

3086

**BEFORE THE NATIONAL
GREEN TRIBUNAL (WZ) PUNE**

APPLICATION NO. 94 OF 2016

MR. DINBANDHU SINGH AND OTHERS

..... APPLICANTS

VERSUS

M/S. SERENE DEVELOPERS AND OTHERS


..... RESPONDENTS

**ADDITIONAL COMPILATION FOR AND ON BEHALF OF THE
APPLICANTS**

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**Place: PUNE
Date: 20/02/2023**


ADV. FOR APPLICANTS

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Minutes of Proposals on PARIVESH Portal considered in 100th SEAC-3 meetings scheduled on 26-27-28 December, 2019 at MITCON, Shivajinagar, Pune

Shri. Anil Kale, IAS Rtd.	Chairman	26-27-28 December, 2019
Dr. Shankar Vishwanath	Member	26-27-28 December, 2019
Shri. Sudhir Yashwant Ghate	Member	26-27-28 December, 2019
Dr. Rajesh B. Biniwale	Member	26-27-28 December, 2019
Shri. Pradeepkumar P. Joshi	Member	26-27-28 December, 2019
Shri. Ajay Dhumal	Member	26-27-28 December, 2019
Dr. Ramesh Chillawar	Member	27-28 December, 2019
Shri. Dattatray Thorat	Member	26-27-28 December, 2019
Shri. Joy S. Thakur	Secretary	26-27-28 December, 2019

The following members were present.

Chairman welcomed the members to the 100th SEAC III Meeting.

Discussion Points:

1. The minutes of the earlier meeting were confirmed.
2. Agenda Items were taken up for consideration.

P*	132551	Proposed Ushahkal Abhinav Speciality Hospital at S.n. 408(P) + P.no.2 (amalgamated), Tal. Miraj, Dist. Sangli by M/s Ushahkal Speciality Hospital LLP.	26.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 16969.91 m², FSI area of 25548.85 m², Non FSI area of 9815.76 m² and total BUA of 35364.61 m². PP has carried out construction work of 18500 m² till date.

The building configuration of the proposal is as below:

Building A : G+10 (43.8 m)

Building B : B+G+10 (43.2 m)

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) There is no existing storm water drain and PP informed that the work will be undertaken soon by the Corporation. PP shall not occupy the project till the same is completed.
- 2) PP to obtain and submit following NOC's: (a) CFO NOC, (b) Water supply with quantity, (c) Drainage NOC. (d) solid waste / e-waste management. (e) bio-medical waste management. (f) Garden NOC.

SEAC decided to **recommend** the proposal for prior environmental Clearance, subject to PP complying with the above conditions.

p.1	115345	SIA/MH/MIS/115345/2019 - ACHALARE REALTORS PRIVATE LIMITED	27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of: 14,000.00 m², FSI area of 22,033.44 m², Non FSI area of 21,341.42 m² and total BUA of 43374.86 m².

The building configuration of the proposal is as below:

Building A, B and C : 2P+12

Building D (MHADA) : Gr.P+11

Club House: G+1

Maximum height of the Building: 39.95 m.

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During construction phase, total water requirement is expected to be 35.5 m³/day which will be met by Pimpari Chinchwad Municipal Corporation.

During operational phase, total water demand of the project is expected to be 268 m³/day and the same will be met by the Pimpari Chinchwad Municipal Corporation & Recycled Water. Wastewater generated (228 m³/day) uses will be treated in STP of adequate capacity meeting the prevalent prescribed norms.

About 936 kg/d solid waste will be generated in the project. The biodegradable waste (559.5 kg/day) will be processed in OWC and the non-biodegradable waste generated (376.5 kg/day).

The total power requirement during construction phase is 45 KW and will be met from MSEDCL and total power requirement (Max. demand load) during operation phase is 1775 KW and will be met from MSEDCL

RG area proposed will be 1144 m² with total no. of trees after development would be 175 numbers.

The proposal was discussed previously in 96th SEAC-3 meeting, wherein it was deferred for certain compliance. The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

PP has satisfactorily complied with the points raised in 96th meeting of SEAC-3.

*SEAC decided to **recommend** the proposal for prior environmental Clearance.*

p.2	116796	SIA/MH/MIS/116796/2019 - GANESH ASSOCIATES		27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 32100.00 m², FSI area of 47052.91 m², Non FSI area of 66419.18 m² and total BUA of 1,13,472.09 m².

The building configuration of the proposal is as below:

Building A, B, C, D, E, F and G : B+2P+Po+15 (50 m)

Buildinh H: LP+GP+11 (50 m)

Building J (Bungalow J1, J2, J3, J4 and J5) : G+1

Comm Bldg. : P+2

Club House: G+1

Other details of the proposal are as below:

Total Water Requirement: 651.47 KLD will be met by PCMC.

Operation phase:

Domestic water : 413.05 KLD

Flushing water : 217.42 KLD

Landscape water : 21.00 KLD

Total Water Requirement : 651.47 KLD

Recycled water : 238.42 KLD

Waste water generated will be treated in STP and will be used for flushing and gardening.

