar and Nilgiri. During the period of 1953 to 2006 the land was non-converted agricultural land. Later, in the year 2006 the land was converted from agricultural to non-agricultural residential purpose and sold to M/s SSS projects. Subsequently the ownership was changed to M/s Microgate Trading Company and finally to M/s Wonder Projects Development Pvt. Ltd in the year 2016.

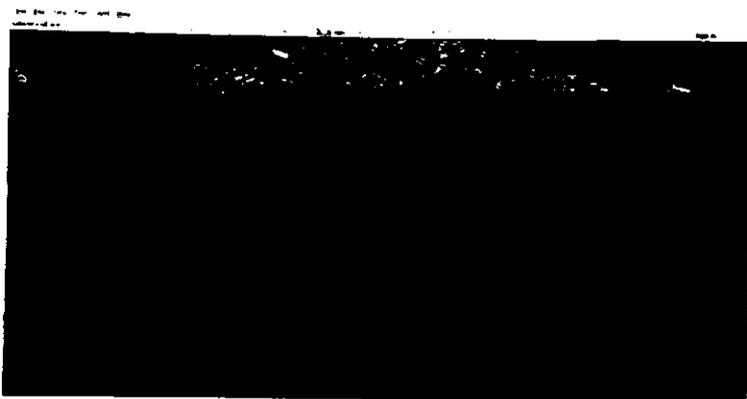
The Google image of the lakes and its surrounding area over the period from 2019, 2012, 2006 and 2002 are shown below:

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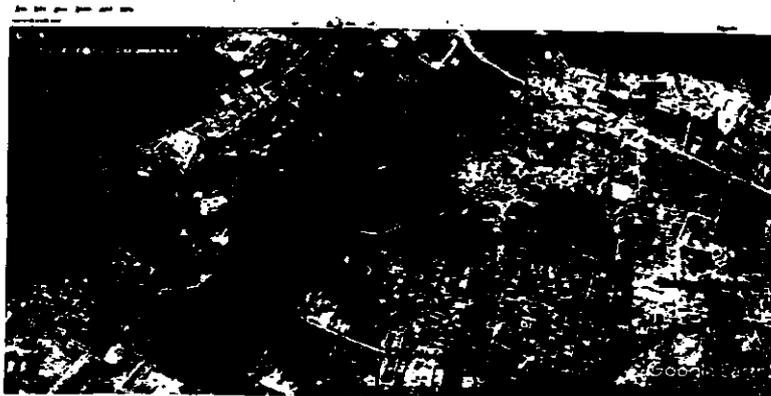
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Year 2019



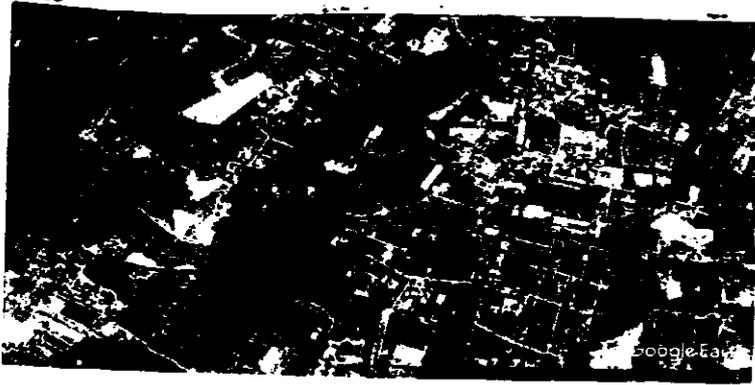
Year 2012



Year 2006

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Year 2002

✓ It is clear from the above definitions of Wetland, Records of RTC and Google images that only lake area of 48 Acres 23 Guntas can be considered as Wetland, not the surroundings including the area in question in this case. The total land of the project was earlier used for agricultural activities / cultivation - such as paddy, ragi, etc., as per Record of Rights, Tenancy and Crop Information (RTC). Thus it is not falling under wetland definition.

10.0 COMPLIANCE TO ECO SENSITIVE ZONE

Eco-Sensitive Zones (ESZs) or Ecologically Fragile Areas are areas notified by the MoEF & CC around Protected Areas, National Parks and Wildlife Sanctuaries. The purpose of declaring ESZs is to create some kind of "shock absorbers" to the protected areas by regulating and managing the activities around such areas. They also act as a transition zone from areas of high protection to areas involving lesser protection. Thus, the project land does not fall under category of Eco-sensitive Zone.

11.0 ENVIRONMENTAL CLEARANCE

As per the Environmental Impact Assessment (EIA) notification dated 14.9.2006, the building and construction project which are required to obtain prior environmental clearance are:

SCHEDULE:

List of Projects or Activities Requiring Prior Environmental Clearance

Project Activity	Category with Threshold Limit		Conditions , if any
	A	B	
<i>Building/ Construction projects/ Area development projects and Townships</i>			

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8 (a) Building / Construction project	$\geq 20,000$ Sq Mtrs and $< 150,000$ Sq Mtrs built up area #	# Built up area for covered construction; in the case of facilities open to sky it will be the activity area.
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The Environmental Clearance (EC) issued by the State level Environment Impact Assessment Authority (SEIAA) dated 10.01.2018 mentioned that the total built up area is 1,28,193.9 m², the proposed project consist of 2 residential blocks having 2 basements + Ground Floor + 20 Upper Blocks with 655 Units. The copy of the EC is given as Annexure 11.

The committee also observed that as per BBMP² sanction plan dt. 28.05.2019 with validity up to 27.05.2021 (3 Years), the total built up area of the project is:

Block	Basement Floor	Ground Floor	Upper Floors	No. of Units	Net Built-up area (m ²)
1	2	1	20	265	61,418.72
2	1	1	20	360	64,244.34
			Total	625	1,25,663.06

The above table reveals that the net built up area is 1,25,663.06 m² and number of units are reduced to 625 while comparing with EC dated 10.01.2018. Accordingly, the total built up area of the project is $< 150,000$ m² and falls under Category B. The Environmental Clearance approved by the SEIAA is right as per the threshold limit.

11.1 Compliance to Green belt area requirement

The Environmental Clearance issued by the SEIAA- Karnataka mandates vide Clause II (6) that to develop 43% of the total area i.e. minimum of 21,667.7 m² of the project site for green belt and the same shall be planted with indigenous tree species i.e. 1111 plants in hectare having spacing of 3m x 3m. On this point, the committee verified the sanction plan to cross verify the available area for the same. The break-up is as follow:

- Total Site Area : 51698.16 m²
 - Nala Kharab : 1315.21 m²
 - Civic Amenities : 2540.66 m²
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❖ Net Site Area	: 47842.29 m ² (A)
➤ Block 1 Foot print	: 5609.91 m ²
➤ Block 2 Foot print	: 7658.95 m ²
➤ Entire Drive ways	: 7473.40 m ²
➤ Transformer yards	: 280.00 m ²
➤ Gas bank	: 28.90 m ²
➤ Storm water OWC	: 42.03 m ²
➤ Basketball court	: 589.5 m ²
➤ Tennis court	: 678.26 m ²
❖ Total area utilised	: 22360.95 m ² (B)
❖ Balance land for Green Belt: (A-B)	= 25481.34 m ² i.e. 53.26%

The above estimation reveals that out of total area i.e. 47842.29 m² after deducting land for Nala Kharab and Civic amenities, 22,360.95 m² areas is utilised for various purpose and the remaining area available for green belt development (inclusive of buffers) is 25481.34 m² which is equal to 53.26%. Accordingly, the area available for green belt is more than 43 % of the net site area and complying with SEIAA condition. The map showing the green belt development portion is given as Annexure 12.

11.2 Compliance to Rainwater management

NOC issued by BWSSB mandated as per Section 72 (A) of BWSSB Act and relevant regulations to make necessary provisions for harvesting rain water. As per the Hydro meteorological Division of India Meteorological Department (IMD), New Delhi, the study on Intensity duration frequency curves report for 2, 10, 25, 50 and 100 year return period for Bangalore states that the heaviest 1 day rainfall was 177.6mm i.e. 7.4 mm/ hr (I) based on 100 years record. Accordingly, the committee estimated volume of runoff is:

❖ Runoff (Q) = C * I * A / 360 in m³/Sec

Where,

C- Co- efficient of run-off, A -Drainage Area in Hectares

I - Intensity of Rainfall in mm/hr

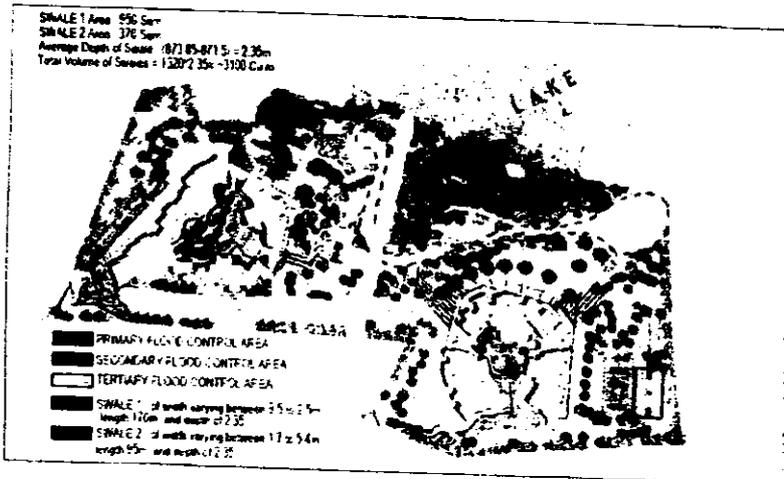
The assumptions are:

- ❖ Co- efficient of run-off for open ground/ unpaved street: 0.30

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- ❖ Intensity of Rainfall : 7.4 mm/ hr
- ❖ Drainage area available is : Net Site area - (Foot Print Area of Block 1 &2)
 = 47842.29 - (5609.9+7658.95)
 = 34573.43 m² i.e.3.46 ha
- ❖ The total runoff: $(0.3 * 7.4 * 3.46) / 360$
 = 0.02133 m³/sec i.e. 1843.5 m³/day

From above estimation, the highest run off during the day could be 1843.5 m³; accordingly the committee reviewed the proposal of the project proponent. The project proponent made flood control area as primary, secondary and tertiary to avoid the run-off directly entering secondary drain. The highest flood level of Secondary drain is 873.20 m. The mound created in between the flood control areas helps in preventing the excess water entering /collecting in to the building. The depths of the flood control areas are lower than the high flood level of the lake. The map of the same is as follow:



The average depth and area of swale is 2.35 m and about 1320 m² respectively. Accordingly, the total volume of rain can be collected in the swale of flood control area is 3100 m³, which is equal to about 40 hrs (or) 1.68 days run off. The project proponent proposed that more over the flood control have been connected to the Secondary Nala to allow the excess water to flow into the Secondary Nala.

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12.0 CONSENT FOR ESTABLISHMENT (CFE)

The Karnataka State Pollution Control Board (KSPCB) has issued Consent For Establishment (CFE) to construct residential apartment with 655 flats & Club House to M/s Wonder Projects Development Pvt Ltd vide order dated 12.10.2018. As per consent the total built up area is 1,28,193.9 m². There are two numbers of Sewage Treatment Plant (STP) proposed with capacity of 210 KLD and 280 KLD respectively. The copy of the CFE is given as Annexure 13.

With respect to Buffer Zone, the KSPCB mandated to strictly maintain 75 m as green belt / buffer zone from the periphery of any lake as per NGT order dated 4.5.2016 in case of O.A. 222 of 2014. The buffer / green zone would be treated as no construction zone for all intent and purpose. The applicant shall maintain 50 m from the edges of the primary Rajakaluves, 35 m from the edges in case of Secondary Rajakaluves and 25 m from the edges in the case of tertiary Rajakaluvus.

13.0 OVERALL OBSERVATIONS

The observations of the Joint Committee are:

- The project (Residential) site is located adjacent to Kaikondarahalli Lake and the total area of the project is 12 acres and 18 Guntas i.e. 50382.95 m². The project has Two Blocks, constructed in two phases (Godrej Reflections Phase-1 and Godrej Lake Gardens Phase -2), having total ground coverage area of 10,825.60 m² (22.63%) which is well within the permitted ground coverage area i.e. <50%.
 - There are three main feeder drains to the Kaikondarahalli Lake, one on South Eastern side, second on Western Side and third one towards Southern Side of the lake. The total lake area is 48 acres 23 Guntas. The streams originate from Kasavanahalli Lake flow in kharab area of Sy No 63 and enter to Kaikondarahalli Lake.
 - The Lake is rejuvenated jointly by BBMP & MPSMAS in the year 2011 with two sewage diversion lines (UGD) to restrict & stop the entry of untreated sewage, one on the western side and another from southern side towards east. The manhole chambers provided in the diversion line i.e. from southern to eastern side was found overflowing and untreated sewage is entering to
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the lake. Other than this, there is no sewage entry into the lake as the diversion pipe line provided towards eastern and western side of the lake.

- During the period of 1953 to 2006 the land in question was a non-converted agricultural land and later, the land was converted from agricultural to non-agricultural residential purpose in the year 2006. In the Revised Master Plan - 2015, the project area was earmarked for Industrial (High Tech) Zone. Subsequently, the project proponents have obtained the Change of Land use from Industrial (Hi-Tech) to Residential on 24.10.2017 from the Government of Karnataka and Bangalore Development Authority on 08.12.2017. Out of total area of the project, 88.74% land use area is Hi-Tech Industrial and the remaining 11.26% is valley buffer.
- As per the village map, there is one Secondary drain, one Tertiary drain and one Pillu Kaluve in the project area.
- Necessary approvals / NOCs from various authorities such as UDD, BDA, DC, Fire and Emergency Services, Air Port Authority, SEIAA, BBMP, KSPCB, BWSSB have been obtained by the project proponents.
- A model house is constructed at the West North Corner of the property having 2500 ft², used as site office.
- The Civil construction of Block 1 is in progress, the construction of basement floor is completed and Ground Floor is in progress. Whereas the civil construction of Block 2 is in the stage of earth working. The excavated soils are being stored in the buffer areas. The photographs of the construction stage are shown below:



Godrej Reflections (Block 1) Construction stage

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Godrej Lake Gardens (Block 2) - Earth working stage

- The Hon'ble Supreme Court quashed the order of Hon'ble NGT w.r.t Buffer Zone. But, the SEIAA and KSPCB both in their clearances issued have mandated to leave a buffer of 75m from the Lake, 50m from Primary Rajakaluve, 35m from Secondary Rajakaluve and 25m from Tertiary Rajakaluve in accordance of the order of Hon'ble NGT, in O.A. 222 of 2014.
- As per Revised Master Plan - 2015, Bangalore, the applicable buffer of "no development zone" is 30 m in case of water bodies, 50m, 25m & 15m (measured from center of drain) in case of Primary, Secondary and Tertiary drains respectively.
- The modified sanction plan of BBMP mandated to leave a buffer of 75m from the Lake, 50m from Secondary nala & 25m from tertiary nala. The civil construction of Block 1 and earthwork of Block 2 are found as per the Modified sanction plan leaving required buffer from lake and nalas.
- A single line drain (Pillu Kaluve or a Lead drain) spotted in Sy. Nos. 56 & 57, for which buffer zone is not applicable.
- The BBMP has accorded necessary approval to the project proponent to construct U- Type RCC drain and 2 nos of RCC box culverts without deviating the original alignment and measurement of the storm water drain. Accordingly, drain construction is in progress as per approved plan by diverting water. The excavated soil was found to be stored in buffer area and accordingly, the proponent has been directed to remove from buffer area and to use this soil for horticultural purposes by storing in a proper manner at a different location.

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- The project lands were earlier used for agricultural activities / cultivation - such as paddy, ragi, etc., as per Record of Rights, Tenancy and Crop Information (RTC). Thus it is not falling under wetland definition. Also the same is not notified as Eco - Sensitive Zone.
- The permissible Floor Area Ratio (FAR), built up area, civic amenity area, number of units etc. mentioned in Development plan, EC and Building plan (modified) are tabulated below:

Particulars	Development Plan (DP)	Environment Clearance	Building Plan*
Permissible FSI/FAR in %	2.25	NA	1.895
FAR area (built up area) m ²	127,149.25	1,28,193.9	1,25,663.06
Ground Coverage Area in %	50%	28%	22.63
Civic Amenity area in %	5.04	NA	5.04
Number of units	688	655	625
Parking	758	877	715

* - Modified Sanction plan

The above table reveals that the net built up area is 1,25,663.06 m² and number of units are 625 which is less compared with EC & DP. Since, the total built up area of the project falls under **Category B** and accordingly the EC is issued by the SEIAA.

- Out of total area of the project i.e. 47842.29 m² after deducting land for Nala Kharab and Civic amenities, 22,360.95 m² area is utilised for various purpose and the remaining area available for green belt development i.e. 25481.34 m² which is equal to 53.26%. So, the area available for green belt is more than 43% of the net site area and complying with SEIAA condition.
- The proposed swale volume of flood control area for holding surface run-off is 3065 m³, which is equal to about 40 hrs (or) 1.66 days run off estimated considering the heaviest one day rainfall recorded in 100 years in Bangalore. The swale volume seems adequate and connection made to allow the excess water to flow into the Secondary Nala. The ground water table level meet at 7.9 m for Block 1 and 9.3 m for Block 2 at the project site, as per the Ground Water Study report of M/s Gem Engserv Pvt. Ltd., Mumbai.
- The Section 4.12.2 (ii) : Valley / Drain of Zoning of Land use and Regulations (RMP -2015) permits that "Within the demarcated buffer of the valley, the

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following uses/ activities are allowed : (i) Sewerage Treatment Plants and Water treatment Plants, (ii) Roads, Pathways, formation of drains, culverts, bridges, etc., which will not obstruct the watercourse, runoffs, channels." Accordingly, STP, driveway, Parks etc. are considered and approved by the BBMP in the lake & nala buffers.

- The Proponent is submitting compliance report on EC & CFE conditions to MoEF&CC and KSPCB.

14.0 CONCLUSIONS AND RECOMMENDATIONS

The infrastructure project (Residential) of New High Rise Residential Building is constructed adjacent to Kaikondarahalli Lake with total ground coverage of 22.63% by obtaining the Change of Land use from Industrial (Hi-Tech) to Residential. The project proponent has obtained necessary approvals/ NOCs from various authorities for constructing two blocks in two phases.

A Secondary Drain is bisecting the said two phases (Block 1 & Block 2) and Kaikondarahalli Lake is situated on the North East side of the project land. The said project plan is sanctioned according to the buffer zone guidelines and the construction is being carried out complying with the buffer zone regulations of Lake and Drains. Also the secondary drain is being altered with U-Type RCC drain and RCC culverts with an approval of BBMP.

The Drive Ways, Sewage Treatment Plants, formation of drains, culverts etc. are permitted activity within buffer zone and plan is sanctioned according to Zoning of Land use and Regulations - RMP 2015, and no violation noticed in the present construction of Block 1 & Block 2. The Project Proponent has not put up any construction in the prohibited buffer zones and is complying with the buffer norms.

The Environmental Clearance and Consent for Establishment have been granted based on the verification of information and documents available on records as per relevant Acts and Rules. Further the said land is not an eco-fragile / wet land and the said land has been classified as Industrial Hi-Tech under the BDA Revised Master Plan (RMP) 2015. Accordingly, the project proponent has obtained the Change of Land use from Industrial (Hi-Tech) to Residential.

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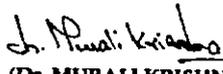
The area available for green belt is more than 43% of the net site area. Also the swale volume created for holding surface-runoff seems adequate; the ground water table varies between 7.9 m to 9.3 m at the project site.

From the above, the Joint Committee is of the opinion that the residential projects in question has not encroached upon or have been constructed on the wetlands and Rajakaluves. The construction is carried out as per the Modified Sanction plan of BBMP by leaving required Buffer Zone of Lake and Drains. The construction is found in accordance with the approved drawings. Adequate space is earmarked for development of Green Belt and holding surface run-off during rain as per EC condition stipulated by SEIAA.

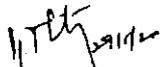
✓ However, the project proponent / concerned departments shall be directed to implement and abide the following:

- a) The project proponent shall be directed to strictly adhere to the building plan and secondary drain RCC construction. ✓
 - b) To comply with the conditions imposed / directed by BBMP in sanctioned plan, EC conditions of SEIAA, CFE of KSPCB, and NOC of BWSSB etc. The built-up area mentioned in various sanctions need to be amended as per Modified sanction plan of BBMP i.e. 1,25,663.06 m².
 - c) To remove the soil dumps in the buffer zones of lake & drains and to store properly without causing any damage to the environment. Use such excavated soils for use in horticulture/landscape development within the project site as per EC.
 - d) To take necessary measures to control fugitive dust emission from the construction site by providing tall wind barriers at all sides of the project, sprinklers to stop re-suspension of dust from the roads, adequate measures during material handling etc.
 - e) To prepare list of all wetlands of the State and notify as per the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017, by the concerned authority to potentially protect these tanks better from encroachment and solid waste dumping as well as the construction of roads within in future.
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- f) To maintain diversion line (UGD) properly by Bangalore Water Supply Sewerage Board (BWSSB) to avoid overflow of sewage from manholes into the Kaikondarahalli Lake. Also to identify the missing links in the lake catchment and to have a terminal Sewage Treatment Plant to treat the entire sewage generated from Kaikondarahalli catchment. The Lake shall be filled either with storm water or with treated sewage only, and protected from entry of untreated sewage.
- g) In case of any violations noticed, the concerned department / authority shall initiate action to levy Environmental Compensation as per CPCB Guidelines.


(Dr. MURALI KRISHNA)
Scientist D, MoEF& CC


(RAVI KUMAR J.K.)
Scientific Officer, SELAA


(G. THIRUMURTHY)
Additional Director, CPCB


(SHANMUKAPPA)
SEO, BNG-South, KSFCB


"T. S. G. S."

Item No. 10

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.602/2019

H. P. Rajanna

Versus

Applicant(s)

Union of India &Ors.

Respondent(s)

Date of hearing: 19.07.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGH NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Rahul Choudhary, Advocate

ORDER

1. Grievance in this application is against the construction of highrise residential apartment project in municipal khata number 4131 comprised in Survey Nos. 61/2, 62 and 63/2, Kasavanahalli Village, VarthurHobli, Bengaluru East taluk, Bengaluru District by Respondent No. 9 and 10, Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd.
2. According to the applicant, the project is in prohibited area of buffer zone of the lake and the Rajakaluves crossing the project lands. The area is eco-fragile zone. Environmental Clearance was granted on 10.01.2018 against which an appeal is pending and is fixed for 13.08.2019. The Environmental Clearance is in violation of order of

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this Tribunal dated 04.05.2016 in O.A. No. 222/2014, *Forward Foundation vs. State of Karnataka and Ors.* against which an appeal was decided by the Hon'ble Supreme Court vide judgment dated 05.03.2019 in *Civil Appeal No. 5016/2016, Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Ors.*

3. In view of above, let a factual and action taken report in the matter be furnished by joint Committee representing Central Pollution Control Board (CPCB), Karnataka State Environment Impact Assessment Authority (SEIAA), Karnataka State Pollution Control Board (KSPCB), Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. The SPCB will be the nodal agency for coordination and compliance. The report may be furnished within one month by e-mail at judicial-ngt@gov.in.

A copy of this order be sent to CPCB, Karnataka SEIAA, KSPCB, Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. by e-mail for compliance.

The applicant may furnish a complete set of papers to CPCB, Karnataka SEIAA, KSPCB, Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. and file an affidavit of service within one week.

List for further consideration on 25.09.2019. The appeal listed on 13.08.2019 be also listed on the said date with this matter.

Adarsh Kumar Goel, CP

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S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 19, 2019
Original Application No.602/2019
DV

Revised Order

Item No. 16

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

I.A. No. 439/2019 & I.A. No. 440/2019
IN
Original Application No. 602/2019

H. P. Rajanna Applicant(s)

Versus

Union of India & Ors. Respondent(s)

(I.A. No. 439/2019 for modification of order dated 19.07.2019 and for further directions & I.A. No. 440/2019 for interim relief)

Date of hearing: 29.07.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Rahul Choudhary, Ms. Sharon Mathew,
Advocates

ORDER

Vide order dated 19.07.2019, this Tribunal sought a factual and action taken report from a joint Committee representing Central Pollution Control Board (CPCB), Karnataka State Environment Impact Assessment Authority (SEIAA), Karnataka State Pollution Control Board (KSPCB), Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd.

It appears that names of the Project Proponents i.e. Wonder Projects Development Pvt. Ltd. and Godrej Properties Ltd. have been

added by mistake which were not intended to be added in the order and the same are deleted. The plea that SEIAA and KSPCB should not be included in the Committee as they have dealt with the matter is without any merit and is rejected. However, a representative of Ministry of Environment, Forest and Climate Change (MoEF&CC) may be added in the Committee. Order dated 19.07.2019 stands modified accordingly.

A copy of this order along with order dated 19.07.2019 may be sent to the MoEF&CC by e-mail for compliance. A copy of the order be also sent to the parties to whom order dated 19.07.2019 has been earlier sent.

The applicant may furnish a complete set of papers to the MoEF&CC and file an affidavit of service within one week.

The applications are disposed of.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 29, 2019
I.A. No. 439/2019 & I.A. No. 440/2019 in
Original Application No. 602/2019
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Amnawari

PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Subject: Conversion of land from industrial use to RESIDENTIAL purpose-
 3 acre 02 Guntaas in Survey No.61/2, 03Acre05 Guntaas,03 Acre,02
 Guntaas
 in 62 .06 Ac 11 Guntaas in 63/2, Total 12 Acre 18 Guntaas Kasaavanhalli
 Village, Varturu Hobli, BANGALORE EAST Taluq -Reg.

Read. Metropolitan Commissioner, BMRDA letter No. BMRDA/BOA/CLU/10/2017,
 Dated 04-10-2017.

.....

PREAMBLE:

M/s. Wonder Projects Development Pvt. Ltd., Bangalore, has requested for CONVERSION of land from industrial use to RESIDENTIAL purpose- 3 acre 05 Guntaas in Survey No.61/2, 03 Acre, 02 Guntaas in 62 .06 Ac 11 Guntaas in 63/2, Total 12 Acre 18 Guntaas Kasaavanhalli Village, Varturu Hobli, BANGALORE EAST Taluq, examined under section 14(a) K.T.P. Act, 1961, placed before the Bangalore Development Authority's meeting held on 17-08-2017, decided to submit proposal for the conversion of 3Ac 5 Guntaas in 61/2, 03Acre 02 Guntaas in 62. 06 Ac 11 Guntaas in 63/2, Total 12 Acre 18 Guntaas Kasaavanhalli Village, Varturu Hobli, BANGALORE EAST Taluq, to the Government through BMRDA.

Metropolitan Commissioner, BMRDA, in his letter dated 04-10-2017, read above, submitted proposal for the conversion of 3Ac 5 Guntaas in 61/2, 03Acre 02 Guntaas in 62, 06 Ac 11 Guntaas in 63/2, Total 12 Acre 18 Guntaas Kasaavanhalli Village, Varturu Hobli, BANGALORE EAST Taluq from industrial use to residential use.

After examining the said proposal, the Government has ordered as below.

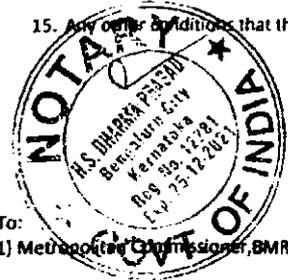
GOVERNMENT ORDER No. NAE 476 BJS 2017, Bangalore, Dated 24-10-2017.

In the background of the points explained in the proposal, u/s 14(a) of Karnataka Town and Country Planning Act, 1961, Government has given approval for the conversion of 3Ac 5 Guntaas in 61/2, 03Acre 02 Guntaas in 62, 06 Ac 11 Guntaas in 63/2, Total 12 Acre 18 Guntaas Kasaavanhalli Village, Varturu Hobli, BANGALORE EAST Taluq from industrial use to residential use, subject to following conditions :

1. If there is any proposal in the MASTER PLAN for extension/widening of the road, or upgradation of State High way or National Highway, , necessary land to be preserved at the time of approval of Plan/lay out, necessary steps to be taken for rain water harvesting.
2. if there are any Civil disputes, party to be bound by Court order/judgment.
3. Land Conversion Order automatically gets cancelled if false information is submitted, or if any information is found wrong/forged.
4. other conditions that may be imposed by BMRDA



5. Buffer zone/land to be preserved as per rules for tank/canal, H.T Line/sub Station / Feeder, Rail Mass Transit line/ Railway Track, passing through the said land.
6. Original records to be examined/verified by BMRDA at the time of giving approval
7. Consent letter to be obtained from State Pollution Control Board, before using the land for proposed purposes.
8. Change in land use is not a record for claiming right over property, if any case/spending before any Court U/s 13G (3) Land Revenue Act -1964 or Land Reforms Act, CONVERSION OF LAND/Usage is subject to final order/judgment. In this regard Applicant shall submit a Declaration that he is bound by final judgment, that he will not claim fees paid for change of land and shall comply with it
9. Authority has given administrative approval /sanction for the case recommended for change of land use/conversion/. In such cases, it is the responsibility of the Authority to minutely examine technical points and if there are any lapses in this change of land use, AUTHORITY will be solely responsible for it.
10. Zonal Regulations, conditions to be strictly followed.
11. Order passed by NATIONAL GREEN TRIBUNAL in O.A.S.No.222/2014, ON 04-05-2016, prescribing buffer zone around tanks/canals/rajakaluve has to be kept in mind at the time of sanction of building plan.
12. Fees to be obtained/remitted as per 18 of KARNATAKA TOWN and COUNTRY PLANNING Act, 1961,
13. Said change of land use/conversion to be adopted in full/comprehensive manner at the time of revision of MASTER PLAN.
14. It is mandatory to obtain N.O.C from departments/authorities, concerned before taking up any development works in the land under reference.
15. Any other conditions that the Authority may impose.



By order and in the name of Governor of Karnataka,
 Sd/-
 K.S. JAGADISHA REDDY,
 Under Secretary to the Government,
 Department of Urban Development.

- To:
- 1) Metropolitan Commissioner, BMRDA, Bangalore,
 - 2) Commissioner, Bangalore Development Authority, Bangalore,
 - 3) M/s. Wonder Projects Development Pvt. Ltd., # 80, Hulka Ascent, 2nd Cross, Lavelle Road, Bangalore-560001,
 - 4) Section Guard File/Extra copy.

H.S. DHARMA PRASAD, B.A.B.C.,
 ADVOCATE & LEGAL CONSULTANT,
 OFFICE NO. 80,
 HULKA ASCENT, 2ND CROSS, LAVELLE ROAD,
 BANGALORE-560001.

14 MAY 2020

BANGALORE DEVELOPMENT AUTHORITY

NO. BDA/MTPCLU-18-19/ 2014-15/1600/2017-18

Dated: 8/12/17

CONFIRMATION LETTER OF CHANGE IN LAND USE

Subject: Request made by the Applicant and Owner of Wonder Projects Development Pvt Ltd., For the change of land use from Industry(Hi tech) use to residential use of land situated in Survey No.61/2, Kasavanhalli Village, VarturuHobli, Bangalore East Taluq, 3Acre 5 gunta in Sy No. 61/2, 03 acre 02Guntaas in Sy No.62,06 Acre 11 Guntaas in Sy No.63/2 Total 12 Acre 18 Guntaas area u/s 14(a) of K.T.T.P.Act 1961-Reg.

Reference: Applicant's plea dated 25-11-2016 and 06-12-2016,

2. Bangalore Development Authority's Town Planning Meeting Subject No.91/2017, Dated 17-08-2017,
- 3.This Office Letter No.BDA/MTP/CLU-18-19/2016-17/1156- 2017-18, Dated 13-09-2017,
4. Government Order No. NAE/476/BAS/2007, Bangalore, Dated 24-10-2017,
5. This Office Letter No.8DA/MTP/CLU-18-19/2016-17/1413/2017-18,Dated 03-11-2017, intimating the applicant to remit Fees of Rs.10, 85,920/--
6. Accounts Officer, Finance Division, B.D.A. has confirmed having remitted Rs. 10,85,920/-- vide Canara Bank Challan No.5323 Dated 04-11-2017, by the Applicant.

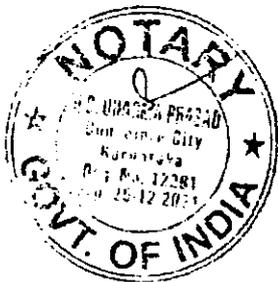
Applicant has vide Reference (1) requested for change/ -. For the change of land use from Industry (Hi tech) use to- prescribing -residential use of land situated in Survey No.61/2, Kasavanhalli Village, VarturuHobli, Bangalore East Taluq, 3Acre 5 gunta in Sy No. 61/2, 03 acre 02Guntaas in Sy No.62,06 Acre 11 Guntaas in Sy No.63/2 Total 12 Acre 18 Guntaas area u/s 14(a) of K.T.T.P.Act 1961.



Proposal was examined , placed for decision as Subject No. 91/2017 in the meeting of Town Planning Committee of BANGALORE DEVELOPMENT AUTHORITY vide Reference(2). After discussion, objections submitted by FOUNDER of VISWA KANNADA SAMAJA (NAGARIKA HITARAKSHANA SAMITI) also ARUN KUMAR AGARWAL. Meeting observed there is no essence in the objections submitted, decided to submit proposal with recommendations to the Government through BMRDA. For the change of land use from Industry (Hi tech) use to- prescribing -residential use of land situated in Survey No.61/2, Kasavanhalli Village, VarturuHobli, Bangalore East Taluq, 3Acre 5 gunta in Sy No. 61/2, 03 acre 02Guntaas in Sy No.62,06 Acre 11 Guntaas in Sy No.63/2 Total 12 Acre 18 Guntaas area u/s 14(a) of K.T.T.P.Act 1961.

As per the decision of the Town Planning Committee Proposal was submitted to the Government through BMRDA, Vide Reference (3). Government has given approval to the proposal imposing some general conditions.

As per Government Order, Applicant was intimated to remit total Fees of Rs 10,85,920/--(Rs. Ten lakhs eighty five thousand nine hundred fifty only). Accordingly, Applicant has remitted Rs.10,85,920/--(Rs. Ten lakhs eighty five thousand nine hundred fifty only) at Canara Bank, in the premises of the Authority/BDA/vide Challan No. 5323 DATED 04-11-2017. This has been confirmed by Accounts Officer, Finance Division on 27-11-2017 vide Reference (6). Change of land use requested by the Applicant - for the land situated in Survey No.61/2, Kasavanhalli Village, VarturuHobli, Bangalore East Taluq, 3Acre 5 gunta in Sy No. 61/2, 03 acre 02Guntaas in Sy No.62,06 Acre 11 Guntaas in Sy No.63/2 Total 12 Acre 18 Guntaas area u/s 14(a) of K.T.T.P.Act 1961, from Industrial(Hi tech) purposes to residential purposes u/s 14(a) of K.T.T.P.Act.,1961, subject to conditions mentioned here below.



Xxxxxx/?/ further n.a.

1. If there is proposal in the Master plan for road widening up gradation of State High way or Central High way, necessary land to be reserved at the time of approval of Design/Plan. necessary action to be taken for rain harvesting.
2. If there are any Civil Suits, they /should be bound by the Court,s order.
3. Buffer zone to be reserved as per NGT Rules for the Lake/canal/H.T.Line/Sub Station Feeder/Rail Base Mass Transit line/Railway track, areas.
4. This is not a record to contend/claim property and under Land Reforms Act, also U/s 136(3) Land Revenue Act,Or if cases are pending before any other Court, This change of land use is subject to Final Order of the Hon'ble Court.In this regard the Applicant should make a declaration/that he is bound by the Final Orders of the Hon'ble Court., that Fees paid remitted with regard to change in land use - Refund will not be claimed.
5. Conditions in Zonal Regulations to be mandatorily followed.
6. It is mandatory to obtain NOC letter from the respective departments, before taking up any developmental works in the land under reference.
7. Building plan for residential purposes to be got sanctioned from the Competent Authority, as per Zonal Rules.
8. If wrong information/records, Applicant himself will be responsible, it may be noted/understood that land usage order will automatically get cancelled.
9. NOC from KARNATAKA STATE POLLUTION CONTROL BOARD to be obtained if necessary, conditions therein has to be followed.
10. Buffer zone to be reserved as per NGT order in O.A. No.222/2014 made on-04/05/2016, for the surroundings of Lake/canal/ Rajakaluve border.



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11. Other regulations/conditions that may be imposed by BANGALORE DEVELOPMENT AUHTORITY/Competent Authority to be complied with.

[Draft letter approved by the Commissioner]

Sd/ For Commissioner,
B.D.A.,Bangalore.

To
Wonder Projects Development Pvt Ltd.,
#80, Hulkul Ascent, 2nd Cross,
Lavelle Road, BANGALORE-560001

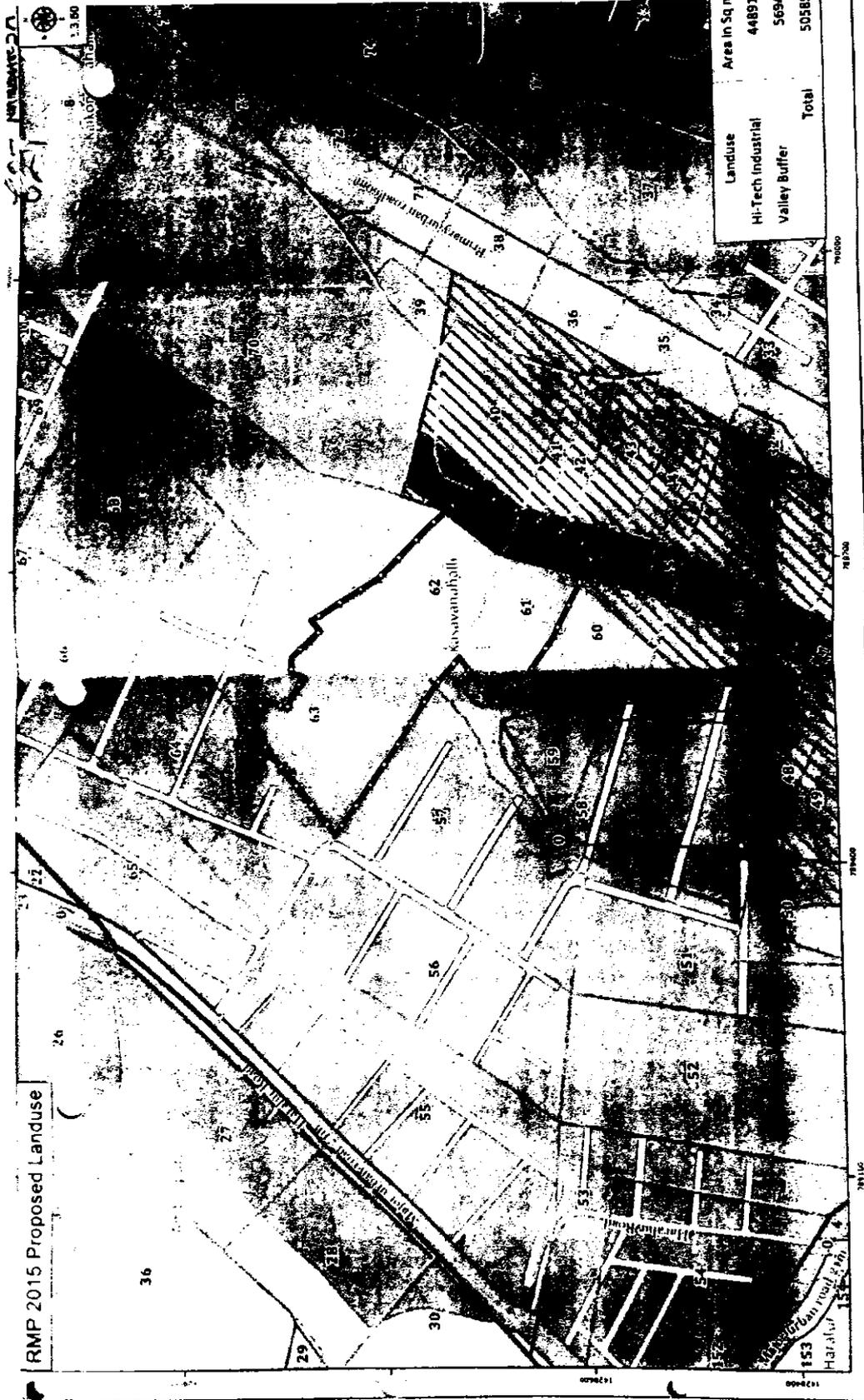
Copy sent for information to Hon'ble Commissioner, BRUHAT BENGALURU MAHANAGARA PALIKE,
Hudson Circle, BANGALORE.



H.S. DHARMA PRASAD, B.A.L.B
ADVOCATE & NOTARY PUBLIC
GOVT. OF INDIA
#80, Hulkul Ascent, 2nd Cross, Lavelle Road,
Bangalore-560001

11 MAY 2020

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Annexure 6

SZ-628

GOVERNMENT OF KARNATAKA

No. A.D.L/Phody/others/39/2019-20

Office of the Assistant
Director of Land Records
Bangalore East Taluk, K.R. Pura,
Bangalore, Dated : 06-03-2020

**OFFICE OF THE SENIOR ENVIRONMENTAL OFFICER
KARNATAKA STATE POLLUTION CONTROL BOARD
Nisarga Bhavan, 3rd Floor
Thimmaiah Road,
7th 'D' Main Road, Shivanagar,
BANGALORE - 560 010**

Dear Sir

Sub : Issuance of Sketch in respect of Survey No.63/2, Kasavanahalli
Village, Varthur Hobli, Bangalore East Taluk

Ref : Your office letter No.PCB/RSEO/BNG-SOURTH/2019-20/71,
Dated : 27-04-2019

With regard to the above subjected matter, you have informed to submit a detailed report with sketch as per the above reference to measure the 'B' Kharab in Survey No. 63, Kaavanahalli Village, Varthur Hobli, Bangalore East Taluk.

The case has been allotted to land surveyor to measure the 'B' Kharab available in above survey number of the Village and to submit a detailed report with sketch. The land surveyor has conducting the survey and measurements of the Storm Water flow area in Kharab out of Survey No. 63 of the above mentioned village and submitted a report with sketch. The sketch and the copies of the survey reports pertaining to the said survey number submitted by the land surveyor are herewith produced for your further action.

Yours faithfully

Sd/-
Office of the Assistant Director of Land Records
Bangalore East Taluk
Bangalore



ARAVIND PATIL, G.G., B.A., LL.B
ADVOCATE & NOTARY
28, 12th Main, Near Old Sub Register Office,
4th Block, Jayanagar, Bangalore - 560 011.

2 JUN 2020

BRUHAT BENGALURU MAHANAGARA PALIKE

Office of the Chief Engineer, Storm Water Drain, Jayanagara 4th block,
9th Floor, Bangalore-560 011

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No.BBMP/CE(SWD)/PR/³⁷⁷²2019-20

Date: 07/07/2020

To,
Member Secretary
Karnataka State Pollution Control Board
Parisara Bhavana, No.49, Church Street,
Bangalore-560001

Sir,

Sub: Detailed report regarding the existence of Storm Water Drain (Rajakaluves) in Sy No.63, Kasavanahalli Village, Varthur Hobli, Bangalore East Taluk, Bangalore Urban District in respect of Construction of Residential Apartments by M/s.Wonder Projects (P) Ltd and M/s.Godrej Properties Ltd.

Ref: 1) NGT order No.OA:602/2019.

2) Your office letter no.PCB/CNP(NGT)/GEN(19)/3463, dated:11.09.2019

With reference to the above subject, the spot was inspected on 02.03.2020. The construction of Multi-storied Residential Apartment Complex is being carried out in survey no.61, 62 and 63 of Kasavanahalli Village, Varthur Hobli, Bangalore East Taluk, Bangalore Urban District.

The said spot was verified with reference to the village map (Kasavanahalli). As per the village map 02 streams get originated from Kasavanahalli Lake and flow towards Kaikondarahalli Lake via survey no.63. One stream flow inside the survey No.51, 57 and 63 and another stream flows in survey no.31, 47, 48, 46, 58 & 59 and joins in survey no.57 and flows in survey no.63. These streams flow in survey numbers and since these streams flow in Kharab area of respective survey numbers and also since the two streams joins together in survey no.57 and flow in survey no.63 the said drain in survey no.63 is to be considered as Secondary Drain.

Further, single line drain is spotted and the same is called the Agricultural drain or Feeder Channel in survey no. 56 and 57 adjacent to survey no.63 and the said drain ends on Secondary Drain. Since, single line drain is terminates at Secondary drain the said drain is a Pillu Kaluve or a Lead of drain for which Buffer is not applicable. Further one more single line drain is spotted in survey no.61, 43, 35 and 37. Since, these single line drain runs in various survey numbers, the same is treated as Tertiary drain.

1/2
DB-1



-----2

The said spot was verified with respect to the RMP-2015. According to RMP-2015 some portion of the eastern part of survey no.61 & 62 is marked as valley zone. On verification at spot the drain as marked in RMP -2015 is not constructed, however, the area earmarked for the valley is kept as non-construction zone. The width of the valley Zone as per RMP-2015 considering the highest width is 53.05 mtrs. On verification, the buffer left at the spot from the building line to the centre of valley zone is $(53.05/2) + 8.16 = 34.66$ mtrs which is above the prescribed buffer for secondary drain (25.00 mtrs).

The said area was verified with the plan sanctioned by Bruhat Bengaluru Mahanagara Palike. As informed in the above paragraph the nala in survey no.63 is considered to be a Secondary drain. However, the building line of each of the towers is more then 50.00 mtrs away from the edge of the nala.

Further, single line drain called the Agricultural drain or Feeder Canals exists in survey no.56 and 57 adjacent to survey no.63 and this drain ends on the Secondary drain and thus this drain is treated as lead-off drain for which buffer is not applicable. One more drain is running in survey no. 61, 43, 35 and 37. Since, these drains are running in various survey numbers, the same is treated as Tertiary drain and on verification in the sanctioned plan issued by Bruhat Bengaluru Mahanagara Palike it is observed that 25.00 mtrs of Buffer is maintained from the Building line.

Therefore, it is found that there is no violation of the Buffer area by M/s.Wonder Projects (P) Ltd and M/s.Godrej Properties Ltd pertaining to storm water drains in the premises under question.

As informed in the earlier letter dated:19.12.2019 the M/s.Wonder Projects (P) Ltd and M/s.Godrej Properties Ltd have obtained permission for construction of Storm water drain on Self Financing/ Self Execution vide CE(SWD)/PR/140/17-18, dated:02.08.2017 by the Chief Engineer (SWD), and the construction is as per the approved drawings.

This is for kind information and further needful action.