Total sewage generation: 584 KLD

Total recycle water generation: 238.42 KLD

Total recycle water used for flushing: 217.42 KLD

Total recycle water used for gardening: 21 KLD

The details of STP and its working are provided below:

- STP capacity and number:

Residential Buildings : 1 No of 540 KLD Capacity & 1 No of 50 KLD capacity for MHADA

- Technology used: MBBR (Moving Bed Biofilm Reactor)

- Quantity of wastewater generation per day: 584 KLD

The project proposed internal storm water network & rainwater harvesting through recharge pits. 8 numbers of recharge pits are proposed with 2 m x 2 m x 3 m Depth.

Total RG area 3910.06 m², PP has proposed plantation of 402 nos. of native, fruit bearing trees.

Total Parking area 31028.58 m²

Total Power requirement : Maximum Demand: 3260.00 kW, Connected Load: 5963.00 kW

DG set: 1No. X 380KVA, 1No. X 400KVA, 1No.X 125KVA 1 No. X 15KVA will be used only in case of power failure

Total quantity of Excavation: 21025.92 m³.

About 2419 kg/d solid waste will be generated in the project. The biodegradable waste (1448 kg/day) will be processed in OWC and the non-biodegradable waste generated (971 kg/day).

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The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

1. PP to submit details of UGT.

*SEAC decided to **recommend** the proposal for prior environmental Clearance, subject to PP complying with the above conditions.*

p.3	118294	SIA/MH/MIS/118294/2019 - Envirant Developers Private Limited		27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 6,600.00 m², FSI area of 14,341.28 m², Non FSI area of 25,331.85 m² and total BUA of 39,673.13 m².

The building configuration of the proposal is as below:

Other details of the proposal are as below:

RG area in ground: 634.78 m².

2 wheelers parking: 518

4 wheelers parking :131

Cycles parking : 506

Water requirement During Construction Phase:

From Potable Tanker water: 3 CMD (For workers)

From Water Tankers: 10 – 20 CMD (Depending on construction activity)

Water requirement during Operation phase:

Domestic: 119 CMD From PCMC

Flushing 58 CMD -Treated sewage from STP

Gardening 6 CMD- Treated sewage from STP

Sewage Generation:

Construction Phase: 2 CMD

Operation Phase : 159 CMD

Treatment in STP and reuse of treated sewage (available for recycling: 159 CMD) for flushing: 58 CMD and gardening: 6 m³/day. Excess treated sewage (95 CMD) will be disposed to municipal sewer line. The dried sludge will be used as manure.

About 597 kg/d solid waste will be generated in the project. The biodegradable waste (364 kg/day) will be processed in OWC and the non-biodegradable waste generated (233 kg/day).

Power Requirement:

During Construction Phase - Demand Load: 75 KW, D.G. Sets: 1 No. of 82.5 KVA

During Operational Phase – Connected load:- 1408 KW, Maximum demand- 766 KW, Number and capacity of the DG sets : 1 No. of DG sets of 320 kVA

2 Nos. of Transformers having 630 kVA capacity each

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

PP has satisfactorily complied with the points raised in 96th meeting of SEAC-3.

*SEAC decided to **recommend** the proposal for prior environmental Clearance.*

p.4	120084	SIA/MH/MIS/120084/2019 - M/S. MANJARI HOUSING PROJECTS LLP	27.12.2019
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PP had submitted application for prior Environmental clearance amendment in previous EC for total plot area of 404497 m², FSI area of 687645 m², Non FSI area of 639882 m² and total BUA of 1327527 m².

The Committee noted that the proposed integrated township has been granted EC vide EC letter SEIAA-EC-0000001426 dt. 26.03.2019. Out of the said larger project, one sector R7 has undergone changes in layout. PP claimed that the entire FSI and non-FSI for the township remains same and the proposed project is rearrangement of FSI and non FSI in particular sector within township.

The Committee also noted the minutes of 179th meeting of SEIAA for such similar projects as below:

“PP stated that he had obtained Environment Clearance (EC) for entire layout under Township Development. There are parcels in the land under reference. Now, one parcel is sold to another owner for which EC is sought.

It was discussed that large scale Township projects which require an EIA to receive an EC are undergoing minor amendments at cluster/sector level due to changing rules, design changes etc.

For every such amendment, doing a full EIA is cumbersome and time consuming, delaying the execution of township projects.

It is also noted that these projects sanctioned under the Integrated Township Policy (ITP) of Government of Maharashtra, cannot subdivide the said sector/cluster and apply for a fresh EC. Further, even if the entire Township has a valid EC, under RERA, sector/cluster development projects are registered due to time constraints put on the project by RERA.

RERA registration makes it mandatory to take an Amended EC even for a minor change in the project configuration, although the total built-up area and plot area for the project are not changed.

In lieu of the above, it is also noted that separate sector/cluster cannot apply for a separate EC since EIA Notification 2006 does not have a legal provision to grant sectorial EC for sectors within a larger project that has a valid EC.

Considering the above points, SEIAA directs the PP to apply for Amendment of EC for Township projects (under category 8b). Scrutiny of such projects should be done on the basis of directives given below:

- 1. For Amendment of EIA of large projects, it is decided that the SEAC should scrutinize only the said amendment for that particular sector / cluster, if the EC has been received for the entire project and the EC is valid.*
- 2. Fresh TOR should not be given for such amendment of EC projects, if the EC is valid for the larger project and the built up area and plot area remain the same, only sector/cluster level changes are being done.*
- 3. For amendment in EC for a particular sector within the larger township project, Amended EC will be issued ONLY to the same Project Proponent, who is an applicant for the larger layout / project for which EC is granted and valid.*
- 4. Each sector within the larger township should not exceed 150,000 sq m built up area (FSI+ Non FSI).*

5. *If any expansion is done to the original township such as increase/change in built up area, increase/decrease in plot area and change in footprints etc. a fresh EIA application is to be made for the entire project and will be treated as an Expansion Project."*

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(b).

During discussion following points emerged:

- 1) PP to submit approval from competent authority for the proposed multi-storage car parking.
- 2) PP to submit fire tender movement and cross sections each building.
- 3) PP to submit parking statement showing total number of parking required and proposed as per DCR / Town Planning norms with adequate area per car as per norms.
- 4) PP to submit details and drawings of internal storm water up to final disposal point.
- 5) PP to submit phase wise programme for proposed construction with mitigation measures taken to avoid inconvenience to existing / nearby occupants.
- 6) UGT is proposed in basement and the structural columns of the building are located within the alignment of the UGT. PP to submit details of the treatment measures proposed for protecting the columns.
- 7) PP to submit energy saving calculations.
- 8) PP to obtain and submit following NOC's: (a) CFO NOC, (b) Water supply with quantity, (c) Drainage NOC. (d) solid waste / e-waste management. (e) Garden / Tree cutting NOC.
- 9) PP to submit details of UGT.
- 10) PP to submit details of transplantation of trees and trees to be retained.
- 11) PP to submit undertaking for high rise NOC.
- 12) PP to submit co-ordinated master layout superimposing all environmental parameters.

PP requested for time to comply with the observations made in 179th meeting of SEIAA. The Committee decided to appraise the proposal afresh after submission of the compliance by PP. The proposal was *deferred*.

p.5	120110	SIA/MH/MIS/120110/2019 - M/s. Manjari Housing Projects LLP.		27.12.2019
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PP had submitted application for prior Environmental clearance amendment in previous EC for total plot area of 404497 m², FSI area of 687645 m², Non FSI area of 639882 m² and total BUA of 1327527 m².

The Committee noted that the proposed integrated township has been granted EC vide EC letter SEIAA-EC-0000001426 dt. 26.03.2019. Out of the said larger project, one sector R8 has undergone changes in layout. PP claimed that the entire FSI and non-FSI for the township remains same and the proposed project is rearrangement of FSI and non-FSI in particular sector within township.

The Committee also noted the minutes of 179th meeting of SEIAA for such similar projects as below:

“PP stated that he had obtained Environment Clearance (EC) for entire layout under Township Development. There are parcels in the land under reference. Now, one parcel is sold to another owner for which EC is sought.

It was discussed that large scale Township projects which require an EIA to receive an EC are undergoing minor amendments at cluster/sector level due to changing rules, design changes etc.

For every such amendment, doing a full EIA is cumbersome and time consuming, delaying the execution of township projects.

It is also noted that these projects sanctioned under the Integrated Township Policy (ITP) of Government of Maharashtra, cannot subdivide the said sector/cluster and apply for a fresh EC. Further, even if the entire Township has a valid EC, under RERA, sector/cluster development projects are registered due to time constraints put on the project by RERA.

RERA registration makes it mandatory to take an Amended EC even for a minor change in the project configuration, although the total built-up area and plot area for the project are not changed.

In lieu of the above, it is also noted that separate sector/cluster cannot apply for a separate EC since EIA Notification 2006 does not have a legal provision to grant sectorial EC for sectors within a larger project that has a valid EC.

Considering the above points, SEIAA directs the PP to apply for Amendment of EC for Township projects (under category 8b). Scrutiny of such projects should be done on the basis of directives given below:

- 1. For Amendment of EIA of large projects, it is decided that the SEAC should scrutinize only the said amendment for that particular sector / cluster, if the EC has been received for the entire project and the EC is valid.*
- 2. Fresh TOR should not be given for such amendment of EC projects, if the EC is valid for the larger project and the built up area and plot area remain the same, only sector/cluster level changes are being done.*
- 3. For amendment in EC for a particular sector within the larger township project, Amended EC will be issued ONLY to the same Project Proponent, who is an applicant for the larger layout / project for which EC is granted and valid.*
- 4. Each sector within the larger township should not exceed 150,000 sq m built up area (FSI+ Non FSI).*

5. *If any expansion is done to the original township such as increase/change in built up area, increase/decrease in plot area and change in footprints etc. a fresh EIA application is to be made for the entire project and will be treated as an Expansion Project."*

PP requested for time to comply with the observations made in 179th meeting of SEIAA. The Committee decided to appraise the proposal afresh after submission of the compliance by PP. The proposal was *deferred*.

p.6	122935	SIA/MH/MIS/122935/2019 - DIVINE VENTURES AND LANKE BIRJE ASSOCIATES		27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 12022.00 m², FSI area of 21475.73 m², Non FSI area of 31635.08 m² and total BUA of 53110.81 m².