Thanking you,

Yours faithfully

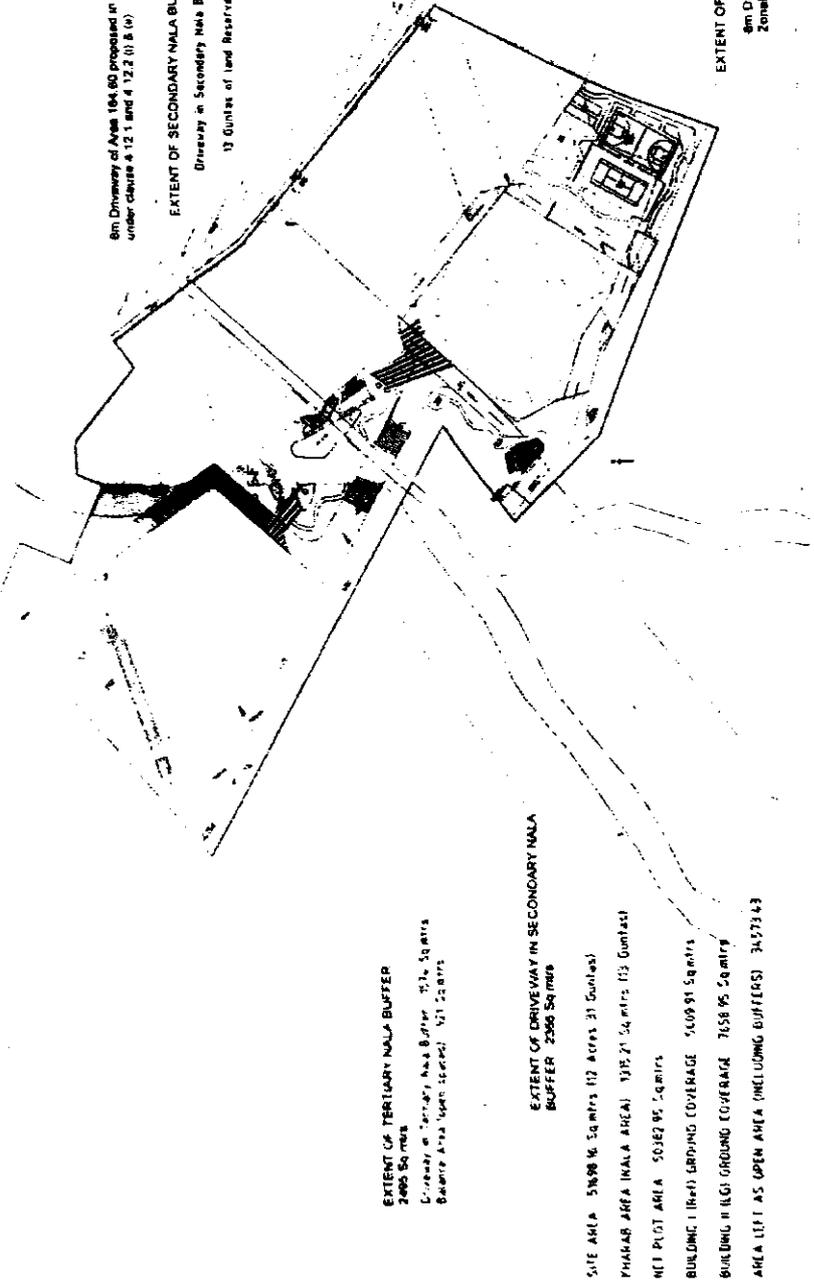

Chief Engineer
Storm Water Drainage
ಬಿ.ಆರ್. ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ
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63 Annexure - R 54

- 1. Lake Buffer
- 2. 5m Drive Way
- 3. 10m Drive Way
- 4. 15m Drive Way
- 5. 20m Drive Way
- 6. 25m Drive Way
- 7. 30m Drive Way
- 8. 35m Drive Way
- 9. 40m Drive Way
- 10. 45m Drive Way
- 11. 50m Drive Way
- 12. 55m Drive Way
- 13. 60m Drive Way
- 14. 65m Drive Way
- 15. 70m Drive Way
- 16. 75m Drive Way
- 17. 80m Drive Way
- 18. 85m Drive Way
- 19. 90m Drive Way
- 20. 95m Drive Way
- 21. 100m Drive Way
- 22. 105m Drive Way
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- 191. 950m Drive Way
- 192. 955m Drive Way
- 193. 960m Drive Way
- 194. 965m Drive Way
- 195. 970m Drive Way
- 196. 975m Drive Way
- 197. 980m Drive Way
- 198. 985m Drive Way
- 199. 990m Drive Way
- 200. 995m Drive Way
- 201. 1000m Drive Way

THESE ARE THE BUFFER AREAS AS PER THE REGULATIONS AND NOT TO BE CONSIDERED AS PART OF THE PLOT AREA.



EXTENT OF TERTIARY NALA BUFFER
2400 Sq.mts

Driveway in Secondary Nala Buffer - 1572 Sq.mts
Buffer Area (Open Spaces) - 121 Sq.mts

EXTENT OF DRIVEWAY IN SECONDARY NALA
BUFFER 2368 Sq.mts

SITE AREA 57698 Sq.mts (12 Acres 31 Guntas)

PHAKAR AREA (NALA AREA) 13521 Sq.mts (12 Guntas)

NET PLOT AREA 50367.95 Sq.mts

BUILDING I (RWD) GRADING COVERAGE 5409.91 Sq.mts

BUILDING II (UG) GRADING COVERAGE 7658.95 Sq.mts

AREA LEFT AS OPEN AREA (INCLUDING BUFFERS) 34573.43

6m Driveway of Area 164.80 proposed in the Lake buffer as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

EXTENT OF SECONDARY NALA BUFFER 14440 Sq.mts
Driveway in Secondary Nala Buffer 2368 Sq.mts
13 Guntas of land Reserved as Nala (Relative)

6m Driveway of Area 515 Sq.mts proposed in the Lal as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

EXTENT OF LAKE BUFFER 10821 Sq.mts
Driveway in Lake Buffer (R) - (L) = 515 Sq.mts
- 164.80 + 349.94
Transformer Yard of LG 14.0 Sq.mts
Parks and Open Spaces - 3468.77-1681.15 = 5097

EXTENT OF VALLEY ZONE 4581 Sq.mts

Permitted uses as per Zonal Regulation 12.1 and 4.12.2 (i) & (ii)

- a. Transformer Yard - 140 Sq.mts
- b. Gas Bank - 28.5 Sq.mts
- c. Organic Waste Converter - 42.93 Sq.mts
- d. 8 Meter Driveway - 518.44 Sq.mts
- e. Basketball Court - 595 Sq.mts
- f. Tennis Court - 678.26 Sq.mts

EXTENT OF STP - 238.08 Sq.mts

6m Drive Way in the Nala Buffer of 187.6 Sq.mts Permitted as per Zonal Regulation 20.15 clause 4.12.1 and 4.12.2 (i) and (ii)



Reflections & Lake Gardens : with Hatched buffer Areas and Amenities

1269

Annexure-9 632

SS

BRUHAT BENGALURU MAHANAGARA PALIKE

No.CE/Majrstrmwtrdrn/P.R./140/17-18,

Office of the Chief Engineer,
Major Storm Water Drain, B.B.M.P
9TH FLOOR, Jayanagara Shopping Complex,
4th Block, JAYANAGARA, BANGALORE-11
Dated: 02-08-2017

ENDORSEMENT

Subject: permission sought for the construction of R.C.C. Drain and R.C.C. Culvert in Survey No.63/2, Kasavanahalli Village, Varthur Hobli, B.B.M.P. Limits BANGALORE East Taluq- Reg.

Reference: 1.Your Letter dated 13-06-2017

2. The Commissioner, B.B.M.P'S Approval in Para 15 dated 26-07-2017.

With reference to the above subject and in the letter under reference, permission sought for the construction of R.C.C. Drain and R.C.C.box type Culvert for storm water drain flowing in Survey No.63/2, Kasavanahalli Village, Varthur Hobli, B.B.M.P. Limits BANGALORE East Taluq- request made by M/s. Agamy Engineering Services LLP, to construct at their own cost, R.C.C. 'U'Type drain measuring 5.40M x 3.0 M and two culverts of 12 Meters R.C.C. Block type, as per the approval and Order by the Hon'ble Commissioner, permission given subject to conditions as below.

1. R.C.C. 'U'Type drain measuring and two culverts of 12 Meters R.C.C. Block type, to be constructed without changing for any reason Alignment of present storm water drain and original measures, for any reason whatsoever.
2. Spot where said canal rus being the property of the PALIKE, Owner of the property has no right, whatsoever in it.
3. Construction of R.C.C. 'U'Type drain to be done after taking Guidance; from the Engineer concerned of the PALIKE.

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4. After completion of the works no building to be constructed on the top/terrace or by the side of R.C.C. 'U' Type drain and R.C.C. Box Culverts
5. Name plate of/as / B.B.M.P. To be exhibited on the said RCC U Type drain and R.C.C. Box Culverts
6. Instructed to clean the same periodically for free flow of rain water.
7. Palike Officers /Staff reserve the right to conduct spot inspection at any time, also to take appropriate action, they should not be obstructed for doing this.
8. Applicant has to bear the entire expense for the construction of and repairs and maintenance thereafter.
9. Precautions to be taken at the time of construction, if any type of accident occurs, Applicant will be directly responsible for the same. No financial expenditure or relief for the loss/indemnity will be borne by The Palike.
10. PALIKE reserves the right to cancel the permission, without giving any reason, at any time, in this regard Applicant cannot exercise any right.
11. After construction of the said RCC U type drain, it should not be used for any purpose other than flow of storm water/rain water.'
12. If any occasion arises, to make any type of change during the execution of the works, prior permission of the MAHANAGARA PALIKE has to be obtained.
13. Construction of the RCC U Type drain and R.C.C. Box Culverts to be done as per the plan and design/sketch approved by MAHANAGARAPLAIKE.

Sd/CHIEF ENGINEER,,
Major Storm water drain/water canal,
BRUHAT BENGALURU MAHANAGARA PALIKE,

To
Wonder Projects Development Pvt Ltd.,
#80, Hulkul Ascent, 2nd Cross,
Lavelle Road, BANGALORE-560001

Copy to: Hon'ble Commissioner,



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State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India, under section 3(3) of E(P) Act, 1986)

No. SEIAA 114 CON 2017

Date: 10-01-2018

To,

Sri Mohammed Samiulla,
Deputy General Manager,
M/s. Wonder Projects Development Pvt. Ltd.,
#80, Hulkal Ascent, 2nd Cross,
Lavelle Road,
Bengaluru - 560 001.

Sir,

Sub: Construction of New Residential Building project at Survey No's 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru Baat Taluk, Bengaluru District by M/s. Wonder Projects Development Pvt. Ltd - Issue of Environmental Clearance - Reg.

This has reference to your online application dated 14th October 2017 bearing proposal No.SIA/KA/NCP/70329/2017 addressed to SEIAA, Karnataka and subsequent letters addressed to SEIAA/SEAC Karnataka furnishing further information/seeking prior Environmental Clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per the prescribed procedure in light of the provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., the Form 1, Form 1A, conceptual plans and the additional clarifications furnished in response to the observations of the SEAC, Karnataka. SEAC has recommended for issue of Environmental Clearance in their meeting held on 25th November 2017.

2. It is, inter-alia, noted that M/s. Wonder Projects Development Pvt Ltd have proposed for construction of new residential building project on a plot area of 50,382.91 Sqm. The total built up area is 1,28,193.9 Sqm. The proposed project consists of 2 residential blocks having, 2 Basements + Ground Floor +20 Upper Floors with 655 units. Total parking space proposed is for 877 No's of Cars. (Site plan/layout drawing is annexed). Total water consumption is 534 KLD (Fresh water + Recycled water). Total wastewater discharge is 482 KLD. It is proposed to construct 2 Sewage Treatment Plants with a capacity of 210 KLD & 280 KLD.

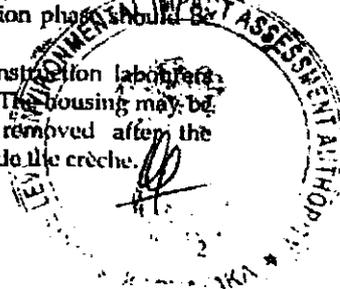
3. The SEIAA Karnataka after due consideration of the relevant documents submitted by the project proponent, additional clarifications

furnished in response to its observations and the recommendation of the SEAC have in their meeting held on 20th December 2017 and decided to accord Environmental Clearance in accordance with the provisions of Environmental Impact Assessment Notification-2006 and its subsequent amendments, subject to strict compliance of the following terms and conditions:-

Part A- SPECIFIC CONDITIONS

1. Construction Phase

1. Set up an environment management cell and ensure that the cell manages/maintains all the environmental aspects such as sewage treatment, solid waste disposal, maintenance of green belt areas, etc., and in case the commercial space is sold/leased, then enter into an agreement with the prospective buyers to ensure that they maintain the cell and take care of all environment concerns during the operation phase of the project. In addition, sufficient fees should be levied so as to raise a corpus fund to maintain the Environment cell.
2. Appoint an Environment and safety engineer during the construction phase to take care of environment and safety aspects.
3. The project proponent should ensure that during the construction phase utmost care is taken to ensure that there is no noise nuisance, no air and water pollution and no disturbance to the nearby inhabitants. In case of violation, the project construction activity may have to be directed to be stopped.
4. The project proponent should cover the project site from all sides by raising sufficiently tall barricades with sheets to ensure that pollutants do not spill to the surroundings.
5. Provide at the main entrances bell gates, which are located at least 12' inside the boundary of the project to enable smooth flow of traffic on the main road leading to the entrance.
6. All required sanitary and hygienic measures should be in place before starting construction activities and to be maintained throughout the construction phase. Sufficient number of toilets/bathrooms shall be provided with required mobile toilets, mobile STP for construction workforce.
7. A First Aid Room should be provided in the Project both during construction and operation of the project.
8. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.
9. Provision shall be made for the housing of construction labourers within the site with all necessary infrastructures. The housing may be in the form of temporary structures to be removed after the completion of the project. The facilities shall include the crèche.



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10. Provision should be made for the supply of fuel (kerosene or cooking gas); utensils such as pressure cookers etc. to the labourers during construction phase.
11. All the labourers to be engaged for construction should be screened for health and adequately treated before engaging them to work at the site and detailed report submitted to SEIAA. Safety standards as per National Building Code (NBC) should be ensured.
12. For dis-infection of wastewater which is not meant for recycling for toilet flushing, use ultraviolet radiation and not chlorination. For treated wastewater meant for reuse for toilet flushing, disinfect by using chlorination.
13. All the topsoil excavated during construction activities should be stored for use in horticulture/landscape development within the project site.
14. Disposal of muck, construction debris during construction phase should not create any adverse effect on the neighboring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
15. Soil and groundwater samples should be tested at the project site during the construction phase to ascertain that there is no threat to groundwater quality by leaching of heavy metals and or other toxic contaminants and report submitted to SEIAA.
16. Construction spoils, including bituminous material and other hazardous materials, must not be allowed to contaminate watercourses and the dumpsites for such material must be secured so that they should not leach into the groundwater.
17. The diesel generator sets to be used during construction phase should be of low sulphur diesel type and should conform to E (P) Rules prescribed for air and noise emission standards.
18. Vehicles hired for bringing construction material to the site should be in good condition and should conform to the applicable air and noise emission standards and should be operated only during non-peak hours.
19. Ambient noise levels should conform to the residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures to reduce air and noise pollution during construction keeping in mind CPCB norms on noise limits.
20. Fly ash should be used as binding material in the construction as per the provision of Fly Ash Notification of September 1999 and amended on August 2003.
21. Ready mixed concrete must be used in building construction.
22. Stormwater control and its re-use as per CGWB and BIS standards for various applications.

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23. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.
 24. Only tertiary treated water shall be used for construction as per G.O. No. FEE 188 ENV 2003 dated 14.08.2003 and in terms of the orders of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated 4th May 2016 in original application No.222 of 2014. The project proponent shall identify a suitable source of treated water for construction and submit an MOU/Agreement with such suppliers. If so the supplier identified shall be responsible for treatment of water with appropriate technology to the standards required for construction purpose.
 25. No groundwater is to be drawn without permission from the Central /State Ground Water Authority.
 26. Separation of grey and black water should be done by the use of dual plumbing line for separation of grey and black water.
 27. Treatment of 100% grey water by decentralized treatment should be done.
 28. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
 29. Use of glass shall not exceed 40% of exposed area to reduce the electricity consumption and load on air conditioning. If necessary, use high quality double glass with special reflective coating in windows.
 30. The provision of Energy Conservation Building code, 2007 shall be fully complied with.
 31. Roof should meet prescriptive requirement as per Energy Conservation Building Code, 2007 by using appropriate thermal insulation material.
 32. Opaque wall should meet prescriptive requirement as per Energy Conservation Building Code, 2007 which is proposed to be mandatory for all air conditioned spaces while it is optional for non-air conditioned spaces by use of appropriate thermal insulation material to fulfill requirement.
 33. Facilities such as ramps and separate parking shall be provided for the benefit of physically challenged.
 34. The project shall be made operational only after necessary infrastructure/connection for water supply and sewerage line is provided and commissioned by the Competent Authorities
 35. The project proponent shall maintain and operate the common infrastructure facilities created including STP and solid waste management facility for a period of at least 5 years after commissioning the project.
 36. The project proponent shall incorporate a suitable condition in the Sale Agreement/Deed to be made with the buyers that the occupier/buyer holds the responsibilities jointly with other users to maintain common infrastructure facilities created including STP and solid waste management facility.

37. The Project Proponent shall obtain the construction material such as stones and jelly etc. only from the approved quarries and other construction material shall also be procured from the authorized agencies/traders.
38. The Project proponent shall obtain approval from the competent authorities for structural safety of the building due to earthquake, adequacy of fire fighting equipment etc. as per the National Building Code (NBC) including protection measures for lightening etc.
39. The project proponent shall ensure that no water bodies are polluted due to project activities.
40. Safety standards as per National Building Code (NBC), 2005 should be followed and ensured.
41. The project proponent shall ensure that the National Building Code, 2005 is fully complied with and adhered to.
42. The project proponent shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only.
43. The project proponent shall obtain NOC before commencement of the construction activity and clearance after the completion of the construction from the Fire and Emergency Services Department, if Applicable.
44. The project proponent shall ensure the time specification prescribed by the Honourable High Court of Karnataka in WP. No. 1958/2011 (LB - RES - PIL) on 04.12.2012 for different activities involved in construction work.
45. The proponent shall take up the construction activity only after obtaining NOC from BWS&SB or clearance from the competent authority for assured supply of water as the case may be.
46. The project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, FAR etc. Shall be adhered to.
47. The existing water body, canals and rajakaluve and other drainage and water bound structures shall be retained unaltered with due buffer zone as applicable and maintained under tree cover.
48. The project proponent shall leave a buffer of 75 Meters from the Lakes, 50 Meters from Primary Rajakaluve, 35Meters from Secondary Rajakaluve and 25 Meters from Tertiary Rajakaluve in accordance with the order of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated 4th May 2016 in original application No.222 of 2014 in addition to sufficient buffer from the other water bodies in Accordance of law. The buffer so maintained shall be developed as Greenbelt planting with indigenious tree species such as Neem, Akash Mallige, Mahagoni, Henge, Kadamba Ficus, etc. and

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IMPACT ASSESSMENT

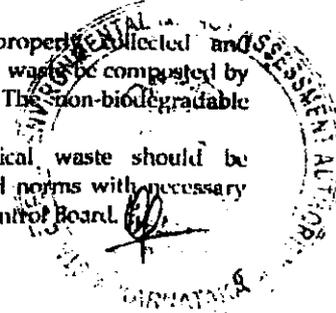
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maintained as green belt. No construction activity shall be undertaken in the said buffer zone.

49. The natural sloping pattern of the project site other than the area excavated for the purpose of construction of proposed building shall remain unaltered and the natural hydrology of the area be maintained as it is to ensure natural flow of stormwater
50. Lakes and other water bodies within and/or at the vicinity of the project area shall be protected and conserved.
51. The Project proponent shall build in infrastructure required for use of Piped Natural Gas (PNG) such as pipelines and space for installation of PNG distribution equipment for both domestic/commercial purpose and DG set and shall ensure that PNG is supplied for both commercial and for DG sets instead of other type of fuels.
52. The project proponent shall undertake activities under towards the Corporate Social Responsibility in accordance with commitment made vide letter dated 09.01.2018 and report be submitted to the authority.

II. Operation Phase.

1. The installation of the 2 Sewage Treatment Plants with a capacity of 210 KLD & 280 KLD should be carried out before the construction of the second floor of the main structure is commenced and the plant shall be got certified by an independent expert and a report in this regard should be submitted to the SEIAA immediately. Discharge of treated wastewater shall conform to the norms & standards of the Karnataka State Pollution Control Board. Treated wastewater should be used for flushing, gardening, etc. as proposed, using dual plumbing line.
2. Rainwater harvesting for roof run-off with 60 Cum capacity of tank at ground level for rainwater collection and also surface run-off harvesting as per the plan submitted should be implemented with 10 No's recharge pits and pre-treatment must be done to remove suspended matter, oil and grease before recharging the surface runoff.
3. Ensure that the excess runoff rainwater from the greenbelt area, which is irrigated by treated water, does not get into recharge pits and contaminate the groundwater. Such excess flow should be safely let into the stormwater drains.
4. The solid waste generated should be properly collected and segregated insitu. The Biodegradable organic waste to be composted by installing bio-converter in site and used. The non-biodegradable waste is disposed to the authorized recyclers.
5. Any hazardous waste including biomedical waste should be disposed-off as per the applicable Rules and norms with necessary approvals of the Karnataka State Pollution Control Board.



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- 6) The project proponent shall develop a minimum of 43 % of the total project site i.e., minimum 21,667.7 Sqm area for green belt. The proponent shall undertake plantation of heavy foliage indigenous tree species such as Mahagoni, Flonge, Neem, Akash Mallige, Kallamba, Ficus and Ashoka, etc at an espacement of 3 mts x 3 mts i.e. 1111 plants/hectare.

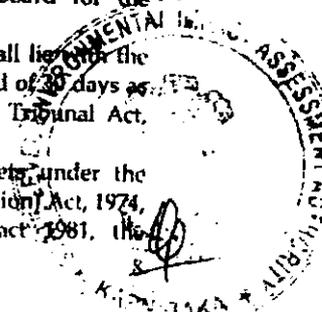
The green belt design along the periphery of the plot shall achieve attenuation factor conforming to the day and night noise standards prescribed for residential land use. The open spaces inside the plot should be suitably landscaped and covered with vegetation of indigenous variety.

7. Incremental pollution loads on the ambient air quality; noise and water quality should be periodically monitored after commissioning of the project.
8. Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrid system or fully solar system for the complex should be provided. Details in this regard should be submitted to the SEIAA.
9. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
10. A Report on the energy conservation measures conforming to energy conservation norms finalized by the Bureau of Energy Efficiency should be prepared incorporating details about building materials & technology, R & U Factors etc and submit to the SEIAA in three months time.
11. All toilets should have dual plumbing line for using treated water and no wastewater is discharged from the unit.
12. The Environment Management Plan including the human health and Safety management plan and Fire Safety and Protection plan proposed by the proponent shall be strictly implemented.
13. The proposed building shall have D.G. Set of 2 No's X 500 KVA, 1 No X 380 KVA & 1 No X 320 KVA as an alternate power supply source as proposed.

PART - B, GENERAL CONDITIONS:

1. The Environmental safeguards contained in the application should be implemented in letter and spirit.
2. All commitments made by the proponents in their application and subsequent letters addressed to the SEIAA should be accomplished before the construction work of the project is completed.
3. Half yearly monitoring reports should be submitted to the SEIAA and the APCCF, Regional Office, MoEF, Bengaluru.

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4. Officials from the Department of Environment and Ecology, Bengaluru / APCCF, Regional Office of MoEF, Bengaluru who would be monitoring the implementation of Environmental safeguards should be given full cooperation, facilities and documents/data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF / SEIAA should be forwarded to the APCCF, Regional Office of MoEF, Bengaluru / Department of Environment and Ecology, Bengaluru.
 5. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.
 6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protection) Act, 1986.
 7. The Authority reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environmental clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
 8. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the competent authorities.
 9. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the Karnataka State Pollution Control board and may also be seen on the website of the SEIAA, Karnataka at <http://seiaa.karnataka.gov.in> or <http://environmentclearance.nic.in> The advertisement should be made within 7 days from the day of issue of the clearance letter and a copy of the same should be forwarded to the APCCF, Regional Office of the MoEF at Bengaluru/ Department of Environment and Ecology, Bengaluru.
 10. The project proponent should display the conditions prominently at the entrance of the project on a suitable size board for the information of the public.
 11. Any appeal against this environmental clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.
 12. These stipulations would be enforced among others, under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the



SEIAA 114 CON 2017

Construction of new residential banking Project of
M/s. Wonder Projects Development Pvt. Ltd
Environment (Protection) Act, 1986, the Public Liability (Insurance)
Act, 1991 and EIA Notification, 2006.

13. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it is found that construction of the project has been started without obtaining environmental clearance.
14. The issuance of Environment Clearance doesn't confer any right to the project proponent to operate/run the project without obtaining Statutory clearances/sanctions from all other concerned authorities.



Yours faithfully,

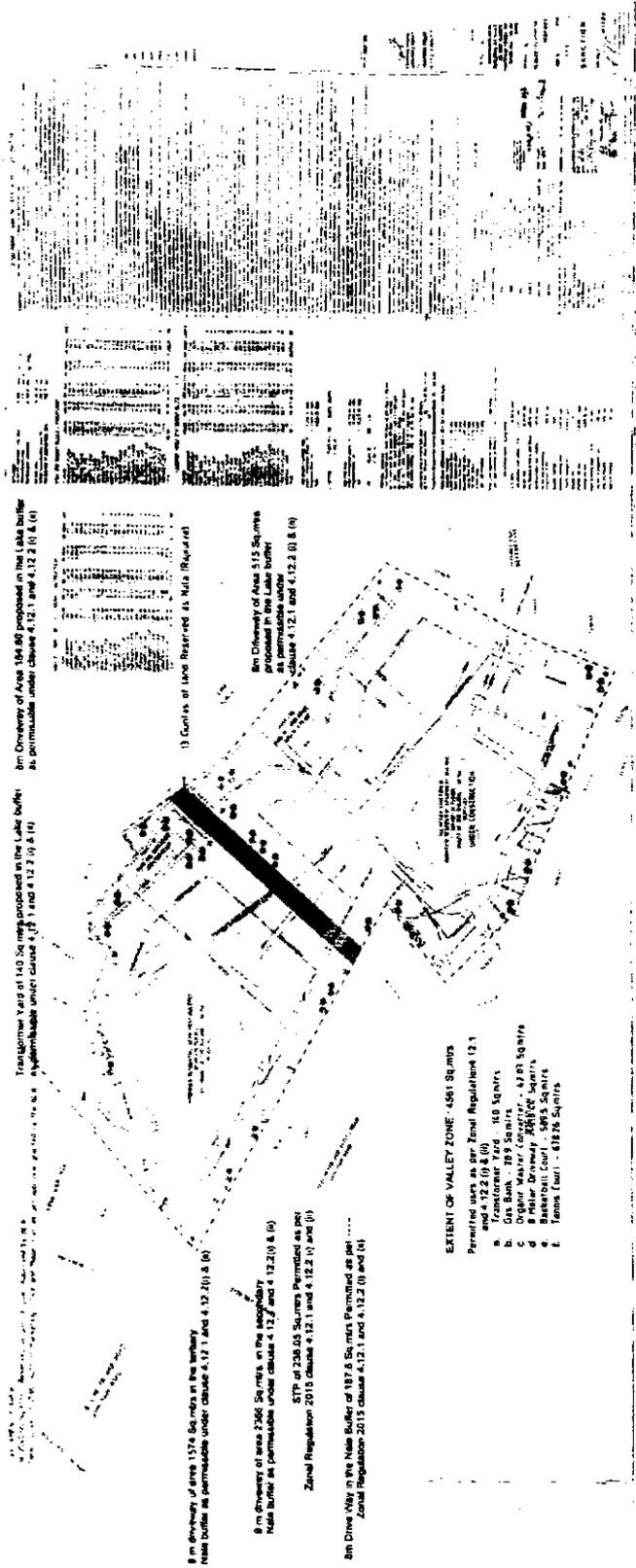
(R. SACHANDRA) 10/11/15
Member Secretary,
SEIAA, Karnataka.

Copy to:

1. The Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj, New Delhi - 110 003.
2. The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP), N.R. Square, Bangalore - 560 002.
3. The Member Secretary, Karnataka State Pollution Control Board, Bengaluru.
4. The APCCF, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E & F wings, 17th Main Road, Koramangala II Block, Bengaluru - 560 034.
5. Guard File.

Amexuse-12
 6/17/22

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30m Driveway of Area 154.80 proposed in the Lake buffer as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

Transformer Yards at 140 Sq.mts proposed in the Lake buffer as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

30m Driveway of Area 515 Sq.mts proposed in the Lake buffer as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

8 m driveway of area 2360 Sq.mts in the boundary from buffer as permissible under clause 4.12.1 and 4.12.2 (i) & (ii)

57% of 2360.03 Sq.mts Permitted as per Zonal Regulation 2015 clause 4.12.1 and 4.12.2 (i) and (ii)

30m Driveway of Area 187.8 Sq.mts Permitted as per Zonal Regulation 2015 clause 4.12.1 and 4.12.2 (i) and (ii)

- EXTENT OF VALLEY ZONE - 481 SQ.MTS**
 Permitted uses as per Zonal Regulation 12.1 and 4.12.2 (i) & (ii)
- a. Transformer Yard - 160 Sq.mts
 - b. Gas Bank - 29.9 Sq.mts
 - c. Parking - 43.03 Sq.mts
 - d. Motor Driveway 2360.03 Sq.mts
 - e. Basketball Court - 595.5 Sq.mts
 - f. Tennis Court - 618.26 Sq.mts



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ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ.49, ಚರ್ಚ್‌ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ, ಭಾರತ
"Parisara Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, INDIA

Wonder Projects Development
NO. PCB/701/CNP/171/H-755

DATE 2 OCT 2018

/ BY REGD. POST WITH ACK. DUE /

(THIS ORDER CONTAINS 07 PAGES)

To
Mr. Mohammed Samiulla – Authorized Signatory,
M/s. Godrej Housing Projects LLP
#80, Hulkul Ascent, 2nd Cross,
Lavelle Road,
Bengaluru – 560 001.

Sir,

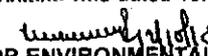
Sub: Consent for establishment to construct Residential Apartment with 655 flats & Club House having total built up area of 1,28,193.9 Sq.m located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District, Bengaluru by M/s. Wonder Projects Development Pvt Ltd.,

- Ref: 1. Application for consent for establishment received at Regional Office, KSPCB, Bommanahalli on 18.01.2018.
2. Inspection of the proposed project site by Officer of the Regional Office, KSPCB, Bommanahalli on 05.02.2018.
3. E.C. issued vide No. SEIAA 114 CON 2017 dated 10.01.2018.
4. Hon'ble NGT Order dated 04.05.2016 in respect of OA 222/2014.
5. Proceedings of the consent committee meeting held on 06.04.2018.
6. Proceedings of the consent committee meeting held on 26.07.2018.
7. Proceedings of Technical Presentation held on 24.08.2018 vide No. 2812 dated 28.08.2018.
8. Proceedings of the consent committee meeting held on 06.09.2018.
9. Affidavit submitted to the Board on 12.09.2018.
10. Proceedings of the consent committee meeting held on 15.09.2018.

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With reference to the above, it is to be informed that this Board hereby accords Consent for Establishment under the Water (Prevention & Control of Pollution) Act 1974 to construct Residential Apartment with 655 flats & Club House having total built up area of 1,28,193.9 Sq.m located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District, Bengaluru by M/s. Wonder Projects Development Pvt Ltd., subject to the following conditions.

1. This consent for establishment shall be valid for a period of Co-terminus with the validity of Environmental Clearance (EC) issued by SEIAA, Karnataka vide dated 10.01.2010.


SENIOR ENVIRONMENTAL OFFICER

- 68/546 (1283)
2. The applicant shall not take expansion/diversification without the prior consent of the Board.
 3. The applicant shall obtain necessary licence/clearance from their relevant agencies before taking up construction.
 4. The applicant shall obtain NOC from the Board before handing over of apartment to residents Association.
 5. The applicant shall maintain utilities including STP for a minimum period of five years.
 6. The applicant shall use treated sewage for secondary purposes including construction.
 7. This CFE is issued only from the point of water pollution control only and does not have any relevance over land dispute, any pending cases with any Departments/Hon'ble Courts.
 8. Sewage Treatment Plant (STP) and Solid waste processing facility (for organic) shall be provided and operated satisfactorily by the project proponent himself before it is handed over to Association/Company.
 - I. **Environmental Aspects and Management during the course of construction:**
 - a) The applicant should cover the project site from all sides by raising sufficiently tall barricades with sheets to ensure that pollutants should not spill to the surroundings.
 - b) The applicant shall arrange services like housing facility, water supply, sewage facilities on a temporary basis at construction site and same shall be maintained without any adverse impact on the environment.
 - c) The applicant shall control the movement of vehicles carrying construction materials in order to avoid noise pollution in the surrounding.
 - d) The project proponent shall strictly adhere to the conditions stipulated in the Environmental clearance issued from the State Level Environment Impact Assessment Authority-Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018.
 - e) The project proponent shall strictly adhere to the directions issued in the Judgement given by Hon'ble National Green Tribunal with respect to OA 222 of 2014 dated 04.05.2016.
 - f) The applicant shall strictly maintain 75 Mtrs as green belt / buffer zone from the periphery of any Lake as per NGT order dtd-04.05.2016 in case of OA 222 of 2014. The buffer/Green zone would be treated as no construction zone for all intent and purpose.
 - g) The applicant shall maintain 50m from the edges of the primary Rajakaluves, 35m from the edges in the case of Secondary Rajakaluves & 25m from the edges in the case of tertiary Rajakaluves.

[Signature]
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SENIOR ENVIRONMENTAL OFFICER
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- h) The applicant shall leave clear buffer zone towards any lake and Nala as per NGT Order dated 04.05.2016 in respect of OA 222/2014.
- i) The applicant shall submit final approved plan from competent authority to the Board before taking up any construction activities.
- j) The applicant shall seek extension through a letter 45 days in advance of the expiry of validity period of CFE/CFExpn order with proper reasons for seeking such extension if required.

II. WATER CONSUMPTION:

- 1. The project authorities shall use BWSSB tertiary treated water for construction works.
- 2. The water consumption shall not exceed 534 KLD. There shall not be drawal of ground water without obtaining permission from CGWA.

III. WATER POLLUTION CONTROL:

- 1. The quantity of sewage shall not exceed 482 KLD and shall be treated in the 2 Nos. of sewage treatment plant (STP) of capacity 210 KLD & 280 KLD with the treatment scheme as submitted in the STP proposal to meet the standards stipulated below before utilizing for Urban Reuse viz., landscape irrigation, vehicle washing, toilet flushing building construction use in fire protection and commercial air conditioners. STP shall be constructed on modular basis to cater to phase-wise development. The STP shall be installed above ground level & shall be easily accessible for the inspecting officer.

Note: The Applicant shall follow the existing STP standards in Table-I till 31.05.2019 and New STP standards in Table - II from 01.06.2019 as stipulated by the Board vide order No.PCB/744/COC/2018-19/2854 dated 30.08.2018.

Sl No	Parameter	Parameters Limit.
01	pH	6.5 - 9.0
02	BOD (mg/l)	Not more than 10
03	COD (mg/l)	Not more than 50
04	TSS (mg/l)	Not more than 20
05	NH4-N (mg/l)	Not more than 5
06	N-Total (mg/l)	Not more than 10
07	Fecal Coliform (MPN/100 ml)	Less than 100

Sl. No	Parameter	Parameters Limit
01.	pH	6.5 - 9.0
02.	BOD (mg/l)	Not more than 30
03.	TSS (mg/l)	Less than 100
04.	Fecal Coliform (MPN/100 ml).	Less than 1000

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2. If the treatment plant do not achieve the effluent standards stipulated under conditions (1) above or if it is found to be inadequate, then the applicant shall have to modify the units so as to meet the standards with prior consent of the Board.
3. All the treatment units shall be made impervious and there shall not be any discharge of sewage outside the premises.
4. The applicant shall provide separate energy meter to liquid waste treatment plant & STP and also shall provide flow meters. A log book of readings shall be maintained.
5. The applicant should make provisions for dual piping system to use the treated sewage water for toilet flushing, gardening and other purposes.
6. The applicant shall dispose excess treated sewage i.e. left after using for secondary purposes, to authorized BWSSB transporters for discharge into nearby BWSSB STP. The applicant shall maintain log book and vehicle details in this regard and submit daily disposed details every month to the Regional Office without fail.
7. The project proponent shall apply & obtain the NOC from BWSSB immediately.

IV. AIR POLLUTION CONTROL:

1. The applicant during construction shall ensure that the Ambient Air Quality in its premises shall conform to the National Ambient Air Quality Standards specified in Environment (Protection) Rules.
2. The applicant shall provide acoustic measures to the DG Sets as per Sl. No. 94 in Schedule-I of Environment (Protection) Rules.
3. The applicant shall provide dust suppression systems with water sprinkling system during construction period.

V. NOISE POLLUTION CONTROL:

1. The applicant shall ensure that the ambient noise levels and ambient air quality within its premises during construction and after construction shall not exceed the limits specified in the Environment (Protection) Rules, i.e. 55 dB(A) Leq during day time and 45 dB(A) Leq during night time during and after construction.

VI. SOLID WASTE & HAZARDOUS WASTE DISPOSAL:

1. The applicant shall collect, treat and dispose off all solid waste generated during construction i.e. Muck, and Garbage after construction if any in such manner so as not to cause environmental pollution.
2. The applicant shall apply and obtain authorization for management & handling of waste oil under Hazardous & other Waste (Management & Transboundary Movement) Rules, 2016.

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3. The applicant shall earmark sufficient place for segregation and processing and convert the bio-degradable solid waste generated from unit into compost within their premises with scientific method.
4. The applicant shall strictly follow the Government Notification No. FEE 17 EPC 2012 Bangalore dated 11.03.2016 with regard to plastics ban.
5. The applicant shall strictly follow Construction & Demolition Waste Management Rules, 2016. The applicant shall comply with the following conditions stipulated by MoEF & CC, Govt Notification No. G.S.R. 94 (E) dated 25.01.2018.
- (a) No building or infrastructure project requiring Environmental Clearance shall be implemented without approved Environmental Management plan inclusive of dust mitigation measures.
- (b) Roads leading to or at construction sites must be paved & blacktopped (ie., metallic roads).
- (c) No excavation of soil shall be carried out without adequate dust mitigation measures in place.
- (d) No loose soil or sand or Construction & Demolition waste or any other construction material that causes dust shall be left uncovered.
- (e) Wind – breaker of appropriate height i.e., 1/3rd of the building height & maximum up to 10m shall be provided.
- (f) Water sprinkling system shall be put in place.
- (g) Dust mitigation measures shall be displayed prominently at the construction site for easy public viewing.
- (h) Grinding & cutting of building materials in open area shall be prohibited.
- (i) Construction material & waste should be stored only within earmarked area & road side storage of construction material & waste shall be prohibited.
- (j) No uncovered vehicles carrying construction material & waste shall be permitted.
- (k) Construction & Demolition waste processing & disposal site shall be identified & required dust mitigation measures be notified at the site.

VII. HEALTH & SAFETY:

1. The applicant shall provide all necessary healthcare facilities to workers and shall carry out routine health survey among workers..
2. The applicant shall provide all safety measures including personal protective equipments to workers during construction.

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VIII. GENERAL :

1. The applicant shall maintain natural nallah & other such feature as in Revenue Survey map & adopting regulations of the concerned Planning authorities.
2. The applicant must create structure/storage facility for rain water harvesting and ground water recharge.
3. The applicant should make provisions for dual piping system to use the treated sewage water for toilet flushing, gardening and other purposes.
4. The applicant shall arrange for alternate power supply in the form of D.G.Set to run and operate the essential units of sewage treatment plant, in event of brake down of regular supply from Electricity Board.
5. The applicant shall implement the Environmental Management Plan during construction and after construction as given under EMP report.
6. The applicant shall not change or alter (a) No. of flats (b) building plan (c) the quality, quantity or rate of discharge/ emissions and (d) install/replace/alter the water or air pollution control measures without the prior approval of the Board.
7. The applicant shall immediately report to the Board of any accident or unforeseen act or event resulting in release of discharge of effluents or emissions or solid wastes etc., in excess of the standards stipulated, and the applicant shall immediately take appropriate corrective and preventive actions under intimation.
8. Exact date of commissioning of the sewage treatment plant shall be informed to this Board 45 days in advance so as to make necessary inspection of the plant and the pollution control measures provided by the applicant.
9. The applicant shall appoint a qualified Environmental Engineer/ Scientist for the Management of Environmental aspects and also establish Environmental Cell to oversee the operation of STP.
10. The Board reserves the right to review, impose additional condition or conditions, revoke, change or alter the terms and conditions.
11. This CFE does not give any right to the Party/Project Authority to forego any legal requirement, which is necessary for setting/operation of the project.
12. The application shall adopt Eco-sanitation system in the project.
13. The applicant is liable to reinstate or restore, damaged or destroyed elements of environment at his cost, failing which, the applicant/occupier as the case may be shall be liable to pay the entire cost of remediation or restoration and pay in advance an amount equal to the cost estimated by Competent Agency or Committee.

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- 15. The project authorities shall dispose scientifically Bio-Medical waste and electronic waste to authorized common disposal facility and authorized recyclers respectively by entering into agreement as per new Bio Medical Waste Management Rules, 2016 and E- Waste (Management) Rules, 2016.
- 16. The project authorities shall adopt green building concept.
- 17. The project authorities shall establish Environmental Cell during operation phase to comprehensively manage environment related issues.
- 18. Suitable local tree species shall be selected for greenery and minimum three rows of plant saplings shall be planted all-along the periphery of the site.
- 19. The applicant shall take all necessary steps not to cover the storm water drains within the vicinity of the project site & are desilted & kept clean at all times.
- 20. No sewage, solid waste and C & D waste should be put in the storm water drains and these drain should be encroachment free.
- 21. The CFE is issued as per the recommendation of consent committee meeting held on 15.09.2018 & duly approved by Member Secretary & Chairman.

Please note that separate consents of the Board for discharge of liquid effluent and the emissions to the air shall have to be obtained by remitting prescribed consent fee. The application for consent has to be made 45 days in advance to the completion of construction work of project. Issue of consent will be considered only after completion of Water pollution control measures, solid waste management facilities and installing air pollution control measures.

The receipt of this letter may please be acknowledged.

For and on behalf of
Karnataka State Pollution Control Board

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SENIOR ENVIRONMENTAL OFFICER

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
IN
APPEAL NO. 54 OF 2018**

IN THE MATTER OF:

H.P. RAJANNA ...APPELLANT
VERSUS
UNION OF INDIA AND ORS. ...RESPONDENTS

**OBJECTIONS TO THE REPORT DATED 29.06.2020 FILED THROUGH KSPCB
(RESPONDENT No.6)**

MOST RESPECTFULLY SHOWETH:

PREFACE:

1. That in a recent judgment in **Vinayak House Building Co-operative Society Ltd. v. The State of Karnataka and Ors.** reported in **2019 SCC OnLine SC 1092**, edifying observation by Hon'ble Supreme Court that Bangalore was once a glorious city with beautiful lakes and open spaces. However, dying lakes, rampant and uncontrolled development had dealt a death blow to the local environment. Paragraph 1 of the aforesaid judgment is reproduced below-

"1. Bangalore was a beautiful city - once" said Justice O. Chinnappa Reddy, in one of his judgments of the year 1987 (B.K. Srinivasan v. State of Karnataka). He went on to say "It was a city with magic and charm, with elegant avenues, gorgeous flowers, lovely gardens and plentiful spaces. Not now. That was before the invasion of concrete and steel, of soot and smoke, of high rise and the fast buck. Gone are the flowers, gone are the trees, gone are the avenues, gone are the spaces....." Indeed, Bangalore was a beautiful city. It had luscious gardens, beautiful lakes, well-laid roads, plenty of open spaces and wonderful weather throughout the year. It was one of the most beautiful cities in the country. It was rightly called the "Garden City" and a "Pensioner's Paradise". These are things of the past. The city's environment is degraded so much and so fast that the time will not be far away for us to say "once upon a time Bangalore was a beautiful city." Traffic jams, over-crowding, haphazard constructions, dying lakes, destruction of the flora, shrinking of lung spaces etc. have become the order

of the day. Its clear cool foggy air has turned into grey smoke and brown dust. All this has happened in the name of development. Of course, the development in today's time comes at a cost that the city of Bangalore has very dearly paid. What is lost has already been lost and no amount of work or effort can bring back the glorious garden days of Bangalore. The only thing that can be done and must be done is to at least wake up now, meticulously plan and develop the city in order to maintain whatever little is left of the old Bangalore city and develop the ever-growing city on the broad lines of the glorious days of the past."

2. With this blue-print the present case may be examined. Construction of the project is in two phases, namely, phase-1 and phase-2. Phase 1 constructions commenced during the pendency of the present appeal, presently it is at the stage of basement floor. Phase 2 construction has not started. Illegal constructions continued even after revocation of the EC. It is needless to add that, even phase 1 construction was illegally done until October 2019 inasmuch as, consent to establish was granted only on 12.10.2019 i.e., *pendente lite* permission subject to the final outcome of the present case.
3. The present objections are being filed with respect to the Committee Report dated 29.06.2020 filed before the Hon'ble Supreme Court in CA No. 1713 of 2020 titled Wonder Projects Development Pvt. Ltd. & Anr. v. Union of India & Ors. The present objections are preliminary and the Applicants reserves his right to file detailed objections at a subsequent stage.
4. At the outset it is submitted that, without prejudice, the report in question cannot be construed by no stretch of imagination as complete answer for determining the statutory appeal and/or reason to contend that project can be permitted, inasmuch as, *inter alia* the said report was not called qua issues raised in the statutory appeal/present case and hence it apparently does not cover the grounds of attack raised to the impugned EC. But, is only limited to one of the issue, namely, buffer zone. Furthermore, the report was called for in the original application 602 of 2019.

Admittedly, OA 602 of 2019 specifically raised 10 substantial questions of law *vide* paragraph 4 (page 26-27) and sought for 10 prayers (page 72-73). Admittedly, the report did not cover all the issues in the said OA as well.

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The said three cases were contemporaneously heard and disposed of by separate orders. The following tabular column is for the convenience of this Hon'ble Tribunal-

CASE NO.	CAUSE OF ACTION/ ISSUE INVOLVED	FINDINGS OF THIS HON'BLE TRIBUNAL
Appeal No. 54/2018	Statutory Appeal filed under Section 16 of the NGT Act, 2010 against the EC granted to the Appellant.	EC is quashed. Appeal disposed of.
OA 602/2019	Application under Section 14 and 15 filed qua issues raised in paragraph 4 therein including breach of EC conditions and CFE conditions	held that in light of the fact that the EC was quashed, no further order is necessary. OA disposed of.
OA 281/2019	An overarching original application under Section 14 and 15 seeking restoration and revival of the Kaikondarahalli lake specifically in light of encroachments along the three sides of buffer zone of the lake, namely, southern side, eastern side and western side.	An joint inspection report was signed and submitted by the MoEF, CPCB, KSPCB, BBMP and BDA wherein a tabulation of all illegal constructions are listed. One such construction was noted to be the impugned project in the present case. OA disposed of.

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VITIATING FACTORS IN REGARD TO THE REPORT IN QUESTION

5. The report in question suffers from the infirmity of serious errors of facts and law and is therefore required to be discarded in toto. **The conclusions at clause 14 of the report** in question including "amendment" to EC, CFE/CTE and NOC from BWSSB, Development plan (DP) from BDA and five other statutory permissions is legally unsustainable inasmuch as admittedly it is in breach of the dictum of the judgment of this Hon'ble Tribunal in the matter of: (a) *Anil Tharthare v The Secretary, Env't. Dept. Govt of Maharashtra & Ors* in Appeal No.122 of 2018 decided on 11.02.2019; (b) paragraph 19 (4) to (11), 23, 25, 26 in the matter of *Court on its own motion v State of Karnataka with D. Kupendra Reddy v State of Karnataka* in OA 125 of 2017 with OA 217 of 2017¹ vide order dated 06.12.2018², 18.012.2019; (c) paragraph 15 in *Divya Granites v Karnataka State Pollution Control Board*, 2013 SCC online NGT 49; (d) paragraph 67 in *A.P. Pollution Control Board v Prof. M.V. Nayudu*, (2001) 2 SCC 62 and (e) paragraph 50 in *Anirudh Kumar v MCD*, (2015) 7 SCC 779. Besides this, it is apparent misrepresentation of the provisions of zoning regulations-RMP-2015 that is applicable to the impugned project.
6. Furthermore, *ex-post facto* permissions including EC or retrospective EC is alien to environmental jurisprudence and it is legally unsustainable. [paragraph 22 and 23 in *Alembic Pharmaceuticals Ltd. vs Rohit Prajapati & Ors.*, Civil Appeal No. 1526 of 2016 decided on 01.04.2020].
7. Factual findings arrived at is on account of patent non-application of mind, suffers from the vice of arbitrariness, irrationality, actuated by malafides, hit by legal malice, non-consideration of vital issues and contrary to material on record. That is morefully elucidated hereinbelow. However, the report is a simulation of giving an impression of factual findings and a smoke screen behind which lurks large scale illegalities. A

¹ Para 18: Bellandur, Varthur and 96 cascading interlinked lakes within catchment area of 279 sq Km

² Appeal against the order is dismissed by Apex Court in Dairy No.16081 of 2018 vide order dated 22.11.2019 *The State of Karnataka v D. Kupendra Reddy and Ors Etc.*

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close reading reveals that the factual findings therein are mutually destructive and inconsistent within the report itself.

8. **Findings at clause 5 read with clause 7.1, serial number (B):** in regard to the existence of primary nala, it is stated that it is not applicable, in other words, that there is no existing primary nala. This is patently false and is a deliberate misrepresentation of material fact inasmuch as, it is the admitted case of project proponent that there is a primary nala and that they have allegedly complied with the applicable buffer zone distance for primary nala; information provided in statutory Form 1 before SEAC for getting EC; conceptual plan/map submitted before SEAC (Annexure A-3, page 57 of Appeal); EC itself is granted on the basis that there is primary nala and imposed conditions of buffer zone distance applicable for primary nala. So also, KSPCB in consent to establish (CFE) the project has imposed 50 meters buffer distance and considered as primary nala/rajalaluve as can be seen at clause 12.0 of the report in question. Paradoxically, information in Form 1, impugned EC and the findings in the report, both cannot be correct at the same time and it is mutually destructive of each other. *Inter alia* this aspect goes to the root of the matter regarding non-application of mind by SEAC for granting the impugned EC on the one hand as well as preparation of Report in question by SEIAA and joint committee.

A true copy of the village map/revenue map indicating the project lands, lake and rajakaluves/ is annexed herewith as **ANEXURE A-1.**

A true copy of the another map/conceptual plan produced before SEAC for getting EC is annexed herewith as **ANEXURE A-2.**

9. Comparison between two reports of statutory regulator, that is, report in OA 281 of 2019 and OA 602 of 2019 is in apparent conflict with each other qua the impugned project. It is a classic case of issuing the report in question to favour the project

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proponent for extraneous reasons and considerations. Thus, the Appellant beseeches this Hon'ble Tribunal for initiating inquiry and action for offense of perjury in consonance with the decision of this Hon'ble Tribunal in the matter of *Kashinath Jairam Shetye and Ors. Vs. Jaiprakash A. Shirsaiakar and Ors.* reported in MANU/GT/0040/2017. ✓

10. A bare perusal of both the reports indicate that authorities and few officers common to both reports have signed both reports with conflicting findings is legally impermissible and is actuated by malafides, legal malice and have played fraud on this Hon'ble Tribunal as well as the Hon'ble Supreme Court. It is trite law that misrepresentation itself is fraud, mis-statement amounts to fraud, fraud unravels everything, plea of fraud can be raised in any proceedings, before any Court/Tribunal and label of the petition is immaterial. The clear statement of law in the seven judge constitution bench judgment in the matter of *A.R Antulay v. R.S.Nayak and Ors, (1998) 2 SCC 602* that *one wrong cannot be remedied by another wrong.*

11. The report is not legally sustainable when tested on the touchstone of doctrine of sustainable development, precautionary principle and polluter pays principle. To wit, the impugned project is not in consonance with doctrine of sustainable development for the following reasons:

i. permitting the project will result in complete removal of immediate catchment area of the kaikondarahalli lake.

ii. **Findings at Clause 14 (f) of the report** has directed the authorities concerned to: *"Also to identify the missing links in the lake catchment and to have terminal sewage treatment plant to treat the entire sewage generated from Kalkondarahalli catchment."*

iii. **Findings at Clause 2.1 of the report** that *"The manhole chambers provided in the diversion line i.e., from southern to eastern side was found overflowing and untreated sewage is entering to the lake."* is admitted case of breach of precautionary principle and polluter pays principles under the nose of the

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authorities and the inaction by regulatory authority amounts to punishable offence and breach of directions in order dated 06.12.2018 in OA 125 of 2017 *supra* [Bellandur lake case].

iv. Admittedly, permissions for the impugned project stipulate constructions on the prohibited buffer zone of the Kaikondarahalli lake and nalas. The project proponent have encroached upon the rajakaluves and are cementing it in violation of the prohibitory order of this Hon'ble Tribunal stated *supra*, thus, adversely obstructing/impeding the natural flow of water from the upstream Kasavanahalli lake to downstream Kaikondarahalli lake. Needless to add that it is an established case of breach of Section 24 of Water Act, 1974 and is therefore a punishable offence.

v. Further, the construction of the impugned project at the edge of the Kaikondarahalli lake makes it susceptible for sewage and solid waste from the residential projects to enter the waterbody and pollute it. Admittedly, the area in question is without any underground drainage system. It is visible to the naked eye that polluted sewage from construction projects are pumped into the lake, resultantly, adversely polluting the health of the lake as well as the habitat, ecology, bio-diversity and ecosystem.

vi. Under Section 20 of the NGT Act, 2010 there is a legal obligation to ensure that the project in question is in consonance with the principle of Sustainable Development. The Hon'ble Supreme Court has in the matter of **Techi Tagi Tara v. Rajendra Singh Bhandari** reported in **(2018) 11 SCC 734** emphasised on the importance of adherence to principles of sustainable development. Relevant extracts of the said Judgment have been reproduced below-

"2. Why is it important to be more than careful in making such appointments? There can be no doubt that the protection and preservation of the environment is extremely vital for all of us and unless this responsibility is taken very seriously, particularly by the State Governments and the SPCBs, we are inviting trouble that will have

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*adverse consequences for future generations. **Issues of sustainable development, public trust and intergenerational equity are not mere catchwords, but are concepts of great importance in environmental jurisprudence.** Perhaps appreciating and anticipating this, Article 48-A was introduced in the Constitution and this Article reads as follows:*

48-A. Protection and improvement of environment and safeguarding of forests and wildlife.—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.”

(Emphasis Supplied)

- vii. The project will result in adverse impact on the bird habitat and nocturnal birds on the wetland/Kaikondarahalli lake because of the noise emanating from the project with population load of 4014 persons. This Hon'ble Court has in the matter of **Centre for Environmental Law, World Wide Fund-India v. Union of India** reported in **(2013) 8 SCC 234** clarified the approach required to be taken while adjudicating upon such issues. Relevant extracts of the said Judgement have been reproduced below-

*"46. Sustainable development, it has been argued by various eminent environmentalists, clearly postulates an anthropocentric bias, least concerned with the rights of other species which live on this earth. Anthropocentrism is always human interest focused thinking that non-human has only instrumental value to humans, in other words, humans take precedence and human responsibilities to non-human are based on benefits to humans. Ecocentrism is nature-centered, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. **Ecocentrism is, therefore, life-centered, nature-centered where nature includes both humans and non-humans.***

47. We reiterate that while examining the necessity of a second home for the Asiatic lions, our approach should be ecocentric and not anthropocentric and we must apply the "species best interest standard", that is the best interest of the Asiatic lions. We must focus our attention to safeguard the interest of species, as species has equal rights to exist on this earth."

(Emphasis Supplied)

12. Findings at clause 7.2 read with 5.0 is patent misrepresentation of fact and law, in that, these findings are in apparent conflict with the conceptual plan submitted before SEAC, other statutory approvals (albeit invalid) viz., development plan (DP)

issued by BDA (map produced by respondent no.11). Obviously, the report has not taken into consideration relevant factors and instead have arbitrarily held as "permitted activity". A bare perusal of constructions stipulated in the lake buffer zone is indubitably a "no development zone" meaning thereby, compacting and concretization is also not permitted as can be discerned from zoning regulations/regulation no.4.12.2 (ii) (iii). So also, the buffer zones of the nala that is inter-connecting the two lakes that obstructs the water course, run offs and channels.

13. In view of the established breach and non-compliance with zoning regulations (RMP 2015) namely, 4.12.2 (ii) read with 3.12 results in breach of Section 505 (ii) of Karnataka Municipal Corporations Act, 1976 (KMC Act). Therefore, there is statutory embargo upon BBMP and does not have jurisdiction to issue any sanctions, permissions, approvals or permit any construction project. All actions, approvals, permissions if any in breach of Section 505 (ii) of KMC Act is void and without jurisdiction. [para 9 and 23 in *S.K. Sharma vs Corporation of City of Bangalore*, ILR 1986 KAR 2536 (division bench judgment); para 11 and 16 in *Godrej K Divecha and Ors v Corporation of the City of Bangalore and others*, ILR 1997 KAR 7]. This can be buttressed by relying upon para 25 of BBMP reply (page 393 to 395).

14. **Observations in Clause 3.0 of the report** indicates that seven (7) statutory sanctions at (serial no. 1 to 7) are per se illegally issued without environment impact assessment for the project and even prior to the impugned EC on 10.01.2018. Thus, the said seven sanctions are illegal and in breach of provisions of EP Act, 1986. Therefore, even on this score the project is legally impermissible, legally speaking, the seven sanctions are illegal and nullity. [paragraph 15 in *Divya Granites v Karnataka State Pollution Control Board*, 2013 SCC online NGT 49; paragraph 67 in *A.P. Pollution Control Board v Prof. M.V. Nayudu*, (2001) 2 SCC 62 and paragraph 50 in *Anirudh Kumar v MCD*, (2015) 7 SCC 779]. It is trite that when statute prescribes a thing to be done in a particular manner then it must be done in that manner alone and other modes of performance is necessarily forbidden.



15. The report has disregarded the law on the point with respect to the prescribed procedure and order of obtaining the statutory sanctions for the impugned project. It is noteworthy that, statutory approvals/permissions required for the high-rise project in question is in two stages, namely, (i) pre-construction stage and (ii) during and after completion of construction stage. The pre-constructions stage of statutory approvals are as follows and in the following order:

SL No	Nature of Statutory Permission	Statutory Authority
1	Environmental Clearance (EC)	SEIAA
2	Consent to establish the project (CFE)	KSPCB
3	Conversion of land (from Agricultural to non-agricultural residential purpose)	Deputy Commissioner
4	Change of land use (CLU) (from industrial Hi-Tech to residential)	Bangalore Metropolitan Committee
5	Development Plan (DP)	BDA
6	No-objection certificates (NOC)	Fire services department, BWSSB, BESCOM, Airport Authority of India (for height clearance), BSNL
7	By enclosing all the statutory permissions listed at item 1 to 6, to apply and obtain building plan and building license from the BBMP	BBMP
8	By enclosing all the applicable statutory approvals listed above at item 1 to 7 and thereafter apply for registration under	Karnataka RERA

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	RERA.	
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As regards, *during and post-construction stage* of the project the following statutory permissions are required and in the following order:

SL No	Nature of Statutory Permission	Statutory Authority
1	After raising footings and columns, to obtain permission for execution of building works from Commissioner of BBMP (commencement certificate)	BBMP
2	After completion of construction to obtain no-objection completion certificate/NOC	Fire Services Department
3	Occupancy Certificate	BBMP
4	Consent to operate the project (CFO)	KSPCB

16. In view of the foregoing and the manner in which statutory permissions are obtained for the project as can be seen from the material on record it is clear that there is large scale illegality. The report has obviously disregarded binding directions under Section 5 of EP Act, 1986. To wit, Government of Karnataka has issued gazette government notification dated 19.01.2016 that clearly indicates binding directions were issued under Section 5 of the Environment Protection Act, 1986 to Commissioner of BBMP and Commissioner of BDA at Table-2 therein, to the effect that, both building plan and license as well as development plan (DP) shall not be issued in the absence of consent to establish the project (CFE) from KSPCB. The permissions of the project is in flagrant breach of the said government notification also.

17. Without prejudice, **Observations in Clause 4.0 of the report** is legally unsustainable and is in breach of mandate under Constitution (74th Amendment) Act,

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1992 and Section 503A, 503B and 503C of KMC Act. In this regard, the issuance of change of land use is nullity, without jurisdiction and *non-est* because permissions are contrary to the categorical statement in the judgment of the Hon'ble High Court of Karnataka *vide* paragraph 4 in Writ Petition No. 15806 of 2007 (BDA), decided on 05.01.2016 in the matter of *A.Feroz Ahmed and others v The Bangalore Development Authority and others*. ✓

A true copy of the Writ Petition No. 15806 of 2007 (BDA), decided on 05.01.2016 in the matter of *A.Feroz Ahmed and others v The Bangalore Development Authority and others* is annexed herewith as **ANEXURE A-3**.

18. The report is in complete conflict with the detailed pleadings of the BBMP and has failed to address the objections raised therein.

19. Admittedly, there is apparent non-consideration of the vitiating factors and issues qua the impugned EC that is specifically raised by the Appellant in additional affidavit filed *vide* IA No. 352 of 2019 (filed on 19.11.2019, page 712 to 729) as well as IA filed on 25.05.2019, page 116 to 156).

20. **Observations in Clause 8.0 of the report** is in utter violation of the prohibitory orders dated 06.12.2018 *supra* in OA 125 of 2017 *vide* paragraph 19 thereof. Besides this, it is an offence under Section 24 of the Water Act, 1974, in that, obstructing/impeding the natural flow of water between the interconnecting lakes. Thus it is trite that all actions, permissions if any in the teeth of the directions/restraint order of this Hon'ble Tribunal, it is illegal, nullity, non-est. Subsequent action is nullity. [*Manohar Lal v. Ugrasen*, (2010) 11 SCC 557].

21. **Observations in Clause 9.0 of the report** is contrary to the judgment of the Apex Court at paragraph 3 in *M.K. Balakrishna and Ors v. Union of India and Ors*, (2009) 5 SCC 507. Wherein it is held that:

"3. conservation of wet lands in our opinion include ponds, tanks, canals, creeks, water channels, reservoirs, river, streams and lakes. Although, the writ petition as framed related to protection of wetlands in the country for preservation of the environment and maintaining the ecology, we have *suo moto* expanded its scope as mentioned below"

(emphasis supplied)

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Therefore, indubitably there are nalas/streams, water channels crossing through the project lands and thus project lands have attributes of wetlands albeit not notified wetlands. This can be viewed from another angle, in that, if only notified wetlands are to be construed as wetlands, then going by that yardstick, even lakes that not notified for example bellandur and varthur lake cannot be termed as wetlands is erroneous and unsustainable.

Kaikondarahalli lake is inventorised in the national wetland atlas as established in Appellant's IA for additional documents filed on 25.05.2019 (page 144 to 146).

22. **Observations in Clause 10.0 of the report** is contrary to the joint committee report submitted in OA 281 of 2019 wherein it is observed that the area around the lake is *ecologically sensitive* having regard to all relevant factors and local environment. (page 135 of the said IA filed on 25.5.2019 in the present case). Clearly, the report in question has not considered these vital aspects.
23. **Observations in Clause 11.0 of the report** is erroneous in law and is error in law inasmuch as, it suffers from the infirmity of various grounds of attack raised in the Appeal. Moreover, EC is nullity in law inasmuch as, on **04.05.2016** Full bench of this Hon'ble Tribunal issued three types of directions, namely, (i) General Conditions or directions, (ii) Specific Conditions/Directions for Respondent 9 and (iii) General Directions applicable in respect of all waterbodies/lakes of Bengaluru and for all public authorities. Under General Conditions or directions, *vide* direction No.1 therein the buffer zones demarcated in the Revised Master Plan, 2015 mentioned above, were subsequently expanded and placed restrictions on sanctioning any construction projects within the prescribed buffer zone distances by the Ld. NGT in the matter of **Forward Foundation v. State of Karnataka and Ors.** reported in **2016 SCC OnLine NGT 1409** to the following extent:

"(i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.

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(ii) 50m from the edge of the primary Rajkulewas.

(iii) 35m from the edges in the case of secondary Rajkulewas

(iv) 25m from the edges in the case of tertiary Rajkulewas

This buffer/green zone would be treated as no development zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

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All authorities particularly Lake development Authority shall carry out this operation in respect of all the waterbodies/lakes of Bangalore"

As regards the third category of directions, namely, General Directions, whereunder, vide direction no.3, it is stated that within the aforesaid prescribed buffer zone distances all public authorities in the city of Bengaluru in respect of all lakes/wetlands were restrained from issuing any permissions required for sanctioning construction projects including environment clearance. The said direction is reproduced below:

"General Directions:

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3. The distances in respect of buffer zones specified in this judgment shall be made applicable to all the projects and all the Authorities concerned are directed to incorporate such conditions in the projects to whom Environmental Clearance and other permissions are now granted not only around Belandur Lake, Rajkulewas, Agara Lake, but also all other Lakes/wetlands in the city of Bengaluru."

24. The constructions undertaken are within the prohibited buffer zone of the Kaikondarahalli lake and the rajakaluves passing through the project lands. This is apparent from a bare perusal of the Development Plan (DP) issued by the BDA which shows the following-

(a) The Project Proponent has sought to create a ramp and a driveway in the buffer zone of the Kaikondarahalli Lake.

(b) The Project Proponent has sought to construct a 12m drive way in the buffer zone of the Primary Rajakaluve.

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(c) The Project Proponent has sought to construct a 12 metres wide drive way and installation of gas bank/infrastructure for LPG piped line in the Secondary Rajakaluve passing through Survey No. 57

(d) The Project Proponent has sought to construct an 8 metre wide Fire Driveway, an Organic Waste Converter and a gas bank/infrastructure for the LPG piped gas line in the buffer zone of the Secondary Rajakaluve passing through Survey No.61/1.

(e) Compacting and concretisation thorough out the buffer zones of lake and nalas.

Therefore, this Hon'ble Tribunal in the matter of **Forward Foundation v. State of Karnataka and Ors. (Original Application No. 222 of 2014)** on 04.05.2016 *inter alia* enhanced the buffer zone of the water bodies as given in the Revised Master Plan, 2015. Admittedly, the permissions issued for the project is in breach of the directions/restraint order Ld Tribunal and is therefore nullity.

It was only on 05.03.2019 that this Hon'ble Court in the matter of **Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.** reported in **2019 SCC OnLine SC 322** restored the buffer zones in terms of the revised master plan, 2015. It is noteworthy that the restoration of buffer zone distances stated hereinabove was not by any application of law or legal reasoning but purely on the basis of a concession by the counsel for the original applicant.

The Appellant cannot take benefit of the reduced buffer zone distances at this stage. Apropos this, the Hon'ble Supreme Court has in the matter of **Goan Real Estate & Construction Ltd. v. Union of India** reported in **(2010) 5 SCC 388** held that the rights of the parties get crystallized by the law stated by this Hon. Tribunal till it is set-aside by the Hon'ble Apex Court. Therefore, notwithstanding the fact that only paragraph 1 of general directions/part of the

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judgment/directions is set-aside by the Hon'ble Apex Court, all actions, on-going constructions, completed constructions, statutory permissions obtained as per the prevailing law/directions of the Ld Tribunal at the material time would not be affected in any manner whatsoever. Also, that subsequent judgment shall operate prospectively and any developmental activity or permissions obtained from the concerned authorities initiated before it shall not be hit by the said judgment.

In light of the said ratio, the impugned project is bound by the expanded buffer zones stipulated by this Hon'ble Tribunal in the *Forward Foundation* case.

25. It is noteworthy to state that, in the teeth of the aforesaid directions and in violation thereof, environment clearance and other mandatorily required statutory approvals for the impugned project are issued by public authorities. Thus, all actions and approvals in breach of directions/restraint order of Ld Tribunal is illegal, non-est and nullity in law and cannot be sanctified by any subsequent development when the initial action is illegal. [**Manohar Lal vs Ugrasen and Ors**, reported in (2010) 11 SCC 557, **Kolkata Metropolitan Authority v. Pradip Kumar Ghosh and Ors** reported in (2018) 13 SCC 623 and **Ritesh Tewari and another vs State of U.P and Others**, reported in (2010) 10 SCC 677].

26. That the impugned project *inter-alia* suffers from various illegalities. The summary of the same is provided below:

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- a. *The EC and other statutory sanctions are nullity because they are issued in the teeth of the directions of this Hon. Tribunal in order dated 04.05.2016 in OA 222 of 2014 in Forward Foundations vs State of Karnataka and Ors.*
- b. *The development plan, construction permission if any are void ab initio as they are in breach of the binding directions under Section 5 of the Environment Protection Act, 1986 issued by the State Govt. on 19.01.2016. The said Notification specifically restrained the Commissioner of BBMP and BDA not to issue the said permissions in the absence of the consent to establish the project (CFE) required under the Water Act, 1974, at the material time of issuing the permissions.*
- c. *Development plan (DP) issued by the BDA is void inasmuch as it is admittedly approved vide resolution dated 09.12.2017, that is, in the absence of the environment impact assessment for the project that is mandatorily required under the EIA Notification of 2006.*
- d. *EC is vitiated inasmuch as it suffers from serious errors of fact and law. It is a clear case of non-application of mind by the SEIAA and impugned EC is issued mechanically.*
- e. *The Appellant has deliberately concealed material information regarding crucial aspect of "environmental sensitivity" in statutory Form IA submitted to the SEIAA.*
 - A. *Concealment of information regarding the presence of ecologically sensitive acacia forest.*
 - B. *Non-disclosure about water bodies and forests within 15kms of aerial distance from the project site.*

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- f. *The BBMP has filed detailed reply on 05.09.2018 by categorically establishing that entire project is illegal and it is legally impermissible.*
- g. *The project proponent have substantially altered the scope and configuration of the impugned project, in violation of the general conditions of the EC. In that, the EC was granted for 1,28,193. 9 sq meters, whereas, increase is upto 1,71,755.37 sq. mtr and then 2,35,076.81 sq meters.*
- h. *The project proponent have commenced construction of the impugned project without obtaining mandatory prior consent under Section 25 of the Water Act, 1974.*
- i. *The impugned project is illegal and unauthorised in light of the fact that project is permitted on the prohibited buffer zone of the Kaikondarahalli lake and natural water streams/ rajakaluves.*
- j. *The construction undertaken is not in consonance with the Wetland Rules, 2017 and is in breach of Rule 4 of Wetland Rules, 2010.*
- k. *The impugned project is not in consonance with the principles of Sustainable Development.*
- l. *This Hon'ble Tribunal should not set aside an order if its effect is to revive another illegal order as per the principle of reviving illegality.*

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- m. *The construction undertaken is not in consonance with the Wetland Rules, 2017 and is in breach of Rule 4 of Wetland Rules, 2010.*
- n. *The impugned project is not in consonance with the principles of Sustainable Development.*
- o. *The Civil Appeal is not maintainable under Section 22 of the NGT Act, 2010.*
- p. *The Ld. Tribunal has quashed the EC granted to the Appellant after duly considering the response of all state authorities.*
- q. *The inspection undertaken by the Expert Committee constituted by the Ld. NGT in OA 602 of 2019 was ultravires and devoid of authority.*
- r. *This Hon'ble Tribunal should not set aside an order/revive EC if its effect is to revive another illegal order as per the principle of reviving illegality.*

27. Observations in Clause 12.0 of the report: Admittedly, as can be seen from the record of the case along with photos and video recordings of constructions carried out even in the absence of consent to establish the project (CFE) till 12.10.2018. The *ex-post facto* permission issued is alien to environmental jurisprudence and it is legally unsustainable. [paragraph 22 and 23 in *Alembic Pharmaceuticals Ltd. vs Rohit Prajapati & Ors.*, Civil Appeal No. 1526 of 2016 decided on 01.04.2020]. Besides this, in any case, it was *pendente lite* permission subject to the final outcome of the present Appeal

28. The inspection undertaken by the Expert Committee constituted by the Ld. NGT in OA 602 of 2019 was *ultra vires* and devoid of authority.

In this regard Observations in Clause 6.0 of the report read with paragraph 5 of the affidavit supporting the report in question wherein paragraph 5 is reproduced as under:

"5. That the Joint Committee visited the Project site first time on 26.07.2019 for inspection. Thereafter it re-visited the Project sit second time on 30.12.2019 for re-

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inspection. A Third Final Inspection of the Project Site was undertaken by the Joint omitted on 05.02.2020."

That this Hon'ble Court has in the matter of **SBI v. S.N. Goyal** reported in **(2008) 8 SCC 92** held that the jurisdiction and authority of a court is terminated once the final judgement is pronounced, signed and dated.

That on 03.02.2020 the Ld. Tribunal had pronounced, signed and dated the final order by speaking order before all parties concerned. To this extent, the this Hon'ble Tribunal is deemed *functus officio*. Therefore, the Expert Committee constituted in OA 602 of 2019 which derives its authority from the directions of this Hon'ble Tribunal in OA 602 of 2019 is also deemed *functus officio*. By virtue of the this Hon'ble Tribunal being *functus officio*, the Committee as constituted by this Tribunal arising out OA 602 of 2019 that is/was admittedly not in challenge before this Hon'ble Supreme Court, lacks jurisdiction to carry out an inspection under the aegis of this Tribunal in OA 602 of 2019. The said inspection and any outcome therefrom is *ultra vires* for lack of authority and must therefore be invalidated.

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

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6. *Process of Service*

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THROUGH

Handwritten signature

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

**ADDITIONAL OBJECTIONS TO THE AFFIDAVIT DATED 7.07.2020 AND REPORT
DATED 29.06.2020 FILED THROUGH KSPCB (RESPONDENT No.6)**

MOST RESPECTFULLY SHOWETH:

1. That the applicant is filing this additional objection to the Affidavit dated 07.07.2020 and report dated 29.06.2020 filed through KSPCB, Respondent No. 6. Appellant's preliminary objection dated 19.08.2020 be read as part and parcel of this response.
2. That at the outset it is submitted that the report dated 29.06.2020 and the affidavit dated 07.07.2020 is devoid of any merit and based on incorrect facts and improper appreciation of law in force and is liable to be rejected.
3. That at para 6 of the affidavit dated 07.07.2020 has given the opinion of the joint committee. The opinion stated under para 6 is not based on correct finding which the applicant has already responded in the objection dated 19.08.2020 and is further responding herein in this additional objection. Further, the recommendations given under para 6 also cannot be accepted as same is based on incorrect finding by the committee.
4. **Objection to Clause 2.0 of the Report:**

Building plan for the construction of Block 1 (phase-1) dated 30.08.2018 is declared void:

- (i) That, clause 2.0 talks about the location of the project and states that project site is located adjacent to the Kaikondarahalli Lake. It is mentioned

that BBMP has sanctioned the building plan for the construction of Block 1 on 30.08.2018 and modified plan *inclusive* of Block 2 on 28.05.2019. It is submitted that this finding of the committee is factually erroneous and is contrary to the records inasmuch as it is incorrect to state that sanctioned plan dated 28.05.2019 for Block 2 is *inclusive* of Block 1. Admittedly, phase-1 building plan and license in LP No.203 of 2017-18 is approved on 20.08.2018 (issued on 30.08.2018) is declared **void** and this can be discerned from the license for phase-2 issued on 28.05.2019. Notably, this material fact is concealed and project proponent has also suppressed this fact. Be that as it may, in this context, it is incumbent upon BBMP to explain that once the plan for Block 1 is declared void, they ought not to have issued the building plan for Block 2 (phase-2). However the facts remain that there is no approved plan for Block 1 (phase-1) as of now. The copy of sanctioned building license dated 30.08.2018 (Phase-1) and 28.05.2019 (phase-2) alongwith true translated copy is produced as **Annexure A-1 (Colly)**.

Sanctioning of the Building Plan and the Building License by the BBMP and the Development Plan (DP) by the BDA is in utter violation of binding directions issued under Section 5 of the Environment Protection Act, 1986 vide Gazette Notification dated 19.01.2016.

- (ii) The building plan for the construction of Block 1 dated 30.08.2018 and for Block 2 on 28.05.2019 is issued in utter breach of the binding directions/prohibitory directions issued under Section 5 of the EP Act, 1986. Therefore, it is illegal, void, invalid, inoperative and without any legal sanctity.
- (iii) Prohibitory directions issued by the State of Karnataka under Section 5 of the Environment Protection Act, 1986 vide Gazette Notification No. FEE 316 EPC 2015, Bengaluru, dated 19.01.2016. Relevant extracts of the said Notification is reproduced below-

Sl. No.	Designation of the Authority issued with the direction under Section 5	Direction under Section 5 of the Environment (Protection) Act, 1986 of the Environment (Protection) Act, 1986
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1	2	3
1.	The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP), N.R. Square, Bengaluru- 560 002	Shall approve plan for construction of buildings and development of layout in respect of activities listed in Table 2 of this Notification <u>only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974</u> by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
2.	The Commissioner, Bangalore Development Authority (BDA), T.Chowdiah Road, Kumara Park West, Bengaluru- 560020.	Shall approve plan for construction of buildings and development of layout in respect of activities listed in Table 2 of this Notification <u>only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974</u> by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.

A true copy of the Gazette Notification No. FEE 316 EPC 2015, Bengaluru, dated 19.01.2016 issued by the State of Karnataka is part of the record as ANNEXURE A-17 to the Original Application No. 602 of 2019, however the same is again annexed as Annexure A-2.

(iv) Admittedly, the report is conspicuously silent on this vital issue. This deficiency in omission of the vital issue that goes to the root of the matter.

Thus, *inter alia*, the report is not sacrosanct.

(v) Apropos this, the following list of dates is relevant:

09.11.2017 vide Authority committee resolution No. 128 of 2017 the Bangalore Development Authority (BDA) approved the Development Plan (DP) for the project in question.

21.09.2016 to Statutory approvals/NOC's for the project from BDA, AAI, UDD,

22.12.2017 BSNL, Fire Services Department

10.01.2018 Environment clearance is issued by SEIAA.

29.03.2018 registration/permission by RERA for Phase-1

30.08.2018 The BBMP issued the Building Plan and Building License in favour of the Project Proponent despite the fact that at this stage no NON under Water Act was in existence.

12.10.2018 The Karnataka State Pollution Control Board issued Consent to Establish (CFE) in favour of the Project Proponent under Section 25 of Water Act, 1974.

(vi) This is further made clear from the stand taken by the BBMP in their detailed reply in the present case, relevant extract is as under:

"15. Moreover, it is mandatory to first obtain the consent to establish the project as it is clearly stated by the Hon'ble Supreme Court of India at Paragraph No.50 in the case of Anirudh Kumar vs Municipal Corporation of Delhi & Ors, 2015 (7) SCC 779.

Therefore, it was incumbent on the Project Proponents first to obtain the consent to establish the project and thereafter to proceed with further stages of obtaining the building plan and building license."

(vii) Admittedly, as on the date (30.08.2018) of illegal sanction of building plan and license, the consent for establishment (CFE) from KSPCB was lacking. Therefore, BBMP and BDA have with impunity violated the prohibitory directions issued under Section 5 of Environment (Protection) Act, 1986. Consequently, BBMP and BDA have committed an offence punishable under Section 15 and 17 of the Environment (Protection) Act, 1986. **The report is obviously silent on this aspect also.**

(viii) The BBMP sanctioned the building plan and subsequent stand before Hon'ble Tribunal by way of their detailed reply corrected that position. The Hon'ble Supreme Court categorically held in the matter of **M.I. Builders Pvt. Ltd. vs. Radhey Shyam Sahu and Ors, (1999) 6 SCC 464** that :

"66. Action of the Mahapalika in agreeing to the construction of underground shopping complex in contravention of the provisions of the Act and then entering into an agreement with the builder against settled norms was wholly illegal and has been held to be so by the High Court. No doubt Mahapalika is a continuing body and it will be estopped from changing its stand in the given case. But when Mahapalika finds that its action was contrary to the provisions of law by which it was constituted there could certainly be no impediment in its way to change its stand. There cannot be any estoppel operating against the Mahapalika. Principles laid in Union of India v. A/A. Indo-Afghan Agencies Ltd. [1968]2SCR366, and of Calcutta High Court in The Ganges

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Manufacturing Co. v. Sourujmull and Ors. (1880) ILR Cal 669, cannot apply to the facts of the present case.

supplied)

(emphasis

Incorrect finding about net site area

- (ix) That, Clause 2.0 of the report has further mentioned net site area as 50,382.95 m² after deducting the kharab land area. It is pertinent to point out that the committee failed to consider that as per the record there are 3 water streams/Rajakaluve passing through the project site. Further, the buffer zone area of the Kaikondarahalli lake also falls within the project site. The buffer zone of the drains and buffer zone of the lake cannot be used for any activity and is a "no development zone". The committee failed to deduct this area from the total site area of 51,698.16 m². Therefore, along with the kharab land, the committee should have deducted the buffer area of the drains and the buffer area of the lake being a no development zone. The fact that the 3 drains and a separate and distinct strip of public property/kharab lands is part of the project site that can be discerned from the conceptual plan¹/topo map submitted by the project proponent before SEIAA, which is already part of record as Annexure A-3 at page 57 of the Appeal.

5. Objection to Clause 3.0 of the Report:

- (i) That the applicant has suitably responded to this clause in para 14 of objections dated 19.08.2020, however, it is submitted that the permissions listed out by the joint committee at Serial no. 1 to 7 (at page 11 to 12 of the report) are illegal and void. The change in land use as mentioned by the committee is in violation of the mandate under the 74th amendment of the Constitution of India. Apropos this, the Hon'ble High Court of Karnataka in the matter of *A. Feroz Ahmed and Others v. The Bangalore Development Authority and Others* decided on 05.01.2016 has held that:

¹ Conceptual plan is a mandatory legal requirement to be submitted before SEIAA by the project proponent in accordance with paragraph 7 of EIA Notification of 2006

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"4. The petitioners therefore had raised a significant ground that it was the Bangalore Metropolitan Committee, which was competent to address the Development Plan, including the Master Plan of 2015, which contemplated change of land use from residential to commercial insofar as the Abshot layout is concerned. Hence, if the procedure followed in sanctioning the Master Plan and thereby the change of land use insofar as the Abshot Layout is concerned, is with reference to the provisions of the KTCP Act. And therefore, the basis that it is the Bangalore Development Authority which is the competent planning authority notwithstanding the amendment brought about creating the Metropolitan Planning Committee is concerned was wholly illegal and without jurisdiction."

5. It is also to be noticed that it is pursuant to the amendment application filed by the petitioners, that the BDA has also woken up to the situation. It is only thereafter that a Metropolitan Planning Committee has been constituted thereby acknowledging the fact that there was need for constitution of a Metropolitan Planning Committee subsequent to the amendment of the KMC Act. The implication of this state of affairs are far reaching. In that, all actions taken by the Planning Authority, the BDA, constituted under the KTCP Act, would be rendered without jurisdiction if strict application of the provisions are to be given effect to.

(emphasis supplied)

Admittedly, in the said case BDA, BBMP and State of Karnataka are parties therein. Hence, all actions taken for the project in question since inception including environment clearance is *ex-facie* illegal and nullity in law inasmuch as the substratum of change of land use of the project itself disappears. Consequently, by applying the clear statement of law declared by the Apex Court at paragraphs 32 to 34 in *Ritesh Tewari and Anr vs State of UP and Ors, (2010) 10 SCC 677*, the appeal deserves to be allowed as prayed for *in toto*. The excerpts of the judgment is reproduced in IA No.352 of 2019 (at page 723) and at page 393 of BBMP reply. The law declared in *Ritesh Tewari* shall be applied to ascertain that various permissions listed at page 11 to 12 of report are *prima facie* valid or not. It is respectfully submitted that, all the above said purported sanctions are irrefutably hit by the law declared in *Ritesh Tewari*.

- (ii) That further as stated above the sanctioned plan by BBMP has already been declared void for Block 1.

6. Objection to Clause 4.0 of the Report:

- (i) That the statement and finding of the committee with respect to change in land use has been suitably responded in para 17 of objection dated 19.08.2020 and also para hereinabove. However, it is submitted that the change of land use by BDA suffers from the legal infirmity of lack of competence and inherent lack of jurisdiction. Consequently, it is *non-est*.

7. Objection to Clause 5 of the Report regarding lack of existence of primary drain in project site:

- (i) That the finding of the committee that the drain flowing in Survey no. 63 to be considered as secondary drain is *ex-facie* perverse, illegal, arbitrary and beyond any authority and contrary to the material on record. Further, a letter dated 07.03.2020 by BBMP stating that the drain Survey No. 63 is to be considered a secondary drain is contrary to their own pleadings (supported by sworn affidavit) in the present case and against the weight record and is without any authority. Apropos this, it is noteworthy that, *firstly*, it is the admitted case of the project proponent in their pleadings/counter affidavit in the present case at page 168 that ***"whereas the correct fact is that there is only one Primary Rajkulewas flowing through portion of Sy No.63/2 and one secondary and two Tertiary Rajkulewas are flowing outside the Total Land."***

Secondly, it is stated that a primary drain is flowing through Survey no. 63 in statutory Form 1 at Serial no. 1.22 (page 65 of appeal). The conceptual plan/topo map at page 57 of the Appeal also records that there exist a primary nala passing through Survey No. 63 of the project site. Further, the topo map clearly shows the primary nala is marked separately and distinct from the kharab land/public property. Therefore, on the basis of the data and factual information all the statutory approvals including the development plan by the BDA also records that there is a primary nala and have accordingly applied the 50 meters buffer zone. The applicant has also

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filed village map along with the objection dated 19.08.2020 which is marked as Annexure A-1 of the objection that clearly indicates that there is a feeder canal/water stream/primary drain connecting the upstream lake with downstream lake and flowing through the project lands.

It is further pertinent to mention that the Environment Clearance letter dated 10.01.2018 clearly mention at condition no. 42 of 'II Operation Phase' that project proponent shall not use Kharab land for any purpose and keep available to general public duly displaying a board as public property. Further condition No. 47 impose complete embargo on any alteration on rajakaluva and its buffer zone.

8. Objection to Clause 7 of the Report:

- (i) That the committee in clause 7 of the report has given the finding with respect to buffer zone of second and tertiary drains. It is therefore clear that, the committee has not considered the feeder canal as primary drain that is flowing through the project site. Thus, the findings are perverse and illegal. The change in the nomenclature at this stage of site inspection is an afterthought, arbitrary and to benefit to the project proponent. The observations about the permissible activities by the committee in clause 7.0 (C) is also contrary to the judgment and direction passed by this Hon'ble Tribunal in ***Forward Foundation v. State of Karnataka and Ors., (2016) SCC Online NGT 1409*** wherein the Hon'ble Tribunal has directed that the buffer / green zone would be treated as *no development zone* for all intent and purpose. It is noteworthy that the Hon'ble Supreme Court has only restored the buffer zone distance in terms of master plan in the matter of ***Mantri Techzone Pvt. Ltd v. Forward Foundation and ors., 2019 SCC OnLine SC 322***, and have not disturbed any other directions of this Hon'ble Tribunal. It is therefore, incorrect to record any activity as permissible activity in the buffer area of drain or water bodies. It is pertinent to point out even as per the zoning regulations/ RMP 2015 as recorded by the committee, in the lake buffer zone / water bodies, it is **"no development zone"**.

- (ii) That the committee in clause 7.2 of the report has listed the compliance status with respect to permitted activities in the buffer zone, namely, drive way, transformer yards, parks, and open spaces as permitted activity within the lake buffer zone. This is apparently contrary to the zoning regulations itself, In this context, regulation No.4.12.2.(ii) (iii) RMP 2015 read with the direction of this Hon'ble Tribunal in *Forward Foundation case*, Lake Buffer zone is strictly **no development zone**. Further, committee has also recorded 8 meter driveway in secondary nala, 8 meter driveway and extent of STP in tertiary nala as permitted activities. the finding and conclusion of the committee is contrary to the direction of Hon'ble Tribunal under *Forward Foundation case* wherein the Hon'ble Tribunal has stated that buffer and green zone would be treated as no development zone for all intent and purpose.
- (iii) That it is pertinent to point out in the compliance status, the committee has completely ignored the existence of primary drain crossing the project lands and flowing into the lake.

9. Objection to Clause 8.0 of the Report:

The finding that construction of RCC Storm water drain and culverts

- (i) This is sufficient to irrefutably show that there is serious violation of **Section 24 (1) (b) read with Section 2(j) (ii) of Water Act, 1974**, in that, the feeder canal connecting the two lakes and flowing through the project site is a "water stream" and cementing it is a clear case of impeding the natural flow of water and tantamount to removal of rajakaluve. This is breach of doctrine of public trust and violative of constitutional mandate qua protection of natural resources. Unfortunately, all this is happening under the nose of the regulatory authorities. This is sufficient to show that authorities are concealing serious statutory violations in the report. To say the least, the report lacks credence and is a trumped-up report that must be discarded. Prosecution for punishable offence must be initiated in consonance with the law in *The Karnataka State Pollution Control Board vs B. Heera Naik and Ors, AIR 2020 SC*

200. The Apex Court had held that municipal commissioner of Krishnarajapuram, Bengaluru must be proceeded with prosecution for breach of provisions of Water Act, 1974. In the light of this, letter dated 07.03.2020 (page 53 of report) which in turn refers to its earlier letter dated 2.8.2017 (page 53A of the report) issued prior to the EC is illegal and is liable to be ignored.

(ii) **Encroachment of feeder canal/Rajakaluve/water stream:** Apropos this, the latest screen shot image of the project lands as available in the website of the project proponent unmistakable indicates that there is encroachment and/or removal of rajakaluve/feeder canal connecting with lake, in that, driveway for the project from within is passing through rajakaluve/feeder canal/water stream. It stipulates creation of 8 meters driveway to connect from phase-2 to phase-1 by cutting through/cementing the feeder canal/rajakaluve that connects the upstream lake and downstream lake. So also, the image stipulates creation of other infrastructure passing through the feeder canal. Thus, it is aggravated breach of provisions of Water Act, 1974. Copy of the screen shot image of the project lands is produced as Annexure A-3.

10. Objection to Clause 9.0 of the Report:

The finding that site in question is not Wetland is wrong and contrary to record

(i) That the committee in clause 9.0 of the report has given finding with respect to the wetland that the project lands cannot be considered as wetland. In this regard, it is submitted that the committee has completely ignored the stand of Respondent No. 5, BBMP wherein it is explained in detail at pages 366 to 376 and duly justifying project lands are wetlands on the strength of the judgment of this Hon'ble Tribunal in *Forward Foundation* case (dated 07.05.2015) that is completely upheld by the three judge bench of the Apex Court in *Mantri Techzone*. Similar situation arose in *Forward Foundation* case whereunder it was not notified wetlands and

not a declared eco-sensitive zone. Notwithstanding that, this Hon'ble Tribunal applying the doctrine of sustainable development and precautionary principle held that the lands are wetlands and it is eco-sensitive area.

- (ii) Admittedly, committee failed to notice the fact that **National Wetland Atlas** prepared by Ministry of Environment and Forest with the assistance of the ISRO. It is noted that the aforesaid Kaikondarahalli Lake has been identified and inventorised/categorized as a "wetland" in the said national Wetland Atlas. Copy of the relevant extract of the national wetland atlas for state of Karnataka as published by MoEF in august, 2010 is produced as Annexure A-6 (page 144 to 146 read with para 10 to 12, page 125 to 127) vide IA dated 25.05.2019 for placing on record additional documents filed by the Appellant.
- (iii) That the Hon'ble Supreme Court has vide order dated 08.02.2017 in the matter of **M.K. Balakrishnan and Ors. v. Union of India and Ors. reported in (2017) 7 SCC 810 (2)** acknowledged the concerns of the petitioner with regard to the preservation and conservation of the ecologically sensitive wetlands in India. On noting the fact that with the passage of time, the possibility of disappearance of wetlands was plausible, the Hon'ble Supreme Court ordered for the protection of wetlands by directing for the application of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 with retrospective effect notwithstanding the Wetlands Rules, 2017 to the areas that have been marked as wetlands in the **National Wetland Atlas**. Relevant extracts of the said order have been reproduced below:-

"Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the

principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

4. ...

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules."

(vii) That from the above it is clear that though Wetland Rules, 2017 has come into force but all the areas identified in National Wetlands Atlas will be governed by the provisions of Wetlands (Conservation and Management) Rules, 2010. It is submitted as per Rule 4 (vi) of 2010 no construction within 50 mtr of the mean high flood level is permitted within the wetland. Further, as per Rule 4(2)(viii) for any activities within the zone of influence of wetland shall require prior approval of State Government.

(viii) That in the present case as per the direction of Hon'ble Supreme Court no activity would be allowed within 50 mtrs from the water body and also prior approval from State government, the entire area falling in the zone of influence.

(iv) That the Hon'ble Supreme Court in *M.K. Balakrishnan and Ors. v. Union of India and Ors., (2009) 5 SCC 507* has held that:

"The present Writ Petition under Article 32 of the Constitution of India relates to conservation of wetlands which in our opinion would include ponds, tanks, canals, creeks, water channels, reservoirs, rivers, stream and lakes."

11. Objection to Clause 11 of the Report:

Committee failed to include non-FAR area in total built up area of the project

(i) That the Committee has stated that the total built up area is 1,28,193.9 m2 as per the Environmental Clearance letter. However, failed to see that the built up area mentioned in the Clearance letter is without taking into account the non-FAR area comprising of various components of FAR deductions, deductions for shafts/cut-outs, lifts and ramp area, parking, glass, etc. all of which cause deleterious effect on environment. Thus, the grant of EC is in clear violation of the clear statement of law in the judgment of Hon'ble Supreme Court in *M/s Goel Ganga Developers vs Union of*

India, reported in (2018) 18 SCC 257². The Hon'ble Supreme Court has held that when EC is granted for particular construction it includes both FSI and non FSI. Admittedly as per the Development Plan issued by Respondent No. 4 BDA the area including FAR + non-FAR is 2,35,076.81 m² which is far beyond the 1,50,000 m² threshold limit. Therefore, paragraph 7 read with item 8(b) of the schedule to the EIA Notification of 2006 mandates that the project in question is required to be appraised as **category B1** project and requires a *prior* EIA report and compliance with the provisions of paragraph 7 thereof is applicable. The copy of the development plan approved by BDA is filed by Respondent No. 11 as Annexure A-3 at page 270. In this context, it is clearly held in *Goel Ganga* at paragraph 28 as under:

"28. In case the total construction raised by the project proponent is taken as 1,00,002.25 sq m and if the area of the proposed construction is added then the project will fall in B-1 category and, therefore, SEIAA had no authority to grant EC by treating the project as falling under Category B-2."

Similarly, regarding the difference in number of flats approved in the EC is 655, whereas in the development plan of BDA it is 688. As for, the parking spaces is concerned, in the EC it is stipulated 877, whereas in development plan of BDA it is reduced to 758. In this context, the Apex Court has held that this warrants a fresh EC. Paragraph 64 is reproduced as under:

64. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law. However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has manoeuvred and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone up to 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has

² Page 389 to 390 of BBMP reply

increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area, etc. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs 100 crores or 10% of the project cost, whichever is more."

(Emphasis Supplied)

In light of the above read with the comparative table at page 390 of the BBMP reply unmistakably discloses that with increase in number of flats, reduced parking area and project size is more than 1,50,000 sq mts/category B1 necessarily warrants a fresh appraisal and EC for the project. In any case, as explained herein, the project cannot be permitted at the project site by applying the precautionary principle and sustainable development.

- (ii) It is submitted that the fact that area including FAR + non-FAR is 2,35,076.81 m² is the stated position by Respondent No. 5/BBMP in the reply dated 05.09.2018 at page 390. In fact, as on 20.08.2020 the counsel appearing for Respondent No. 5/BBMP has reiterated the stand in their reply affidavit.
- (iii) It is pertinent to mention that as per the NOC dated **30.10.2018** granted by the BWSSB to an extent of **1,71,755.37 sq. mts**, the built up area of the impugned project is well above the limit of 1,50,000 sq. mtrs. Consequently, the impugned project would now fall within the ambit of Category B1 under Item 8(b) of the EIA Notification, 2006 requiring a mandatory fresh appraisal along with the preparation of prior EIA report in accordance with mandate under paragraph 7(i) and (ii) of EIA Notification, 2006. Copy of the NOC dated 30.10.2018 issued by the BWSSB is produced as **ANNEXURE A-4**.
- (iv) That, permissions are for one thing and constructions are for another. Since various permissions reflect different dimensions of the

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same impugned project, it is apparent that there is deliberate concealment by the project proponent in presenting information/baseline data to the different statutory authorities. Therefore, there is apparent misrepresentation and concealment before different public authorities with contradictory information fundamentally altering the project under the scheme of the EIA Notification of 2006 and so also, under the planning laws. Apropos this, the following tabular comparison with different project dimensions before different public authorities is as under:

Date	Permission	Built-up Area	Site area	Dimensions
07.12.2017	Karnataka Fire Inspection	59,091.85 sq. mtrs.	50,382.91 sq. mtr	Tower A, B and C joined together. Tower A and C: 2BF+GF+20 upper floors (UF) Tower B: 2BF+GF+19 UF.
10.01.2018	Environmental Clearance	1,28,193.9 sq. mtr	50,382.91 sq. mtr	2 blocks consisting of 2BF+GF+20 UF. (655 units).
21.03.2018	Karnataka Fire Inspection	64,958.15 sq. mtrs.	50,382.91 sq. mtr	Four towers. Tower A: BF+GF+ common 1 st , 2 nd to 13 th floor Tower B, C and D: common BF+GF+1 st

				and 2 nd to 20 th floor.
05.03.2018	Development Plan	2,35,076.81 sq. mtrs		Block I and II: 2BF+GF+20 UF (688 units).
30.10.2018	NOC from BWSSB	1,71,755.37 sq. mtrs	51,698.16 sq. mtrs.	Block I and II: 2BF+GF+ 20 UF.