The building configuration of the proposal is as below:

Wing A, B, C, D, E, F and G: G+P+12

2 Club Houses: G+1

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)b2.

During discussion following points emerged:

- 1) PP to design STP as per prevailing norms. PP to submit design details of the same along with cross sections. PP to incorporate ozonation instead of chlorination for disinfection purpose.
- 2) PP to submit co-ordinated master layout superimposing all environmental parameters.
- 3) PP to submit details of UGT.
- 4) PP to obtain and submit following NOC's: (a) CFO NOC, (b) Water supply with quantity, (c) Drainage NOC.
- 5) PP to submit details of RG area calculations indicating area for club house.
- 6) PP to submit survival report of existing trees. PP to submit plantation plan incorporating local native fruit bearing trees.

PP requested for time to submit the information sought; after deliberations committee asked PP to comply with the observations and submit information to the committee for further discussion and consideration of SEAC.

p.7	124854	SIA/MH/MIS/124854/2019 - M/S. HEXAWARE TECHNOLOGIES LTD.		27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 96392 m², FSI area of 40918.03 m², Non FSI area of 15902.08 m² and total BUA of 56820.11 m².

The building configuration of the proposal is as below:

IT Building (Existing) Phase I : LG+G+3

Proposed Phase II one building: S+G+3

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) PP to submit details of RWH pits separately for terrace water and surface water.
- 2) PP to submit sectional drawing of the final disposal point of excess storm water with invert levels.
- 3) PP to submit phase wise programme for proposed construction with mitigation measures taken to avoid inconvenience to existing / nearby occupants.
- 4) PP to submit details of waste water treatment during construction phase.
- 5) PP to submit environment monitoring plan for phase II.
- 6) PP to submit details of STP.
- 7) PP has proposed ZLD, whereas during discussion, it was revealed that 50 KLD of excess water will be generated which needs to be disposed off with proper arrangements. PP to submit details of the same.
- 8) PP to submit details of OWC.
- 9) PP to submit details of Environmental Management Plan.
- 10) PP to submit co-ordinated master layout superimposing all environmental parameters.
- 11) PP to submit details of UGT.
- 12) PP to obtain and submit following NOC's: (a) CFO NOC, (b) Drainage NOC. (c) e-waste management. (d) Tree Cutting / Garden NOC.
- 13) PP to submit survival report of existing trees. PP to submit plantation plan incorporating local native fruit bearing trees.

*PP requested for time to submit the information sought; after deliberations committee asked PP to **comply** with the observations and submit information to the committee for further discussion and consideration of SEAC.*

p.8	127657	SIA/MH/MIS/127657/2019 - Proposed commercial building at Sr. No. 101/A/1, CTS No. 2069 A/1, F.P. No.7, Kalyani Nagar, Yerawada Pune by M/s. Classic Promoters and Builders Private Ltd	27.12.2019
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PP had submitted application for prior Environmental clearance for total plot area of 3162 m2, FSI area of 8696.38 m2, Non FSI area of 14383.13 m2 and total BUA of 23079.51 m2.

The building configuration of the proposal is as below:
Wing A: 2B+LG+UG+1Parking+10 (Max Height 42.9 m)

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) PP to submit details and drawings of internal storm water up to final disposal point proposing all internal chambers within the property and not on roads.
- 2) PP to submit details of sewer line plan.
- 3) PP to submit details of RWH pits separately for terrace water and surface water.
- 4) PP to submit debris management plan including (a) debris required for refilling, (b) contour plan, (c) details of site where excess debris will be disposed, capacity of the site and NOC of plot owner. PP shall also ensure that debris disposed on other plot shall not be disposed on another plot. If to be disposed on another plot, the same shall be carried out as per prevailing environmental laws.
- 5) UGT is proposed in basement and the structural columns of the building are located within the alignment of the UGT. PP to submit details of the treatment measures proposed for protecting the columns.
- 6) PP to submit energy saving calculations.
- 7) PP to submit co-ordinated master layout superimposing all environmental parameters.
- 8) PP to submit details of UGT.
- 9) PP to submit water supply NOC.

*PP requested for time to submit the information sought; after deliberations committee asked PP to **comply** with the observations and submit information to the committee for further discussion and consideration of SEAC.*

p.9	122939	SIA/MH/MIS/122939/2019 - Trident - Residential and Commercial Project by M/s Paranjape Schemes Construction Limited.		27.12.2019
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PP had submitted application for prior Environmental clearance for amendment in previous EC for total plot area of 38900 m2, FSI area of 65876 m2 and total BUA of 144439 m2.

The building configuration of the proposal is as below:

Building A, B, C, D, E and F: 3P+20
Commercial and MHADA building: LG+UG+15
Club House : G+1

Other details of the project are as below:

Project Cost: Rs. 270 Cr.
No. of tenements: 1058
Total water requirement: 787 CMD
Sewage generation: 708 CMD, STP Capacity: 1X620 CMD, 2X65 CMD, 1X14 CMD
RG area : 3087 CMD
No of trees proposed: 490
Parking area: 37869 m2, Parking: 2 wheelers – 2738 and 4 wheelers – 1208
Power requirement – Demand: 3872 kW, Connected load: 5838 kW
DG set: 3X400 KVA and 1X62.5 KVA
Recharge pits- 11
Capital EMP cost during construction phase: Rs. 36 Lakh
Capital EMP cost during operation phase: Rs. 590 Lakh
O&M EMP cost during operation phase: Rs. 65 Lakh

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) PP to relocate UGT away from STP.
- 2) PP to submit six monthly compliance reports.