Calculation about green belt of the area in clause 11.1 of report is incorrect:

- (v) Findings regarding the green belt requirement of 21,667.7 sq mts *vis-à-vis* condition no.6 of the EC at page 52 of the Appeal is erroneous because the green belt area is not reduced from the *total site area* shown as 51698.16 sq mts. Hence, committee arrived at wrong computation. By deducting various components from *total site area* is : Green belt requirement; kharab lands/public lands; civic amenities and buffer zone area (lake buffer zone + nala buffer zone). **Net site area** excluding the buffer zone is **26176 sq mts approx** and thereafter to further deduct after ascertaining the buffer zone of nala and lake buffer zone as well as the primary nala/feeder canal. Only after this is done, the remaining components of total area utilized can be deducted. Evidently, this is not done at clause 11.1 of the report (page 29 of report). Therefore, the findings and compliance of clause 11.1 is patently erroneous.

12. Objection to Clause 12.0 of the Report:

Committee failed to notice that large constructions was ongoing and subsequently issued consent to establish in breach of Section of 25 of Water Act, 1974.

- (i) Apropos this, the committee failed to notice that sufficient material is already placed on record since the inception of the appeal (page 60 of rejoinder affidavit of Appellant filed on 22.05.2018) read with

demolition order/PO and CO dated 06.06.2018 issued by BBMP clinchingly demonstrates that constructions was done without mandatory prior consent to establish the project. Members of the joint committee/statutory authorities had entered appearance and filed objections in the present case and was fully aware of the illegalities, and notwithstanding the stand taken by the BBMP setting-out breach of conditions of EC and contradictory information before KSPCB as well. Despite this, on 12.10.2018 KSPCB has issued consent to establish the project. None of these lapses by the members of the joint committee is not forthcoming from the report. Thus, the finding of the report on this count is also erroneous.

13. Objection to Clause 13.0 and 14.0 of the Report:

Conclusions and recommendations and overall observations are based on erroneous findings on facts and in law as explained above

- (i) That as explained hereinabove regarding objections to various clauses in the report, the overall observations is a outcome of the erroneous findings of facts and in law. Consequently, overall observations of the committed suffer from the very same vice of various clauses being erroneous.
- (ii) As regard the conclusions at clause 14.0 it is answered at para 5 of the objections dated 19.08.2020.

PRAYER

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal be pleased to reject the report and allow the appeal in view of the facts and ground explained hereinabove.

FILED BY:



RITWICK DUTTA

RAHUL CHOUDHARY

MEERA GOPAL

COUNSEL FOR THE APPLICANTS

Date: 26.08.20

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

IN

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

... APPELLANT

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

WRITTEN SUBMISSIONS FILED BY THE BBMP/RESPONDENT No.5**MOST RESPECTFULLY SHOWETH:**

1. That reply filed by the BBMP on 05.09.2018 be read as part of this written submissions for the sake of brevity. A bare perusal of the reply shows that relief sought against the BBMP for direction to pay compensation for non-adherence to statutory duties is not correct. It is submitted that in addition to the reply on record, BBMP is entitled to take remedial action as the case may be and there is no estoppel against statute¹.
2. At the outset, it is submitted that the project in question is a high-rise apartment project. Therefore, the statutory sanctions required for the high-rise projects at the pre-construction stage is indicated below and in the following order in second column :-

Table-I

SL No	Nature of Statutory Permission	Statutory Authority	Date of sanction
1	Environmental Clearance (EC)	SEIAA	10.01.2018
2	Consent to establish the project (CFE)	KSPCB	12.10.2018
3	Conversion of land (from Agricultural to non-agricultural residential purpose)	Deputy Commissioner	31.03.2006

¹ Para 66. *MI Builders Pvt Ltd vs Radhey Shyam Sahu and Ors.*, (1999) 6 SCC 464

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4	Change of land use (CLU) (from industrial Hi-Tech to residential)	BDA	24.10.2017
5	Development Plan (DP)	BDA	09.11.2017 Approved vide committee resolution No.128 of 2017.
6	No-objection certificates (NOC)	Airport Authority of India (for height clearance),	21.09.2016
7.	No-objection certificates (NOC)	BSNL	20.12.2016
8.	No-objection certificates (NOC)	BWSSB	30.10.2018
9.	No-objection certificates (NOC)	BESCOM,	31.01.2018
10.	No-objection certificates (NOC)	Fire services department,	22.12.2017
11.	Application for building plan and building license enclosing the requisite statutory sanctions listed at Item No.1 to 10 above	BBMP	Phase 1, 30.08.2018 Phase 2, 25.05.2019
12.	Application seeking RERA registration by enclosing all the statutory sanctions listed at Item No.1 to 11 above.	Karnataka RERA	Phase 1, 29.03.2018 Phase 2, 25.05.2019

3. In regard to the permissions under environmental laws and municipal laws in force are at Table-1 hereinabove. Whereas the project-proponent has admittedly violated the said statutory requirements and it is indicated at page 11 to 12 of the report vide Clause-3.0.

Table-2

Sl.No.	Approval obtained	Date	Department/ Authority
1.	Land Conversion Agricultural to Non-Agricultural Residential Purposes Sy.No.61/2 - 3 Acres 05 Guntas Sy.No.62 - 3 Acres 02 Guntas Sy.No.63/2 - 6 Acres 21 Guntas	31.03.2006	DC- Bangalore Urban District
2.	NOC for height clearance	21.09.2016	AAI
3.	NOC for height clearance	20.12.2016	BSNL
4.	Permission for construction of RCC Drain & RCC culvert	02.08.2017	BBMP
5.	Change of Land use from Industrial (Hi-tech) to Residential	24.10.2017	UDD
6.	Conformation letter of Change of Land Use	08.12.2017	BDA
7.	NOC for construction - Block 1 for Fire & Emergency Services	22.12.2017	Director General of Police
8.	Issue of Environment Clearance	10.01.2018	SEIAA-Karnataka
9.	NOC - Temporary power connection	31.01.2018	BESCOM
10.	Relinquishment of area for Park and Open Space	19.02.2018	BDA
11.	Lay-out Plan Approval - Block 1	07.03.2018	BDA
12.	Registration Certificate of Project	29.03.2018 & 25.05.2019	Real Estate Regulatory Authority (RERA)
13.	NOC for Construction - Block 2 for Fire & Emergency Services	20.04.2018	Director General of Police
14.	Consent to Establishment	12.10.2018	KSPCB
15.	NOC - for Water supply & UGD	30.10.2018	BWSSB
16.	Modified Plan Sanction approval - Block 2	28.05.2019	BDA
17.	Civic Amenities Site Building Plan Approval	29.11.2019	BDA

Comparison of Table-1 (Statutory requirement) with Table-2 (the manner in which sanctions are obtained by the project proponent) discloses that permission/ approvals listed at Item 1 to 13 of Table-2, is breach of the laws in force. The clear statement of law in the binding precedent of the Hon'ble Supreme

Court, this Hon'ble Tribunal as well as binding directions issued under Section 5 of The Environment Protection Act, 1986. This is more fully explained hereinbelow :-

- i) That, in *A.P. Pollution Control Board Vs. Prof. M.V.Nayudu & Others*, (2001) 2 SCC 62 it is legally impermissible to take "steps to obtain building plans and building license" much less "conversion of land and change of land use" without first obtaining the mandatory prime consent to establish the project under Section 25 of Water (Prevention and Control of Pollution) Act, 1974. This judgment is followed by this Hon'ble Tribunal in its judgment dated 6.12.2013 in the matter of *Divya Granites Vs. Karnataka State Pollution Control Board* in Appeal Nos. 98101, 105-113 and 156-158 of 2013 (SZ), it is clearly stated at paragraph-15 that steps to take building plan, conversion order, civil work cannot be undertaken without first obtaining the mandatory prior consent from the Karnataka State Pollution Control Board under Section 25 of the Water Act, 1974 and that the said consent is a "condition precedent for establishment or taking any steps for establishment".
- ii) It is therefore clear that in a given case and much like in the present case, the project proponent cannot/could not have taken steps to obtain statutory approvals listed at Item 1 to 13 of Table 2 *supra* as well as starting of civil work without first obtaining the prior consent to establish from KSPCB. Hence, approvals listed at Item 1 to 13 as well as constructions thereon are legally impermissible. Hence, it cannot be heard to contend and place reliance on such approvals to sanctify the project in question.
- iii) Further, the Apex Court has clarified in *A.P Pollution Control Board, supra* – The project proponent "could not therefore seek an NOC after violating the policy decision of the Government." In view of the binding direction/policy decision of the Government of Karnataka vide Gazette Notification dated 19.01.2016, the development plan of the BDA is in the teeth of the said directions. BBMP is entitled to take remedial action.
- iv) Hence, in view of the prohibition under the Central enactments and *overriding effect* of Section 24 of the Environment Protection Act, 1986. So also, the Hon'ble Supreme Court in the matter of *S.Jagannath Vs. Union of India (U/I) and Others*, (1997) 2 SCC 87 has held at paragraph 42 that if there is a prohibition under a notification issued under the Environment Protection Act, 1986, then any breach thereof, if any permissions are granted

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by the State Legislations, it was held that the prohibition under the Environment Protection Act, 1986 will prevail and will have overriding effect.

v) Consent to establish (CFE) is bad in law, in breach of doctrine of public trust and hit by Section 24 read with Section 2(i)(ii) of Water Act, 1974.

Admittedly, the consent to establish was granted during the pendency of the present Appeal on 12.10.2018 after the construction had already commenced. The Appeal was filed on 09.04.2018 and several photographs are part of the record indicating ongoing constructions in the absence of consent to establish at the material time. Subsequently, BBMP filed detailed reply/pleading on 05.09.2018 specifically contending that constructions are continuing without consent to establish from KSPCB that is explained in paragraph Nos. 13 to 16 (page 378 to 383 of reply) and the paragraph 28 (page 398 to 399). It is therefore clear that the photographs referred to in paragraph 13 and the demolition order issued on 22.06.2018 as well as photograph at page No. 16 of rejoinder affidavit filed by the Appellant on 22.05.2018 clearly indicate that there was breach of Section 25 of Water Act, 1974 on the one hand and on the other hand the pleadings of the BBMP was sufficient material for KSPCB not to issue consent to establish.

Material on record clearly indicates encroachment of water stream and primary rajkaluve connecting two lakes, viz. upstream lake (Kasavanahalli lake) and downstream lake (Kaikondarahalli lake) and had completely disrupted/impeded the proper flow of water of the stream and causing pollution thereof. Hence, it is contrary to Section 24 read with Section 2(j)(ii) of Water Act, 1974 as well as public trust doctrine that requires conservation of natural resources including "water streams". Under the circumstances, consent to establish ought not to have been mechanically issued in regard to its own parent Act and have not taken any remedial action. In any case such a consent to establish is clearly contrary to provisions of Water Act as explained above as well as any breach of *doctrine of public trust* and precautionary principle. The definition of "stream" under Section 2(j) is reproduced below :-

- (j) "Stream" includes -
 - xxx
 - xxx
 - xxx
- (i) *Water course (whether flowing or for the time being dry);*"

4. The following 3 maps as well as screen shot image of the project site of the project proponent is on record and to substantiate that various findings in the report are erroneous on facts and in law:

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- Village map of Kasavanahalli village/revenue map indicating the two interconnected lakes, the feeder canal connecting the two lakes and the project site
- Development plan (DP) issued by BDA
- Conceptual plan produced by the project proponent before SEIAA to obtain environmental clearance (page 56 of appeal)
- Screen shot image of project site as available from the website of the project proponent.

i) A bare perusal of conceptual plan reveals the following significant facts :-

- That there exists a "primary nala as per village map" that is crossing through the project land.
- There is Kharab lands
- That the primary nala is a water stream/feeder canal originating from upstream Kasavanahalli lake and flowing into downstream Kaikondarahalli lake and passing through the project land.
- That there is another nala passing in Survey No.61 and nala adjacent to the project lands.

In this context, Condition No.42 (page 50 of the Appeal) imposed complete restrictions on the Kharab land and has categorically stated that it is a public property. Condition No.42 is reproduced below

"42. The project proponent shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afore stated and maintained as green belt only."

The material facts stated hereinabove are not forthcoming from the report and therefore to this extent, the report is erroneous.

ii) A bare perusal of development plan approved by the BDA on 9.11.2017 reveals the following significant facts :-

- The development plan envisages a scheme of development for the project. It is approved vide authority committee resolution No.128 of 2017 dated 9.11.2017.
- Admittedly, development plan is approved prior to appraisal and issuance of environmental clearance.
- Encroachment of water stream/primary nala passing through the project site. Internal drive ways from phase 2 to phase 1 is cutting through the water stream and has encroached part of the water stream.
- Encroachment of Kharab land/public property by virtue of constructions of internal drive way connecting between phase 1 and phase 2 of the project as stipulated therein.
- The internal drive way/construction within the buffer zone of the water stream/nala.
- There exists a primary nala passing through the project land and terminating into downstream Kaikondarahalli lake.

- 8 mtr. drive way within the nala buffer zone of phase 1 and phase 2. So also, creation of various infrastructure in the project is within the buffer zone, viz. transformer yard, laying of gas bank infrastructure, i.e. digging of the buffer zone to lay piped gas. This is in breach of the precautionary principle.
- Creation/construction of set-back for phase 1 and phase 2 is within the prohibited lake buffer zone. So also, creation of open spaces by compacting and concretization is also within the lake buffer zone.

iii) A bare perusal of latest screen shot image taken from the website of the project proponent reveals the following significant facts :-

- Encroachment of water stream wherein there is construction of 8 mtrs wide drive way connecting between phase 1 and phase 2 of the project. Other infrastructure creation that cut through the natural water stream.
- Compacting and placement of civic amenity infrastructure within lake buffer zone.
- That phase 2 construction has not started and it is indicated as future development.
- Other type of civic amenity infrastructure within the buffer zone of the water stream terminating into the lake.

iv) A bare perusal of another map/conceptual plan submitted before SEAC by the project proponent, i.e. produced as Annexure-A2 (page 22 of the preliminary objections to the report filed by the Appellant on 19.08.2020) reveals the following significant facts :-

- Constructions through the lake buffer zone, in that, deep recharge wells all around periphery and storm water drain with precast purported cover. The scope of the construction of deep recharge well plan is also indicated in the conceptual plan.
- Creation of various infrastructures of deep recharge wells, 8 mtrs wide internal drive way, laying of underground gas pipeline/gas bank infrastructure.
- 50 mtrs. buffer zone on either sides of the primary nala wherein 8 mtrs wide drive ways are within buffer zones of the primary nala terminating into the lake.

5. In light of the above, the admitted case of project proponent is as follows :-

- ❖ That the correct fact is that there is one primary rajkaluve flowing through Survey No.63/2 and one secondary rajkaluve in the project land and so also two tertiary rajkaluves are flowing outside the project land and that the buffer zone in the said rajkaluves are demarcated as per the development plan sanctioned by the BDA and it is in consonance of Clause-48 of the EC (at page 168 and 169 of reply of the project proponent to Appeal).
- ❖ At page 175 of the reply filed by the project proponent is that -

"The answering Respondents have categorically submitted in their Form I submitted with to the Respondent No.3, i.e. Karnataka State Environment Impact Assessment (page No.6 of the Form I) that a primary nala connecting to Kaikondarahalli lake is crossing across the project site. 50 mtr. buffer on both sides are provided as per NGT specifications."

❖ At page 65 of the Appeal, at Sl.No.1.22 of statutory Form I of the project proponent is as under :-

1.22	Streams crossings?	Yes	A primary nala connecting to Kaikondarahalli lake is crossing across the project site. 50 m buffer on both side are provided as per the NGT specifications.
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In view of the foregoing, it is unmistakably clear that there exists a water stream/primary nala crossing through the project land and connecting to the Kaikondarahalli lake and therefore, at the material time, 50 mtrs. buffer zone on either side is demarcated. Hence, the observations at Clause 5.0 (internal page No.14 of the joint committee report); Clause 7.1(B) (internal page No.23 of the joint committee report); and Clause 7.2 (internal page No.24 of the joint committee report; are factually patently erroneous and contrary to material on record.

6. Clause 7.2 of the joint committee report (internal page No.24) read with zoning regulation No.4.12.2(ii) (at internal page 20 of the report) discloses that the nature of permitted activity of 8 mtrs drive way of the nala/water stream connecting to the lake and crossing through the project land is also hit by the expression "**which will not obstruct the water course, run offs, channels**"

7. In light of the above, it is an admitted case of breach of zoning regulations, viz. 4.12.2(ii). Similarly, as explained supra, the application for building plan and sanctions thereof for phase 1 as on 30.08.2018, the mandatory prior consent to establish was lacking, therefore there is breach of zoning regulation No.3.12 (page 383 of BBMP reply) and consequently, there is non-compliance of provisions of Karnataka Town and Country Planning Act, 1961. Therefore, there is breach of Section 505 (ii) of KMC Act, 1976 (page 393 to 395 of the BBMP reply). In the light of the above, placing reliance on letter dated 02.08.2017 referred to at internal page 53-A of the report of the joint committee vide Annexure-7 thereof cannot enure to the benefit of project proponent much less give sanctity to the report of the joint committee. As stated *supra* BBMP is entitled to take remedial action.

8. Findings at Clause 11.1 – Compliance to green belt area requirement is erroneous because the break-up of various components indicated at internal page 29 and 30 of the joint committee report does

~~BBMP~~

That, the project in question is situated on the lake bed and abutting the lake. In this regard, the this Hon'ble Tribunal in *Forward Foundation's* case in O.A.222 of 2014² has specifically emphasized with regard to such projects and the adverse impact on local environment, ecology, water body by categorically stating that multi-storey buildings that come up on lake beds in Bangalore City have totally intervene the natural catchment flow leading to sharp decline and deteriorated flow of water bodies. It can be correlated with the increase in built up area from the concentrated growth model focusing Bangalore adopted by State machinery affecting severely open spaces and in particular water bodies.

The management of wetland eco-systems requires intense monitoring, increased interaction and cooperation among the various agencies (i.e. State departments concerned with environmental, Urban Planning, Development and Research institutions, Government policy makers, etc.). Such management goals should not only involve buffering wetland from any direct human pressure that could affect the wetlands normally functions, (page 371 to 373 of BBMP reply).

As regards removal of rajkaluve and/or water stream, it is stated that removal of rajkaluve and gradually encroachment over them amounts to removal of lake connectivity, which enhances the episodes of flood and associated disasters. (page 371 to 372 of BBMP reply).

In light of the conclusions and recommendations at Clause 14.0(f) of the report of the joint committee (internal page 38) wherein it is stated that there is overflow of sewage into Kaikondarahalli lake and to identify the missing links in the lake catchment indicating there is pollution of kaikondarahalli lake. Notably, the entire area does not have underground drainage network (UGD) and therefore such projects on the lake bed poses threat, pollution of the water body and adversely affecting the ground water recharge, maintenance of aquatic bio-diversity, habitat for avifauna aquatic life.

10. In regard to the allegations at para 2 of the written submissions of the project proponent that approval in 2016 is concerned listed at Sr No.1 and 2, it is khata certificate, a revenue document for the purpose of collection of tax. It is not approval for construction of the project. The submissions are misconceived. The allegation at para 5 is denied qua BBMP and it is without any basis. The allegation at para 16 is reckless and it is denied. At the instance of the Appellant, BBMP was not made party to the joint committee because grievance was raised against BBMP. This can be discerned from the record in OA 602 of 2019.

² [decided on 07.05.2015 and upheld by the three judge Bench of the Hon'ble Supreme Court in *Mantri Techzone Pvt. Ltd. Vs. Forward Foundation and Ors*, (2019) SCC online SC 322 (decided on 05.03.2019)]

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Date: 27.08.2020

DRAWN AND FILED BY

Place: New Delhi

DARPAN KM

Application for Environmental Clearance

Form1
Form 1A
Pre feasibility Report Cum
Environmental Management Plan

For

Godrej

Proposed Construction of Residential Building Project

By

M/s. Wonder Projects Development Pvt Ltd.

@ Survey Nos. 61/2,62 & 63/2 of Kasavanahalli Village, Varthur Hobli,
Bangalore East Taluk, Bangalore.

Prepared By	
METAMORPHOSISSM PROJECT CONSULTANTS PVT. LTD.	
thought....process....reality!!	
QCI/NABET Accredited and an ISO 9001:2008 Certified Consultant organization	
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Form 1

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Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

APPENDIX 1
(See Paragraph - 6)
FORM 1

(I) Basic Information

Sl. No.	Item	Details
1	Name of the project/s	Proposed Residential Building Project of M/s Wonder Projects Development Pvt. Ltd.
2	Sr. No. in the schedule	8(a). Category B2-Building and Construction project
3	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	Total Plot area: 50,382.91 Sqm (12.45 Acres) Total Built-up Area: 1,28,193.9 Sqm
4	New/Expansion/Modernization	New Residential units.
5	Existing Capacity/Area etc.	Plot Area: 50,382.91 Sqm (12.45 Acres)
6	Category of Project i.e. 'A' or 'B'	Category B-Building and Construction project for BUA area >20,000Sqm < 1,50,000Sqm.
7	Does it attract the general condition? If yes, Please specify.	No
8	Does it attract the specific condition? If yes, Please specify.	No
9	Location	Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru. <u>Geological Coordinates</u> Latitude : 12°54'38.21"N Longitude : 77°40'08.52"E
	Plot/Survey/ Khatha-No.	Survey. Nos. 61/2, 62 & 63/2
	Village	Kasavanahalli Village
	Tehsil	Bengaluru East
	District	Bengaluru Urban
	State	Karnataka
10	Nearest Railway station / airport along with distance in Kms.	1. Carmelaram Railway Station is located at a distance of 4Km* from the project site. 2. Kempegowda International Airport Limited at Devanahalli, 32 km* from the project site. *Aerial distance

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Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

11	Nearest town, city, District headquarters along with distance in Kms.	Project site falls within Bengaluru City limits.
12	Name of the applicant	M/s. Wonder Projects Development Pvt. Ltd.
13	Registered Address	Godrej Properties Ltd. #80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
14	Address for correspondence :	Godrej Properties Ltd. #80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
	Name	Mr. Mohammed Samiulla
	Designation (Owner/Partner/CEO)	Deputy General Manager
	Address	#80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
	Pin Code	560001
	E-mail	mohammed.samiulla@godrejproperties.com
	Telephone No.	+91 80 4354 5555
	Fax No.	Nil
15	Details of Alternative Sites examined, if any. Location of these sites should be shown on a Topo sheet.	No alternative sites were examined.
16	Interlinked Projects	Nil
17	Whether separate application of interlinked project has been submitted	Nil
18	If yes, date of submission	NA
19	If no, reason	Proposed site is suitable in all the aspects for independent Project.
20	Whether the proposal involves approval/clearance under: (a) The Forest (Conservation) Act, 1980 (b) The Wildlife (Protection) Act, 1972 (c) The C.R.Z Notification, 1991	This proposal does not require approval /clearance under Forest Act, Wild life Act, & C R Z Notification
21	Whether there is any Government order / policy relevant /relating to the site	Nil
22	Forest land involved (hectares)	No forest land is involved

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Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

23	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	No
24	Expected cost of the project	Land Cost 110 Crores Construction Cost 149.5 Crores Plant & Machinery : 50.5 Crores Total project cost: Rs. 310 Crores

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(II) Activity

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	The proposed project is being developed on a plot of land measuring about 50,382.91 Sqm; presently the land is vacant & the proponent proposes to develop residential apartments. The contour plan has been enclosed as Drawings along with the EMP report.
1.2	Clearance of existing land, vegetation and buildings?	Yes	The proposed project site/land doesn't require any extensive clearance of vegetation. The existing trees will be retained in green belt development plan within the project site.
1.3	Creation of new land uses?	Yes	The land will be used for development of residential apartments as per the approved plan.
1.4	Pre-construction investigations e.g. bore houses, soil testing?	Yes	Soil investigation has been carried out.
1.5	Construction works?	Yes	As per conceptual plan only.
1.6	Demolition works?	No	No Demolition works are anticipated
1.7	Temporary sites used for construction works or Housing of construction workers?	Yes	Temporary sheds will be provided for storing of construction materials. Total 250 nos. of temporary sheds will be set up for construction workers with 35 toilets 60 urinals & 35 EWC & 35 bathrooms.
1.8	Above ground buildings, structures or Earthworks including linear structures, cut and fill or excavations	Yes	Excavation work will be carried out for foundation of buildings and basements. The total excavated quantity of earth will be approx. 50,000 m ³ for phase 1 and 85,000 m ³ for phase 2. The excavated earth will be reused within the site for ground leveling & also in green belt development activities.

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Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Sl.No.	Information/Checklist confirmation	Yes /No	Details there of (with approximate quantities /rates, wherever possible) with source of information data
1.9	Underground works including mining or tunneling?	No	NA
1.10	Reclamation works?	No	NA
1.11	Dredging?	No	NA
1.12	Offshore structures?	No	NA
1.13	Production and manufacturing processes?	No	NA
1.14	Facilities for storage of goods or materials?	Yes	<p>During construction phase the construction materials will be stored in the temporary sheds within the site.</p> <p>During operation phase, DG lube oil will be stored in a designated place and the diesel will be stored in a leak proof tank. Waste oil from DG sets will be stored in leak proof containers on impervious floors in a designated place within the site premises.</p>
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?	Yes	<p>During operation phase, the solid waste will be collected separately as biodegradable (Organic) and non-biodegradable (inorganic/recyclable) in the respective bins provided.</p> <ul style="list-style-type: none"> ✓ Recyclable waste will be handed over to the authorized vendors for further processing. ✓ STP sludge will be used as manure for gardening. ✓ E-Wastes generated will be handed over to authorized E-Waste processors. <p>The domestic sewage will be treated in STP</p> <p>Refer STP feasibility report attached as Annexure 4 with this report.</p>
1.16	Facilities for long term housing of operational workers?	No	No long term housing of operational workers shall be provided.

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Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.17	New road, rail or sea traffic during construction or operation?	No	The existing transport infrastructure facility will be used.
1.18	New road, rail, air, waterborne or other transport infrastructure including new or altered routes & stations, ports, airports etc?	No	Not Applicable as this is a construction project.
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?	No	There is no change in the existing route or the traffic movement. Traffic pattern in the approach road during construction and operation phase is expected not much variation as this is residential building. A detailed Traffic Density Study has been carried out to assess the changes in the existing traffic scenario. Report for the same is attached as Annexure 3
1.20	New or diverted transmission lines or pipelines?	Yes	New electrical and water supply lines shall be arranged for the project.
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	No such proposals of impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers shall be done at the project site.
1.22	Stream crossings?	Yes	A primary nala connecting to Kaikodrahalli lake is crossing across the project site. 50 m buffer on both side are provided as per the NGT specifications.
1.23	Abstraction or transfers of water from ground or surface waters?	No	Construction phase: Tertiary treated water will be used for curing and dust suppression during construction phase. Concreting and Domestic water requirements during construction shall be met by external authorized supplier. Operation phase: Water requirements will be met by BWSSB & treated water from STP of capacity 210 KLD and 280 KLD.

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Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.24	Changes in water bodies or the land surface affecting drainage or run-off?	Yes	Runoff will increase due to increased paved surface. Hence the runoff from the project site will be recharged to ground water aquifer by implementing well designed Rain water harvesting system.
1.25	Transport of personnel or materials for construction, operation or decommissioning?	Yes	<p>During construction phase: Raw materials for construction works will be transported by trucks and the no. of trips will be scheduled only during non peak hours. The transportation trucks will be covered with tarpaulin sheets to avoid dust emissions.</p> <p>During operation phase: Adequate parking space will be provided as per the approved plan.</p>
1.26	Long-term dismantling or decommissioning or restoration works?	No	Not applicable
1.27	Ongoing activity during decommissioning which could have an impact on the environment?	No	NA
1.28	Influx of people to an area in either temporarily or permanently?	Yes	<p>Construction Phase: There will be temporary influx of about 1100 Nos. of construction laborers will be employed.</p> <p>Operation Phase: There will be an influx of residential people of about 4014 nos. and also the management staffs, security guards and visitors commuting on the project site.</p>
1.29	Introduction of alien species?	No	NA
1.30	Loss of native species or genetic diversity?	No	NA
1.31	Any other actions?	Yes	Rainwater harvesting system has been proposed to conserve water.

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2. Use of Natural resources for construction or operation of the Project (such as land, water, materials, or energy, especially any resources which are non renewable or in short supply):

SLNo.	Information/checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)	No	The proposed project site is undeveloped.
2.2	Water (expected source & competing users) unit: KLD	Yes	<p>Construction phase: Approx. : 150 KLD Source: Tanker/Treated water.</p> <p>Operation phase: Residential units of 655 with a population of 4014 souls. Approx. : 534 KLD of water. Source: BWSSB</p>
2.3	Minerals (MT)	No	NA
2.4	Construction material - stone, aggregates, sand/ soil (expected source - MT)	Yes	<p>Block 1: Sand (Cum): 20887Cum Cement (Bags): 298899bags Tiles (sqm): 50000Sqm Steel (MT): 3486MT Granite/Marble(Sqm): 8632Sqm Glass(Sqm): 8400Sqm</p> <p>Block 2: Sand (Cum): 25000Cum Cement (Bags): 360000bags Tiles (sqm): 69000Sqm Steel (MT): 4075MT Glass(Sqm): 12800Sqm</p>
2.5	Forests and timber (source - MT)	Yes	Minimal use of timber for door frames etc., wherever wood may be used.
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)	Yes	<p>Construction phase: 250 KVA for Phase 1 and 250 KVA for Phase 2 from BESCO 2 X 250 KVA DG set provided for emergency use.</p> <p>Operation Phase: 3499 KW power from BESCO.</p>

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

			Proposed transformer 3 X 500 KVA capacity for block 1 and 3 X 500 KVA & 1 X 250 KVA capacity for block 2. Proposed back up DG sets 1X500 KVA & 1X320 KVA for Block 1 and 1 X 500 KVA & 1 X 380 KVA for block 2.
2.7	Any other natural resources (use appropriate standard units)	No	Nil

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and Water supplies)	Yes	Diesel & lube oil to be used for DG sets during power failure is stored in leak proof containers on impervious floors in the designated places / earmarked locations within the site and will be disposed off through KSPCB authorised re-processors/recyclers.
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)	No	Nil
3.3	Affect the welfare of people e.g. by changing living conditions?	Yes	Socio-economic status will improve. This will lead to better quality of life and also set a standard for future developments in the area.
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,	No	Nil
3.5	Any other causes	No	Nil

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4. Production of solid wastes during construction or operation or decommissioning (MT/month)

SLNo.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Soil, overburden or mine wastes	No	Excavated earth will be reused for backfilling and landscape development.
4.2	Municipal waste (domestic and or commercial wastes)	Yes	<p>Construction Phase : Total Solid waste of about 495.0 Kg/day from labour camp will be disposed off into BBMP.</p> <p>Operation Phase : Total solid waste: 2.14 MT/day STP Sludge: 24.5 Kg/Day</p> <p>(which includes Biodegradable & non biodegradable waste)</p>
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)	Yes	Waste & used oil from DG sets will be disposed to KSPCB authorized waste oil recyclers. E-Waste (during operation phase) will be handed over to the approved and authorized KSPCB E-Waste recyclers.
4.4	Other industrial process wastes	No	Nil
4.5	Surplus product	No	Nil
4.6	Sewage sludge or other sludge from effluent treatment	Yes	Total STP sludge of 24.5 Kg/Day generated from the proposed activity will be used as manure / organic fertilizer for horticulture within the Project Site.
4.7	Construction or demolition wastes	Yes	Construction waste such as excavated Earth (soil & rock); 50,000 Cum and 80,000 Cum generated for block 1 and block 2, out of which 14,900 Cum and 20,000 Cum will be used within the project site for backfilling for block 1 and block 2 respectively. Non-recyclable waste such as concrete waste, etc. will be used for road construction and all the recyclable wastes such as steel, other metal scrap, etc. will be sold to recyclers/scrap dealers.
4.8	Redundant machinery or equipment	No	Nil

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4.9	Contaminated soils or other materials	No	Nil
4.10	Agricultural wastes	No	Nil
4.11	Other solid wastes	No	Nil

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources	Yes	There will be vehicular pollution during construction phase and operation phase. Negligible emissions from DG set in case of power failure.
5.2	Emissions from production processes	No	Not applicable.
5.3	Emissions from materials handling including storage or transport	Yes	Fugitive dust emissions due to transportation of vehicles and handling, loading & unloading of construction materials in construction phase.
5.4	Emissions from construction activities including plant and equipment	Yes	Due to construction activity there will be emissions of dust to Air environment. Fugitive emissions during loading & unloading of construction materials, concrete mixers are negligible. An emission from DG sets, graders, levelers etc only.
5.5	Dust or odors from handling of materials including construction materials, sewage & waste	Yes	During construction phase: There will be dust emission during construction activities which is controlled by water sprinkling at regular intervals. During operation phase: Sewage treatment plant will be well maintained to ensure aerobic conditions. Solid wastes will be collected in closed containers to avoid odour nuisance.

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5.6	Emissions from incineration of waste	No	Not applicable
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)	No	No waste will burn in open air
5.8	Emissions from any other sources	No	Nil

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers	Yes	Construction phase: Noise will be generated from following sources; 1. Construction machinery 2. On-going construction activity Operation phase: Potential noise generating sources during operation phase, vehicular traffic & from DG sets.
6.2	From industrial or similar processes	No	Not applicable
6.3	From construction or demolition	Yes	Noise pollution will be due to various construction activities, transportation of vehicles and operation of DG sets.
6.4	From blasting or piling	No	Not Applicable
6.5	From construction or operational traffic	Yes	Construction phase: Noise will be generated due to trucks carrying the construction material. Operation phase: During operation phase, noise will be generated due to traffic.
6.6	From lighting or cooling systems	No	-
6.7	From any other sources	No	-

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7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

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Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials	No	Nil, as the proposed project is Development of Residential Apartments.
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)	Yes	STP of capacity 210KLD for block 1 and STP of capacity 280 KLD for block 2 will be designed to treat wastewater to acceptable standards for utilization as makeup water for flushing, landscaping and car wash etc.
7.3	By deposition of pollutants emitted to air into the land or into water	No	Nil
7.4	From any other sources	No	Nil
7.5	Is there a risk of long term buildup of pollutants in the environment from these sources?	No	Nil

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances	Yes	Storage of HSD, fresh and used lube oil are prone to dangers. Care will be taken that these are stored in closed tanks/ containers, away from any possible sources of ignition.
8.2	From any other causes	No	Nil
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?	No	The city lies in seismic zone II. The design of the building is as per the IS 1893: Part (1) 2002 (Criteria for earthquake resistance design of structures - Part 1 General Provisions and Buildings).

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9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	Lead to development of supporting facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: <ul style="list-style-type: none"> Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) housing development extractive industries supply industries other 	Yes	Infrastructure that accompanies proposed include: <ul style="list-style-type: none"> STP for treatment and recycling of waste water generated in the project Rainwater harvesting Adequate parking space. Proportionate development of infrastructure, creation of associated tertiary service sector and employments. Expected in increase of traffic density due to the proposed project, the project site has access to good road networks & hence the increased traffic can be easily handled. Traffic density study report is enclosed as Annexure
9.2	Lead to after-use of the site, which could have an impact on the environment	No	Not anticipated
9.3	Set a precedent for later developments	No	Not anticipated
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects	Yes	This project is likely to exert more loads on the resources such as water and electricity.

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Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

(III) Environmental Sensitivity

Sl.No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value.	No	Not Applicable
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests.	Yes	Kaikondrahalli lake exist at a distance of 75 m Harlur / Kasavanahalli lake at a distance of 0.800Km
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration.	No	Not applicable
4	Inland, coastal, marine or underground waters.	No	Not applicable
5	State, National boundaries.	No	Not applicable
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas.	No	Not applicable
7	Defense installations.	No	Not applicable.
8	Densely populated or built-up area.	Yes	The Proposed project site is located within Bengaluru city limits.
9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	Yes	Proposed project site is located near to Bellandur, where in all community facilities are available such as Schools, Hospitals etc., exist within 1 Km of radius.
10	Areas containing important, high quality or scarce resources (Ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	No	Not applicable
11	Areas already subjected to pollution or environmental damage: (those where existing legal environmental standards are exceeded)	No	Not envisaged.

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12	Areas susceptible to natural hazard which could cause the project to present environmental problems (Earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	No	The site falls under the Zone II as per seismic zone map of India. Hence the proposed area for construction is not susceptible to natural hazard.
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(IV) Proposed Terms of Reference (TOR) for EIA Studies.
NOT APPLICABLE.

I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Issued under RTI Act. 2005

Date:
Place: Bengaluru

Signature of the Applicant

For M/s Wonder Projects Development Pvt. Ltd.



[Handwritten Signature]

Authorised Signatory

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Note:

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z. map duly demarcated by one of the authorized agencies, showing the project activities, wrt C.R.Z. (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.
2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the Authorized Signatory shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the recommendations or comments of the Chief Wildlife Warden thereon (at the stage of EC)".
3. All correspondence with the Ministry of Environment & Forests including submission of application for TOR /Environmental Clearance, subsequent clarifications, as may be required from time to time, participation in the EAC Meeting on behalf of the Authorized Signatory shall be made by the authorized signatory only. The authorized signatory should also submit a document in support of his claim of being an authorized signatory for the specific project".

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T.C
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State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India, under section 3(3) of E(P) Act, 1986)

No. SEIAA 114 CON 2017

Date: 10-01-2018

To,

Sri Mohammed Samiulla,
Deputy General Manager,
M/s. Wonder Projects Development Pvt. Ltd.,
#80, Hulkal Ascent, 2nd Cross,
Lavelle Road,
Bengaluru - 560 001.

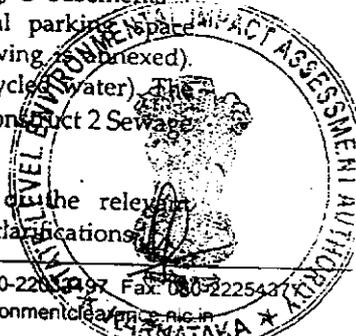
Sir,

Sub: Construction of New Residential Building project at Survey No's 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru District by M/s. Wonder Projects Development Pvt. Ltd - Issue of Environmental Clearance - Reg.

This has reference to your online application dated 14th October 2017 bearing proposal No.SIA/KA/NCP/70329/2017 addressed to SEIAA, Karnataka and subsequent letters addressed to SEIAA/SEAC Karnataka furnishing further information/seeking prior Environmental Clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per the prescribed procedure in light of the provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., the Form 1, Form 1A, conceptual plans and the additional clarifications furnished in response to the observations of the SEAC, Karnataka. SEAC has recommended for issue of Environmental Clearance in their meeting held on 25th November 2017.

2. It is, inter-alia, noted that M/s. Wonder Projects Development Pvt Ltd have proposed for construction of new residential building project on a plot area of 50,382.91 Sqm. The total built up area is 1,28,193.9 Sqm. The proposed project consists of 2 residential blocks having, 2 Basements + Ground Floor +20 Upper Floors with 655 units. Total parking space proposed is for 877 No's of Cars. (Site plan/layout drawing is annexed). Total water consumption is 534 KLD (Fresh water + Recycled water). The total wastewater discharge is 482 KLD. It is proposed to construct 2 Sewage Treatment Plants with a capacity of 210 KLD & 280 KLD.

3. The SEIAA Karnataka after due consideration of the relevant documents submitted by the project proponent, additional clarifications



State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India under section 3(3) of E(P) Act, 1986)

SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

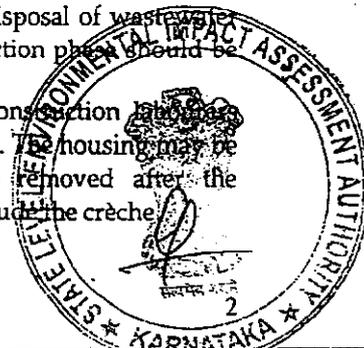
furnished in response to its observations and the recommendation of the SEAC have in their meeting held on 20th December 2017 and decided to accord Environmental Clearance in accordance with the provisions of Environmental Impact Assessment Notification-2006 and its subsequent amendments, subject to strict compliance of the following terms and conditions:-

Part A-SPECIFIC CONDITIONS

I. Construction Phase

1. Set up an environment management cell and ensure that the cell manages/maintains all the environmental aspects such as sewage treatment, solid waste disposal, maintenance of green belt areas, etc., and in case the commercial space is sold/leased, then enter into an agreement with the prospective buyers to ensure that they maintain the cell and take care of all environment concerns during the operation phase of the project. In addition, sufficient fees should be levied so as to raise a corpus fund to maintain the Environment cell.
2. Appoint an Environment and safety engineer during the construction phase to take care of environment and safety aspects.
3. The project proponent should ensure that during the construction phase utmost care is taken to ensure that there is no noise nuisance, no air and water pollution and no disturbance to the nearby inhabitants. In case of violation, the project construction activity may have to be directed to be stopped.
4. The project proponent should cover the project site from all sides by raising sufficiently tall barricades with sheets to ensure that pollutants do not spill to the surroundings.
5. Provide at the main entrances bell gates, which are located at least 12' inside the boundary of the project to enable smooth flow of traffic on the main road leading to the entrance.
6. All required sanitary and hygienic measures should be in place before starting construction activities and to be maintained throughout the construction phase. Sufficient number of toilets/bathrooms shall be provided with required mobile toilets, mobile STP for construction workforce.
7. A First Aid Room should be provided in the Project both during construction and operation of the project.
8. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.
9. Provision shall be made for the housing of construction laborers within the site with all necessary infrastructures. The housing may be in the form of temporary structures to be removed after the completion of the project. The facilities shall include the crèche.

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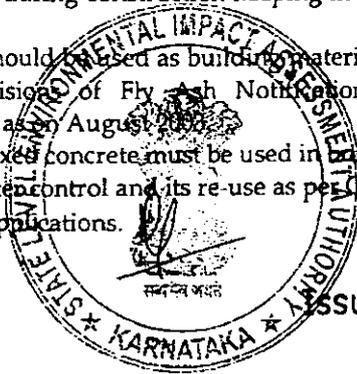


State Level Environment Impact Assessment Authority-Karnataka
(Constituted by MoEF, Government of India under section 3(3) of E(P) Act, 1986)

SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

10. Provision should be made for the supply of fuel (kerosene or cooking gas); utensils such as pressure cookers etc. to the labourers during construction phase.
11. All the labourers to be engaged for construction should be screened for health and adequately treated before engaging them to work at the site and detailed report submitted to SEIAA. Safety standards as per National Building Code (NBC) should be ensured.
12. For dis-infection of wastewater which is not meant for recycling for toilet flushing, use ultraviolet radiation and not chlorination. For treated wastewater meant for reuse for toilet flushing, disinfect by using chlorination.
13. All the topsoil excavated during construction activities should be stored for use in horticulture/landscape development within the project site.
14. Disposal of muck, construction debris during construction phase should not create any adverse effect on the neighboring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
15. Soil and groundwater samples should be tested at the project site during the construction phase to ascertain that there is no threat to groundwater quality by leaching of heavy metals and or other toxic contaminants and report submitted to SEIAA.
16. Construction spoils, including bituminous material and other hazardous materials, must not be allowed to contaminate watercourses and the dumpsites for such material must be secured so that they should not leach into the groundwater.
17. The diesel generator sets to be used during construction phase should be of low sulphur diesel type and should conform to E (P) Rules prescribed for air and noise emission standards.
18. Vehicles hired for bringing construction material to the site should be in good condition and should conform to the applicable air and noise emission standards and should be operated only during non-peak hours.
19. Ambient noise levels should conform to the residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures to reduce air and noise pollution during construction keeping in mind CPCB norms on noise limits.
20. Fly ash should be used as building material in the construction as per the provision of Fly Ash Notification of September 1999 and amended as on August 2002.
21. Ready mixed concrete must be used in building construction.
22. Stormwater control and its re-use as per CGWB and BIS standards for various applications.



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State Level Environment Impact Assessment Authority-Karnataka
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SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

23. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.
24. Only tertiary treated water shall be used for construction as per G.O. No. FEE 188 ENV 2003 dated 14.08.2003 and in terms of the orders of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated 4th May 2016 in original application No.222 of 2014. The project proponent shall identify a suitable source of treated water for construction and submit an MOU/Agreement with such suppliers. If so the supplier identified shall be responsible for treatment of water with appropriate technology to the standards required for construction purpose.
25. No groundwater is to be drawn without permission from the Central /State Ground Water Authority.
26. Separation of grey and black water should be done by the use of dual plumbing line for separation of grey and black water.
27. Treatment of 100% grey water by decentralized treatment should be done.
28. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
29. Use of glass shall not exceed 40% of exposed area to reduce the electricity consumption and load on air conditioning. If necessary, use high quality double glass with special reflective coating in windows.
30. The provision of Energy Conservation Building code, 2007 shall be fully complied with.
31. Roof should meet prescriptive requirement as per Energy Conservation Building Code, 2007 by using appropriate thermal insulation material.
32. Opaque wall should meet prescriptive requirement as per Energy Conservation Building Code, 2007 which is proposed to be mandatory for all air conditioned spaces while it is optional for non-air conditioned spaces by use of appropriate thermal insulation material to fulfill requirement.
33. Facilities such as ramps and separate parking shall be provided for the benefit of physically challenged.
34. The project shall be made operational only after necessary infrastructure/connection for water supply and sewerage line is provided and commissioned by the Competent Authorities
35. The project proponent shall maintain and operate the common infrastructure facilities created including STP and solid waste management facility for a period of least 5 years after commissioning the project.
36. The project proponent shall incorporate a suitable condition in the Sale Agreement/Deed to be made with the buyers that the occupier/buyer holds the responsibilities jointly with other users to maintain common infrastructure facilities created including STP and solid waste management facility.

State Level Environment Impact Assessment Authority-Karnataka
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Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

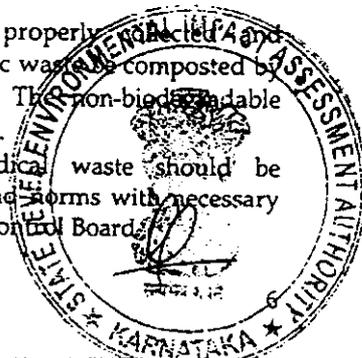
maintained as green belt. No construction activity shall be undertaken in the said buffer zone.

49. The natural sloping pattern of the project site other than the area excavated for the purpose of construction of proposed building shall remain unaltered and the natural hydrology of the area be maintained as it is to ensure natural flow of stormwater
50. Lakes and other water bodies within and/or at the vicinity of the project area shall be protected and conserved.
51. The Project proponent shall build in infrastructure required for use of Piped Natural Gas (PNG) such as pipelines and space for installation of PNG distribution equipment for both domestic/commercial purpose and DG set and shall ensure that PNG is supplied for both commercial and for DG sets instead of other type of fuels.
52. The project proponent shall undertake activities under towards the Corporate Social Responsibility in accordance with commitment made vide letter dated 09.01.2018 and report be submitted to the authority.

II. Operation Phase.

1. The installation of the 2 Sewage Treatment Plants with a capacity of 210 KLD & 280 KLD should be carried out before the construction of the second floor of the main structure is commenced and the plant shall be got certified by an independent expert and a report in this regard should be submitted to the SEIAA immediately. Discharge of treated wastewater shall conform to the norms & standards of the Karnataka State Pollution Control Board. Treated wastewater should be used for flushing, gardening, etc. as proposed, using dual plumbing line.
2. Rainwater harvesting for roof run-off with 60 Cum capacity of tank at ground level for rainwater collection and also surface run-off harvesting as per the plan submitted should be implemented with 10 No's recharge pits and pre-treatment must be done to remove suspended matter, oil and grease before recharging the surface runoff.
3. Ensure that the excess runoff rainwater from the greenbelt area, which is irrigated by treated water, does not get into recharge pits and contaminate the groundwater. Such excess flow should be safely let into the stormwater drains.
4. The solid waste generated should be properly collected and segregated insitu. The Biodegradable organic waste should be composted by installing bio-converter in site and used. The non-biodegradable waste is disposed to the authorized recyclers.
5. Any hazardous waste including biomedical waste should be disposed-off as per the applicable Rules and norms with necessary approvals of the Karnataka State Pollution Control Board.

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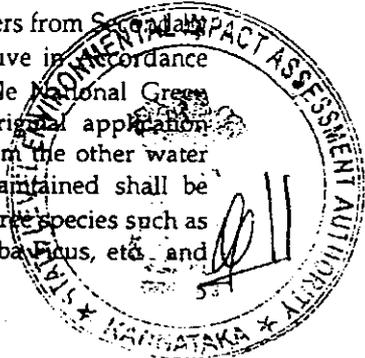
State Level Environment Impact Assessment Authority-Karnataka.
(Constituted by MoEF, Government of India.under section 3(3) of E(P) Act, 1986)

SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

37. The Project PropONENT shall obtain the construction material such as stones and jelly etc. only from the approved quarries and other construction material shall also be procured from the authorized agencies/traders.
38. The Project proponent shall obtain approval from the competent authorities for structural safety of the building due to earthquake, adequacy of fire fighting equipment etc. as per the National Building Code (NBC) including protection measures for lightening etc.
39. The project proponent shall ensure that no water bodies are polluted due to project activities.
40. Safety standards as per National Building Code (NBC), 2005 should be followed and ensured.
41. The project proponent shall ensure that the National Building Code, 2005 is fully complied with and adhered to.
42. The project proponent shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only.
43. The project proponent shall obtain NOC before commencement of the construction activity and clearance after the completion of the construction from the Fire and Emergency Services Department, if Applicable.
44. The project proponent shall ensure the time specification prescribed by the Honourable High Court of Karnataka in WP. No. 1958/2011 (LB - RES - PIL) on 04.12.2012 for different activities involved in construction work.
45. The proponent shall take up the construction activity only after obtaining NOC from BWS&SB or clearance from the competent authority for assured supply of water as the case may be.
46. The project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, FAR etc. Shall be adhered to.
47. The existing water body, canals and rajakaluve and other drainage and water bound structures shall be retained unaltered with due buffer zone as applicable and maintained under tree cover.
48. The project proponent shall leave a buffer of 75 Meters from the Lakes, 50 Meters from Primary Rajakaluve, 35Meters from Secondary Rajakaluve and 25 Meters from Tertiary Rajakaluve in accordance with the order of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated 4th May 2016 in original application No.222 of 2014 in addition to sufficient buffer from the other water bodies in Accordance of law. The buffer so maintained shall be developed as Greenbelt planting with indigenous tree species such as Neem, Akash Mallige, Mahagoni, Honge, Kadamba, Ficus, etc. and

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State Level Environment Impact Assessment Authority-Karnataka
(Constituted by MoEF, Government of India under section 3(3) of E(P) Act, 1986)

SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

6. The project proponent shall develop a minimum of 43 % of the total project site i.e., minimum 21,667.7 Sqm area for green belt. The proponent shall undertake plantation of heavy foliage indigenous tree species such as Mahagoni, Honge, Neem, Akash Mallige, Kadamba, Ficus and Ashoka, etc at an espacement of 3 mts x 3 mts i.e. 1111 plants/hectare.

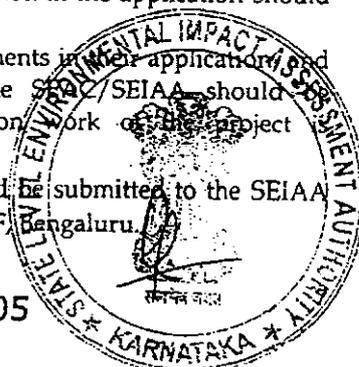
The green belt design along the periphery of the plot shall achieve attenuation factor confirming to the day and night noise standards prescribed for residential land use. The open spaces inside the plot should be suitably landscaped and covered with vegetation of indigenous variety.

7. Incremental pollution loads on the ambient air quality; noise and water quality should be periodically monitored after commissioning of the project.
8. Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrid system or fully solar system for the complex should be provided. Details in this regard should be submitted to the SEIAA.
9. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
10. A Report on the energy conservation measures confirming to energy conservation norms finalized by the Bureau of Energy Efficiency should be prepared incorporating details about building materials & technology, R & U Factors etc and submit to the SEIAA in three months time.
11. All toilets should have dual plumbing line for using treated water and no wastewater is discharged from the unit.
12. The Environment Management Plan including the human health and Safety management plan and Fire Safety and Protection plan proposed by the proponent shall be strictly implemented.
13. The proposed building shall have D.G. Set of 2 No's X 500 KVA, 1 No X 380 KVA & 1 No X 320 KVA as an alternate power supply source as proposed.

PART - B. GENERAL CONDITIONS:

1. The Environmental safeguards contained in the application should be implemented in letter and spirit.
2. All commitments made by the proponents in their application and subsequent letters addressed to the SEIAA/SEIAA should be accomplished before the construction work of the project completed.
3. Half yearly monitoring reports should be submitted to the SEIAA and the APCCF, Regional Office, MoEF, Bengaluru.

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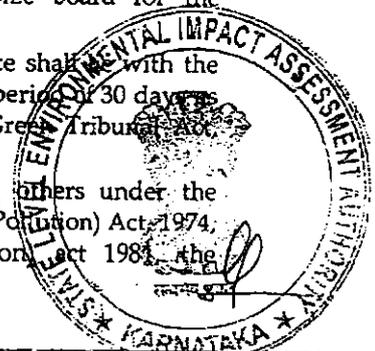
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SEIAA 114 CON 2017

Construction of new residential building Project of
M/s. Wonder Projects Development Pvt. Ltd

4. Officials from the Department of Environment and Ecology, Bengaluru / APCCF, Regional Office of MoEF, Bengaluru who would be monitoring the implementation of Environmental safeguards should be given full cooperation, facilities and documents/data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF / SEIAA should be forwarded to the APCCF, Regional Office of MoEF, Bengaluru / Department of Environment and Ecology, Bengaluru.
5. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.
6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protection) Act, 1986.
7. The Authority reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environmental clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
8. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the competent authorities.
9. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the Karnataka State Pollution Control board and may also be seen on the website of the SEIAA, Karnataka at <http://seiaa.karnataka.gov.in> or <http://environmentclearance.nic.in> The advertisement should be made within 7 days from the day of issue of the clearance letter and a copy of the same should be forwarded to the APCCF, Regional Office of the MoEF at Bengaluru/ Department of Environment and Ecology, Bengaluru.
10. The project proponent should display the conditions prominently at the entrance of the project on a suitable size board for the information of the public.
11. Any appeal against this environmental clearance shall be with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.
12. These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act 1981, the



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Environment (Protection) Act, 1986, the Public Liability (Insurance)
Act, 1991 and EIA Notification, 2006.

13. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it is found that construction of the project has been started without obtaining environmental clearance.
14. The issuance of Environment Clearance doesn't confer any right to the project proponent to operate/run the project without obtaining Statutory clearance/sanctions from all other concerned authorities.



Yours faithfully,

(Signature)
(RAMACHANDRA) 10/1/15
Member Secretary,
SEIAA, Karnataka.

Copy to:

1. The Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj, New Delhi - 110 003.
2. The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP), N.R. Square, Bangalore - 560 002.
3. The Member Secretary, Karnataka State Pollution Control Board, Bengaluru.
4. The APCCF, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E & F wings, 17th Main Road, Koramangala II Block, Bengaluru - 560 034.
5. Guard File.

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, AT NEW DELHI

MEMORANDUM OF APPEAL

APPEAL NO. 54 OF 2018

(Under Section 16(h) read with Sections 14, 15, 18 and 20 of
the National Green Tribunal Act, 2010)

IN THE MATTER OF:

H. P. RAJANNA

APPELLANT

Versus

UNION OF INDIA & Others

RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO.5/BBMP
TO THE APPEAL**

MOST RESPECTFULLY SHOWETH:

1. In the humble submission of the Respondent No.5, Bruhat Bengaluru Mahanagara Palike (for Short 'BBMP'), the following facts and circumstances are placed on record.

2. Pursuant to above case BBMP has initiated action and has issued **Show Cause Notice-cum-Stop Work Notice dated 13.07.2018**; as also issued Conformation Order (CO) dated **22.06.2018** and Provisional Order (PO) dated **06.06.2018** under section 321 of the Karnataka Municipal Corporations Act, 1976 (for short 'KMC Act'); and BBMP has issued notice dated **30.05.2018** vide notice No. **WARD No.150/Tamsha/PR/49/18-**

the eco-fragile area on account of gross negligence and non-application of mind and non-adherence to their respective statutory duties under law;

- Direct the respondent authorities to strictly enforce the judgment of the NGT in the case of *Forward Foundation and others* in OA No.222/2014, the provisions of Notification of 2006, Water Act and Act of 1986 along with Revised Master Plan 2015, Karnataka Town and Country Planning Act, Karnataka Municipal Corporation Act, 1976 and other Municipal Bye laws concerning the environment in relation to violations of buffer zone and harm to ecology thus caused;
 - Quash any permission, sanction, license, clearances, consents and No Objection Certificates in favour of project proponents in relation to the project in question;
 - Restrain Respondent No.11 & 12 from putting up any constructions, any construction activity including changing or altering the nature and character of the project lands in any manner whatsoever; and also to restrain Respondent No.11 and 12 from creating any manner of third party rights whatsoever in the project land or part thereof.
4. In this background the Appellant in the said case has raised various issues that there are violations of zoning

regulation number 4.12.1 (ii) of the Revised Master Plan-2015 which prescribes a buffer of *No Development Zone of 30 meters around the lakes* and that this was expanded by the Hon'ble NGT prescribing a buffer zone of 75 meters around the lakes in the Full Bench Judgment dated 4.5.2016 passed in OA No.222 of 2014. In fact, in the very same judgment the Tribunal has issued various directions and direction No.3 at Para No.63, page no.73 therein is reproduced as under:

*"3. The distances in respect of buffer zone specified in this judgment shall be made applicable to **all the projects and all the Authorities concerned** are directed to incorporate such conditions in the projects to whom Environmental Clearance and **other permissions** are now granted and not only around Bellandur Lake, Rajkulevas, Agara Lake, **but also all other Lakes/wetlands in the city of Bengaluru.**"*

Similarly, another direction in the same judgment at Para no.63, page no.72 is as under:

"vi. The entire green belt created under the directions of this Tribunal should not to be considered as part of green belt of the project as part of EC condition and will be over and above the green belt as indicated in the EC."

5. In the above case it is stated that regarding the project lands a total of 3 Rajakaluves i.e., one primary

Rajakaluve and two secondary Rajakaluves are passing through the project site around which 50 meters and 35 meters respectively of Buffer Zone is required to be maintained as a *No Development Zone* in terms of the aforesaid judgment of NGT.

6. It is also stated that on account of nonchalant attitude of the respondent authorities in implementing properly and efficaciously the various provisions of environmental laws and local laws, municipal laws including zonal regulations in Revised Master Plan-2015, Water Act 1974 and that the respondent authorities are flagrantly violating the directions in the above said judgment dated 04.05.2016 and have therefore challenged the Environment Clearance by stating that:

- The project proponents have fraudulently misled the SEIAA/Respondent No.3 in terms of information provided to obtain Environment Clearance; and that the Environment Clearance (EC) is in violation of the NGT Judgment in OA No.222/2014;
- And that the said EC is granted in violation of Municipal Laws and Building Laws including RMP-2015;
- The EC is in violation of Water Act, 1974 and Wetland (Conservation and Management) Rules, 2017;

- The EC is granted without application of mind and suffers from errors of law and facts;

7. It is humbly submitted that the project lands are in fact Wetlands and it is situated abutting the Kaikondarahalli Lake. The project lands fall inside/within the two kinds of buffer zones defined in the Judgment (04.05.2016, *Forward Foundation's case*), namely, The Lake Buffer zone limits (75 meters from the periphery of the lake) and Nalla/Rajakaluve Buffer zone limits (35 meters) on either sides from the edges of the Nalla/Rajakaluve. Both these buffer zone limits are prohibited areas in terms of the judgment in *Forward Foundation's case supra* and directions issued therein (at Direction No.3 stated above) that no permissions for the purposes of sanctioning any construction project can be granted by any authority for any construction project, including the project in question namely, **GODREJ REFLECTIONS**.

8. As regards the prayer in the above case that directions to Respondent authorities including BBMP to strictly enforce the judgment of the NGT in *Forward Foundation's case* is concerned. In the humble submission of the Respondent No.5, this Hon'ble Tribunal in the said case has passed various directions for protection of environment and ecology for the city of Bengaluru and has made several observations regarding the

environment situation in Bengaluru and regarding the water scarcity in Bengaluru. *Forward Foundation's* case in Original Application No.222 of 2014 was disposed of by its main judgment dated **07.05.2015**. While doing so at Para No.85 therein various directions were issued and a High Power Committee was constituted and to submit a report to the Tribunal. *BBMP* was one of the members of High Power Committee.

Subsequently, pursuant to the High Power Committee's report this Hon'ble Tribunal passed another judgment dated **04.05.2016** and has therein issued three types of directions: (1) General Conditions or Directions; (2) Specific Conditions/Directions for Respondent No.9; and (3) General Directions.

The third direction at Para no.63 is already stated above and it is applicable for the above case.

9. It is humbly submitted that in the above said judgment dated **07.05.2015** in *Forward Foundation's* case, it is clearly stated regarding Wetlands as under:

"56. Wetlands are amongst the most productive ecosystems on the Earth, and provide many

important services to human society. However, they are also ecologically sensitive and adaptive systems. "Free" services provided by wetlands are often taken for granted, but they can easily be lost as wetlands are altered or degraded in a watershed. Estimates of the per acre value of wetland services run as high as \$370,000/acre in 1992 dollars (Heimlich et al. 1998). The exact value can be attributed to the type and location of the wetland, the services it provides, and the economic methods and assumptions used.

57. Ecosystem goods provided by the wetlands mainly include: water for irrigation; fisheries; non-timber forest products; water supply; Pollutant removal, Flood attenuation, Groundwater recharge, Shoreline protection, Wildlife habitat and recreation. Major services include: carbon sequestration, flood control, groundwater recharge, nutrient removal, toxics retention and biodiversity maintenance (Turner et al., 2000).

58. Various services provided by wetlands include Carbon Cycle/Carbon Sequestration: Swamps, mangroves, peat lands, mires and marshes play an important role in carbon cycle. Though wetlands contribute about 40% of the global methane (CH₄) emissions, they have the highest carbon (C) density among terrestrial ecosystems and relatively greater capacities to sequester additional carbon dioxide (CO₂). Wetlands provide for habitat for more aquatic, terrestrial, and avian species on an area

basis than any other habitat type, making them one of the most ecologically and economically important ecosystems on earth. Thus, wetlands provide for soil life, habitat, biodiversity maintenance and recreation. Wetlands are a service provider to Nutrient Removal, Flood attenuation and Water supply and Ground water recharge and even are a source of employment [Ref. Pant et. al, 2003; Groffman and Crawford, 2003; Juliano and Simonovic, 1999; Olewiler, 2004; MFPED, 2004]. It is essential to provide an effective institutional framework to manage water bodies through governmental and even non-governmental organizations.

59. Bengaluru has many artificial lakes, built for various hydrological purposes and mainly to serve the needs of irrigated agriculture and other allied purposes. The studies placed on record show that lakes of Bengaluru occupy about 4.8 per cent of the city's geographical area (640 square meters) covering both urban and non-urban areas (Krishna M.B. et al., 1996). The number of these lakes has rapidly fallen from 262 in 1960 to 81 in 1985. The quality of water has reduced due to discharge of industrial effluents and domestic sewage. Conversion of lakes for residential, agricultural and industrial purposes has engulfed many lakes. Similarly, between 1973 and 2007, this region lost 66 lakes with a water spread area of around 1100 hectares due to urban sprawl (Nitin Bassiet al.,

2014). General factors affecting wetlands especially lakes are Eutrophication, low dissolved oxygen and pH, sedimentation and heavy metal pollution, biodiversity loss, etc.

60. Studies also reflect that a comparative analysis of drainage network between the Bengaluru urban and rural areas showed that the water bodies in Bengaluru urban district were subjected to intense pressure due to the process of urbanization and increasing population, resulting in loss of interconnectivity, in contrast to water bodies in rural Bangalore, where less pressures from direct human activities were noticed. At Madivala and Bellandur, there is interconnectivity of lakes with the adjacent lakes. Due to conversion and encroachment of two water bodies, connectivity between Yelchenahallikere and Madivala is lost as in the case of Bellandur and Ulsoor lakes with the conversion of Challegatta tank into a golf course. The GIS analysis revealed that due to developmental activities in the catchment area, the drainage connectivity between the water bodies has been lost.

61. The loss in wetland interconnectivity in Bangalore district is attributed to the enormous increase in population and the reclamation of tanks for various developmental activities.....

65. The wetland management program generally involves activities to protect, restore, manipulate,

and provide for the functions and values emphasizing both quality and acreage by still advocating sustainable usage of them [Walters, C. 1986]. Management of wetland ecosystems requires an intense monitoring, increased interaction and co-operation among the various agencies (state departments concerned with environment, soil, natural resource management, public interest groups, citizen groups, agriculture, forestry, urban planning and development, research institutions, government, policy makers, etc.). Such management goals should not only involve buffering wetlands from any direct human pressures that could affect the wetlands normal functions, but also in maintaining important natural processes that operate on them that may be altered by human activities. Wetland management has to be an integrated approach in terms of planning, execution and monitoring requiring effective knowledge on a range of subjects from ecology, economics, watershed management, and planners and decision makers, etc. All this would help in understanding wetlands better and evolving a more comprehensive solution for long-term conservation and management strategies.

67.....It was opined that this activity is contrary to Sustainable Development as the natural resources, lakes and wetlands get affected due to such activity. **Removal of Rajakaluve (storm**

water drains) and gradual encroachment over them amounts to removal of lake connectivity, which enhances the episodes of flood and associated disasters. The Supreme Court of India, in Civil Appeal No. 1132/2011 while expressing concern regarding encroachment, particularly over lakes, had directed the State Governments to remove encroachments on all community lands.

67..... Multi-storied buildings have come up on some lake beds that have totally intervene the natural catchment flow leading to sharp decline and deteriorating quality of water bodies. This is correlated with the increase in built up area from the concentrated growth model focusing on Bangalore, adopted by the state machinery, affecting severely open spaces and in particular water bodies. Some of the lakes have been restored by the city corporation and the concerned authorities in recent times. Threats faced by lakes and drainages of Bangalore:

1. Encroachment of lakebed, flood plains, and lake itself;
2. Encroachment of rajakaluves/storm water drains and loss of interconnectivity;
3. Lake reclamation for infrastructure activities;
4. Topography alterations in lake catchment;
5. Unauthorised dumping of municipal solid waste and building debris;

6. Sustained inflow of untreated or partially treated sewage and industrial effluents;
7. Removal of shoreline riparian vegetation;
8. **Pollution due to enhanced vehicular traffic.**

These anthropogenic activities particularly, indiscriminate disposal of industrial effluents and sewage wastes, dumping of building debris have altered the physical, chemical as well as biological integrity of the ecosystem. This has resulted in the ecological degradation, which is evident from the current ecosystem valuation of wetlands. Global valuation of coastal wetland ecosystem shows a total of 14,785/ha US\$ annual economic value. Valuation of relatively pristine wetland in Bangalore shows the value of Rs. 10,435/ha/day while the polluted wetland shows the value of Rs.20/ha/day (Ramachandra et al., 2005). In contrast to this, Varthur, a sewage fed wetland has a value of Rs.118.9/ha/day (Ramachandra et al., 2011). The pollutants and subsequent contamination of the wetland has telling effects such as disappearance of native species, dominance of invasive exotic species (such as African catfish, water hyacinth, etc.), in addition to profuse breeding of disease vectors and pathogens. Water quality analyses revealed of high phosphates (4.22-5.76 ppm) levels in addition to the enhanced BOD (119-140 ppm) decreased DO (0-1.06 ppm). The amplified decline of ecosystem goods and services with degradation of water quality necessitates the implementation of sustainable management strategies to recover the lost wetland benefits.....”

10. It is humbly submitted that this Hon'ble Tribunal has also clearly stated regarding the trifecta namely, Wetlands, zone of influence/catchment area and water bodies/lakes in the case of *Diwan Singh & Another vs Union of India & Others* (Larger Bench ruling) in Original Application No. 299 of 2016, the relevant para's is reproduced as under:

"15. Water bodies and wetlands play an extremely crucial role in ground water recharge, maintenance of aquatic biodiversity, provide habitat for avifauna as well as aquatic life, help regulate temperature and humidity in the locality, and thereby ameliorate the severity of extreme temperature and also provide drinking water during critical months to the wild life. Besides, a water body receives the surplus run off, subsurface and base flow from the adjoining catchment area during the monsoons and helps in the recharge of aquifers, thereby providing a dynamic equilibrium with the catchment as well as the aquifers underneath. Protection of water bodies is, therefore, critical to the associated aquatic and terrestrial ecosystem of the area. However, the capacity of the water bodies can be severely impacted adversely in the absence of a proper vegetative cover, unregulated flow of domestic sewage and industrial effluent into the water body or dumping of municipal waste which some of the water bodies....."

"18. The Apex Court has held that the government is duty bound to clean and develop ponds which were drying up, so that ecological disaster may be prevented and better environment provided to people at large in the matter of **Hinch Lal Tiwari V. Kamala Devi [(2001) 6 SCC 496]**. Relevant portion is reproduced as follows :

" It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc., are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e., Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large"

The emphasis of the above enunciated law is that all the concerned authorities should exercise their powers within the framework of law to protect forests, lakes, rivers and wildlife. The failure on the part of the Authorities to do so causes a dual damage. Firstly, the loss of water bodies and secondly, unauthorised or impermissible development activity on the wetland. Both of them

cumulatively have serious adverse impacts on environment and ecology."

11. In fact the project lands/wetlands are situated in the catchment areas of Bellandur and/or Varthur lakes and particularly abutting the Kaikondarahalli lake. The Project Proponents i.e. M/s Wonder Project Development Pvt. Ltd. have submitted an application on 17.11.2017 to BBMP for sanction of building plan and building license for the purpose of construction of high rise residential building project (i.e. Godrej Reflections/impugned project) from the BBMP in Application No. **BBMP/Add.Dir/JD/NORTH/0202/2017-18** in respect of the lands in BBMP Khata No.4131, Survey No.61/2, 62, 63/2 totally measuring 12 acres 18 guntas situated in Kasavanahalli, Varthur Hobli Bangalore East Taluk, BBMP- Ward No.150 (Bellandur Ward), Mahadevpura Zone, Bangalore.

12. For the purpose of launching this project, the Project Proponents have resorted to various illegalities. In fact, the Project Proponents had widely issued full page public advertisements in leading English daily newspapers (including the advertisement copy produced at page no.8 of MA No.541/2018 in the above case), advertising for the project and in continuation of the same the Project Proponents have in fact

illegally and unauthorisedly raised constructions of model flat comprising of ground floor and first floor measuring 2500 square feet and there was on-going constructions, therefore, BBMP issued Show Cause Notice-cum-Stop Work Notice dated 13.07.2018 as stated above.

In fact the construction of Model Flat measuring 2500 sq.ft. was raised even in the absence of Mandatory written permission from the BBMP for the purpose of putting up *any construction in the project lands* and in the absence of approved Building Plan and Building License which is a condition precedent. In fact, there is clear violation of Section 300 of KMC Act, 1976. Therefore, the said constructions in the project lands are completely illegal and unauthorised. Section 300 of the KMC Act, 1976 is as under:

"300. Prohibition against commencement of work without permission.- The construction or re-construction of a building shall not be begun unless and until the Commissioner has granted permission for the execution of the work."

In this context, it is relevant to mention that this Hon'ble Tribunal in *Forward Foundation's* case (4.5.2016) at Para 34 has defined the meaning of construction and it is reproduced as under:

"34. Construction does not mean construction of only the building. Construction envisages different processes

starting from clearing the land, excavating the land for the foundation, building the foundation and the work till the entire construction is completed....."

In this background, Condition Nos 45 and 46 of the Environment Clearance are relevant and are reproduced as under:

"45. The proponent shall take up the construction activity only after obtaining NOC from BWS&SB or clearance from the competent authority for assured supply of water as the case may be.

46. The Project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, FAR etc., shall be adhered to."

13. Therefore, BBMP has issued necessary orders to remove the illegal and unauthorized structures and has therefore issued Provisional Orders (PO) under section 321(1) & (2) of the KMC Act, 1976 dated 06.06.2018 and followed by Confirmation Order (CO) under section 321(3) of KMC Act, 1976 dated 22.06.2018. The photographs at page No.60 of the Rejoinder Affidavit filed by the Appellant on 22.05.2018 is the very same illegal constructions raised in the project lands

for which BBMP has issued the above said orders to remove the unauthorized constructions.

14. In fact, the application dated 17.11.2017 submitted by Project Proponents, seeking sanction of building plan and building license is invalid and is not according to the mandatory requirements under the KMC Act and BBMP Building Bye-laws, 2003. Building bye-law no.3.2 is as under:

"3.2 Application and documents to be submitted with the application, - Every person who intends to erect or re-erect or alter a building, including temporary structures for the purpose of exhibitions, trade fair or circus or execute any of the works other than repairs, as specified in Section 299, 304 or 312 of the Act, shall give an application in writing to the Authority in the Form set forth in Schedule II and such application shall be accompanied by plans, documents and information as required hereunder.

Schedule-II (Building Bye-law No.3.2) i.e. Form of application for building license required that:

"3. Site Plan, showing the existing features like trees, well etc. (Block levels to be furnished in cases where the gradient of the land exceeds 5% (1:20) or where basement/cellar floors are proposed below ground level).

10. No objection certificate from agencies like, BDA, BESCO, BWSSB, KSCB, District Magistrate, Director of Factories and Boilers, Controller of Explosives, Railways, Fire Force Department, Airport Authority of India, Government Health Department and any other authority wherever applicable."

The mandatory requirements at Serial Nos.3 and 10 is not complied with by the Project Proponents, despite the Show Cause Notice-cum-Stop Work Notice dated 13.07.2018 wherein the BBMP has requested the Project Proponents to produce documents stated in para no.19 of the said Notice. However, the Project Proponents have till today not furnished these required documents. BBMP at Para no.19 has specifically sought for the mandatory permission "Consent to Establish (CFE) from Karnataka State Pollution Control Board for the project in question; and No Objection Certificate (NOC) from the BWSSB for the project in question."

PROJECT PROPONENTS HAVE NOT OBTAINED THE MANDATORY CONSENT REQUIRED UNDER SECTION 25 OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974.

15. In this context, the material on record itself discloses that Annexure R-4 produced by the Project

Proponents in their reply to the Appeal dated **19.5.2018** clearly discloses that the very application form seeking the mandatory consent to establish the project u/s 25 of the Water (Prevention and Control of Pollution) Act, 1974 for establishing the project and seeking mandatory consent for the period from 2018 was submitted only on **10.01.2018**. This, itself clearly shows that the application seeking building plan and building licenses were not in accordance with the mandatory requirements under BBMP bye-law no.3.2 and Sections 299, 304 and 312 of the KMC Act. Moreover, it is mandatory to **first obtain** the consent to establish the project as it is clearly stated by the Hon'ble Supreme Court of India at Paragraph No.50 in the case of *Anirudh Kumar vs Municipal Corporation of Delhi & Ors*, 2015 (7) SCC 779.

~~Therefore, it was incumbent on the Project Proponents first to obtain the consent to establish the project and thereafter to proceed with further stages of obtaining the building plan and building license. But the Project Proponents~~
without complying with Section 25 of the Water Act, 1974 i.e. by not obtaining the mandatory consent to establish the project and without obtaining the building plan and building license from the BBMP have illegally constructed the model flat for launching the project with wide public advertisements. Since

BBMP has issued demolition orders and Show Cause Notice-cum-Stop Work Notice, however, the Project Proponents have falsely stated and mis-represented that they have not raised any constructions.

Apart from all this, the project site discloses the illegal construction activity at the far end (on the Eastern side) of the project and that there is vast extent of earth excavated even as on **14.05.2018** and dumping this excavated earth in the form of hillocks along the periphery of the Kaikondarahalli lake and in other parts of the project site.

16. Insofar as the other permission from, the Respondent No.9--Water Supply and Sewage Board/BWSSB is concerned, the water Board has in its letter dated **13.09.2017** addressed to the Project Proponents in respect of the project lands regarding the request for issuance of the statutorily required permission/No Objection Certificate/NOC, have stated as under:

"The above area falls under jurisdiction of 110 villages and water supply and UGD is maintained by BBMP. Since the work of providing water supply facility in 110 villages is taken up by the Board. Until the completion of the work issue of NOC has been withheld."

17. In this regard, based on the drawings submitted to the BBMP by the Project Proponents for the purpose of sanction of building plan and building license indicates that the proposed constructions of two blocks of residential apartment buildings i.e. Block No.1 (**63.60 mtrs in height**) is at the end of the project lands, while Block No.2 is at the entrance of the project lands. In this background the Zoning Regulation No.3.12 framed under the provisions of Karnataka Town and Country Planning Act, 1961 is applicable to the project and the application seeking building plan and building license. Zoning Regulation No. 3.12 is reproduced as under:

"3.12) No Objection Certificates:

- i. For all Development Plans, **Apartment buildings** and Residential layouts which come under the category stipulated by the KSPCB, **necessary NOC from KSPCB** (KSPCB shall mention the need for environment clearance if any in the NOC) shall be furnished.
- ii. For **all buildings with a height of 24.0m and above**, NOC from Fire Force in addition to **NOC from Pollution Control Board** (KSPCB shall mention the need for environment clearance if any in the NOC) shall be furnished....."

It is therefore clear that there is non-compliance of the above said Zoning Regulation No.3.12 because the height of the proposed building is clearly above 24 meters, the requirement of clearance/consent/NOC from Pollution Control Board is mandatorily required and the Project proponents have not complied with the said requirement for the purpose of sanction of building plan and building license.

VIOLATION OF ZONING REGULATIONS AND/OR BUFFER ZONE VIOLATIONS

18. It is humbly submitted that as already stated above the project lands being wetlands and abutting KaiKondarhalli Lake and is in the catchment area of Bellandur Lake and/or Varthur Lake and that the nalla/rajakaluve and lake buffer zones stipulated in the zoning regulations as well as the buffer zones defined in the *Forward Foundation's* case supra (4.5.2016) are applicable.

In this context Zoning Regulation No.4.12.1(ii) – Valley/Drain is as under:

“ii) Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plants*

- ii. Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of

the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then **based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan.** Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning Authority."

Having regard to the fact BBMP has already initiated action vide Stop work notice stated supra, at this juncture it is relevant to state the Judgment of this Hon'ble Tribunal in the matter of *Ramesh Chand vs State of H.P and Others*, reported in 2018 NGTR (1) PB 147, Para 10 is reproduced as under:

"10. Once the provision of the Town and Country Planning Act, 1977 (hereinafter referred as 'Act') are made applicable and in furtherance thereto the Development Plan becomes operative. It is mandatory for any person to raise constructions strictly in accordance with the Plan and subject to the Development Plan being sanctioned by the Competent Authority. **The competent Authority is under statutory obligation to take into consideration the various stated factors before it sanction the plans. The Plans must and ought not to be sanctioned in a routine or in a casual manner without taking into consideration the**

environmental impacts assessment thereof in accordance with law....."

19. It is humbly submitted that the project proponent had submitted to the BBMP the Development Plan (DP) issued by the BDA dated 5.3.2015 i.e. permission for scheme of development of the project (not permission for construction of building) and by relying upon the said DP, the project proponent has sought for building plan and building license from the BBMP. Further, in view of the above stated DP issued by BDA it clearly discloses that there is nalla passing through the adjacent land in Survey No.57 and that 25 meters buffer line indicated to the extent of the said buffer line that falls inside the project land. However, inside this 25 meter buffer line/zone which is a prohibited area, permissions for proposed development of 12 meters wide drive way and installation of gas bank/infrastructure for LPG piped line is approved.

In fact the above said drive way of 12 meters continues and passes through primary nalla as can be seen in the DP and that the various portions of the said 25 meters wide drive way falls inside the 50 meter buffer line on both sides of the said 50 meter buffer zone. This 50 meters buffer zone on either sides of the primary nalla is also a prohibited area and

not an area of regulated activity. In so far as 70 meters lake buffer zone is concerned, which is also a prohibited area and not an area of regulated activity, yet permission for creation of ramp and drive way was approved in respect of both Block No.1 and Block No.2.

20. Similarly, the permission/DP also indicated another nallah in Survey No.61/1 which is adjacent to Survey No.61/2 and that 25 mtr buffer zone is indicated. However, inside this 25 meter buffer zone/prohibited area permission for 8 meters wide Fire Driveway and installation of Organic Waste Converter (OWC) and installation of gas bank/infrastructure for LPG piped gas line is approved and on the basis of such a permission/DP approval for building plan and building license from the BBMP is sought for. Because BBMP cannot issue any permission including building plan and building license, contrary to the directions issued by the NGT in *Forward Foundation's* case, judgment dated 4.5.2016 in OA No.222/2014 which already stated above.

ALTERED PROJECT AND LACK OF FRESH ENVIRONMENTAL CLEARANCE AND ITS NEXUS FOR SEEKING PERMISONS FROM BBMP

21. In addition to the permission/development plan being contrary to the directions issued by the Full Bench of this

BSS

Hon'ble Tribunal in *Forward Foundation's* case supra, the said development plan permitting the *scheme of development for the entire project* is far greater than the extent for which Environment Clearance is obtained and this is explained hereinbelow. The impugned EC dated 10.1.2018 for the construction project is for a total built up area of 1,28,193.9 Square Meters.

In this background reference can usefully be made to the latest decision of the Hon'ble Supreme Court of India in the matter of *M/s Goel Ganga Developers Pvt. Ltd. vs. Union of India* in **Civil Appeal No.10854 of 2016** and connected matters decided on **10.08.2018** has clearly held at Para 14 as under:

"14. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent must comply with. While doing so, such authority is not concerned

whether the area to be constructed is FSI area or non-FSI area. **Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble etc., all of which will impact the environment.** Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. **Therefore, when EC is granted for a particular construction it includes both FSI and non-FSI areas....."**

(Emphasis supplied)

22. Applying the above said legal position to the facts of the case on hand it will clearly demonstrate that in view of the said permission namely development plan (DP) issued by Respondent No.4- BDA permitting a scheme of development is as a result of altered project with change in the scope and configuration which is different from the project conceived by the project proponent in terms of the impugned EC dated 10.1.2018. The following table with facts and figures will explain the above said facts:

Sl. No.	Particulars	Area measurement in sq. meters based on Environment Clearance	Area measurement in sq. meters based on Development Plan (DP)
1.	Area	1,28,193.9 (Excluding Non-FAR Area)	2,35,076.81 (FAR +Non-FAR)
2.	Number of units/ Apartments	655	688

BPH

3.	Total number of parking spaces	877	758
4.	Total number of floors	2 basement floors + GF + 20 upper floors	2 basement floors + GF + 20 upper floors + terrace floor
5.	Difference in altered project (area, scope and configuration) for which NO Environment Clearance is obtained. Total area permitted based on Development Plan minus area approved in the impugned EC: 235076.81 – 128193.9 = 106882.91 Sqm.		

It is therefore clear that there is apparent violation of Condition No.46 of the Environment Clearance on the one hand, wherein Condition No.46 specifically states that construction activity shall be strictly in accordance with approved site plan/layout drawing annexed to the environment clearance (Conceptual Plan submitted to SEIAA is at Page No.57/Annexure-A-3), while on the other hand based on the altered project as explained above permissions/development plan is obtained even without Environment Clearance for such an altered project of change in the scope and configuration of the project. Furthermore, there is apparent violation of Condition No.5 of the General Conditions of the EC and consequently condition No.6 is also relevant. In this background, **Condition No.5 and 6 of the General Condition of EC** is reproduced as under:

" 5. In case of **any change(s)** in the scope of the project, the project proponent would require a fresh appraisal by its Authority."

"6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protections) Act, 1986."

23. Therefore, under these circumstances also and on the basis of such permission/DP, BBMP has not granted any sanction of building plan and building license and on account of all above mentioned contraventions and non-compliances of provisions of Zoning Regulations, RMP-2015, Kamataka Town and Country Planning Act, 1961 and directions issued in *Forward Foundation's* case supra BBMP has already issued the aforesaid 'Stop work notice cum show cause notice' dated 13.7.2018.

24. Therefore, under these facts and circumstances the application dated 17.11.2017 for sanction of building plan and building license is contrary to the Supreme Court decision passed in the case of *Ritesh Tewari & another V/s. State of UP*

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and others at Para nos.32 to 34, (2010) 10 SCC 677. The relevant paragraphs are reproduced as under:

"32. It is settled legal proposition that if an order is bad in its inception, it does not get sanctified at a later stage. A subsequent action/development cannot validate an action which was not lawful at its inception, for the reason that the illegality strikes at the root of the order. It would be beyond the competence of any authority to validate such an order. It would be ironical to permit a person to rely upon a law, in violation of which he has obtained the benefits....."

33. In C. Albert Morris v. K. Chandrasekaran and Ors. (2006) 1 SCC 228, this Court held that a right in law exists only and only when it has a lawful origin.

34. In Mangal Prasad Tamoli (dead) by L.Rs. v. Narvadeshwar Mishra (dead) by L.Rs. and Ors. (2005) 3 SCC 422, this Court held that if an order at the initial stage is bad in law, then all further proceedings consequent thereto will be non-est and have to be necessarily set aside."

VIOLATIONS OF THE PROVISIONS OF THE KARNATAKA MUNICIPAL CORPORATIONS ACT, 1976 (KMC ACT)

25. In view of the Zoning Regulations violations/Buffer Zone violations and consequently non-compliance of the provisions of the Karnataka Town and Country Planning Act,

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1961, there is violation of Section 505(ii) of the KMC Act, 1976.

Section 505 of the KMC Act is reproduced below:

"505. Exercise of powers by a corporation to be in conformity with the provisions of the Karnataka Town and Country Planning Act, 1961.-

Notwithstanding anything contained in this Act, a corporation or any officer or other authority required by or under this Act to exercise any power, or perform any function or discharge any duty,-

- (i) *with regard to any matter relating to land use or development as defined in the Explanation to section 14 of the Karnataka Town and Country Planning Act, 1961, shall exercise such power, or perform such function or discharge such duty with regard to such land use or development plan or where there is no development plan, with the concurrence of the Planning Authority,*
- (ii) **shall not grant any permission, approval or sanction required by or under this Act to any person if it relates to any matter in respect of which compliance with the provisions of the Karnataka Town and Country Planning Act, 1961 is necessary unless evidence in support of having complied with the provisions of the said Act is produced by such person to the satisfaction of the corporation or the officer or other authority, as the case may be.**

It is clear that because of the above said non-compliances and violations, BBMP has not issued building plan and building license on the basis of any type of permission(s) that are in violation of Zoning Regulations i.e. Regulation No.4.12.1 (ii) and Revised Master Plan-2015 (RMP) framed under the provisions of Karnataka Town and Country Planning Act, 1961. Cumulatively, there is non-compliance of provisions of Karnataka Town and Country Planning Act, 1961. Hence there is violation of Section 505 (ii) of KMC Act, 1976.

APPLICATION SEEKING BUILDING PLAN AND BUILDING LICENSE PURSUANT TO THE IMPUGNED ENVIRONMENT CLEARANCE AND VARIOUS VIOLATIONS OF THE CONDITIONS OF THE EC

26. It is humbly submitted that, in this context the specific conditions of construction phase i.e. Condition Nos,42, 46, 47, 48 and 49 of the Environmental Clearance (EC) is application and are reproduced as under:

**42. The project proponent shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only.*

45. The Proponent shall take up the construction activity only after obtaining NOC from BWS&SB or

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clearance from the competent authority for assured supply of water as the case may be.

46. The Project proponent shall ensure that the construction activity is undertaken strictly in accordance with the approved site plan/layout drawing annexed to this Environmental Clearance letter. However, it is subject to compliance to the provisions of local authorities regarding setbacks, FAR etc., shall be adhered to.

47. The existing water body canals and rajakaluve and other drainage and water bound structure shall be retained unaltered with due buffer zone as applicable and maintained under tree cover.

48. The project proponent shall leave a buffer of 75 meters from the Lakes, 50 meters from Primary Rajakaluve, 35 meters from Secondary Rajakaluve and 25 meters from Tertiary Rajakaluve in accordance with the order of the Principal Bench of Hon'ble National Green Tribunal, New Delhi dated May, 2016 in original application No.222 of 2014 in addition to sufficient buffer from the other water bodies in Accordance of law. The buffer so maintained shall be developed as Greenbelt planting with indigenous tree species such as Neem, Akash Mallige, Mahagoni, honge, Kadamba Ficus, etc., and maintained as green belt. No construction activity shall be undertaken in the said buffer zone.

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49. *The natural sloping pattern of the project site other than the area excavated for the purpose of construction of proposed building shall remain unaltered and the natural hydrology of the area be maintained as it is to ensure natural flow of storm water."*

While Condition No.6 of the operation phase is as under:

"6. The project proponent shall develop a minimum of 43% of the total project site i.e., minimum 21,667.7 sqm area of green belt. The proponent shall undertake plantation of heavy foliage, indigenous trees species such as Mahagoni, Honge, Neem, Akash Mallige, Kadamba, Ficus and Ashoka, etc., at an escapement of 3 mtrs x 3 mtrs i.e. 1111 plants/hectare."

27. As already explained above, in addition to violation of Condition No.45 of the EC, there is apparent violation of Condition No.46 because the DP dated 5.3.2018 issued by the BDA is clearly at variance with the conceptual plan/drawings (*Annexure-A/3, Page No.57*) submitted by the project proponents before the SEIAA for obtaining the EC. It is therefore clear that the project proponents have misrepresented before different public authorities and have obtained different permissions.

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28. Insofar as violation of Condition No.6 is concerned, the following aspect of the matter is relevant. In this background, the application form submitted for obtaining consent from the Pollution Control Board dated 10.1.2018 (consent fee paid on 11.01.2018), is produced by the project proponent along with their Reply at Annexure R-4 (pages 271-279). The said document clearly states as under:

"I/we hereby apply for the Consent for Establishment for the new Proposed Residential Apartment Project, consisting of various Residential buildings and facilities for other required amenities, under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 (6 of 1974) for establishing or taking any steps for establishment of industry / operation process or any treatment and disposal system to bring into use any new / altered for the discharge of sewage / trade effluent or continue to make discharge of sewage / trade effluent from land/premises owned by M/s Wonder Projects Development Pvt. Ltd., consent for the period from 2018, the other relevant information is given below:

.....
16(c) Nature of plantation carried Out (attach Agricultural Management plan provided/ Proposed)

Lawns, Shrubs, Horticultural & Ornamantal Plants as per Landscape Plan."

Further, at Serial No.29 (Page No.279) of the above said consent application is reproduced as under:

"I/We further declare that the above furnished information is true & correct to the best of my/our knowledge. I am aware that any wrong information furnished, is punishable under section 44 of the Act."

Hence, it is clear that on the one hand irrespective of what is stated at *Serial No.16(c)* before the Pollution Control Board, is contrary to the requirements at *Condition No.6* of the impugned EC, while on the other the project proponents have furnished wrong information before the Pollution Control Board. In fact, the proposed developments are contrary to all the above said conditions of the EC and that the constructions that is carried out in the project lands, including ground leveling is also contrary to Condition No.49 of the EC as well as Section 300 of the KMC Act.

29. Under all these facts and circumstances, it is clear that BBMP has taken all appropriate measures and steps for protection of environment and ecology in the context of municipal laws and precautionary principle. Hence, BBMP is not responsible for payment of any compensation that is claimed against BBMP in the above case and on behalf of BBMP there is no non-adherence to statutory duties. It is also

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clear that BBMP is promptly complying with the judgment in *Forward Foundation's case* as well as all the laws in force. Hence, these facts and circumstances will also explain that reliefs claimed against BBMP does not arise.

30. It is submitted that any other averments contrary to what is stated herienabove by the BBMP are hereby denied by the BBMP.

PRAYER

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to:

- a) Reject/dismiss the Appeal insofar as it relates the Respondent No.5-BBMP.
- b) Pass any other order (s)/direction (s) and costs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present application.

Date : 5 .09.2018
Place: New Delhi

DRAWN AND FILED BY:

Darpan K.M
DARPAN KM

LAWLINKS, Basement C-47,
Nizamuddin East, New Delhi - 110013
Advocate for the Respondent No.5/BBMP

BEFORE THE NATIONAL GREEN TRIBUNAL ^{6/01}
PRINCIPAL BENCH AT NEW DELHI

IN

APPEAL NO. 54 of 2018

IN THE MATTER OF:

H.P.RAJANNA

Appellant

Versus

Union of India & Others

Respondents

AFFIDAVIT

I, K.D Deshpande, Age : Major , S/o Daso, Head of the Legal Cell and Delegated authority of Commissioner Bruhat Bengaluru Mahanagara Palike (BBMP), NR Square, Corporation Circle, Bangalore—560001, Karnataka, do hereby solemnly affirm and state as under:

1. That BBMP is Respondent No.5 in the above mentioned appeal and conversant with the facts and circumstances of the matter and competent to swear to this affidavit.
2. That the accompanying Reply has been drafted by our counsel on instructions and I have read and understood the contents of same and nothing material has been concealed therefrom.
3. That the accompanying annexures are true copies thereof.



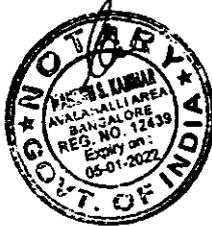
K.D. Deshpande
DEPONENT
HEAD OF THE LEGAL CELL
Bruhat Bengaluru Mahanagara Palike
Bangalore

1407

VERIFICATION:

I, the above named deponent do hereby verify that the facts mentioned in the affidavit are true and correct and no part thereof is false and nothing material has been concealed therefrom.

Verified at Bengaluru on this 3rd day of September 2018.