SEAC decided to **recommend** the proposal for prior environmental Clearance, subject to PP complying with the above conditions.

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p.10	46005	[SIA/MH/NCP/46005/2019] "Navyangan Phase II" by M/s. Avior Merlin Ventures LLP : application for ToR	28.12.2019
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PP had submitted application for prior Environmental clearance for proposed expansion in residential and commercial project at at no. 106 (P), 109 (P), 144 (P), 145, 146, 147, 148, 150, 151, 152, 154, 158, 160, 161, 166, 168, 169, 170 (P), 188 (P), at village Kasar Amboli, Tal.-Mulshi, Pune for total plot area of 89637 m², FSI area of 152515.94 m², Non FSI area of 61344.04 m² and total BUA of 213859.98 m².

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B1.

Committee informed PP to use model TOR available on the web site of MoEF&CC in addition to the points mentioned below for carrying out EIA studies:

Additional terms of Reference for carrying out EIA studies

A) Project Description

- 1) Project description, its importance and the benefits.
- 2) Project site details (location, topo-sheet of the study area of 10 Km, Coordinates, google map, layout map, land use, geological features and geo-hydrological status of the study area, drainage). Hydro-geological survey report with graphs & data.
- 3) Land use as per the approved Master Plan of the area, Permission/approvals required from the land owning agencies, Development Authorities, Local Body, Water supply & Sewerage Board, etc.
- 4) Land acquisition status, R & R details.
- 5) Forest and Wildlife and eco-sensitive zones, if any in the study area of 10 km. Any sensitive areas in impact zone such as archaeological structures, reserved forest, noise sensitive zones etc. Clearances required under the Forest (Conservation) Act, 1980, the Wildlife (Protection) Act, 1972 and/or the Environment (Protection) Act, 1986.
- 6) (G) High Tension wires if any on the plot.
- 7) (G) Plan showing HFL.
- 8) (G) Permissions granted by State Government in tabular and chronological form. Comparative statement of components approved and components constructed as per earlier EC (if applicable) and proposed development.
- 9) (G) PP to submit the detailed master plan indicating already completed construction and proposed construction. PP to submit the certificate from architect for completed work

B) Base Line Data

- 10) (B) Baseline environmental study for ambient air (PM₁₀, PM_{2.5}, SO₂, NO_x& CO), water (both surface and ground), noise and soil as per MoEF&CC/CPCB guidelines at minimum 5 locations in the study area of 10 km, The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
- 11) (C) Detail on flora and fauna and socio-economic aspects in the study area. Details of tree cutting, tree transplantation and survival report of existing trees.
- 12) (C) Likely impact of the project on the environmental parameters (ambient air surface and ground water, land, flora and fauna and socio-economic, etc.)
- 13) (B) Source of water for different identified purposes with the permissions required from the concerned authorities, both for surface water and the ground water (by CGWA) as the case may be, Rain water harvesting, etc.

- 14) (G) Socio-economic infrastructure details including public transport arrangements on the site; PP to mention details of socio-economic in EIA.
- 15) (G) PP to submit contour map with slopes, drainage pattern of the site and surrounding area. Layout showing natural water courses on site; total runoff calculation before and after development.
- 16) (C) PP to submit details of existing trees, proposed to be cut, proposed to be transplanted along with tree survival report

C) Traffic Impact Study in detail including:

- 17) (V) Traffic Management Plan for the development – Internal circulation indicating road width and turning radius. Cross section of roads at four places showing clear road width, distance left from building line, spaces left for plantation, footpath, service lines etc.
- 18) (V) Traffic Volume Counts and Turning Movement Counts on all the external surrounding roads of the proposed project showing the time period taken.
- 19) (V) Topographic details of roads and intersection of the surrounding roads where counts are taken, actual geometry on ground to be shown with dimensions.
- 20) (V) Traffic generation values of similar development to be given by actual count by actual count as support data for assumption made to the particular project.
- 21) (V) Parking statement mentioning parking as per DCR & parking provided actually.
- 22) (V) Basement ventilation plan: Fire Tender Movement Plan showing clear road and turning radius. Cross section of roads at four places including UGT, OWC and DG set location showing clear road width and distance left from building line & spaces left for plantation, parking, service lines, foot paths, etc.