GOVT. OF KARNATAKA
HAS DISCONTINUED THE
USE OF NOTARIAL STAMPS

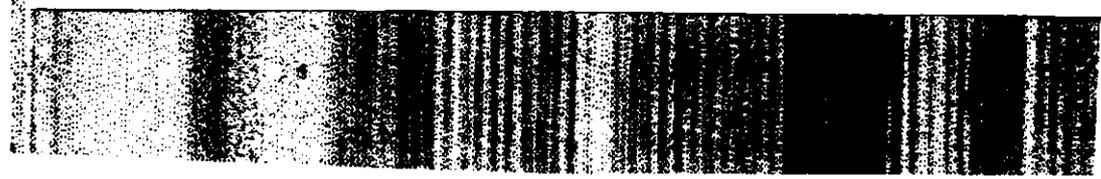
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[Signature]
DEPONENT
HEAD OF THE LEGAL CELL
Bruhat Bangalore Mahanagara Palike
Bangalore

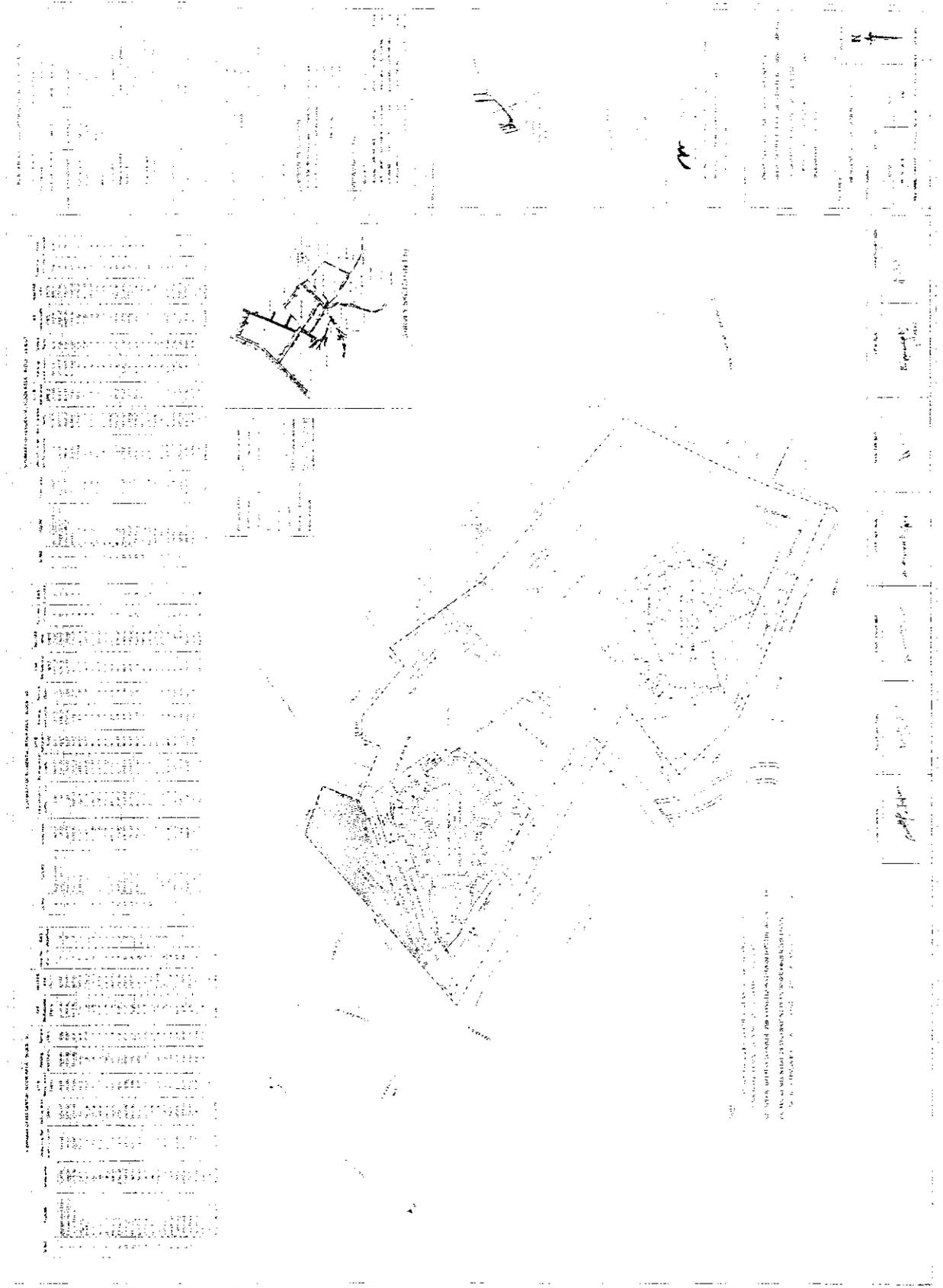
SWORN TO BEFORE ME

[Signature] 3/9/2018
MAHESH S. KAMMAR, B.A., B.Ed., LL.B.,
ADVOCATE & NOTARY PUBLIC
GOVT. OF INDIA
1585/JJ, 18th Main, 9th Cross,
Muneshwara Block, Near Arogya Kendra
Avalahalli, Bangalore-560 026

NOTARIAL REGISTER
Sl. No. 127 Page 31
Vol. I Date 3/9/2018



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NO.	DESCRIPTION	UNIT	QTY.	AMOUNT
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**REPORT OF THE JOINT COMMITTEE IN
APPEAL NO. 54 OF 2018
(H.P. RANJANA VS UNION OF INDIA)
IN COMPLIANCE OF ORDER OF HON'BLE NGT
DATED 08.09.2020**

SUBMITTED TO

**HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

18.03.2021

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**REPORT OF THE JOINT COMMITTEE IN APPEAL NO. 54 OF 2018 (H.P. RANJANA
VS UNION OF INDIA) CONSTITUTED BY HON'BLE NGT, PRINCIPAL BENCH
(NEW DELHI) VIDE ITS ORDER DATED 08.09.2020**

I. PREAMBLE

1. This issue pertains to M/s Wonder Projects Development Pvt. Ltd which has obtained Environmental Clearance (EC) by the State Environment Impact Assessment Authority (SEIAA), Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018 for construction of "New Residential Building project at Survey Nos. 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk", Bengaluru District.
2. The proposed project involves construction of new residential building on a plot area of 50,382.91 Sq. Mtrs. The total built up area is 1,28,193.9 Sq. Mtrs. It consists of two residential blocks having 2 Basements + Ground Floor + 20 Upper Floors with 655 units. Total parking space proposed is for 877 Nos. of Cars. Total water consumption is 534 KLD (Fresh water + Recycled water). The total wastewater discharge is 482 KLD. It is proposed to construct 2 sewage Treatment Plants with capacity of 210 KLD & 280 KLD. The EC is subject to specified conditions during the construction and operation phases, apart from general conditions.
3. On 09.04.2018, One Mr. Ranjana filed a case vide Appeal No. 54 of 2018 in Hon'ble NGT, Principal Bench (II) against the EC granted by SEIAA, Karnataka to M/s. Wonder Projects Development Pvt. Ltd with respect to Tower 1 of the Project "Godrej Reflections".
4. On 11.03.2019, OA No. 281 of 2019 was filed by The Mahadevapura Parisara Samrakshne Mattu Abhirudhi Samiti (MPSMAS) in Hon'ble NGT, Principal Bench (I) relating to adjoining properties pertaining to Kaikondarahalli Lake which does not pertain to the lands developed by the project proponent i.e., M/s. Wonder Projects Development Pvt. Ltd. On 17.07.2019, Mr. Rajanna filed another case in OA 602/2019, since the project proponent have launched another phase in the project which is Tower 2 "Godrej Lake Gardens". Since the aforesaid three cases were pertaining to the said Kaikondarahalli Lake, the Hon'ble NGT Bench II on 17.07.2019 transferred the Appeal No. 54/2018 and OA No. 602/2019 to Bench-I which was before Bench II since the OA No. 281/2019 which was filed on 11.03.2019 was also pertaining to the Kaikondarahalli Lake.
5. On 17.07.2019, an application was filed by H P Rajanna before the Hon'ble NGT Bench-I seeking appointment of Joint Committee with respect to Appeal No. 54/2018 and OA No. 602/2019 wherein on 19.07.2019, the Hon'ble NGT was pleased to appoint Ministry of Environment, Forest & Climate Change (MOEF&CC), Karnataka State Pollution Control Board (KSPCB) and Central Pollution Control Board (CPCB) as the Joint Committee for inspection of the lands pertaining to the Project Proponent.



6. On 18.06.2019 an application was filed by The Mahadevapura Parisara Samrakshne Mattu Abhirudhi Samiti (MPSMAS) in OA No. 281/2019 for appointment of Joint Committee, wherein the Hon'ble NGT was pleased to appoint Bruhat Bengaluru Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Karnataka State Pollution Control Board (KSPCB), State Environmental Impact Assessment Authority (SEIAA) and Central Pollution Control Board (CPCB) as the Joint Committee for inspection of the adjoining lands of Kaikondarahalli Lake in Sy No. 71/1, 72/1, 72/2, 74/5B and 73. It is important to note that the lands pertaining to Appeal No. 54/2018 and OA No. 602/2019 was not part of the said case OA No. 281/2019.
7. The Joint Committee constituted in OA No.281/2019 filed their report on 23.09.2019 (which may be referred as the first report) with respect to lands involved in the case i.e., Sy No. 71/1, 72/1, 72/2, 74/5B and 73 around Kaikondarahalli Lake, however the said committee in its report has made an observation with respect to the lands involved in Appeal No. 54/2018 and OA No. 602/2019 which is as follows:
- SY NO. 62 AND 63 FALLS UNDER LAKE BUFFER AREA:** *As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.*
8. On 03.02.2020 the Hon'ble NGT based on the report filed in OA No. 281/2019, passed the order in Appeal No. 54 of 2018, 602 of 2019 and 281 of 2019 and quashed the EC of M/s Wonder Projects Development Pvt. Ltd without considering the fact that the Committee formed in Appeal No. 54/2018 and OA No. 602/2019 were yet to file their report.
9. On 14.02.2020, being aggrieved by the cancellation of EC by Hon'ble NGT, the project proponent preferred an Appeal before Hon'ble Supreme Court of India in Civil Appeal No. 1713/2020 challenging the order of Hon'ble NGT mainly on the grounds that the Hon'ble NGT has passed the order based on the report filed in OA No. 281/2019 whereas the reports of the Joint Committee constituted in Appeal No. 54/2018 and OA 602/2019 were yet to be filed.
10. On 02.03.2020, the Hon'ble Supreme Court was pleased to admit the said appeal and directed the Joint Committee appointed in Appeal No. 54/2018 and OA No. 602/2019 to submit its report with respect to the said lands pertaining to the Project Proponent before the Registry of the Hon'ble Supreme Court and accordingly the Joint Committee in Appeal No. 54/2018 and OA 602/2019 submitted its report in the Hon'ble Supreme Court on 14.07.2020, (which may be referred as the second report). The Hon'ble Supreme Court passed its final order on 11.08.2020, wherein it observed that the "Hon'ble NGT did not have the benefit of the second report of the Joint Committee in OA No. 602/2019 which was filed for the first time before the Hon'ble Supreme Court". In that view, it was appropriate that the order of the Tribunal be set aside, and the Tribunal reconsider the appeal after taking into consideration the second report of the joint Committee and that the EC would remain subject to the fresh decision to be taken by the Tribunal. Accordingly, the matter was taken up by the Tribunal on 20.08.2020 for hearing in the light of the judgment of the Hon'ble Supreme Court dated 11.08.2020.



11. Hon'ble NGT observed that the major issue that has been raised on behalf of the appellant is that there was no proper appraisal by the Expert Appraisal Committee (EAC) as per Environment Impact Assessment (EIA) Notification dated 14.09.2006 and grant of EC was vitiated on account of the project being wrongly treated as Category B under entry 8 (a), instead of category B-1 under entry 8(b) of the Schedule to the 2006 notification and also being in violation of statutory regulations laid down with respect to buffer zone under the 1961 Act and the statutory requirements of the Wetlands (Conservation and Management) Rules, 2017 (Wetlands Rules, 2017).
12. There is no proper and adequate disclosure in Form-1 with regard to area being eco fragile. Complete disclosure about the water bodies/wetlands has not been given in the said application. The extent of construction has not been correctly described and evaluated by SEIAA, Karnataka in violation of principles laid down by the Hon'ble Supreme Court in M/s Goel Ganga Developers Pvt. Ltd. (supra). SEIAA was also not mindful of the mandate of the Wetlands Rules, 2017 and the judgment of the Hon'ble Supreme Court in M.K. Balakrishnan and Ors. v. Union of India and Ors. Reference has been made to 'National Wetland Atlas' prepared by the MoEF with the assistance of the Space Application Centre, Indian Space Research Organization (ISRO) and Remote Sensing Application Centre wherein Kaikondarahalli Lake has been identified as a wetland. Extracts from the Atlas have been filed on 25.05.2019 by the appellant with IA 352/2019. The Map annexed to the 'National Wetland Atlas' (Annexure A-7) prominently shows the Kaikondarahalli Lake.
13. The second report is contrary to the first report dated 23.09.2019 filed in OA 281/2019 though two authorities of the Committee in the report are common. The report is also against the counter affidavit filed by BBMP before this Tribunal. As against the report dated 23.09.2019 (in OA 281/2019), finding the project to be within the buffer zone of the lake, the second report (in OA 602/2019) holds to the contrary. The representatives of CPCB and State PCB are common in both the Committees. In the first Committee, BBMP and BDA were included but in the second Committee SEIAA, Karnataka and MoEF&CC were included, apart from CPCB and the State PCB, without BDA and BBMP.
14. The two reports submitted by the representatives of the statutory authorities need to be reconciled and if necessary, a larger Committee constituted with senior representatives of the concerned departments, to put the matter beyond controversy. Moreover, the second report assumes that the lake in question is not a wetland and the restrictions of the Wetland Rules do not apply to the entire area of the project which finding may be in conflict with the Atlas prepared by the MoEF&CC. It has been observed by the Committee that the Wetland Rules should be followed. The rules require demarcation with reference to the flood line, which is not shown to have been done or considered. The correct size of the project needs to be determined as per parameters in Goel Ganga judgment, supra so that if the area is more than 1.50 lacs sq. meters, appraisal is carried out as per category B-1 and not as B as has been assumed.



15. Since there is a conflict in the reports dated 23.09.2019 in OA 281/2019 and second report in OA 602/2019 dated 14.07.2020 and in both the reports CPCB and KSPCB are parties. MoEF&CC and SEIAA are also not in second report. Stand of BBMP before this Tribunal is against the second report. According to written submissions filed by BBMP on 27.08.2020 the project proponent has violated statutory requirements and accordingly, Hon'ble NGT vide its order dated 08.09.2020 in Appeal No. 54 of 2018 sought an independent report by another Joint Committee which we now constitute. The joint Committee will comprise apart from the representatives of the four authorities represented in the Committee which has given second report, five other authorities/institutions need to be involved. BBMP and BDA were party to report dated 23.9.2019, they need to be involved to reconcile the two reports. Nominee of Irrigation & Flood Control Department, Government of Karnataka and nominee of Revenue Department, Government of Karnataka are required for demarcation of mean high flood level as per the Wetland Rules. Karnataka State Wetland Authority is to be added for relevant expertise. Thus, there will be nine (09) members in all. The nominee of the MoEF&CC will be the Coordinator/Chairman of the Committee who, in the circumstances, should be of the level of Joint Secretary or equivalent. The Committee will be at liberty to involve any other expert/institution. It will be open to hold meetings by video conferencing, if so decided but it may visit the site, look into the earlier reports and the above points, particularly size of the project, compliance of statutory rules relating to buffer zone/wetland and furnish its report within two months of its first meeting.

Accordingly, in pursuance to the directions of the Hon'ble NGT Principal Bench (New Delhi), this Joint Committee has been constituted for submission of a factual report. Further, for the sake of brevity, the issues that have been dealt clearly in detail about the project in the reports of the earlier Joint Committees constituted in OA No. 281 of 2019 and 602 of 2019 have not been fully reiterated and wherever essential and required, the key aspects have been suitably incorporated in this report of the Joint Committee.



II. COMPOSITION OF THE JOINT COMMITTEE

As per directions of Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 a Joint Committee with the following members was constituted (Annexure-1):

S. No	Name	Designation	Nominee / Representative Department
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer	Chairman of the Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore
2	Dr. H.R. Mahadev, IAS	Commissioner	Representative of BDA
3	Shri. Vijaykumar Gogi, IFS <i>(Subsequently replaced by Shri. Brijesh Kumar, IFS due to transfer of Shri. Vijaykumar Gogi).</i>	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	Representative of SEIAA, Karnataka and Karnataka Wetland Authority
4	Shri. H.L. Prasanna	Engineer-in-Chief	Representative of Minor Irrigation and Ground Water Development Department
5	Shri. R Prasad <i>(Subsequently replaced by Shri. H.N. Raghu due to transfer of Shri. Prasad)</i>	Additional Director of Town Planning	Representative of BBMP
6	Shri. M.K. Prabhudev	Chief Environmental Officer	Representative of KSPCB
7	Shri. G. Thirumurthy <i>(Subsequently replaced by Smt. Sowmya, Scientist-D due to transfer of Shri. Thirumurthy)</i>	Additional Director / Scientist-E	Representative of CPCB
8	Shri. David Doraswamy	Survey Supervisor	Representative of Department of Revenue (Land Records)
9	Dr. Murali Krishna	Joint Director / Scientist-D	Co-Opted Member from IRO, MoEFCC, Bangalore

Pursuant to constitution of the Joint Committee, the first meeting of the Joint Committee was convened through video conference on 23.12.2020 (Copy of the Minutes of the First Meeting is enclosed as **Annexure-2**) and during the videoconference it was decided to undertake a site visit to the project site to understand the issues in greater detail. Pursuant to the site visit, communications were sent to all concerned agencies/ departments to provide latest status and to provide specific input/ information relating to their department (Minutes of site visit are enclosed as **Annexure-3**).

III. SPECIFIC INFORMATION SOUGHT FROM VARIOUS DEPARTMENTS FOR RECONCILIATION OF BOTH THE REPORTS IN OA NO. 281/ 2019 AND 602/2019

As per the directions of the Hon'ble NGT, the Joint Committee tried to reconcile the information relating to each Department / Agency to understand the facts of the matter and accordingly, the following specific information was sought from each Department:

S.NO	DEPARTMENT	INFORMATION/ CLARIFICATION SOUGHT
1	BBMP/ Revenue Department	<ul style="list-style-type: none"> ▪ What is the Buffer area from the lake to Block-I and Block-II? ▪ What is the Buffer area from centre of the secondary nala to Block-I and Block-II? ▪ Whether approval was accorded for construction of a box drain for flow of water in the secondary nala or for usage of Kharab land in the project site and whether the same is in consonance with the existing Rules/ Acts in force.
2	Wetland Authority/ BBMP/ Minor Irrigation and Flood Control	<ul style="list-style-type: none"> ▪ Whether the Kaikondarahalli lake has been notified as Wetland or Not? ▪ What is the maximum buffer area to be left from the lake if the lake is notified as a Wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan verdict? ▪ What is the maximum water level of Kaikondarahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4 (vi) of Wetland Rules 2017? ▪ To confirm whether any construction temporary/ permanent nature undertaken in buffer area? ▪ Whether adequate buffer distance is maintained from lake periphery to Block-I and Block-II as per Rule 4 of Wetland Rules.

3	BDA/ BBMP	<ul style="list-style-type: none">▪ Whether building permission accorded for construction of Block-I and Block-II or not? If permission is accorded, the details of the same.▪ To confirm the size / total area of the project (Both FSI and Non-FSI) area of two towers cumulatively.
4	SEIAA	<ul style="list-style-type: none">▪ Whether EC obtained and details of EC along with its validity▪ Whether EIA studies were required or not during the appraisal of the project (B1/ B2 category) based on EIA Notification 2006.
5	KSPCB	<ul style="list-style-type: none">▪ Whether CFE obtained or not and if yes, details of CFE along with its validity.



BASED ON THE OFFICIAL RECORDS RECEIVED FROM VARIOUS AGENCIES POINTWISE CLARIFICATION IS PROVIDED:

A. BUFFER ZONE AND DISTANCE FROM THE LAKE PERIPHERY TO CONSTRUCTED TOWERS:

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
1	<ul style="list-style-type: none"> ▪ As per Environmental Clearance (EC) accorded by SEIAA, Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018, Specific Condition No. 48, a minimum buffer of 75 Meters from the lakes should be left in the project site. ▪ In accordance with the Order of Hon'ble NGT, New Delhi dated 04.05.2016 in OA No. 222 of 2014, a minimum buffer of 75 Meters from the lakes should be left in the project site. ▪ As per the Judgement of Hon'ble Supreme Court of India in Matter relating to Mantri Tech Zone (Civil Appeal No. 5016 of 2016) a buffer zone of 30 meters has to be left from lake periphery. ▪ As per Bangalore Development Authority (BDA) Master Plan 2015 it stipulates a buffer area of 30 meters around the lake. ▪ As per Judgement of Hon'ble Supreme Court in M. K. Balakrishnan case (WP 230 of 2001) a minimum buffer of 50 meters has to be left if it is a Wetland. 	<ul style="list-style-type: none"> ▪ As per letter No. ADLR/Others/39/2019-20 dated 02.02.2021 received along with survey map from Assistant Director, Land Records, Government of Karnataka it is noted that a measured distance of 77.45 is left from lake periphery to Block-I and a measured distance of 79.40 m is left from Block-II. Copy of the letter is enclosed as Annexure-4. ▪ As per BBMP letter No. BBMP/ Addl.Dir/ PR /54 /2020-21 dated 10.02.2021 it is noted that "There is Kaikondarahalli lake on the North-Eastern Side of the project. While according to the building permission 75.00 mtrs buffer is reserved from the lake boundary of the Kaikondarahalli lake to the Block-I and Block-II of the project as per NGT Order dated 04.05.2016 and also as per Residential Development plan approved by Planning Authority". Copy of the letter is enclosed as Annexure-5

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by various Statutory Agencies namely Revenue Department, Bruhat Bangalore Mahanagara Palike (BBMP), Wetland Authority (Department of Forest, Ecology & Environment), Report of the Joint Committee in OA No. 602/ 2019 and also keeping in cognizance of directions of Hon'ble NGT in OA No. 222 of 2014, Master Plan 2015 prepared by Bangalore Development Authority (BDA), Orders of Hon'ble Supreme Court in Mantri Tech Zone matter

and Verdict of M.K. Balakrishnan, the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any buffer zone norms from the lake periphery and have adequately maintained a buffer distance of more than 75.00 meters from the lake periphery to Block-I and Block-II which is a maximum threshold under any of the aforesaid Statutory Provisions. Further, during the Joint Committee Inspection held on 08.01.2021, no constructions of either permanent or temporary nature or no compound wall too have been noted in the 75.00 meters buffer zone from lake periphery to Block-I and II.

B. SIZE OF THE PROJECT

S. No	Relevant Statutory Provisions / Norms	Status of Compliance by Project Authorities																								
2	<ul style="list-style-type: none"> ▪ As per Environmental Impact Assessment (EIA) Notification dated 14.09.2006, Environmental Clearance (EC) needs to be obtained for building / construction projects/ area development projects and townships under 8 (a) and projects with built up area more than 20,000 Sq.Mtrs and less than 1,50,000 Sq.Mtrs under B2 Category and projects with built up area more than 1,50,000 Sq. Mtrs under B1 Category, which also needs conduct of EIA Studies. ▪ As per the Orders of the Hon'ble Supreme Court of India in Goel Ganga case (Civil Appeal No. 10854/2016) "when EC is granted for a particular construction it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered 	<ul style="list-style-type: none"> ▪ As per the Environmental Clearance accorded by SEIAA, Karnataka Vide No. SEIAA 114 CON 2017 dated 10.01.2018, it is noted that total built up area is 1,28,193.9 Sq. Mtrs and the same has been reiterated by the Department of Ecology and Environment vide their letter No. SEIAA2EAA2018 dated 01.03.2021 Further it is also clarified that this appraisal was done based on the information provided by PA in Form-I as in Karnataka no mandatory pre site visit is being done by SEIAA prior to issue of EC. It is also stated that if the shafts and cut out areas are added, the gross built up area is $1,28,193.90 + 12246.40 = 1,40420.30$ Sq. Mtrs which is less than 1,50,000 Sq. Mtrs and accordingly, the project falls under B2 Category which does not require mandatory EIA studies. Copy of the letter is enclosed as Annexure-6. ▪ As per BBMP letter No. BBMP/ Addl.Dir /PR /54 /2020-21 dated 10.02.2021 it is noted that BBMP has accorded building permission for Block-I and Block-II as under: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Blocks</th> <th>Total Built up Area (Sq. Mtrs)</th> <th>FSI area (Sq. Mtrs)</th> <th>Non-FSI area (Sq. Mtrs)</th> <th>No. of Units</th> <th>Date of Building Permission</th> </tr> </thead> <tbody> <tr> <td>I</td> <td>61418.72</td> <td>44739.99</td> <td>16678.73</td> <td>265</td> <td>30.08.2018</td> </tr> <tr> <td>II</td> <td>64244.34</td> <td>45938.29</td> <td>18306.05</td> <td>360</td> <td>28.05.2019</td> </tr> <tr> <td>TOTAL</td> <td>125663.06</td> <td>90678.28</td> <td>34984.78</td> <td>625</td> <td></td> </tr> </tbody> </table>	Blocks	Total Built up Area (Sq. Mtrs)	FSI area (Sq. Mtrs)	Non-FSI area (Sq. Mtrs)	No. of Units	Date of Building Permission	I	61418.72	44739.99	16678.73	265	30.08.2018	II	64244.34	45938.29	18306.05	360	28.05.2019	TOTAL	125663.06	90678.28	34984.78	625	
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constructions, which is not open to the sky is to be treated as built up area in terms of EIA Notification dated 14.09.2006".

- As per information received from Bangalore Development Authority (BDA) vide its letter BDA/COMMR/EM/EO-3/T-205/2020-21 dated 01.02.2021 (Enclosed as Annexure-7), it is noted that Development Plan has been approved by BDA on 07.03.2018 for construction of a residential building in an FAR area of 1,27,149.25 Sq. Mtrs.
- Further, the Joint Committee constituted in OA No. 602 of 2019 in its report at Page No. 29 made a comparative table of permissible Floor Area Ratio (FAR) which is partly replicated below:

Particulars	Development Plan of BDA	EC by SEIAA	Building Plan of BBMP
Permissible FSI / FAR in %	2.25	NA	1.895
FAR (Built Up Area) M ²	1,27,149.25	1,28,193.90	1,25,663.06
No. of Units	688	655	625

Remarks of the Joint Committee

Considering the official records made available by various Statutory Agencies namely State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Report of the Joint Committee in OA No. 602/ 2019 and also keeping in cognizance of directions of Hon'ble Supreme Court in Goel Ganga Case (Civil Appeal No. 10854/2016) the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any built up area norms and appraisal of the project was done correctly under B2 Category, wherein projects with built up area less than 1,50,000 Sq. Mtrs does not require EIA studies. Further, this Committee is also of the view that all the concerned agencies are suitably empowered to take appropriate punitive action during construction/ operational phase if any deviation or violation noted and PA needs to construct the project strictly as per BBMP Sanction Plan.

C. KAIKONDARAHALLI LAKE AS WETLAND AND MEAN HIGH FLOOD LEVEL

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
3	<p>As per the information provided by Wetland Authority (Department of Ecology and Environment), Karnataka vide its letter No. SEIAA2EAA 2018 dated 01.03.2021, it is to note that Kaikondarahalli Lake is a wetland as identified by SAC (Space Application Centre), Ahmedabad in their Wetland Atlas. It is one amongst the lakes in the Provisional Inventory of Wetlands submitted by the State Government to the Central Government. <u>However, it is to note that as on date Kaikondarahalli lake is not notified as Wetland.</u></p>	<p>As per letter No. ADLR/Others/39/2019-20 dated 02.02.2021 received along with survey map from Assistant Director, Land Records, Government of Karnataka it is noted that a measured distance of 77.45 Mtrs is left from lake periphery to Block-I and a measured distance of 79.40 Mtrs is left from Block-II. Copy of the letter is enclosed as Annexure-4</p> <p>As per Judgement of Hon'ble Supreme Court in M. K. Balakrishnan case (WP 230 of 2001) dated, 03.04.2017 a minimum buffer of 50 meters has to be left if it is a Wetland and the same is complied in this instant case even though Kaikondarahalli is not notified as a Wetland.</p> <p>As per the information provided by the Department of Minor Irrigation vide its letter No. EIC/TA-Z/AE.1/NGT/2020-21/524 dated 25.02.2021 (enclosed as Annexure-8) and communications from BBMP vide their letter No. EE-1/ Lakes/ PR/ 125/2020-21 dated 29.08.2020 and CE /LAKES /PR /1052/2020-21 dated 25.02.2021 (enclosed as Annexure-9) the following is noted:</p> <p>a) Full Tank Level (FTL) is 879.307 M from Mean Sea Level (MSL)</p> <p>b) Max Water level (MWL) of Kaikondarahalli Lake is 880.207 M from MSL</p> <p>c) Top Bund Level (TBL) is 881.407 M from MSL</p> <p>Mean Flood Level will be in between FTL and MWL of Kaikondarahalli Lake.</p>

Further, it is also noted that water outlet of the lake is on the Northern side and since the project is on the south-eastern side of the lake, the chances of water overflowing in the project site are very remote. As per information provided it has been noted that in the last 10 years, the lake water has never breached the bund level on the South-Eastern Side and as per requirement project proponent has maintained an adequate buffer of more than 50.00 Mtrs from the mean high flood line.

Further, level of the bund is 881.467 Mtrs from MSL and Flood Line is 0.90 Meters above the Full Tank Level (i.e., $0.90 + 879.307 = 880.207$ Mtrs from MSL).

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by various Statutory Agencies namely State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Department of Minor Irrigation (MI) and also keeping in cognizance of directions of Hon'ble Supreme Court in M.K. Balakrishnan (Writ Petition No. 230 of 2001), the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any buffer zone norms and have left an area of more than 75.00 meters from lake periphery which is more than required distance of 50.00 Mtrs from the Mean High Flood line and it has also been noted that PA has made appropriate declarations regarding existence of Kaikondarahalli Lake at 75 Mtrs and Harlur/ Kasavanahalli Lake at a distance of 0.80 Kms in Form-I during submission of their application to SEIAA for EC.

The Joint Committee noted that Kaikondarahalli is not notified as Wetland as on date and in case had it been notified also, a distance of 50 meters has to be left as buffer zone, which the project authorities have also complied. Further, the Joint Committee also noted that the Mean Flood Line level of Kaikondarahalli Lake is 880.287 Mtrs which is less than the top level of the bund (881.407 meters). As the direction of waterflow in the outlet is towards Northern side, the chances of water flowing in South-Eastern direction is very remote and as per last 10 years data, this lake has never breached the bund level in the South Eastern side. It is also noted that project proponent has complied to the requirement of maintaining a buffer distance of more than 50.00 Mtrs from the Mean High Flood Line by way of maintaining a buffer distance of more than 75.00 Mtrs.

D. KHARAB LAND IN THE PROJECT SITE

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
4	<ul style="list-style-type: none"> ▪ As per Environmental Clearance (EC) accorded by SEIAA, Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018, Specific Condition No. 42, the project proponent shall not use Kharab land if any for any purpose. ▪ As per official records it is noted that an area of 13 Guntas (1315.229 Sq. Mtrs) of land in the project site is Kharab Land. 	<p>The Joint Committee noted that BBMP vide its letter No. CE/SWD/PR/140/2017-18 dated 02.08.2017 has accorded permission for construction of U type RCC drain and 2 No's of RCC box culverts on Kharab Land of the project site without deviating the original alignment so that the water flow is not interrupted.</p> <p>Project proponent in his written submission made to this Joint Committee vide his letter dated 15.09.2020 informed that this construction of drain on the Nala was undertaken as per suggestions of BBMP and this construction is of no way beneficial to the project proponent or its customers in any way and this has been done only for the benefit of the lake, environment, and general public after incurring huge cost and expenses as desired by the Authority.</p> <p>BBMP vide its letter No. BBMP/ Addl.Dir /PR /54 /2020-21 dated 09.03.2021 indicated that the permission for construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Commissioner, BBMP in exercise of the powers conferred under Section 288A and 288(1)(c) of the Karnataka Municipal Corporations Act-1976. Copy of the letter is enclosed as Annexure-10.</p> <p>As per the report of the Joint Committee constituted in OA No. 602 of 2019 it is noted that the Storm Water drain originates from Kasavanahalli Lake and flow towards Kaikondarahalli lake in Survey No's 63/2 and the total length of the drain from</p>

		Kasavanahalli lake outlet to Kaikondarahalli lake inlet is 525 Meters out of which 130 meters (from CH 395 meters to CH 525 meters) i.e., 130 meters of drain is passing from the project site.
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Remarks of the Joint Committee

Considering the official records made available by various Statutory Agencies namely Revenue Department, Bruhat Bangalore Mahanagara Palike (BBMP) and also keeping in cognizance of the Joint Committee Report in OA 602/ 2019, the Joint Committee noted that construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Commissioner, BBMP in exercise of the powers conferred under Section 288A and 288(1)(c) of the Karnataka Municipal Corporations Act-1976.



E. RECONCILIATION OF BOTH REPORTS OF THE JOINT COMMITTEE CONSTITUTED IN OA NO 281 OF 2019 AND 602 OF 2019

S. No	Relevant Reports of the Joint Committee	Reconciliation of Both the Reports of the Joint Committee
5	<p>Report of the Joint Committee constituted by Hon'ble NGT in OA No. 602/2019</p> <p>Report of the Joint Committee constituted by Hon'ble NGT in OA No. 281/2019</p>	<p>Based on examination of both the reports of the Joint Committee, it was noted that the Appeal bearing no. 54/2018 was filed by the Appellant i.e., Mr. H.P. Ranjanna during pendency of the said Appeal and Original Applications bearing no. OA No. 602/2019 was filed pertaining to the property in question. Yet another OA No. 281/2019 pertaining to a different property/project bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73 and between different parties was filed before Hon'ble NGT titled as <i>Mahadevpura Parisaraamrakshane Mattu Abhivrudhi Samiti vs. UOI</i>, alleging environmental non-compliance by some other party near Kaikondarahalli Lake.</p> <p>It is relevant to note that the only similarity in both the OA's is that the Project in question in Appeal No. 54/2018 and the Properties mentioned in OA No. 281/2019, are in the vicinity of the same lake namely "Kaikondarahalli Lake".</p> <p>The Hon'ble NGT vide its Order dated 11.03.2019 appointed Joint Committee in OA No. 281/2019 comprising of CPCB, KSPCB, BBMP and BDA to survey property bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73 and take appropriate action in accordance as per law. Whereas another Joint Committee was constituted by the Hon'ble NGT vide order dated 19.07.2019, in OA No. 602/2019 comprising of CPCB, SEIAA, KSPCB and MoEF & CC, specifically to survey the property in question.</p> <p>The Joint Committee in OA No. 281 of 2019, filed its report with the Hon'ble NGT, wherein an observation has been made in the report with respect to the Project in Question, the extract of the report is as follows:</p>

62	Godrej by name "Wonder Projects Development Pvt Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahlli Tank. Project under construction.	Sy No. 62 and 63 falls under Lake buffer area. As there is separate O.A 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.
		63/1 Vacant site No Violation

It is pertinent to clarify that the above Joint Committee's observation that the **Sy No. 62 and 63 falls under Lake Buffer area** is not *per se* contrary to the report submitted by the Joint Committee in OA. No. 602/2019. It appears that what the Joint Committee in OA. No. 281/2019, meant by Lake Buffer is only Lake is a Wetland and only a portion of land around it and did not deal in greater detail owing to the fact that there was already a separate Committee constituted by the Hon'ble. NGT in OA No. 602/2019. The extract of the same is mentioned hereinabove.

However, the said Report in OA No. 281/2019 never sought to imply or mean that the entire Sy No. 62 and 63 cannot be used for 'construction activities'. In other words, construction activities shall be permitted while adhering to Buffer regulations with respect to the said Sy Nos 62 and 63. Very significantly, the said Joint Committee of OA. No. 281/2019 nowhere stated that the construction proposed by Project Proponent falls under the said lake buffer area.

Further, even the Joint Committee Report filed in OA No. 602/2019 says that only 48 Acres 23 Guntas of the Kaikondarahalli Lake is a Wetland which does not include Project Land in question. In fact, as already stated hereinabove the construction of the building is beyond 75

mtrs. from the lake periphery. Thus, it appears that both the reports of two Joint Committees are not in any way per se contradictory to each other but rather complimenting each other about the said aspect.

As per records, the following details have been noted

Sy.No	Total Area (Acres)	Area in Sq.Mtrs	Nala and Lake Buffer Area (Sq.Mtrs)	Area available for development (Sq. Mtrs)
61/2	03.05	12646.32	4837 (38.25%)	7809.32 (61.75%)
62	03.02	12342.80	10543 (85.42%)	1799.80 (14.58%)
63/2	06.24	25393.81	13884 (54.67%)	11509.81 (45.32%)
	12.31	50382.93	29264 (58.08%)	21118.93 (41.92%)

REMARKS OF THE JOINT COMMITTEE

- After perusal of both the reports of the Joint Committee constituted in OA No. 281/ 2019 and OA No. 602/2019, this Committee noted that in one of the Joint Committee Report (OA No. 281/2019), it was mentioned that Survey Number 62 and 63 falls in the lake buffer, but it has not stated that the entire portion of survey numbers 62 and 63 are falling in the lake buffer and no construction can be done in those survey numbers. Accordingly, this Committee opines that even though part of the survey number falls in the lake buffer area/ Nala buffer area, construction activities can be permitted in the same survey number while adhering to all the statutory norms with regard to lake / nala buffer as per EC and Wetland which is 75.00 Mtrs and 50.00 Mtrs from the lake periphery and from the center of the nala respectively.
- Further, it is also noted that out of total project area, nearly about 58% (29264 Sq.Mtrs) of the area comes under either Lake Buffer area or Nala Buffer area and project proponent cannot undertake any construction in that area and the area available for developmental activity is only about 42% (21118.93 Sq. Mtrs) and suitable consideration have already been made in the project design.
- Accordingly, this Joint Committee opines that construction activities in the above survey numbers can be permitted while strictly adhering to both Lake and Nala buffer area requirements and in case of any violation in future, appropriate enforcement action can be taken by relevant Statutory agencies.

F. RELEVANT STATUTORY APPROVALS**a) ENVIRONMENTAL CLEARANCE**

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
5	<ul style="list-style-type: none"> ▪ Environmental Clearance from State Environmental Impact Assessment Authority (SEIAA), Karnataka and conduct of Environmental Impact Assessment Studies. 	<ul style="list-style-type: none"> ▪ As per the Environmental Clearance accorded by SEIAA, Karnataka Vide No. SEIAA 114 CON 2017 dated 10.01.2018, it is noted that total built up area is 1,28,193.9 Sq. Mtrs and the validity of the EC is till 09.01.2025. ▪ Department of Ecology and Environment vide their letter No. SEIAA2EAA2018 dated 01.03.2021 have revalidated and the above and stated that if the shafts and cut out areas are also added, the gross built up area is $1,28,193.90 + 12246.40 = 1,40420.30$ Sq. Mtrs which is less than 1,50,000 Sq. Mtrs and accordingly, the project falls under B2 Category which does not require EIA studies. (Copy enclosed as Annexure-6).

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by SEIAA, Karnataka, written submissions made by the Project Authorities and the Report of the Joint Committee in OA 602/ 2019, the Joint Committee states that the appraisal of the project was carried out as per EIA Notification 2006 under B2 Category as the total project area (including FSI and Non FSI) is less than 1,50,000 Sq. Mtrs for which Environmental Impact Assessment (EIA) Studies are not required and all applicable and relevant information including the nearest lakes etc. have been duly indicated in the Form-I submitted to SEIAA, Karnataka.

b) CONSENT FOR ESTABLISHMENT

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
5	<ul style="list-style-type: none"> ▪ Consent for Establishment (CFE) to be obtained by the Project Proponent from the Karnataka State Pollution Control Board 	<ul style="list-style-type: none"> ▪ Project proponent has obtained Consent to Establish vide PCB/701/CNP/17/4-755 dated 12.10.2018 and it is valid till 09.01.2025 (co-terminus with the validity of EC). ▪ KSPCB vide their Letter dated 11.02.2021 informed that the Consent has been withdrawn vide Letter PCB /701 /CNP /17 /1046 dated 06.07.2020 (Copy of the letter is enclosed as Annexure-11)

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by KSPCB, the Joint Committee noted that project authorities have obtained CFE from KSPCB on 12.10.2018 which was subsequently withdrawn on 06.07.2020 based on news article getting to know about the quashing of the EC to the project proponent by Hon'ble NGT. As per official records made available, the project proponent does not have a valid CFE to undertake construction work in the site and in case project proponent proposes to initiate construction activities in the project site, CFE needs to be revalidated again from KSPCB before start of construction activities.

The Joint Committee also noted that PA has stopped all the construction activities in the project site since 03.02.2020 based on the Orders of the Hon'ble NGT and the same have been duly informed to all the concerned Departments vide his letter dated 28.02.2020 and on the day of the visit of the Joint Committee no construction activity was noted.



OTHER STATUTORY APPROVALS OBTAINED BY THE PROJECT AUTHORITIES

As per written submissions made by the project proponent and also considering the records available, it is noted that project proponent has obtained the following relevant statutory clearances from various agencies as detailed below:

S No.	Relevant Permission Obtained	Concerned Statutory Agency	Date of Approval/ Permission
1.	Registration of Khata in the name of Wonder Projects Development Pvt Ltd.	Bruhat Bangalore Mahanagara Palike (BBMP)	07.01.2016
2.	Amalgamated Khata	BBMP	20.10.2016
3.	NOC from Airport Authority of India	AAI	20.10.2016
4.	NOC from Bharat Sanchar Nigam Limited	BSNL	26.12.2016
5.	Government Order for Change of Land use from Industrial (Hi-Tech) to Residential. As per the Revised Master Plan 2015 the Said Properties falls under Industrial (Hi-Tech) Zone	Urban Development Department	24.10.2017
6.	BDA Order- Change of Land Use for Change of Land use from Industrial (Hi-Tech) to Residential	Bangalore Development Authority (BDA)	08.12.2017
7.	Permission for construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Chief Engineer with prior approval from the Commissioner of BBMP.	Storm Water Drain Department of BBMP	02.08.2017
8.	NOC from Fire and Emergency services - Phase -1 (Godrej Reflections)	Department of Fire and Emergency Services	22.12.2017
9.	Environmental Clearance from Ministry of Environment and Forests (EC)	Ministry of Environment and Forests (MOEF)	10.01.2018
10.	NOC from Bangalore Electricity Supply Company	Bangalore Electricity Supply Company (BESCOM)	31.01.2018
11.	Relinquishment Deed for Block 1 and 2, relinquishing the Park and Open space Area	BDA	17.02.2018
12.	Development Plan approved by Bangalore Development Authority	BDA	07.03.2018
13.	Registration of RERA (Real Estate and Regulation Act) for Godrej Reflections as per Section 4(2)(d) of RERA Act, Sanction Plan approved from Competent Authority needs to be filed before obtaining RERA certification. Project Proponent have uploaded Development Plan dated 07.07.2017 to RERA for obtaining the approval, which was accordingly, granted	Real Estate and Regulation Act (RERA)	29.03.2018

14.	NOC from Fire and Emergency services - Phase -2 (Godrej Lake Gardens)	Department of Fire and Emergency Services	20.04.2018
15.	Building Plan approval from Bruhat Bengaluru Mahanagara Palike – Godrej Reflections vide PA's application dated 15.11.2017	BBMP	30.08.2018
16.	<u>Consent for Establishment from Karnataka Pollution Control Board, whereas the Project Proponent started construction of "Godrej Reflections" only in April 2019 and later the construction commenced in respect of Godrej Lake Gardens. Further, condition 46 of the Building License dated 30.08.2018 provides that the NOC from KSPCB needs to be submitted by the Developer within 30 days from the date of sanction. Hence CFE is not mandatory for obtaining building license</u>	Karnataka Pollution Control Board (KSPCB)	12.10.2018
17.	NOC from Bangalore Water Supply and Sewerage Board	Bangalore Water Supply and Sewerage Board (BWSSB)	30.10.2018
18.	Registration of RERA (Real Estate and Regulation Act) for Godrej Lake Gardens, Refer Section 4(2)(d) of RERA Act	Real Estate and Regulation Act (RERA)	25.05.2019
19.	Building Plan approval from Bruhat Bengaluru Mahanagara Palike – Godrej Lake Gardens	BBMP	28.05.2019
20.	Civic Amenities Site Building Plan Approval	BDA	29.11.2019
21.	Vide PA letter dated 28.02.2020, PA informed all the relevant statutory authorities that all developmental and construction related activities have been halted since 03.02.2020 as per Orders of Hon'ble NGT, Principal Bench, New Delhi (NGT) in Appeal No. 54 of 2018 and OA No. 602 of 2019. Copy enclosed as Annexure-12.		

CONCLUSION AND FINAL REMARKS

As per directions of Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 sought an independent report by another Joint Committee with the following mandate:

- Reconciliation of the two Joint Committee Reports (OA No. 281 of 2019 and OA No. 602 Of 2019)
- To verify the size of the project (FSI and Non-FSI)
- To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland

As per the directions of the Hon'ble NGT, this Joint Committee after reconciliation of both the earlier Joint Committee Reports submitted in OA No. 281 of 2019 and OA No. 602 of 2019 along with written submissions and official correspondence received from relevant Statutory Agencies have also been referred and accordingly conclude the following:

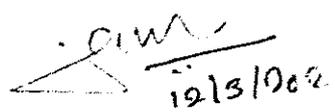
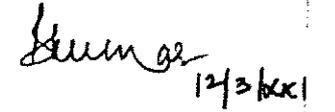
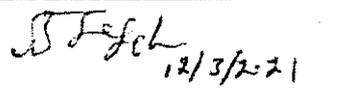
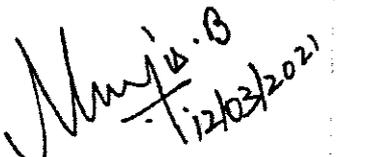
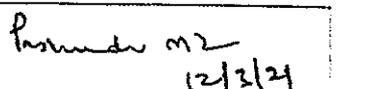
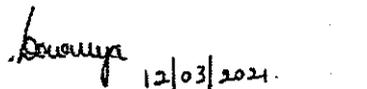
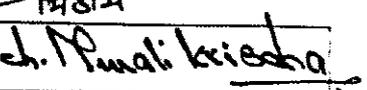
1. M/s. Wonder Projects Development Pvt. Ltd have not violated Kaikondarahalli lake buffer zone requirements and have left an adequate buffer area of more than 75.00 Mtrs from the lake periphery and more than 50.00 Mtrs from the Secondary Nala in the project site to the partially constructed tower in Block-I which is the maximum threshold under any of the applicable Statutory requirements including various Judgements of Hon'ble Supreme Court and Hon'ble NGT and also as per Wetland requirements.
2. Project Proponent has not undertaken any construction either of permanent or temporary nature in the lake buffer zone and this buffer area has been earmarked for greenbelt development.
3. Project Proponent has not violated any built-up area norms and appraisal of the project under B2 Category was done correctly as the total built area of the project (including FSI and Non FSI area) was less than 1,50,000 Sq. Mtrs which do not require mandatory Environment Impact Assessment (EIA) Studies as per Environment Impact Assessment Notification, 2006.
4. Project Proponent has maintained adequate Nala Buffer of more than 50.00 Mtrs to the partially constructed tower in Block-I which is the maximum threshold even if it is considered as Primary or Secondary Nala.
5. As per the provisional inventory submitted by State Government of Karnataka to Central Government, Kaikondarahalli Lake has been included in the provisional inventory list of Wetlands. However, as on date this Kaikondarahalli Lake has not been notified as a Wetland by the Government. The Mean High Flood Level of this Kaikondarahalli Lake is 880.207 Mtrs which is less than the top bund level (TBL) i.e., 881.407 Mtrs. Considering the last 10 years data, it has been noted that this lake has never overflowed and further the direction of flow of

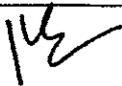
water is towards Northern Side and this project being located in the South-Eastern side of the lake, the possibility of water overflowing into this project site is very remote. Further, the requirement of maintaining a buffer distance of 50.00 Mtrs from the Mean High Flood Level is also complied as project proponent have left a buffer distance of 75.00 Mtrs from the lake periphery.

6. As per official records it is noted that 13 Guntas of the project site with a secondary nala flowing from Kasavanahalli Lake to Kaikondarahalli Lake is a Kharab Land in which no development /constructions are to be undertaken. However, considering the importance of free flow of water between the two lakes without disturbance and as a special case permission for construction of RCC Box Drain and U type RCC Drain in Kharab land was accorded by Bruhat Bangalore Mahanagara Palike (BBMP) under exercise of due powers conferred to the Commissioner, BBMP under Section 288A and 288(1)(c) of the Karnataka Municipal Corporation Act, 1976 which the Joint Committee finds to be in order.
7. Pursuant to reconciliation of both the Joint Committee Reports in OA No. 281 of 2019 and OA No. 602 of 2019, it is noted that out of total project area, nearly about 58% (29264 Sq.Mtrs) of the area comes under either Lake Buffer area or Nala Buffer area and the project proponent cannot undertake any construction in that area and the area available for developmental activity is only about 42% (21118.93 Sq. Mtrs) and suitable consideration have already been made in the project design with regard to buffer area requirements. Accordingly, this Joint Committee opines that construction activities in the above survey numbers can be permitted while strictly adhering to both Lake and Nala buffer area requirements and in case of any violation in future, appropriate enforcement action can be taken by relevant Statutory Agencies.
8. Project Proponent have obtained all requisite permissions from relevant Statutory Agencies and Construction of the Project have been stopped from 03.02.2020 pursuant to Orders of the Hon'ble NGT in Appeal No. 54 of 2018 and OA No. 602 of 2019 and on the day of Joint Committee visit also the same was noted that construction has been stopped.

Accordingly, the Report of the Joint Committee is submitted to Hon'ble NGT, Principal Bench (New Delhi) in confirmation to its Order dated 08.09.2020 in Appeal No. 54 of 2018 for taking further appropriate decision and for passing suitable orders.



S. No	Name	Designation	Signature
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer, IRO Bangalore and Chairman	 12/3/21
2	Dr. H.R. Mahadev, IAS (Represented by Shri. B.A. Shivananda, Superintending Engineer, BDA)	Superintending Engineer, BDA	 12/3/2021
3	Shri. Brijesh Kumar, IFS	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	 12/3/2021
4	Shri. H.L. Prasanna KES (Represented by Shri. Jagadish B.K., Asst. Engineer, Minor Irrigation)	Asst. Engineer, Minor Irrigation	 12/3/2021
5	Shri. H.N. Raghu, Additional Director, Town Planning, BBMP. (Represented by Shri. B. Manjesh, Joint Director, Town Planning BBMP)	Joint Director, Town Planning, BBMP	 12/03/2021
6	Shri. M.K. Prabhudev	Chief Environmental Officer, KSPCB	 12/3/21
7	Smt. Sowmya. D	Scientist-D, Regional Directorate, CPCB Bangalore	 12/03/2021
8	Shri. David Doraswamy	Survey Supervisor, Department of Revenue (Land Records)	 12/3/21
9	Dr. Murali Krishna	Scientist-D, IRO, Bangalore	 12/3/21



ANNEXURE-1



सत्यमेव जयते

भारत सरकार / GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय / MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
एकीकृत क्षेत्रीय कार्यालय, बंगलुरु / INTEGRATED REGIONAL OFFICE, BANGALORE

4th Floor, E & F- Wings, Kendriya Sadan, 17th Main Road,
II Block, Koramangala, Bangalore- 560 034

File No. EP/12.7/NGT/49/Kar/ 964

URGENT COURT MATTER

December 16, 2020

Sub: Constitution of a Joint Committee in Appeal No. 54 of 2018 and Linked Matters in MA No. 49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi

Ref: Order of Hon'ble NGT, Principal Bench, New Delhi Order dated 08.09.2020

Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 has directed constitution of a Joint Committee for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd".

Pursuant to receipt of Order of Hon'ble NGT, nominations were sought from all the concerned agencies and based on the nominations received, the Joint Committee is constituted with the following Members:

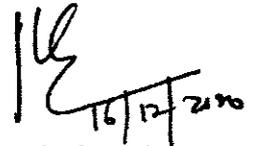
S. No	Name	Designation	Nominee / Representative Department
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer	Chairman of the Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore
2	Dr. H.R. Mahadev, IAS	Commissioner	Representative of BDA
3	Shri. Vijaykumar Gogi, IFS	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	Representative of SEIAA, Karnataka and Karnataka Wetland Authority
4	Shri. H.L. Prasanna	Engineer-in-Chief	Representative of Minor Irrigation and Ground Water Development Department

5	Shri. R Prasad	Additional Director of Town Planning	Representative of BBMP
6	Shri. M.K. Prabhudev	Chief Environmental Officer	Representative of KSPCB
7	Shri. G. Thirumurthy	Additional Director/ Scientist-E	Representative of CPCB
8	Shri. David Doraswamy	Survey Supervisor	Representative of Department of Revenue (Land Records)
9	Dr. Murali Krishna	Joint Director/ Scientist-D	Co-Opted Member from IRO, MoEFCC, Bangalore

In order to ascertain the facts of the matter, it is proposed to convene the **First Meeting of the Joint Committee on 23.12.2020 (Wednesday) at 11.30 AM through Video-Conference (through Google Meet, link will be shared separately).**

Accordingly, all the Members of the Joint Committee are kindly requested to make it convenient to attend the meeting and also please share your gmail for sharing the meeting to rosz.bng-mef@nic.in/ rosz.bng-mefcc@gov.in .

Yours faithfully,



(K.P. Singh, IFS)

Regional Officer,

Integrated Regional Office (Bangalore)

To,

All the Joint Committee Members listed above.

ANNEXURE-2

MINUTES OF FIRST MEETING OF THE JOINT COMMITTEE CONSTITUTED BY HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 54 OF 2018

1. The first meeting of the Joint Committee constituted by Hon'ble NGT Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd" was held under the Chairmanship of Shri. K.P. Singh, Regional Officer, Ministry of Environment, Forest and Climate Change (MoEFCC), Integrated Regional Office, Bangalore through Videoconference on 23.12.2020.
2. At the outset, the Chairman welcomed all the Members for the videoconference and after a formal round of introduction of the Members, the Chairman briefed about the constitution of the Joint Committee and informed the Members that Dr. Murali Krishna, Scientist-D/ Joint Director in the MoEFCC, Regional Office has been co-opted as an additional Expert Member to serve in this Joint Committee.
3. The Chairman informed all the Members regarding the constitution of this Joint Committee and it was noted that representatives of nine departments like MoEFCC, Central Pollution Control Board (CPCB), Karnataka State Pollution Control Board (KSPCB), Karnataka State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Irrigation and Flood Control Department, Revenue Department and Karnataka State Wetland Authority are serving as Members of this Joint Committee. All the Members/ representatives of the Concerned Departments attended the videoconference held on 23.12.2020.
4. Chairman informed all the Members about the Mandate of this Joint Committee and Members noted that there are 3 main objectives for this Joint Committee as follows:
 - Reconciliation of the two Joint Committee Reports (281 of 2019 and 602 Of 2019)
 - To verify the size of the project (FSI and Non-FSI)
 - To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland
5. Members noted that for similar purpose two other Court Cases are also going on namely OA No. 281/ 2019 and OA No. 602/ 2019 and since this case also pertains to the same subject, all the cases have been clubbed.
6. The Members were appraised that in OA No. 281 of 2019, one report of the Joint Committee was filed and in another case OA 602/ 2019 another report of the Joint Committee was filed, and both the reports had a contradictory view/ some disparity with regard to the final findings of the their reports especially with regard to this project belonging to M/s. Wonder Projects

Pvt. Ltd. Accordingly, Hon'ble NGT wanted this Committee to examine the above issues and to submit its final report within 2 months from the date of convening of its first meeting (i.e., before 23.02.2021). The Members were also briefed that the case is next listed for hearing on 15.01.2021.

7. After detailed discussion about the allegations, issues raised in the petition and the directions of the Hon'ble NGT, the Committee decided to undertake a site visit to the alleged project site area to physically verify the project to ascertain the distance between the lake boundary and the project site; distance between nala to the construction site; and to verify adequacy of the buffer area as per statutory norms have been left or not and also to verify the building plan to ascertain the total area of the project (FSI and Non-FSI) etc.
8. Finally, after seeking consensus from all the Members of the Joint Committee, it was agreed to undertake a site visit to the project area on 08.01.2021 (Friday). Chairman requested all the concerned department representatives to gather all the relevant information pertaining to their departments with regard to this project to further deliberate during the scheduled site visit.
9. The meeting ended with a vote of thanks to the Chair.

ANNEXURE-3

**MINUTES OF THE SITE INSPECTION OF THE JOINT COMMITTEE CONSTITUTED BY
HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 54 OF 2018**

1. As per the decision taken in the first meeting of the Joint Committee constituted by Hon'ble NGT Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd" on 23.12.2020 through video conference, a visit to the project site was undertaken on 08.01.2021 by the Joint Committee.
2. Representatives of all the Departments as per constitution of the Joint Committee were present during the site inspection except representatives of Bangalore Development Authority (BDA) and Bruhat Bangalore Mahanagara Palike (BBMP). Upon enquiry it was noted that the nominee of BBMP being a primary contact of Covid-19 positive person was in home isolation so could not attend the inspection. However, no information or clarification from the representative of BDA received by the Joint Committee.
3. The Chairman welcomed all the Members of the Joint Committee and the Committee discussed in detail about the key issues raised in the petition and also referred to the reports of the Joint Committee submitted to Hon'ble Tribunal in OA No. 281 of 2019 and 602 of 2019. After discussing in detail about the issues, the Joint Committee noted that the Mandate of this Joint Committee relates mainly to three issues namely the following:
 - Reconciliation of the two Joint Committee Reports (281 of 2019 and 602 Of 2019)
 - To verify the size of the project (FSI and Non-FSI)
 - To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland
4. Pursuant to discussion on both the reports and also keeping in cognizance and direction of Hon'ble NGT vide its orders dated 08.09.2020, a site visit was undertaken to the project area. During the visit Members of the Joint Committee noted that the total area of the project is 12 acres 18 Guntas and a secondary nala as per Revenue Records ad measuring to an extent of 13 Guntas of Kharab Land is bifurcating the project into two portions and adjoining the project site on North Eastern side, kaikondarahalli lake is situated and on the day of site visit, no construction work was observed, and it appeared that construction work has been abandoned from several months.
5. After detailed deliberations, the Joint Committee suggested representatives of concerned departments to revalidate or confirm the following within two weeks (before 27.01.2021) for finalization of the Joint Committee Report to Hon'ble NGT.

BBMP/ Revenue Department	<ul style="list-style-type: none"> ▪ What is the Buffer area from the lake to Block-I and Block-II? ▪ What is the Buffer area from centre of the secondary nala to Block-I and Block-II? ▪ Whether approval was accorded for construction of a box drain for flow of water in the secondary nala or for usage of kharab land in the project site and whether the same is in consonance with the existing Rules/ Acts in force?
Wetland Authority/ BBMP/ Minor Irrigation and Flood Control	<ul style="list-style-type: none"> ▪ Whether the Kaikondarahalli lake has been notified as Wetland or Not? ▪ What is the maximum buffer area to be left from the lake if the lake is notified as a Wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan verdict? ▪ What is the maximum water level of Kaikondarahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4 (vi) ▪ To confirm whether any construction temporary/ permanent nature undertaken in buffer area? ▪ Whether adequate buffer distance is maintained from lake periphery to Block-I and Block-II as per Rule 4 of Wetland Rules.
BDA/ BBMP	<ul style="list-style-type: none"> ▪ Whether building permission accorded for construction of Block-I and Block-II or not with details if permission accorded. ▪ To confirm the size / total area of the project (Both FSI and Non-FSI) area of two towers cumulatively
SEIAA	<ul style="list-style-type: none"> ▪ Whether EC obtained and details of EC along with its validity ▪ Whether EIA studies were required or not during the appraisal of the project (B1/ B2 category) based on EIA Notification 2006
KSPCB	<ul style="list-style-type: none"> ▪ Whether CFE obtained or not and if yes, details of CFE along with its validity

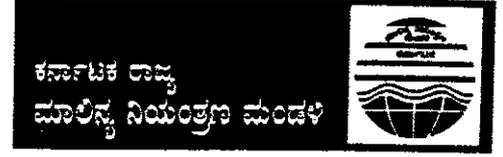
- The Committee also noted that this matter has been listed for next hearing on 15.01.2021 and as per Order dated 08.09.2020, this Joint Committee needs to submit its factual report within two months of convening of its first meeting. Accordingly, the Joint Committee suggested seeking additional time till 23.02.2021 from Hon'ble NGT for submission of its final report which is two months from the date of first meeting held on 23.12.2020.

- The committee opined that after two weeks and after receipt of requisite written feedback from all the concerned agencies along with relevant official records supplementing their say, the final report shall be prepared by the MoEFCC Regional Office with support of CPCB and KSPCB and all efforts to be made for timely submission of Joint Committee report to Hon'ble NGT before 23.02.2021.

ANNEXURE-4

Officer of the Senior Environmental Officer
Karnataka State Pollution Control Board
Bangalore - South
"NISARGA BHAVAN", 3rd Floor,
Thimmaiah Road, 7th 'D' Cross,
Shivanagar, Bangalore - 560 010
Phone : 23228862

ಹಿರಿಯ ಪರಿಸರ ಅಧಿಕಾರಿಯವರ ಕಛೇರಿ
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
ಬೆಂಗಳೂರು ದಕ್ಷಿಣ
"ನಿಸರ್ಗ ಭವನ", 3ನೇ ಮಹಡಿ,
ತಿಮ್ಮಯ್ಯ ರಸ್ತೆ 7ನೇ 'ಡಿ' ಮುಖ್ಯ ರಸ್ತೆ,
ಶಿವನಗರ, ಬೆಂಗಳೂರು-560 010.
ಫೋನ್ : 23228862



towards a cleaner Karnataka

No. KPCB/ZSEO-Bng-South/2019-20/362

date: 16 FEB 2024

To,

Dr. Murali Krishna,
Scientist ' D '
Ministry of Environment, Forest & Climate Change (MOEF & CC)
South Zone office, Kendriya Sadan, 4th Floor,
Bengaluru.

Sir,

Sub: Forwarding Survey Sketch, pertaining to Sy. No. 61, 62, 63 of Kasavanahalli village, Varthur Hobli, Bangalore East Taluk.

Ref: 1. Inspection by joint committee of Hon'ble NGT dt: 08.01.2021.
2. Letter with Survey report of Assistant Director of Land Records, Bangalore East Taluk, K.R. Pura, Bangalore, dated:02.02.2021.

With respect to above, subject it is to be informed that the Assistant Director of Land Records, Bangalore, East Taluk, Bangalore, has forwarded the letter along with Survey sketch of Sy. No. 61, 62, 63 of Kasavanahalli Village, Varthur Hobli, to this office vide ref (2) instead of submitting to Joint committee of NGT and the same is herewith forwarded for your kind perusal and needful action.

K. S. Srinivas
Zonal Senior Environmental Officer,
Bng (South).

sc'd'

1/6/24

12/2

sc'd'

18/2

ನಂ. ಭೂ.ಸ.ನಿ/ಪೋಡಿ/ಇತರೆ/39/2019-20.

ಭೂದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರವರ ಕಛೇರಿ
ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ಕೆ.ಆರ್.ಪುರ.
ಬೆಂಗಳೂರು. ದಿನಾಂಕ: 02-02-2021.

ಹಿರಿಯ ಪರಿಸರ ಅಧಿಕಾರಿಯವರ ಕಛೇರಿ,
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ,
"ನಿಸರ್ಗ ಭವನ", 3ನೇ ಮಹಡಿ, ತಿಮ್ಮಯ್ಯ ರಸ್ತೆ,
7ನೇ 'ಡಿ' ಮುಖ್ಯರಸ್ತೆ, ಶಿವನಗರ, ಬೆಂಗಳೂರು-560 010.

ಮಾನ್ಯರೇ,

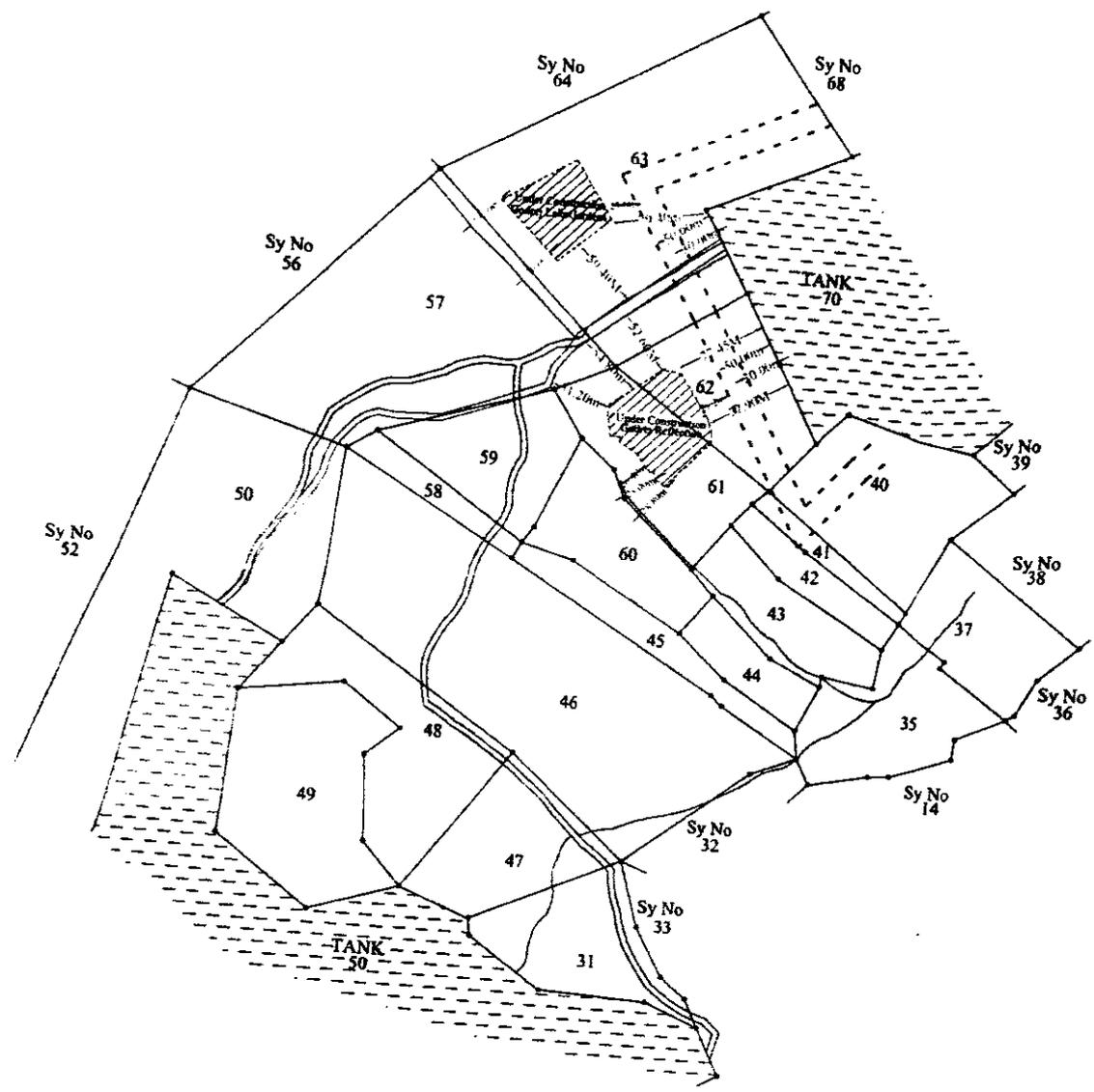
ವಿಷಯ: ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ವರ್ತೂರು ಹೋಬಳಿ, ಕಸವನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ. 63 ರ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದ ನಕ್ಷೆ ನೀಡುವ ಬಗ್ಗೆ.

- ಉಲ್ಲೇಖ: 1. ತಮ್ಮ ಕಛೇರಿ ಪತ್ರದ ಸಂಖ್ಯೆ: PCB/RSEO/BNG-SOUTH/2019-20/71, Dated: 27-04-2019.
2. ಜಂಟಿ ಸಮಿತಿಯ ಸ್ಥಳ ಪರಿಶೀಲನೆ ದಿನಾಂಕ: 08-01-2021 ರಂದು ನೀಡಿರುವ ಸೂಚನೆಯ ಮೇರೆಗೆ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ವರ್ತೂರು ಹೋಬಳಿ, ಕಸವನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ. 63 ರ ಜಮೀನಿನಲ್ಲಿರುವ 'ಬಿ' ವಿರಾಜು ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಈಗಾಗಲೇ ವರದಿ ಸಲ್ಲಿಸಿದ್ದು, ದಿನಾಂಕ: 08-01-2021 ರಂದು ಜಂಟಿ ಸಮಿತಿಯು ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಿ ಕೆಲವು ಸೂಚನೆಗಳನ್ನು ನೀಡಿದ್ದು, ಅದರಂತೆ ಬಿಬಿಎಂಪಿ ಅಧಿಕಾರಿಗಳ ಜೊತೆಯಲ್ಲಿ ಸ್ಥಳ ಪರಿಶೀಲಿಸಿ ನಕ್ಷೆಯನ್ನು ತಯಾರಿಸಿ ವಿವರಗಳೊಂದಿಗೆ ವರದಿಯನ್ನು ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ತಮ್ಮ ಕಛೇರಿಗೆ ಸಲ್ಲಿಸಿದೆ.

ತಮ್ಮ ವಿರಾಜು
ಭೂದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು
ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು
ಬೆಂಗಳೂರು

Village: Kasavanahalli Hobli : Varthur Taluk : Bangalore East
Joint Sketch of sy no 61,62,63



NO ADLR/Phodi/10/39/2019-20

Measurements have been taken as per instructions received from Hon'ble KSPCB during site inspection

- ==== This symbol indicates the Nala under 'B' Kharab in an extent of 13 Gunta in Sy. No. 63 as per Village Map
- ==== This symbol indicates the 13 Guntas of 'B' Kharab in Sy. No. 63 Drain under construction as per physical condition at site
- ==== This symbol indicates Secondary Nala as per village map
- ==== This symbol indicates Tertiary Nala as per village map
- - - This symbol indicates 30m Buffer from the boundary of the lake
- - - This symbol indicates 50m Buffer from the boundary of the lake

[Signature]
 ಭೂಮಿ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಕಾರ್ಯದ
 ವಿಭಾಗದ ಮಹಾ ನಿರ್ದೇಶಕರು
 ಕೆ.ಆರ್. ಪುರ

[Signature]
 ಭೂಮಿ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಕಾರ್ಯದ
 ವಿಭಾಗದ ಮಹಾ ನಿರ್ದೇಶಕರು

Prepared by
[Signature]
 ಎಂ.ಎಸ್.ಎಸ್.ಎಸ್.ಎಸ್.
 ಎಂ.ಎಸ್.ಎಸ್.ಎಸ್.ಎಸ್.
 ಎಂ.ಎಸ್.ಎಸ್.ಎಸ್.ಎಸ್.

ANNEXURE-5

**Bruhat Bengaluru Mahangara Palike****Office of the Additional Director of Town Planning, N.R.Square, Bengaluru-02**

No: BBMP/Addl.Dir/PR/ 54 / 2020-21

Date: 10-02-2021.

To,

Sri. Koushlesh Pratap Singh, IFS
Regional Officer and Chairman of the
Joint Committee and Representative of MoEFCC.
Integrated Regional office, (IRO),
Bengaluru 4th Floor, E & F Wings
Kendriya Sadan, 17th Main Road, 2nd Block, Koramangala,
Bengaluru – 560034.

Respected Sir,

Sub:- Submission of Report to Joint Committee in Appeal No. 54 of 2018 constituted by Hon'ble National Green Tribunal, Principal Bench, New Delhi.

Ref:- Joint Committee Meeting Held on 05-02-2021 through Video Conference.

As per the Hon'ble National Green Tribunal, Principal Bench, New Delhi order dated. 08-09-2020 in appeal No. 54 of 2018 Joint Committee was constituted for ascertaining the facts in matter related to construction of Residential Project by M/s Wonder Projects Development Pvt. Ltd., at Sy No. 61/2, 62 & 63/2, Kasavanahalli Village, Varthuru Hobli, Bengaluru East Taluk. Being BBMP is also one of the representative Department of the Joint Committee is here by submitting the report as under.

The project proponent M/s Wonder Projects Development Pvt. Ltd., was applied to BBMP for Building Plan sanction for the construction of Residential projects at Sy No. 61/2, 62 & 63/2, Kasavanahalli Village, Varthuru Hobli, Bengaluru East Taluk with the following statutory department NOC's enclosed as Annexures.

Sl. No	Name of the Statutory Department NOC's	Reference Number and Date
1.	Fire Force Department	GBC(1)/336/2017, Dated. 22-12-2017 (A-1)
2.	Airport Authority of India	BANG/SOUTH/B/091727/171996, Dated. 20-10-2016 (A-2)
3.	HAL	ASC/DOM(AO)/131/14-17/783/2017, Dated. 11-01-2018 (A-3)
4.	BSNL	DE/SAN/BG/S-11/VOL XIII/20, Dated. 26-12-2016 (A-4)

sc'd
10/2



5.	SEIAA (Environmental Clearance)	SEIAA/114/CON/2017, Dated. 10-01-2018 (A-5)
6.	KSPCB	PCB/701/CNP/17/H-755, Dated. 12-10-2018 (A-6)
7.	BESCOM	CE(E)/BANG MA SZ/AE/AEE-2/K-148/17-18/ 8377- 80, Dated. 31-01-2018 (A-7)
8.	BWSSB	BWSSB/ESC/CE(M)/ACE(M)-IV/DCE(M)- II/TA(M)-III/4421/2018-19, Dated. 30-10-2018. (A-8)
9.	BDA	Bangalore Development Authority has issued is Residential Development Plan vide No. BDA/TPM/DLP/41/2016-17/2161/2017-18, Dated. 07-03-2018 to the project proponent M/s Wonder Projects Developments Pvt. Ltd., for construction of Residential Projects at Sy No. 61/2, 62 & 63/2 Kasavanahalli Village, Varthuru Hobli, Bengaluru East Taluk, Bengaluru. (A-9)

Based on the Residential Development plan issued by the Bengaluru Development Authority which is Planning Authority for Bangalore city, NOC's issued by above statutory departments, Zoning Regulations 2015 and Building Bye-Laws 2003 Building Permission was accorded by BBMP for construction of Residential project Block - I and Block - II vide LP No. BBMP/Addl.Dir/JDNorth/LP/0203/2017-18, dated. 30-08-2018 and 28-05-2019 respectively as under with the approval of Commissioner, BBMP.

Project site area – 50382.95 Sq.m

Blocks	Total Built up area (in Sq.m)	FSI Area (in Sq.m)	Non FSI area (in Sq.m)	No of Floors	No of Units	Date of Building Permission
Block - I	61418.72	44739.99	16678.73	2BF+GF+20UF	265	30-08-2018
Block - II	64244.34	45938.29	18306.05	BF+GF+20UF	360	28-05-2019
Total	125663.06	90678.28	34984.78		625	

There is kaikondarahalli lake on the North - Eastern side of the project. While according the Building Permission 75.00 m buffer is reserved from the Lake boundary of Kaikondarahalli lake to the Block - I and Block - II of the project as per NGT order dated. 04-05-2016 and also as per Residential Development plan approved by Planning Authority.

There is a Secondary Nala within the project area which is connecting Kasavanahalli lake to Kaikondrahalli lake. Buffer of 50.00 m is reserved from the edges



of this Secondary Nala on Either side to the Block – I and Block – II of the Project as per NGT order Dated. 04-05-2016 and as per Development Plan Approved by Planning Authority.

The project proponent has constructed RCC box drain for flow of water in the Secondary nala or for usage of Kharab land in the project site with the approval of BBMP vide Permission No. CE/SWD/PR/140/2017-18, Dated. 02-08-2017 given by Chief Engineer (Storm Water Drain), BBMP (A-10). Clarification is sought from Chief Engineer (SWD) BBMP to submit report under which Act/Rules the Permission is accorded to construct the RCC box drain for flow of water in the secondary nala or for usage of kharab land in the project site. Report once received from Chief Engineer (SWD), BBMP, the same will be submitted for your perusal.

[Handwritten Signature]
10/2/2021
**Additional Director,
Town Planning, BBMP**

Enclosers :- (Annexures – 1 to 10)

Copy to,

1. The Hon'ble Commissioner, BBMP, Bengaluru for kind information.
2. Chief Engineer, (SWD), BBMP, Bengaluru for information and for necessary action.
3. Chief Engineer, (Lakes), BBMP, Bengaluru for information.
4. Office Copy

ANNEXURE-6

File No:SEIAA2EAA2018

Date-1-03-2021

Report on M/s Wonder Projects Development Pvt Ltd
(Appeal No 54/2018 (OA No. 602/2018) before the principal Bench of the Hon'ble NGT)

- Ref: - 1. Letter No. EP/12.7/NGT/49/Kar dated 15-2-2021 and EP/12.7/NGT/49/Kar/260 dated 25-2-2021 of Regional Officer IRO, Bengaluru
2. Letter No. ADLR/Podi/Others dated 2-2-2021 of ADLR Bengaluru (East)

Background:

In view of the order dated 8-9-2020 of Hon'ble NGT, Principal Bench in Appeal No 54/2018 (OA No. 602/2019), a high-level committee was formed to get a factual status on the alleged violations in sanction and execution of Wonder Projects Development Pvt Ltd in Sy No 61/2, 62 & 63/2 Kasavanahalli Village, Varthur Hobali, Bangalore East Taluk, Bangalore Urban District.

The newly appointed committee has done an inspection of the project site on 8-1-2021 and took note of the ground status. Subsequently various members were expected to comment on the issues raised by NGT in the background of their order dated 8-9-2020.

In response to the issues flagged (Ref 1) by the Regional Officer, IRO, Bengaluru, response of the Department of Ecology and Environment, Government of the Karnataka is as under:

1) From EIA Perspective: -

Number and date of EC	SEIAA114CON2017 dated 10-01-2018
Location of the Project	Survey No's 61/2, 62 & 63/2 Kasavanahalli Village, Varthur Hobali, Bangalore East Taluk, Bangalore Urban District.
Project details	Construction of new Residential Building on a plot area of 50382.91 Sqm. The total built up area is 1,28,193.9 Sqm. The proposed project consists of 2 residential blocks having 2 Basements +Ground Floor + 20Upper Floors with 655 units.
Whether EC was granted for this project and if yes what is its validity	The EC was issued for this project vide No. SEIAA114CON2017 dated 10-01-2018 for a total built up area of 1,28,193.9 Sqm. As per the EIA Notification 2006 the validity of EC for construction projects is 7 years.

Shri Murali 'sc'
Br n/a
1/13/21

BRITESH KUMAR, IFS
Principal Secretary to Government
(Ecology and Environment Department)
Forest, Ecology and Environment

<p>Whether EIA studies were required or not during the appraisal of the project (B1/B2 category) based on EIA Notification 2006.</p>	<p>As per EIA Notification 2006 the construction projects with a built-up area less than 1,50,000 Sqm falls under B2 category, which does not require EIA studies. The EC for this project was issued for a built-up area of 1,28,193.9 Sqm, which does not require EIA studies as per the EIA Notification 2006.</p>
<p>Implication of Orders of Hon'ble Supreme Court in Goel Ganga case (Civil Appeal No.10854/2016)</p>	<p>As per the orders of Hon'ble Supreme Court in Goel Ganga case (Civil Appeal No.10854/2016) directions on built up area as follows</p> <ul style="list-style-type: none"> (i) <i>The total built up area under the Notification of 14.09.2006 means all constructed area which is not open to sky</i> (ii) <i>Built up area under the Notification of 04.04.2011 means all covered area including basement and service areas.</i> <p>EC for M/s Wonder Projects Development Pvt Ltd was issued on 10-01-2018, whereas the Hon'ble Supreme Court Judgement in Goel Ganga case (Civil Appeal No.10854/2016) was passed on 10-08-2018 ie after the issue of the EC.</p> <p>However as per the concept plan submitted by the proponent in Form-I the total built up area (including basement but excluding shafts & cutout areas) is reported to be 1,28,193.9 Sqm. Further as per the submitted plan, area of shafts and cutouts is 12226.4Sqm.</p> <p>It is to be noted that for conducting EIA studies (ie Category B1), the built-up area should be more than 1,50,000 Sqm.</p> <p>Even if the shafts and cutout areas are added, the gross built up area is $1,28,193.90 + 12226.40 = 1,40420.30$ Sqm. Hence there is no statutory requirement of EIA Studies for this project.</p> <p>During issue of EC under B2 category for the total built up area $1,28,193.90 + 12226.40 = 1,40420.30$ Sqm, which is less than 1,50,000 Sqm. Hence the project comes under B2 category that also not require EIA studies.</p>

II) From Wetland Perspective:-

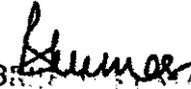
<p>Whether Kaikondrahalli lake has been Notified as wetland or not</p>	<p>Kaikondrahalli lake is a wetland that has been identified by SAC(Space Application Centre), Ahmedabad in their Wetland Atlas. It is one among the lakes in the Provisional inventory of wetlands submitted by the State Government to the Central Government.</p>
---	--


BRIJESH KUMAR, IES
 Principal Secretary to Government
 (Ecology and Environment)
 Forest, Ecology and Environment Department

	<p>However, as per the prevailing Wetland Rules, it is yet to be notified as a wetland.</p>
<p>What is the maximum buffer area to be left from the lake if the lake is notified as a wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan Verdict.</p>	<p>As per Rule 4(vi) of the Wetland(Conservation and Management) Rules, 2017 and also order dated 03-04-2017 of Hon'ble Supreme Court in M.K Balakrishnan &ors versus Union of India&ors (Writ Petition No 230/2001), no construction of permanent nature (ie within the buffer) is permitted within 50meters from the High Flood Level of the Wet land.</p> <p>As per the EC granted, the project proponent should maintain 75meters from the lake as buffer zone which should be free from erection of permanent structures.</p> <p>As per the measured distance (Ref 2) construction taken up either in Block I or Block II are not within 50 meters from the edge of the lake.</p> <p>Thus, even though the wetland in question is yet to be notified, the project does not violate either <i>Balakrishnan Verdict</i> or Wetland Rules 2017.</p>
<p>What is the maximum water level of Kaikondrahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4(vi).</p>	<p>The information to be submitted by Minor Irrigation Department of Karnataka.</p>

III) Other Issues related:-

<p>To confirm whether any construction temporary/permanent nature undertaken in buffer area.</p>	<p>The information to be submitted by BDA/BBMP.</p>
<p>Whether adequate buffer distance is maintained from</p>	<p>As per the measured distance (Ref 2) construction taken up either in</p>


 SUMA
 BRITISH COUNCIL, U.S.
 Principal Secretary, Government
 (Ecology and Environment)
 Forest, Ecology and Environment Department

lake periphery to
Block-I and Block-II
as per rule 4 of
wetland rules

Block I or Block II are not within 50 meters from the edge of the lake. 1457

Note: Physical measurement with regards to wetland-buffer has been done by a joint sub-committee of Assistant Director of Survey and Settlement KR Puram, Bengaluru (South), Assistant Director Land Records Bengaluru (East) and M.Fayaz Ahmed Surveyor Bengaluru (East) (Ref-2). The same has been adopted here.

Dated: 1-3-2021


(Brijesh Kumar) 1/3/xxi
Principal Secretary (Environment)
Govt of Karnataka and
Member Secretary, SEIAA Karnataka

ANNEXURE-7



ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ

1459

Bangalore Development Authority

No. BDA/Commr/EM/EO-3/T- ೨೦೫ /2020-21

Dated: 01.02.2021.

ಸಂಖ್ಯೆ :
No.

ದಿನಾಂಕ :

Date :

To,

Regional Officer
And
Chairman of the Joint committee,
Ministry of Environment, Forest and climate change
Integrated Regional Office,
Kendriya sadan, IVth Floor
E & F Wings, 17th Main road,
II nd Block, Koramangala,
Bengaluru-560 034.

Respected Sir,

Sub:- Constitution of Joint Committee in Appeal No.54 of 2018 and MA No.49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi vide its order dated.08.09.2020

Ref:- 1. Your office letter No.EP/12.7/NGT/49/KAR/1068, Dated.08.01.2021.
2. Minutes of the site inspection of the Joint Committee Dated : 08.01.2021

With reference to the above subject and your office letter cited at reference (1), it is regretted to inform you that, no communication was received from your office for assembling at Godrej Reflections, Haralur Main road Bangalore, project site. However, only proposed visit date 08.01.2021 was mentioned during the video conference held on 23.12.2020, but venue of assembly was not confirmed.

On the part of BDA and as per the details sought in the minutes of site inspection of the joint committee it is confirmed from our records that BDA has not received any application for building plan approval for the said projects at Sy. No.s 61/2, 62 & 63/2 Kasavanahalli village, Varthur Hobli, Bengaluru sast taluk, Bengaluru District by M/s Wonder projects Development Pvt Ltd.

However, the Development Plan issued by BDA Town Planning Member is enclosed for your ready reference.

Thanking you

Shri Murali Krishna
Sc/O'

AK Reddy
21/2/21

Yours Faithfully

Commissioner,
BDA, Bangalore.

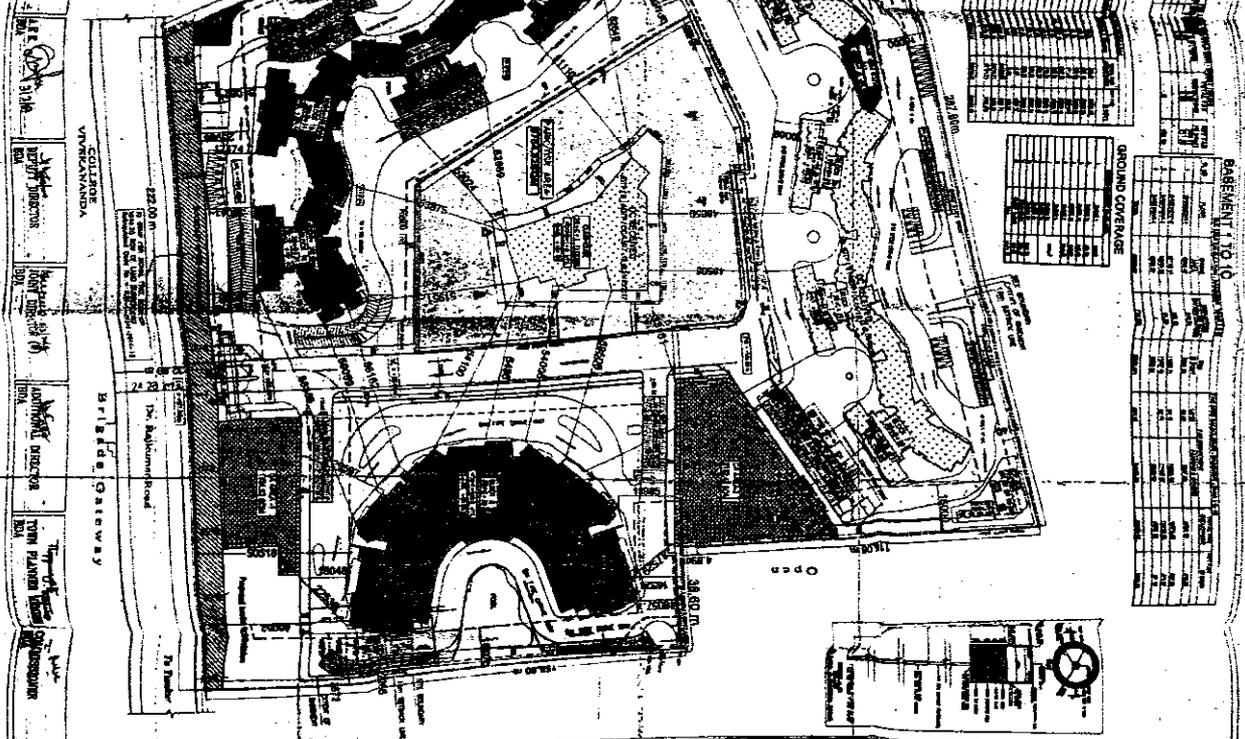
ಟಿ. ಚೌಡಯ್ಯ ರಸ್ತೆ, ಕುಮಾರಪಾರ್ಕ್ ಪಶ್ಚಿಮ, ಬೆಂಗಳೂರು 560 020

T. Chowdaiah Road, Kumarapark West, Bangalore 560 020, Facsimile : 2334 5799, Website : www.bdabangalore.org

Block	Area (sq. m)	Area (sq. ft)	Units	Notes
Block 1A	1000	10764	100	
Block 1B	1000	10764	100	
Block 1C	1000	10764	100	
Block 1D	1000	10764	100	
Block 1E	1000	10764	100	
Block 1F	1000	10764	100	
Block 1G	1000	10764	100	
Block 1H	1000	10764	100	
Block 1I	1000	10764	100	
Block 1J	1000	10764	100	
Block 1K	1000	10764	100	
Block 1L	1000	10764	100	
Block 1M	1000	10764	100	
Block 1N	1000	10764	100	
Block 1O	1000	10764	100	
Block 1P	1000	10764	100	
Block 1Q	1000	10764	100	
Block 1R	1000	10764	100	
Block 1S	1000	10764	100	
Block 1T	1000	10764	100	
Block 1U	1000	10764	100	
Block 1V	1000	10764	100	
Block 1W	1000	10764	100	
Block 1X	1000	10764	100	
Block 1Y	1000	10764	100	
Block 1Z	1000	10764	100	

Block	Area (sq. m)	Area (sq. ft)	Units	Notes
Block 2A	1000	10764	100	
Block 2B	1000	10764	100	
Block 2C	1000	10764	100	
Block 2D	1000	10764	100	
Block 2E	1000	10764	100	
Block 2F	1000	10764	100	
Block 2G	1000	10764	100	
Block 2H	1000	10764	100	
Block 2I	1000	10764	100	
Block 2J	1000	10764	100	
Block 2K	1000	10764	100	
Block 2L	1000	10764	100	
Block 2M	1000	10764	100	
Block 2N	1000	10764	100	
Block 2O	1000	10764	100	
Block 2P	1000	10764	100	
Block 2Q	1000	10764	100	
Block 2R	1000	10764	100	
Block 2S	1000	10764	100	
Block 2T	1000	10764	100	
Block 2U	1000	10764	100	
Block 2V	1000	10764	100	
Block 2W	1000	10764	100	
Block 2X	1000	10764	100	
Block 2Y	1000	10764	100	
Block 2Z	1000	10764	100	

Block	Area (sq. m)	Area (sq. ft)	Units	Notes
Block 3A	1000	10764	100	
Block 3B	1000	10764	100	
Block 3C	1000	10764	100	
Block 3D	1000	10764	100	
Block 3E	1000	10764	100	
Block 3F	1000	10764	100	
Block 3G	1000	10764	100	
Block 3H	1000	10764	100	
Block 3I	1000	10764	100	
Block 3J	1000	10764	100	
Block 3K	1000	10764	100	
Block 3L	1000	10764	100	
Block 3M	1000	10764	100	
Block 3N	1000	10764	100	
Block 3O	1000	10764	100	
Block 3P	1000	10764	100	
Block 3Q	1000	10764	100	
Block 3R	1000	10764	100	
Block 3S	1000	10764	100	
Block 3T	1000	10764	100	
Block 3U	1000	10764	100	
Block 3V	1000	10764	100	
Block 3W	1000	10764	100	
Block 3X	1000	10764	100	
Block 3Y	1000	10764	100	
Block 3Z	1000	10764	100	



Block	Area (sq. m)	Area (sq. ft)	Units	Notes
Block 4A	1000	10764	100	
Block 4B	1000	10764	100	
Block 4C	1000	10764	100	
Block 4D	1000	10764	100	
Block 4E	1000	10764	100	
Block 4F	1000	10764	100	
Block 4G	1000	10764	100	
Block 4H	1000	10764	100	
Block 4I	1000	10764	100	
Block 4J	1000	10764	100	
Block 4K	1000	10764	100	
Block 4L	1000	10764	100	
Block 4M	1000	10764	100	
Block 4N	1000	10764	100	
Block 4O	1000	10764	100	
Block 4P	1000	10764	100	
Block 4Q	1000	10764	100	
Block 4R	1000	10764	100	
Block 4S	1000	10764	100	
Block 4T	1000	10764	100	
Block 4U	1000	10764	100	
Block 4V	1000	10764	100	
Block 4W	1000	10764	100	
Block 4X	1000	10764	100	
Block 4Y	1000	10764	100	
Block 4Z	1000	10764	100	

1. The Residential Redevelopment Development Plan and work order is issued with the following conditions: The Residential Redevelopment Development Plan is approved by the Council of the City of Vancouver on the 12th day of June 2007.

2. The Residential Redevelopment Development Plan and work order is issued with the following conditions: The Residential Redevelopment Development Plan is approved by the Council of the City of Vancouver on the 12th day of June 2007.

3. The Residential Redevelopment Development Plan and work order is issued with the following conditions: The Residential Redevelopment Development Plan is approved by the Council of the City of Vancouver on the 12th day of June 2007.

4. Applicant has to submit by the conditions imposed in the Residential Redevelopment Development Plan and work order.

ANNEXURE-8



ಪ್ರಧಾನ ಇಂಜಿನಿಯರ್‌ರವರ ಕಛೇರಿ
ಸಣ್ಣ ನೀರಾವರಿ (ದಕ್ಷಿಣ) ಪಲಯ,
ಕೆ.ಆರ್. ವೃತ್ತ, ಬೆಂಗಳೂರು-560 001.

ಸಣ್ಣ ನೀರಾವರಿ ಮತ್ತು
ಅಂತರ್ಜಲ ಅಭಿವೃದ್ಧಿ ಇಲಾಖೆ

ಕಛೇರಿ: 22274290, 22292286,
22211308

ಇ-ಮೇಲ್: cemisouth@gmail.com
cemisouth@yahoo.co.in

No: EIC/TA-2/AE.1/NGT/2020-21/524

Date: 25.2.2021

To

✓ Shri. K.P.Singh, IFS
Regional officer,
IRO, Bengaluru
Sir,

Sub: Information related to Mean High Flood
Level of Kaikondarahalli Lake in OA No.54
of 2018-reg.

Ref: 1. Letter No: EIC/TA-2/AE.1/NGT/2020-
21 dated 23.02.2021
2. Chief Engineer, Lakes, BBMP Letter
No:1052 dated 25.2.2021

With respect to the above subject, as the Kaikondarahalli Lake is coming under the purview of Chief Engineer, BBMP (Lakes) Bengaluru, a letter was addressed to the Chief Engineer, BBMP (Lakes) to submit Mean High Flood Level of said Lake vide reference (1).

The Chief Engineer, BBMP (Lakes) Bengaluru has submitted the details vide letter cited under reference (2). The above information is herewith enclosed along with this letter for kind perusal.

Encl: as above.

Yours faithfully,

[Signature]
Engineer-in-Chief

Minor Irrigation (South)

Bengaluru.

[Signature]
Dr. Muralikrishna,
Sd/O,
25/2/21

[Signature]
25/2/21

ANNEXURE-9



BRUHATH BANGALORE MAHANAGARA PALIKE

No: CE/LAKES/PR/1052 /2020-21

Office of the Chief Engineer, Lakes 2nd
Floor, BBMP, Annex Building 03, H O
Premises, N,R Square, Bangalore-02.
Dated:- 25/2/2021

To,
Engineer-in-Chief
Minor Irrigation (South)
Bengaluru

Sir,

Sub: Information related to Mean High Flood Level of
Kaigondarahalli Lake in OA No:54 of 2018-reg.
Ref: 1) Letter No: 1240 Dated:19/2/2021 from Regional Officer,
IRO, Bangalore.
2) your office letter EIC/TA-2/AE.1/NGT/2020-21,
Dated:23/2/2021.

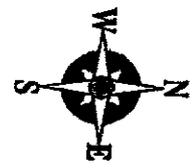
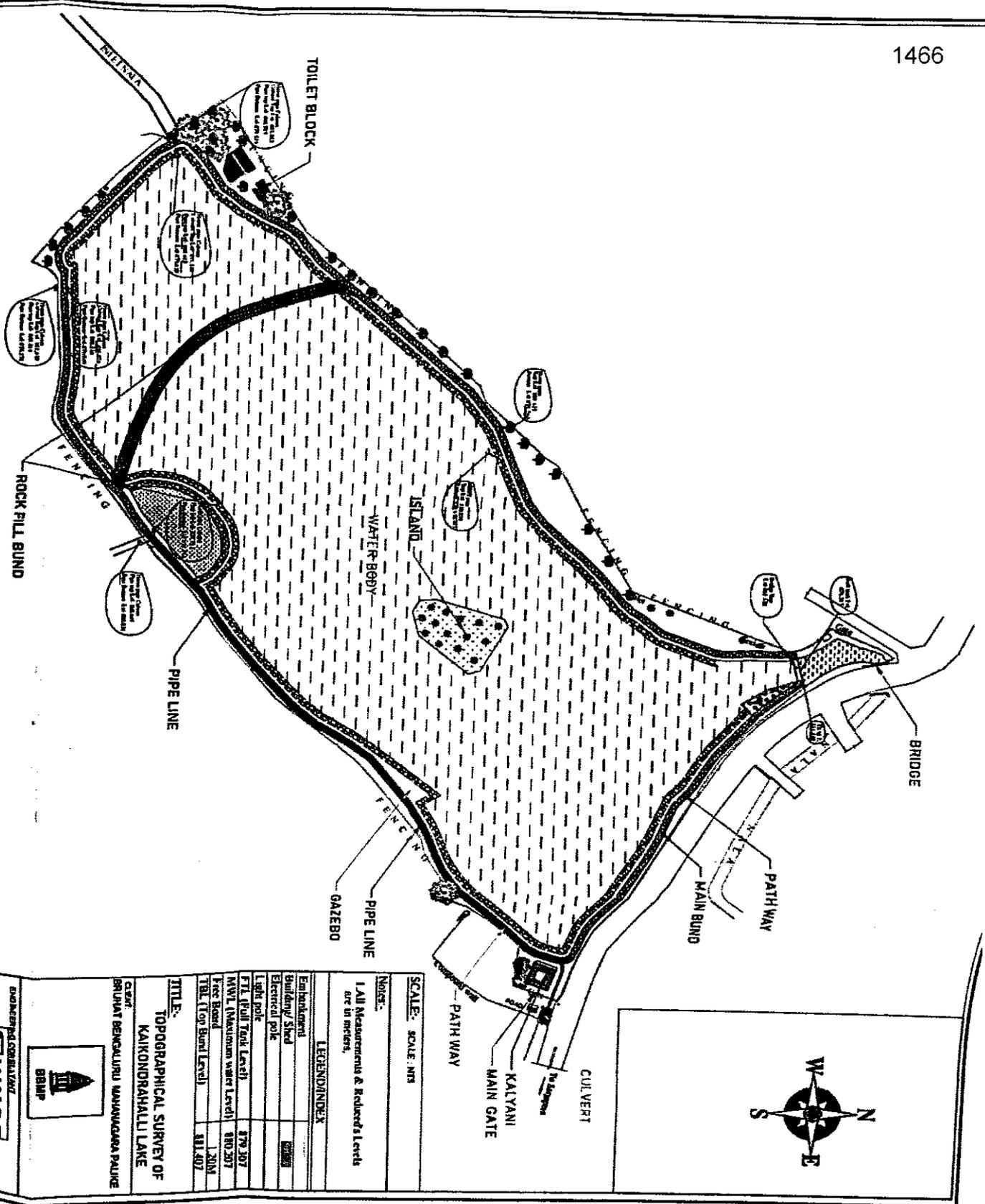
With reference to the above subject, Kaigondarahalli Lake was developed from this office during 2009-10. It was requested to submit Mean High Flood Level of Kaigondarahalli Lake. The Kaigondarahalli Lake was surveyed & the details are as below.