D) Environmental Impact and Management Plan:

- 23) (B) Identify sources of air pollution, indicate mitigation measures to reduce Air pollution/Noise pollution.
- 24) (G) Debris management plan including (a) debris required for refilling, (b) contour plan, (c) details of site where excess debris will be disposed, capacity of the site and NOC of plot owner. PP shall also ensure that debris disposed on other plot shall not be disposed on another plot. If to be disposed on another plot, the same shall be carried out as per prevailing environmental laws.
- 25) (B) Management of solid waste and the construction & demolition waste for the project vis-a-vis the Solid Waste Management Rules 2016 and the Construction & Demolition Rules, 2016. Transport, collection, storage and disposal for all types of wastes like hazardous waste, non-hazardous waste, solid waste, E-waste, and debris/excess earth etc. PP to provide the detailed solid waste management plan along with marked locations on the master plan. Design details of waste processing equipment such as OWC/biogas plants confirming to the technical requirements to meet the quality products.
- 26) (B) Waste water management (treatment, reuse and disposal) for the project and also the study area. Design of all STP's along with BOD load, oxygen requirement calculations and sizing of the tanks with respect to the design criteria. PP to submit detailed calculation for the disinfection of the treated STP water; PP to submit cross sectional drawing of STP's showing dimensions and ground level; PP to provide ozonation for tertiary treatment. PP to mark the area required for all STP's on master layout with dimensions
- 27) (J) PP to show internal storm water drain and sewer line arrangements up to final disposal point.
- 28) (C) Provision of mandatory RG area on virgin land and submit the drawing with calculations, ensuring entire mandatory RG is provided on the plot where residential buildings are proposed.
- 29) (G) A detailed phase wise development plan with safety planning where occupancy has been given.
- 30) (T) If any site specific structures such as creation of water body, alteration of natural storm water, large alteration of slopes, creation of green areas abutting to water bodies / natural storm water drain / river etc, is involved, detailed environmental protection approach for the same shall be provided.
- 31) (D) Separate chapter on Renewable energy in EIA report. PP to submit terrace plan for installing solar panels & calculations of energy saving; Energy efficient measures (LED lights, solar power, etc.) during construction as well as during operational phase of the project. Report on ECBC compliance.
- 32) (D) Provide details of Solar PV and Solar water heater in the specific format. PP to carryout shadow analysis for identifying the roof-top area for providing solar panels
- 33) (B) Environmental status report including analysis reports of all environmental pollution reduction facilities if any commissioned.

- 34) (K) PP to submit Disaster management plan.
35) (B) Preparation of site specific, executable and auditable environment management plan (EMP)

E) Environmental Modelling and additional Studies:

- 36) (B) Fugitive dust modelling by using local meteorological data.
37) (B) Ecological footprint calculation using LCA approach.
38) (B) Estimation of Carbon footprint of the project.
39) (B) Gate mass balance analysis for environmental parameters related to solid/liquid waste material coming to site, waste generated and its treatment and disposal from site.

F) NOCs, Undertakings and CER:

- 40) (T) NOC's required: a) CFO NOC, b) Water supply NOC with quantity, c) Drainage NOC, d) Non-biodegradable waste disposal.
41) (T) Undertaking to provide DG set backup to all Pollution Control Devices, Water Supply, Emergency Services including emergency lifts, etc.
42) (K) PP to submit details of CER activities in consultation with the affected people in the project area as per MoEF&CC circular dt. 01.05.2018, along with details of fund utilization & agreement or consent of executor.

p.11	41778	[SIA/MH/NCP/41778/2019] "Kumar Shantiniketan" by M/s. Kumar Builders Consortium: application for ToR	28.12.2019
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PP had submitted application for prior Environmental clearance for proposed expansion of residential and commercial building construction at S.N. 138/5 Pashan, Haveli, Pune for total plot area of 36952.40 m², FSI area of 90255.70 m², Non FSI area of 90013.86 m² and total BUA of 180269.56 m².

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B1.

Committee informed PP to use model TOR available on the web site of MoEF&CC in addition to the points mentioned below for carrying out EIA studies:

Additional terms of Reference for carrying out EIA studies

A) Project Description

- 1) Project description, its importance and the benefits.
- 2) Project site details (location, topo-sheet of the study area of 10 Km, Coordinates, google map, layout map, land use, geological features and geo-hydrological status of the study area, drainage). Hydro-geological survey report with graphs & data.
- 3) Land use as per the approved Master Plan of the area, Permission/approvals required from the land owning agencies, Development Authorities, Local Body, Water supply & Sewerage Board, etc.
- 4) Land acquisition status, R & R details.
- 5) Forest and Wildlife and eco-sensitive zones, if any in the study area of 10 km. Any sensitive areas in impact zone such as archaeological structures, reserved forest, noise sensitive zones etc. Clearances required under the Forest (Conservation) Act, 1980, the Wildlife (Protection) Act, 1972 and/or the Environment (Protection) Act, 1986.
- 6) (G) High Tension wires if any on the plot.
- 7) (G) Plan showing HFL.
- 8) (G) Permissions granted by State Government in tabular and chronological form. Comparative statement of components approved and components constructed as per earlier EC (if applicable) and proposed development.
- 9) (G) PP to submit the detailed master plan indicating already completed construction and proposed construction. PP to submit the certificate from architect for completed work

B) Base Line Data

- 10) (B) Baseline environmental study for ambient air (PM₁₀, PM_{2.5}, SO₂, NO_x & CO), water (both surface and ground), noise and soil as per MoEF&CC/CPCB guidelines at minimum 5 locations in the study area of 10 km. The collection and analysis of data shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or an environmental laboratory accredited by NABL, or a laboratory of a Council of Scientific and Industrial Research (CSIR) institution working in the field of environment.
- 11) (C) Detail on flora and fauna and socio-economic aspects in the study area. Details of tree cutting, tree transplantation and survival report of existing trees.
- 12) (C) Likely impact of the project on the environmental parameters (ambient air surface and ground water, land, flora and fauna and socio-economic, etc.)
- 13) (B) Source of water for different identified purposes with the permissions required from the concerned authorities, both for surface water and the ground water (by CGWA) as the case may be, Rain water harvesting, etc.