- Full Tank Level (FTL) of Kaigondarahalli Lake – 879.307m
(Is a level upto which the water is stored upto tank and it corresponds to the Crest of the Waste weir)
- Maximum Water Level(MWL) of Kaigondarahalli Lake – 880.207m
(Is the maximum level of water allowed in the tank. The difference between MWL and FTL is the spillage (As per MI Standards 0.9Mt)
- Free Board – 1.2m
- Top Bund Level (TBL) – 881.407

The Mean High Flood Level is not measured. However, the Mean Flood Level will be in between FTL and MWL of Kaigondarahalli Lake.

Yours Faithfully,

B.T. Anandaraman
Chief Engineer
Lakes, BBMP
25/2/21



SCALE: SCALE: MRS

Note:
 1 All Measurements & Reduced Levels are in meters.

LEGEND/INDEX

Embarkment	
Building/ Shed	
Electrical pole	
Light pole	
F.I.L (Full Tank Level)	879.307
M.W.L (Maximum water Level)	880.207
Free Board	1.20M
TBL (Top Bund Level)	881.407

TITLE:
 TOPOGRAPHICAL SURVEY OF
 KALKONDRAHALL LAKE

Client:
 SRINANT BEINGALURU MANAYAGARA PALICE



DR.KRISHNA SURESH
 VIMOS
 84A, VINOBI Street, 2nd Cross, Ganga Layout
 Hennur, Bengaluru, Karnataka, India
 Bangalore-560025 Tel: 080-2647770
 Email: csurveying@vimos.com
 Website: www.vimos.com



BRUHAT BANGALURU MAHANAGARA PALIKE

Office of the Executive Engineer-1, Lakes, 3rd Floor, Annex-3 Building, B.B.M.P
N.R.Square, Bangalore – 02

No: EE-1/Lakes/PR/12572020-21

Date: 29/08/2020

To,

M/s Godrej Properties Ltd.
Level 10, Prestige Obelisk,
No.3, Kasturba Road,
Bengaluru- 560 001

Sir,

Sub: Information regarding Kaikondanahalli Lake.
Ref. 1) your letter dated 29.08.2020.

With reference to the above subject & reference, the details requested by you are provided as below:

*RL – Reduced Level

Sl No	Description	Details
1	All inlet levels of Kaikondrahalli lake and inlet levels entering from sy No.63/2 & 62)	Kaikondrahalli: Inlet 1-RL: 878.461 m Inlet 2-RL: 879.630 m (entering from sy No.63/2 & 62) Inlet 3-RL: 879.207 m Inlet 4-RL: 878.894 m
2	Outlet level of Kaikondrahalli lake	Kaikondrahalli: Outlet RL:879.387m (Full Tank Level)
3	Height of the Bund around the Kaikondrahalli lake	Main bund approximate RL:881.467m , Ring bund approximate RL:881.593m
4	Length and Breadth of the Kaikondrahalli lake	The total area of Kaikondrahalli lake as per Revenue Sketch is 48 Acres 23 Guntas
5	Maximum level of water collection recorded till date in the kaikondrahalli lake	The RL of Maximum Water Level (MWL) of kaikondrahalli lake is 880.287m, which is kept as per the Minor Irrigation Standards. It is observed that the water rises to the maximum level of 0.3m above the Full Tank Level (Waste weir level) of the lake during rains. The approximate RL of Maximum Level of Water Collection observed is 879.687m
6	Whether the water level reaches beyond the bund level	No

7	What is the Present water level of Kaikondrahalli lake	Present Water Level of Kaikondrahalli Lake is : 879.387m (Full Tank Level)
8	Lake/ Tank Bund was constructed by which department and which department is maintaining both the lakes.	Data of Main Bund construction is not available in this office.
9	Whether the bund wall can be considered as flood line for measurement purpose.	No, the flood level is 0.90 meter above the Full Tank Level.
10	What is the elevation of the lake bed	The approximate level of Kaikondrahalli lake: 878.000 m
11	What is the water flow direction	Flow direction in Kaikondrahalli lake is Southern side to North

The above details provided are as per the available data in this office as on today.

[Signature]
 Executive Engineer-1
 Lakes, BBMP
 Lakes, BBMP

ANNEXURE-10



Bruhat Bengaluru Mahangara Palike

Office of the Additional Director of Town Planning, N.R.Square, Bengaluru-02

No: BBMP/Addl.Dir/PR/ 54 / 2020-21

Date: 09-03-2021

To,

Sri. Koushlesh Pratap Singh, IFS
Regional Officer and Chairman of the
Joint Committee and Representative of MoEFCC.
Integrated Regional office, (IRO),
Bengaluru 4th Floor, E & F Wings
Kendriya Sadan, 17th Main Road, 2nd Block, Koramangala,
Bengaluru – 560034.

Respected Sir,

Sub:- Submission of Report to Joint Committee in Appeal No. 54 of 2018 constituted by Hon'ble National Green Tribunal, Principal Bench, New Delhi.

- Ref:- 1) Your Office File No. EP/12.7/NGT/49/Kar/, Dated. 08-03-2021.
(by E-mail)
2) This office letter No. BBMP/Addl.Dir/PR/54/ 2020-21, dated.10-02-2021.
3) Chief Engineer (Storm Water Drain), BBMP Office Letter No. 2092/20-21, dated. 08-03-2021

With reference to above subject this office has provided the required information to your office vide reference (2). Vide reference (1) your office seek information relating to relevant provisions under which permission given by BBMP for construction of RCC Box Drain in kharab land in the project site. Accordingly the information is provided by Chief Engineer (Storm Water Drain) BBMP, as below.

The permission for construction of RCC Drain is given by Commissioner, BBMP in exercise of the powers conferred under section 288A of The Karnataka Municipal Corporations Act – 1976 which is as under.

“288A. Prohibition of structures or fixtures which cause obstruction in public streets. – No person shall except with the writtern permission of the Commissioner under section 288 erect or set up any wall, fence, rail, post, step, booth or other structures or fixtures in or upon any public street or upon or over any open channel. well or tank in any street so as to form an obstruction to. or an encroachment upon or a projection over, or to pccupy any portion of such street. channel, drain, well or tank”

And

16
10/3/2021

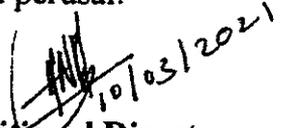


1471

The permission for construction of RCC Colvert is given by Commissioner, BBMP in exercise of the powers conferred under section 288 (1) (c) of The Karnataka Municipal Corporations Act – 1976 which is as under

“288. Power to allow certain projections and erections.- (1) The Commissioner may grant a licence subject to such conditions and restrictions as he may think fit to the owner or occupier of any premises.- (c) to construct any step or drain – covering necessary for access to the premises.”

The above information is for your kind information and perusal.


**Additional Director,
Town Planning, BBMP**

Enclosers :- (Ref (2) and (3))

Copy to,

1. The Hon'ble Commissioner, BBMP, Bengaluru for kind information.
2. Chief Engineer, (SWD), BBMP, Bengaluru for information.
3. Office Copy

ANNEXURE-11

ಫ್ಯಾಕ್ಸ್ / Fax : 080-25586321

ಈಮೇಲ್ / Email : ho@kspcb.gov.in

ವೆಬ್‌ಸೈಟ್ / Website : http://kspcb.gov.in



080-25581383, 25589112
080-25589113, 25589114

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Panisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB/NEIA/BNG/CEO-2/1465/2020/ 5087

Date:

To

11 FEB 2021

The Regional Officer,
Integrated Regional Office,
Ministry of Environment, Forest and Climate Change
Regional Office, South Zone, E-3/240, Kendriya Sadan,
4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala,
Bangaluru-560 034.

Sir,

Sub: Constitution of a Joint Committee in Appeal No.54 of 2018 and Linked Matters in MA No.49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi-reg

Ref:- 1. Consent for Establishment (CFE) order No.PCB/701/CNP/17/H-755 dated: 12.10.2018.

2. Consent withdrawal order No. PCB/701/CNP/17/1046 dated: 06.07.2020.

3. Board office letter communicating validity of CFE vide letter No. 4771 dated:28.01.2021

4. E-mail sent by CEO on 04.02.2021.

5. Video Conference meeting with Regional officer, Integrated Regional office, MoEF & CC and other officers on 05.02.2021.

With reference to the Video Conference held on 05.02.2021 it is to be clarified as follows:

1. The Board office had issued Consent for Establishment on 12.10.2018 w.r.t Wonder Project Development Pvt Ltd., Sy. No. 61/2,62 & 63/2 of Kasavanahalli village, Varthur Hobli, Bangaluru East Taluk, Bangaluru District coterminous with Environmental Clearance validity i.e., valid up to 09/01/2025.
2. Later on, Board has withdrawn CFE ~~issued~~ vide order dated 06.07.2020 (copy enclosed).
3. As on this day the Project proponent has not filed any application seeking Consent for Establishment (CFE).

This is for kind information and further needful.

Yours faithfully,

Member Secretary.

Scd/

[Handwritten signatures and initials]

"ಪ್ಲಾಸ್ಟಿಕ್ ಬಳಕೆ ನಿಲ್ಲಿಸಿ, ಪರಿಸರ ಹಾನಿ ತಪ್ಪಿಸಿ"

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080-25589113, 25589114

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ್", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB/NEIA/BNG/CEO-2/1465/2020/ 5087

Date:

To
The Regional Officer,
Integrated Regional Office,
Ministry of Environment, Forest and Climate Change
Regional Office, South Zone, E-3/240, Kendriya Sadan,
4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala,
Bangaluru-560 034.

11 FEB 2021

Sir,

Sub: Constitution of a Joint Committee in Appeal No.54 of 2018 and Linked Matters in MA No.49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi-reg

- Ref:- 1. Consent for Establishment (CFE) order No.PCB/701/CNP/17/H-755 dated: 12.10.2018.
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1. The Board office had issued Consent for Establishment on 12.10.2018 w.r.t Wonder Project Development Pvt Ltd., Sy. No. 61/2,62 & 63/2 of Kasavanahalli village, Varthur Hobli, Bangaluru East Taluk, Bengaluru District coterminous with Environmental Clearance validity i.e., valid up to 09/01/2025.
2. Later on, Board has withdrawn CFE issued vide order dated 06.07.2020 (copy enclosed).
3. As on this day the Project proponent has not filed any application seeking Consent for Establishment (CFE).

This is for kind information and further needful.

Yours faithfully,

Member Secretary.

It is learnt from the news article appeared on 04.02.2020 in Times of India and Kannada daily news papers that, Hon'ble NGT has quashed the Environmental Clearance issued by SEIAA, Government of Karnataka. Based on this Show cause notice was served to you on 07.02.2020. The reply letter submitted by you is not acceptable as you are not having Environmental Clearance at present. Further, as per Hon'ble NGT Order dated 03.02.2020 since the project related to M/s. Wonder Projects Development Pvt. Ltd., for construction of Residential Apartment with 655 flats & Club House having built up area of 1,28,193.9 sqm. Located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District does not have Environmental Clearance issued SEIAA, Government of Karnataka. The Board had referred to the Legal opinion on 29.04.2020. The Legal Officer opined that the Hon'ble Supreme Court has directed only to file the report in the registry of the said court. Therefore, the report to be filed in O.A. No.602/19 in the NGT shall be filed in Supreme Court and as per direction of Chairman. Note: 43.

In view of the above as per the direction of Hon'ble NGT the Board decided to withdraw the CFE issued to your project.

Hence, the following Order.

ORDER

In exercise of the powers vested with Karnataka State Pollution Control Board, under Section 27(2) of Water (Prevention and Control of Pollution) Act, 1974, the Board hereby "Withdraw" the Consent For Establishment issued to M/s. Wonder Projects Development Pvt. Ltd., # 80, Hulkur Ascent 2nd Cross, Lavelle Road, Bengaluru - 560 001 for construction of Residential Apartment with 655 flats & Club House having built up area of 1,28,193.9 sqm. Located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District.

Please note that Establishment or taking up of further construction activity without valid consent of the Board attracts Penal action under provisions of Sec. 25 read with Sec. 44.

of Water (Prevention & Control of Pollution) Act, 1974, which includes initiate action under 33(A) of Water Act of Closure and Direction for Cutoff Power Supply and Water Supply or any other service.

Sd/-

**MEMBER SECRETARY
KARNATAKA STATE POLLUTION CONTROL BOARD
BENGALURU-560 001.**

To,

Authorized Signatory,
M/s. Wonder Projects Development Pvt. Ltd.,
80, Hulkal Ascent, 2nd Cross,
Lavelle Road
Bangalore - 560 001

Copy to:

1. The Senior Environmental officer, KSPCB Regional office Bangalore South for information
2. The Regional Officer, KSPCB Bommanahalli for information and for necessary Action
3. Master file
4. Case file


Senior Environmental Officer.

ANNEXURE-12

Wonder Projects Development Pvt. Ltd.
 Level 10, Prestige Obelisk,
 No. 3, Kasturba Road,
 Bengaluru - 560 001, India
 Tel : +91-80-4635 7099
 Fax: +91-80-4635 7000

CIN : U70102MH2015PTC65969

Regd. Office : Godrej One,
 5th Floor, Pirojshanagar,
 Eastern Express Highway,
 Vikhroli (E), Mumbai - 400 079, India
 Tel. : +91 -22-6169 8500
 Fax : +91 -22-6169 8888
 Website : www.godrejproperties.com

Date: 28th February, 2020

Place: Bangalore

1. The Member Secretary, Karnataka State Environment Impact Assessment Authority, Ambedkar Veedhi, Sampangi Rama Nagar, Bengaluru,
2. The Commissioner, Bangalore Development Authority (BDA), T. Chowdaiah Road, Kumara Park West, Bangalore-560020,
3. The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP) N.R. Square Corporation Circle, Bangalore-560001,
4. The Senior Environmental Officer, Karnataka State Pollution Control Board, Parisara Bhavan #49, 4th and 5th Floor, Church Street, Bangalore-560001,
5. The Karnataka State Fire & Emergency Services, No. 1 Annaswamy Mudhaliar Road, Bangalore-560042,
6. Bangalore Electricity Supply Company (BESCOM), Corporate Office, K.R. Circle, Bangalore-560001,
7. The Chief Engineer(M), Bangalore Water Supply and Sewerage Board (BWSSB), Cauvery Bhavan, K.G. Road, Bangalore-560009,

Dear Sir/Madam,

Sub: Information regard halt of work at project site of Godrej Reflections and Godrej Lake Gardens (Projects) at Sy No.61/2, 62, 63/2 Kasavanahalli Village, Varthur Hobli Bangalore East Taluk Bangalore.

Ref: The orders dated 03.02.2020 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi (NGT) in the Appeals - OA No. 54 of 2018 & O.A. No.602 of 2019

This has reference to the subject Projects and the NGT order detailed supra.

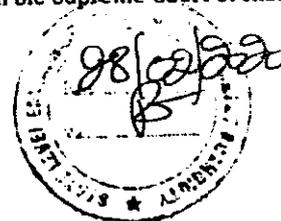
This is to bring to your kind notice that:

- We have halted all development and construction related activities at the said Projects, with effect from 03rd Feb 2020 in view of the said NGT orders;
- We have challenged the said impugned NGT order before the Hon'ble Supreme Court of India and we are hopeful of getting a favourable order.

Thanking You,
 For Wonder Projects Development Private Limited

Authorised Signatory

Godrej



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
IN
APPEAL NO. 54 OF 2018**

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

OBJECTIONS TO THE REPORT DATED 18.03.2021

MOST RESPECTFULLY SHOWETH:

1. That the Appellant is filing the objections herein to the report dated 18.03.2021 filed by Joint committee in compliance of the Hon'ble Tribunal's Order dated 08.09.2020. At the outset it is submitted that the report is liable to be rejected inasmuch as it has not looked into the issues which Hon'ble Tribunal directed the committee to look into. Further the Joint Committee has misrepresented facts to give clear findings about the legality of the project in question. It submitted with great respect that the present report is a trumped-up report for the following reasons. In substance it is more or less a replication of the earlier report but in a different form and with minor changes. The joint committee has overlooked the findings and observations of the order dated 8.9.2020 while giving its findings in the report.
2. Therefore, for the sake of brevity the appellant *inter-alia* reiterates the stand taken in additional objections dated 26.08.2020 (page 769 to 829), preliminary objections dated 19.08.2020 (page 1 to 37), written submissions of BBMP dated 27.08.2020 (page 831 to 849) as Appellant's objections to the present report also. Additionally, the appellant relies upon the observations in the order dated 08.09.2020 as part of the objections to the present report.

Preliminary Objections and Submissions

3. The Appellant is making following preliminary objections to the report:

- i. Firstly, the very constitution of the nine member (9) Joint committee is in breach of the clear direction at paragraph 20 of the order dated 08.09.2020 passed by this Hon'ble Tribunal, in that, this Hon'ble Tribunal specifically directed the CEOs of the BDA and BBMP will be the nominees of the committee for the respective organizations, the Member Secretary as regards the KSPCB and state wetland Authority, Regional Director/Scientist E of the CPCB, Chief Engineer of the Irrigation and flood control department and Collector of the Revenue Department Government of Karnataka. In breach of this direction, the inspection and preparation of the report is done by Superintending Engineer of BDA and Joint Director of Town Planning department of BBMP; State Wetland Authority and flood control department is not even a party to the report; Assistant engineer is represented for Minor Irrigation department; Scientist-D on behalf of CPCB. It is therefore submitted that the report of joint committee cannot be accepted and liable to be rejected.
- ii. Secondly, admittedly, vide paragraph 18 of the order dated 08.09.2020 it is categorically observed that:

"The committee has taken the BBMP approval as conclusive without independent evaluation. The BBMP itself has stated that its approvals are against law. SEIAA, Karnataka does not claim to have made independent evaluation as required."

The above observations must be read with page 4 of the said order wherein it is stated that:

"BBMP also submitted that zoning regulations are framed under the Karnataka Town and Country Planning Act, 1961 (1961 Act) and thus grant of building plan was in violation of Section 505 of the Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), which requires adherence to the 1961 Act. Further submissions was that the project was in violation of EC conditions prohibiting use of Kharab land (common land meant for general public use)."

Notwithstanding this, the present report is in patent breach thereof, than in compliance of the above said observations at paragraph 18 of the order dated 8.9.2020 and this can be discerned from a bare perusal of the report itself.

- iii. Upon a objective reading of the present report it can be discerned that the report argues the case of the project proponent to somehow show that the project can be cleared rather than furnishing a report based on independent evaluation and by taking into account the observations made in the order dated 08.09.2020. Hence, report is palpably vitiated and thus no reliance can be placed upon such a report.
- iv. Thirdly, the report is against the reply/counter affidavit of the BBMP, their written submissions dated 27.8.2020 (page 831 to 841).
- v. Fourthly, admittedly, the consent to establish (CFE) for the project is withdrawn vide order dated 06.07.2020 and this was concealed before this Hon'ble Tribunal by the project proponent till today as well as it was not placed on record by the statutory authorities as on 08.09.2020 (last order of the Tribunal)¹. Thus, said vital fact was not within the knowledge of this Hon'ble Tribunal as well as the Appellant and consequently did not find a place in the last order dated 08.09.2020. Therefore, in the absence of consent to establish the question of project being permitted is legally impermissible.
- vi. Fifthly, the report does not disclose that admittedly, the Karnataka Real Estate Appellate Tribunal (K-REAT) has stayed the entire project and/or RERA Registration Certificate vide its order dated **11.02.2021** in **Appeal No (K-REAT). 355 of 2020** and irrefutably the said order is extended from time to time and it is in force even till today and further restrained from violating Section 3 of the RERA Act, 2016. Therefore, the project proponent is precluded from advertising in any form from advertising the project, receiving any instalment amounts from prospective purchasers of

¹ See Annexure-11 of the present report

the apartments muchless proceed with constructions. These material facts and Court orders are concealed by the project proponents as well as in the report. Notably, without independent evaluation the report states at page 20 (SL No.13 and 18, in respect of phase 1 and phase 2 respectively) that the project has other statutory approvals including the RERA registration of the project and stated compliance of Section 4(2) (d) of RERA Act, which is patently false. This can be discerned from the said RERA Tribunal's order dated 11.2.2021. Copy of the said order along with copy of Sections 2, 3, 4 and 21 of RERA Act, 2021 is produced as **Annexure-1 (Colly)**.

Legally speaking, the effect of stay of RERA Registration for the entire project/any given project means that the entire project must come to a grinding halt and there's no question of relying on other statutory permissions including revival of EC to proceed with the project. At any rate, the project cannot proceed and this can be discerned from Sections 4(2) (d) read with 2(zq), Section 21 read with 2(i) of RERA Act, 2016. Hence, it is clear that the project is fraught with large scale illegalities and statutory violations of provisions of multiple enactments (Central Acts and Planning laws).

Notably, the project proponent has concealed the said orders in their two separate applications for urgent hearing. By asserting that the project proponent will miss the RERA deadline, which is patently false. The said applications are M.A. No. 88 of 2021 dated 19.03.2021 and M.A. No. 114 of 2021 dated 14.05.2021.

Point-wise submissions of the Appellant against the report

4. That the Joint Committee has given misleading findings about the issues raised in the said order dated 08.09.2020.
 - i. The finding that M/s Wonder Projects Development Pvt. Ltd has not violated any buffer zone norms and has maintained a buffer of more

then 75 meters from the lake periphery to Block -I and Block II is patently false and misleading statement for the following reason and particularly in the light of the observations in paragraph 18 of the order dated 08.09.2020 wherein it is held that *"Even if the project is beyond the buffer zone of the drain, it has to be ensured that there is no other development activities in the said zone"*:

That the Joint Committee has given the finding about no construction from Block -I and Block -II towers within the buffer zones and therefore did not consider other constructions coming within the prohibited buffer zones of lake, namely, the constructions like:

- a) Driveway's within the 50 meters on either side of the buffer zones of the inter-connecting primary nala between the two lakes (upstream lake/Kasavanahalli lake and downstream Kaikondarahalli lake) wherein the said nala bisects the block-1 and block-2 and flows into the downstream Kaikondarahalli lake [This can be discerned from the development plan of the BDA]
- b) Creation of infrastructure for Common areas
- c) Construction of boundary wall along side the lake
- d) Constructions/creation of storm water drains on the periphery of the project and within the lake buffer zone and right next the lake itself. [This can be discerned from conceptual plan submitted before SEIAA, Annexure-2]

It is submitted that as per the direction by this Hon'ble Tribunal in ***Forward Foundation v. State of Karnataka and Ors., (2016) SCC Online NGT 1409*** the buffer / green zone would be treated as *no development zone* for all intent and purpose. It is noteworthy that the Hon'ble Supreme Court has only restored the buffer zone distance in terms of master plan in the matter of ***Mantri Techzone Pvt. Ltd v. Forward Foundation and ors., 2019 SCC OnLine SC 322***, and

have not disturbed any other directions of this Hon'ble Tribunal. Further the finding recorded that during inspection no construction of permanent or temporary nature or no boundary wall was noted clearly shows that the Committee has not looked into the development plan wherein several activities are proposed within the 50 meters of primary nala/feeder canal as well as 75 meter buffer from the lake plus creation of storm water drains right next the lake.

Notably, report ignores that patent violations of constructions of the feeder canal itself which is completely prohibited and is in violation of Sections 24(1) (b) read with 2 (j) (ii) of Water Act, 1974, in that, the feeder canal connecting the two lakes and flowing through the project site is a "water stream" and cementing it is a clear case of impeding the natural flow of water and tantamount to removal of rajakaluve. This is breach of doctrine of public trust and violative of constitutional mandate *qua* protection of natural resources. Unfortunately, all this is happening under the nose of the regulatory authorities. This is sufficient to show that authorities are concealing serious statutory violations in the report. To say the least, the report lacks credence.

- ii. The finding of the committee that the built up area of the project is less than 1,50,000 Sq. Mts after calculation of area as per directions in *Goel Ganga* Judgement is a patent case of non-application of mind and not based on committee's own and independent evaluation/calculation. In this regard it is submitted that the Joint committee for the purpose of calculation of total built up area has relied on the letter of BBMP and SEIAA. It can be discerned from para 4 of the order dated 8.9.2020 that the BBMP has already stated before this Hon'ble Tribunal in the reply dated 05.09.2018 at page 390 that the area including FAR + non-FAR is 2,35,076.81 square meters. It is pertinent to mention that as on 20.08.2020 the counsel appearing for Respondent No. 5/BBMP

has reiterated the stand in their reply affidavit vide para 1 of the written submissions (page 831). Admittedly, the committee did not examine the comparative table of the BBMP (page 839 of the written submissions dated 27.8.2020). Further the Joint Committee did not examine the conceptual plan (page 1049) submitted by project proponent before SEAC. It is submitted that as per conceptual plan the value of FAR and non-FAR areas works-out as following:

Common Values of Project

Total FAR achieved	93423.70 Sq Mts
Parks and open spaces	4833.73
Civil amenities	2524.18
Total	100781.61 Sq Mts

PHASE-2

Parking	17605.05
FAR deductions	18,442.05
Lift and Ramps	837.0
Shafts	706.0
Total	37,590.1Sq Mts

PHASE-1

Parking	13,835.20 Sq Mts
FAR deductions	14,688.20
Shafts	696.0
Lifts and Ramps	853.0
Total	30,073.2 Sq Mts

Grand Total:

Common Values of Project +Phase-1 + Phase-2

- 100781.61 Sq mts + 37590.1 sq mts + 30073.2 Sq Mts

Total **1,68,444.91 Sq Mts**

Other components of constructions

280 KLD + 210 KLD (STP) + Deep recharge wells all along the lake buffer zone boundary + all around the boundary of project site on all sides (storm water drainage systems). Therefor the conclusion of the Joint Committee that the built up area of the project is less then 1,50,000 sq Mts is factually incorrect.

- iii. The finding of the Joint Committee that minimum buffer of 50 meter is left from the project is false and misleading and contrary to material on record because the committee has considered the construction of residential tower as construction and not other ancillary activities within the buffer of the drains and the lake. The committee has not considered that construction like drive way, park of the project is coming within the buffer or not.
- iv. About Kharab land: the joint committee's findings at page 13 and 14 is nothing but repetition of the earlier report that is paraphrased. Further, relying on Section 288 (1) (c) of KMC Act, 1976 at page 14 of the report is completely misplaced and is an attempt to misled the Tribunal. As against this, the appellant reiterates from the Hon'ble Tribunal's order dated 8.9.2020, that is, para 10 (D), (F) (page 9) read with findings of the Tribunal at para 16 (d) (page 19 and 21) and para 18 (page 27). Furthermore, as part of the public trust doctrine, the Kharab lands is a natural resource belonging to community at large as also the buffer zones are also natural resources covered under the public trust doctrine. In the present case Kharab lands is shown inside the nala area and that comes within the definition of water stream under the wide ranging inclusive definition of Section 2 (j) of Water Act, 1974. Thus, constructions of nala and in this case it is also the area of kharab lands is nothing but encroachment of water stream and thereby impedes the natural flow of water as explained above. Hence,

relying on Section 288 (1) (c) of KMC Act, 1976 at page 14 of the report is completely misplaced and is an attempt to misled the Tribunal.

v. On the issue of reconciliation of the joint report in OA No. 281 of 2019 and 602 of 2019 the committee is *ad nauseam* misleading this Hon'ble Tribunal by stating that no construction is being done on lake buffer or Nala buffer area. It is submitted that project proponent is undertaking the following constructions within the buffer zone of the water body-

- a. In respect of the buffer zone of the Kaikondarahalli Lake: The Project Proponent has sought to create a ramp and a driveway.
- b. In respect of the buffer zone of the Primary Rajakaluve: The Project Proponent has sought to construct a 12m drive way.
- c. In respect of the buffer zone of the Secondary Rajakaluve passing through Survey No. 57: The Project Proponent has sought to construct 12 metres wide drive way and installation of gas bank/infrastructure for LPG piped line.
- d. In respect of the buffer zone of the Secondary Rajakaluve passing through Survey No.61/1: The Project Proponent has sought to construct a 8 metre wide Fire Driveway, the installation of an Organic Waste Converter and the installation of a gas bank/infrastructure for the LPG piped gas line.
- e. Compacting and concretisation thorough out the buffer zones.

The joint committee has completely shut their eyes on the above mentioned activities of the project in the buffer area.

vi. Violation of Wetland Rules: As for this contention, the joint committee's finding is at page 11 and 12 of the report and it is of the view that the project has not violated the wetland rules. As against this, the appellant relies on paragraph 9, 10 (B) of the order dated 8.9.2020 read with the findings at paragraph 16 (page 19), 16(c)

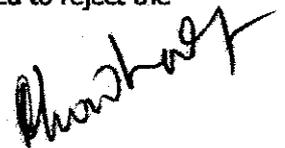
(page 20), 20 (page 28), read with Annexure-9 of the present report that is the letter dated 25.2.2021 wherein it is stated that "*The mean High Flood Level is not measured*" notwithstanding this, the mandate under Rule 4 (iv) of Wetland Rules is that mean high flood level must be calculated and it must be demarcated. Hence, the finding at page 12 of the report is factually incorrect and also flood control department and state wetland authority are not party to the report and the entire exercise undertaken is to sweep the illegalities under the carpet and give a clean chit to the project.

- vii. As regard findings at page 20 and 21 of the report: In this regard the appellant reiterates the preliminary submissions regarding the stay order dated 11.2.2021 that is in force till today passed by the RERA Tribunal and violations thereof. Hence, approval at serial number 13 (for phase 1) and 19 (for phase 2) is incorrect statement of facts.

5. The Appellant further submits that urgent actions are required to protect the *eco-fragile* Kaikondrahalli lake which is already facing threats because of activities from the construction projects around the lake. One recent news report talks about the death of five ducks in one week. And the Appellant is also placing on record the statement of the BBMP commissioner about the conduct of their own officials while granting statutory permissions certificates. The copy of news article reported in Times of India Bengaluru dated 7.4.2021 and 11.09.2020 is produced and annexed as **Annexure A-2 (Colly)**.

PRAYER

Wherefore, it is humbly prayed that this Hon'ble Tribunal be pleased to reject the report and allow the appeal.



RITWICK DUTTA RAHUL CHOUDHARY
COUNSEL FOR THE APPLICANT

Date: 11.06.2021

Annexure A-1 (Call)

TYPICAL NB (RERA) - 355/2020

(www...)

Office Notes	Orders of Court
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Appellant: Sri Ashok B. Patil.
Adv

R2 : RERA

R2 : M/s Wander Projects Pvt Ltd.

List this appeal for orders regarding maintainability on 11-02-2021.

AAJ
11/2/21
Recd 1 set of
Appl 12/08
AAJ
11/2/21

Hon'ble Chairman/Hon'ble Judicial Member/
Hon'ble Admn. Member

11.02.2021

Heard Sri Ashok B. Patil, learned Counsel appearing for the appellant on interim prayer.

One Mr. Ravi, learned Counsel appeared for respondent No.1/RERA on 18.11.2020, but subsequently none appeared for RERA.

Learned Counsel for the appellant submits that RERA registration certificate granted by the Interim Authority on 29.03.2018 valid for the period from 12.03.2018 to 01.04.2023 and extension of the said certificate by the Chairman of the RERA alone on 18.08.2020 in respect of Phase-I and RERA registration certificate granted by the Chairman of RERA alone on 25.05.2019 valid for the period from 25.05.2019 to 30.08.2024 and its extension granted by the Chairman of the RERA alone in respect of Phase-II of the Project of respondent No.2/promoter are in contravention of the provisions of Section 4(2)(d) r/w Section 2(zq) and Section 3 and Section 21 of the Real Estate (Regulation and Development) Act, 2016 (for short, 'the Act').

He further submits that environment clearance certificate issued by the State Environment Impact Assessment Authority (SEIAA) in respect of Phase-I and Phase II of the Project of respondent No.2/promoter was set aside by the principal Bench of NGT at New Delhi and in the Appeal preferred by the promoter, the Hon'ble Apex Court declined to interfere with the said order of the NGT and remanded the matter back to



Filed No (K.K.P.H.) - 355/2020

(Contd...)

Office Notes

Orders of Court

NGT for re-consideration of the issue afresh with a further restraint order that there shall not be further construction of the Project.

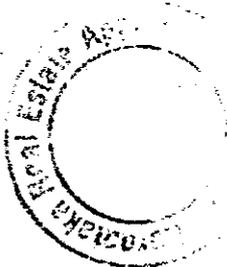
Learned Counsel submits that in spite of bringing the above aspect to the notice of the RERA and seeking stay of RERA registrations and their extension, the RERA failed to grant interim order though has got the said power under Section 36 of the Act.

Learned Counsel submits that the promoter has been constantly violating the provisions of the RERA Act.

After hearing the learned Counsel appearing for the appellant and perusing the Appeal and documents, we prima facie found that RERA certificate issued by Interim Authority in respect of Phase-I and its extension granted by Chairman of RERA alone and RERA certificate issued by Chairman of RERA alone in respect of Phase-II and its extension granted by Chairman of RERA alone are in violation of Section 4(2)(d) r/w Section 2(zq), Section 3 and Section 21 of the Act.

Hence, keeping open the question regarding maintainability, we stay the RERA registration certificates issued in respect of Phase-I and Phase II of the Project of the 2nd respondent and in view of the same we direct the promoter not to carry out any activities in violation of the provisions of the RERA Act till next date of hearing.

Learned Counsel for the Appellant is permitted to take return of one set of Appeal papers and serve respondent No.1 by hand and file an acknowledgment in the Office of this Tribunal for having served and pay required costs



Office Notes	Orders of Court
	<p>Immediately to issue notice to respondent No.2 returnable by 09.03.2021.</p> <p>Office to issue notice to respondent No.2 returnable by 09.03.2021.</p> <p>List the Appeal on 09.03.2021.</p> <p>Sd/- Hon'ble Chairman</p> <p>Sd/- Hon'ble Judicial Member</p> <p>Sd/- Hon'ble Admn. Member</p> <p>TRUE COPY</p> <p><i>H. Shree</i> SECTION OFFICER KARNATAKA STATE APPELLATE TRIBUNAL BANGALORE</p> <p><i>Hrt/421</i></p>



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रजिस्ट्री सं. डी. एन.—(एन)०४/००६७/२००३—१६

REGISTERED NO. D1.—(N104/0067/2003—16



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 17]

नई दिल्ली, शनिवार, मार्च 26, 2016/ चैत्र 6, 1938 (सक)

No. 17] NEW DELHI, SATURDAY, MARCH 26, 2016/ CHAITRA 6, 1938 (SAKA)

इस भाग में बिना पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th March, 2016/Chaitra 6, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 2016, and is hereby published for general information:—

THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

No. 16 of 2016

[25th March, 2016.]

An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Real Estate (Regulation and Development) Act, 2016.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Short title,
extent and
commence-
ment.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71;

(b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

(c) "agreement for sale" means an agreement entered into between the promoter and the allottee;

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

(e) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;

(f) "Appellate Tribunal" means the Real Estate Appellate Tribunal established under section 43;

(g) "appropriate Government" means in respect of matters relating to,—

(i) the Union territory without Legislature, the Central Government;

(ii) the Union territory of Puducherry, the Union territory Government;

(iii) the Union territory of Delhi, the Central Ministry of Urban Development;

(iv) the State, the State Government;

(h) "architect" means a person registered as an architect under the provisions of the Architects Act, 1972;

20 of 1972.

(i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;

(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

(k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be,

(b) plots owned by such authority or body or placed at their disposal by the Government,

for the purpose of selling all or some of the apartments or plots: or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale: or

(vi) such other person who constructs any building or apartment for sale to the general public.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sell apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder:

(2f) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

(2g) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

(2h) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

(2i) "regulations" means the regulations made by the Authority under this Act;

(2j) "rule" means the rules made under this Act by the appropriate Government;

(2k) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority prior to start of a real estate project;

(2l) words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the appropriate Government shall have the same meanings respectively assigned to them in those laws.

CHAPTER II

REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Prior registration of real estate project with Real Estate Regulatory Authority.

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act:

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act:

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

4. (1) Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.

Application for registration of real estate projects.

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:—

(a) a brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, competent authority), and the particulars of registration, and the names and photographs of the promoter;

(b) a brief detail of the projects launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending;

(c) an authenticated copy of the approvals and commencement certificate from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;

(d) the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the competent authority;

(e) the plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire fighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy;

(f) the location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project;

(g) proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;

(h) the number, type and the carpet area of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the apartment, if any;

(i) the number and areas of garage for sale in the project;

(j) the names and addresses of his real estate agents, if any, for the proposed project;

(k) the names and addresses of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;

(l) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating:—

(A) that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person;

(B) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;

(C) the time period within which he undertakes to complete the project or phase thereof, as the case may be;

(D) that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such

chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

Explanation.— For the purpose of this clause, the term "schedule bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

2 of 1934.

(E) that he shall take all the pending approvals on time, from the competent authorities;

(F) that he has furnished such other documents as may be prescribed by the rules or regulations made under this Act; and

(m) such other information and documents as may be prescribed.

(3) The Authority shall operationalise a web based online system for submitting applications for registration of projects within a period of one year from the date of its establishment.

5. (1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days.

Grant of registration.

(a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project; or

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub-section (1), provide a registration number and a Login Id and password to the promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.

(3) The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be.

6. The registration granted under section 5 may be extended by the Authority on an application made by the promoter due to *force majeure*, in such form and on payment of such fee as may be specified by regulations made by the Authority:

Extension of registration.

Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year.

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

Explanation.— For the purpose of this section, the expression "*force majeure*" shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.

CHAPTER V

THE REAL ESTATE REGULATORY AUTHORITY

Establishment and incorporation of Real Estate Regulatory Authority.

20. (1) The appropriate Government shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Authority to be known as the Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under this Act:

Provided that the appropriate Government of two or more States or Union territories may, if it deems fit, establish one single Authority:

Provided further that, the appropriate Government may, if it deems fit, establish more than one Authority in a State or Union territory, as the case may be:

Provided also that until the establishment of a Regulatory Authority under this section, the appropriate Government shall, by order, designate any Regulatory Authority or any officer preferably the Secretary of the department dealing with Housing, as the Regulatory Authority for the purposes under this Act:

Provided also that after the establishment of the Regulatory Authority, all applications, complaints or cases pending with the Regulatory Authority designated, shall stand transferred to the Regulatory Authority so established and shall be heard from the stage such applications, complaints or cases are transferred.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with the power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Composition of Authority.

21. The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government.

Qualifications of Chairperson and Members of Authority.

22. The Chairperson and other Members of the Authority shall be appointed by the appropriate Government on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee, the Secretary of the Department dealing with Housing and the Law Secretary, in such manner as may be prescribed, from amongst persons having adequate knowledge of and professional experience of at least twenty years in case of the Chairperson and fifteen years in the case of the Members in urban development, housing, real estate development, infrastructure, economics, technical experts from relevant fields, planning, law, commerce, accountancy, industry, management, social service, public affairs or administration:

Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government:

Provided further that a person who is, or has been, in the service of the State Government shall not be appointed as a member unless such person has held the post of Secretary to the State Government or any equivalent post in the State Government or Central Government.

Term of office of Chairperson and Members.

23. (1) The Chairperson and Members shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment.

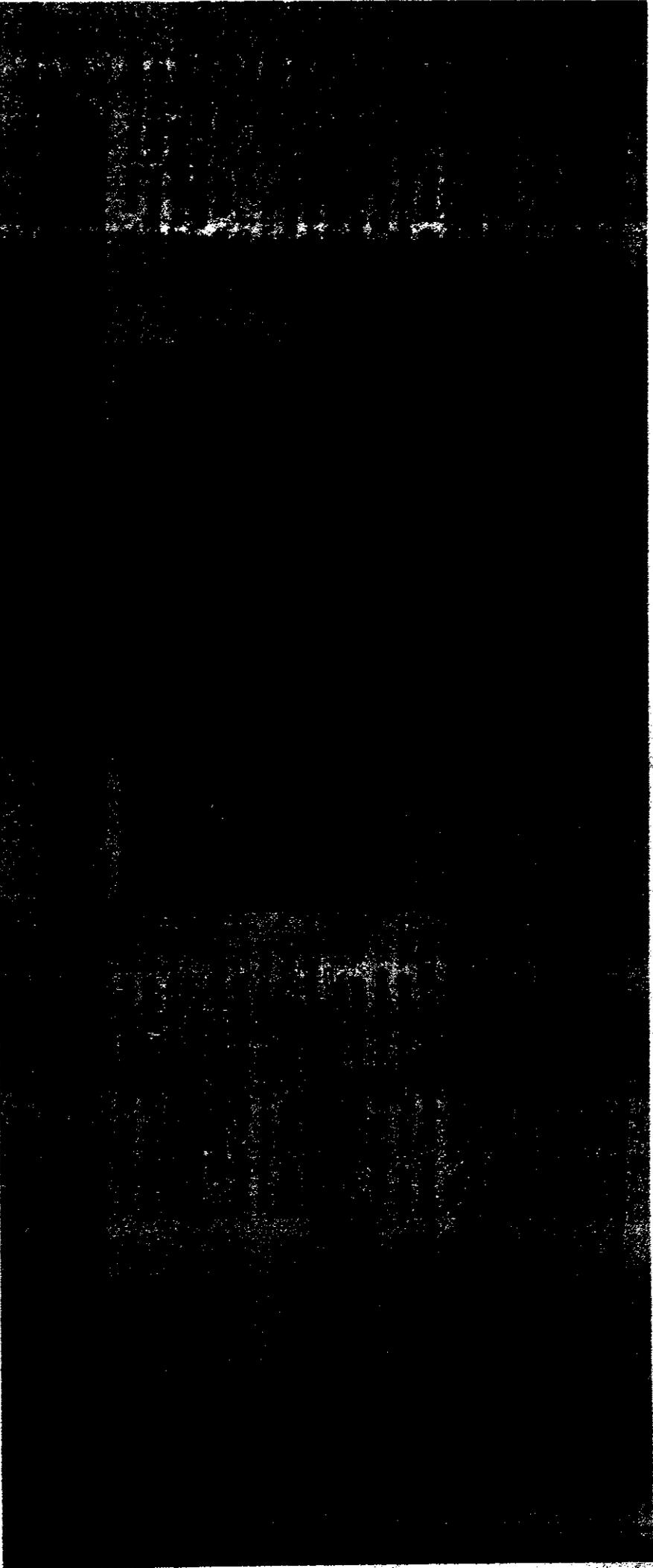
(2) Before appointing any person as a Chairperson or Member, the appropriate Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

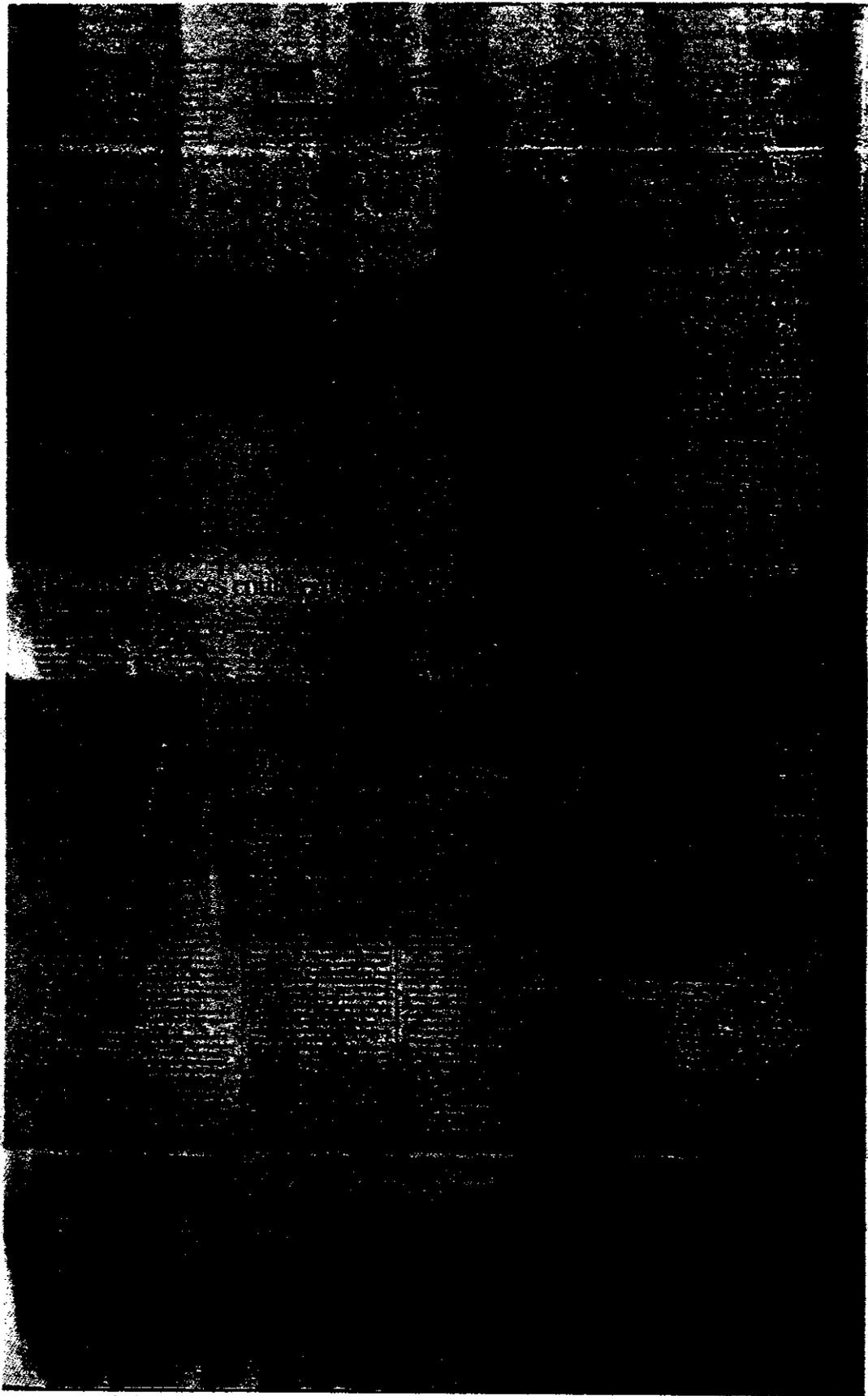
Salary and allowances payable to Chairperson and Members.

24. (1) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure.

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1980

Annexure A-2 (Colly)







Residents in flooded Waters...
...city, many areas submerged

...Yellow Alert
...reasons for
...city's rain woes

...in
...SIB

Ban traffic inside Cotton Park

...committee of CID, FBI and IT
...experts to track cybercrime

T.C.
Q

ANNEXURE - 16 ... 189

Revised Master Plan 2015
BANGALORE
2007

Volume - III

ZONING OF LANDUSE AND REGULATIONS
(Approved by Govt vide G.O. No UDD 540 BEM AA SE 2004,
Dated: 22 - 06 - 2007 as part of the Revised Master Plan 2015)



BANGALORE DEVELOPMENT AUTHORITY,

4.12 PARK AND OPEN SPACE (P)

4.12.1) Description

The natural and man made features meant for environmental conservation and preservation, including water bodies, forests and drains; parks, playgrounds, burial grounds and crematoria.

4.12.2) Regulations

i) Permissible land uses:

- i. Uses permissible include: Sports grounds, stadium, playgrounds, parks, swimming pools, cemeteries, garden land and crematoria.
- ii. Uses permissible under special circumstances by the authority: Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, libraries, milk booths, HOPCOMS, the area of such use shall not exceed 5% of the total area and shall not be more than G+ 1 floor in any case.
- iii. Setbacks for the above will be decided by the Authority taking into account the surrounding development and traffic scenario in that area.

ii) Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plants
- ii. Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning Authority.