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- 14) (G) Socio-economic infrastructure details including public transport arrangements on the site; PP to mention details of socio-economic in EIA.
- 15) (G) PP to submit contour map with slopes, drainage pattern of the site and surrounding area. Layout showing natural water courses on site; total runoff calculation before and after development.
- 16) (C) PP to submit details of existing trees, proposed to be cut, proposed to be transplanted along with tree survival report

C) Traffic Impact Study in detail including:

- 17) (V) Traffic Management Plan for the development – Internal circulation indicating road width and turning radius. Cross section of roads at four places showing clear road width, distance left from building line, spaces left for plantation, footpath, service lines etc.
- 18) (V) Traffic Volume Counts and Turning Movement Counts on all the external surrounding roads of the proposed project showing the time period taken.
- 19) (V) Topographic details of roads and intersection of the surrounding roads where counts are taken, actual geometry on ground to be shown with dimensions.
- 20) (V) Traffic generation values of similar development to be given by actual count by actual count as support data for assumption made to the particular project.
- 21) (V) Parking statement mentioning parking as per DCR & parking provided actually.
- 22) (V) Basement ventilation plan: Fire Tender Movement Plan showing clear road and turning radius. Cross section of roads at four places including UGT, OWC and DG set location showing clear road width and distance left from building line & spaces left for plantation, parking, service lines, foot paths, etc.

D) Environmental Impact and Management Plan:

- 23) (B) Identify sources of air pollution, indicate mitigation measures to reduce Air pollution/Noise pollution.
- 24) (G) Debris management plan including (a) debris required for refilling, (b) contour plan, (c) details of site where excess debris will be disposed, capacity of the site and NOC of plot owner. PP shall also ensure that debris disposed on other plot shall not be disposed on another plot. If to be disposed on another plot, the same shall be carried out as per prevailing environmental laws.
- 25) (B) Management of solid waste and the construction & demolition waste for the project vis-a-vis the Solid Waste Management Rules 2016 and the Construction & Demolition Rules, 2016. Transport, collection, storage and disposal for all types of wastes like hazardous waste, non-hazardous waste, solid waste, E-waste, and debris/excess earth etc. PP to provide the detailed solid waste management plan along with marked locations on the master plan. Design details of waste processing equipment such as OWC/biogas plants confirming to the technical requirements to meet the quality products.
- 26) (B) Waste water management (treatment, reuse and disposal) for the project and also the study area. Design of all STP's along with BOD load, oxygen requirement calculations and sizing of the tanks with respect to the design criteria. PP to submit detailed calculation for the disinfection of the treated STP water; PP to submit cross sectional drawing of STP's showing dimensions and ground level; PP to provide ozonation for tertiary treatment. PP to mark the area required for all STP's on master layout with dimensions
- 27) (J) PP to show internal storm water drain and sewer line arrangements up to final disposal point.
- 28) (C) Provision of mandatory RG area on virgin land and submit the drawing with calculations, ensuring entire mandatory RG is provided on the plot where residential buildings are proposed.
- 29) (G) A detailed phase wise development plan with safety planning where occupancy has been given.
- 30) (T) If any site specific structures such as creation of water body, alteration of natural storm water, large alteration of slopes, creation of green areas abutting to water bodies / natural storm water drain / river etc, is involved, detailed environmental protection approach for the same shall be provided.
- 31) (D) Separate chapter on Renewable energy in EIA report. PP to submit terrace plan for installing solar panels & calculations of energy saving; Energy efficient measures (LED lights, solar power, etc.) during construction as well as during operational phase of the project. Report on ECBC compliance.
- 32) (D) Provide details of Solar PV and Solar water heater in the specific format. PP to carryout shadow analysis for identifying the roof-top area for providing solar panels
- 33) (B) Environmental status report including analysis reports of all environmental pollution reduction facilities if any commissioned.

- 34) (K) PP to submit Disaster management plan.
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F) NOCs, Undertakings and CER:

- 40) (T) NOC's required: a) CFO NOC, b) Water supply NOC with quantity, c) Drainage NOC, d) Non-biodegradable waste disposal.
41) (T) Undertaking to provide DG set backup to all Pollution Control Devices, Water Supply, Emergency Services including emergency lifts, etc.
42) (K) PP to submit details of CER activities in consultation with the affected people in the project area as per MoEF&CC circular dt. 01.05.2018, along with details of fund utilization & agreement or consent of executor.

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Minutes of 100th SEAC-3 meeting scheduled on 26-27-28 December, 2019 at MITCON, Shivajinagar, Pune

p.12	127807	[SIA/MH/MIS/127807/2019] proposed Residential and Commercial Project at SR.NO.09 to 14, Hissa NO.2/1/1(New Hissa No.1/70) Village: Mundhawa-Keshavnagar ,Taluka: Haveli, Dist Pune - Maharashtra by Buildwick spaces LLP: application for prior EC	28.12.2019
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PP had submitted application for prior Environmental clearance for proposed Residential and Commercial Project at SR.NO.09 to 14, Hissa NO.2/1/1(New Hissa No.1/70) Village: Mundhawa-Keshavnagar ,Taluka: Haveli, Dist Pune for total plot area of 7900 m2, FSI area of 16959.70 m2, Non FSI area of 16952.64 m2 and total BUA of 30875.51 m2.

The building configuration of the proposal is as below:

Wing A: P1+P2+P3+14 (Height 49.9 m)

No. of tenements: 212, Shops:46

Other details of the proposal are as below:

Water requirement during construction phase :3 CMD, operation phase:181 CMD

Wastewater generation- 153 CMD

STP – 190 CMD

Recharge pits – 7

Total solid waste generation – 675 kg/d

OWC Capacity- 550 kg/d

Number of trees proposed -90

RG area- 761 m2 on virgin land

Power requirement – Connected load – 1233.5 kW, Demand load – 856 KVA

DG set – 160 KVA

4 wheeler parking – 300, 2 wheeler parking – 619, Cycles -313

EMP Budget capital cost – Rs. 12142926/-, O&M Cost – Rs. 2067600/- per year

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) PP to obtain specific NOC from adjoining plot owner for laying storm water drain.
- 2) PP to submit solid waste management plan.
- 3) PP to submit water supply NOC and CFO NOC.

SEAC decided to **recommend** the proposal for prior environmental Clearance, subject to PP complying with the above conditions.

Secretary, SEAC-3

Chairman, SEAC-3

p.13	127907	[SIA/MH/MIS/127907/2019] Proposed IT/ITES project at Survey No. 9/2+ 10/1 (Plot B), Vadgaonsheri, Dist. Pune by M/s Nyati Builders PVT. Ltd. : application for prior EC	28.12.2019
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PP had submitted application for prior Environmental clearance for project at Survey No. 9/2+ 10/1 (Plot B), Vadgaonsheri, Dist. Pune for total plot area of 9933.01 m², FSI area of 29798.98 m², Non FSI area of 21608.03 m² and total BUA of 51407.01 m².

The building configuration of the proposal is as below:

Building C1: L.P.+G+4 (Height 19.52 m)

Building C2: L.P.+U.P.+Gr.+10 (Height 37.15 m)

Proposed building C3: L.P.+U.P.+Gr+P1+P2+ 3 to 9 (Height 36 m)

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2.

During discussion following points emerged:

- 1) The plot is almost abutting to river, therefore PP to ensure that storm water should not find its way to river. PP to submit details of internal storm water drain up to final disposal point. PP to submit NOC from adjacent plot owner if the storm / sewer line is passing through it.
- 2) PP has proposed ultrafiltration as part of STP. PP to submit details of the same.
- 3) PP to remove Alstonia Scholaris tree else ensure suitable mitigation measures to avoid nuisance / allergy due to it.
- 4) PP to ensure monitoring of indoor air quality for prevailing prescribed parameters and for BTEX
- 5) PP to submit details of energy saving.
- 6) PP to ensure adequate space for segregation near OWC.

PP requested for time to comply with the observations made in 179th meeting of SEIAA. The Committee decided to appraise the proposal afresh after submission of the compliance by PP. The proposal was *deferred*.

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F. No. 22-21/2020-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj
New Delhi - 110003
sujit.baju@gov.in

Date: 7th July, 2021

Office Memorandum

Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.

The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., vide order dated 03.06.2021 held that "(...) **for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process**".

4. Further, the Hon'ble National Green Tribunal in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24.05.2021 has directed that "**...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAs in the country**".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been

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pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

7. Relevant Court Cases on the issue: It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, **the Hon'ble courts have, *inter-alia*, deliberated on various facets involving 'violation' cases and have enunciated principles of 'Proportionality' and 'Polluter Pays' in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014).** The salient extracts of the judgements are as under:

Issue 1: Proposal for grant of Environmental Clearance in violation cases – to be considered on merits:

i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014

Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."

*"(...) the proposal of the petitioner company for **environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws.**"*

ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017

Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating

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pollution laws or the pollution, if any, can conveniently and effectively be checked. **The answer necessarily has to be in the negative.**"

"29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms."

Issue 2: Environmental Clearance – Prospective & not ex-post facto:

Hon'ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017

*Held: "(...) an EC will come into force **not earlier than the date of its grant.**"*

Issue 3: 'Principles of Proportionality' – to be applied:

Hon'ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020

*Held: "(...) **this Court must take a balanced approach** which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord **with the principle of proportionality**"*

Issue 4: 'Polluter pays' principle &

&

Issue 5: Costs for remedial measures implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.

Hon'ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)

Held:

a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will **include giving directions ...** and also the power to **impose the cost of remedial measures** on the offending industry and utilize the amount so recovered for carrying out remedial measures.....

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b) **Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5** which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.

c) The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the **"Polluter Pays" Principle**. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".

8. Legal provisions:

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes 'such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

9. Definition of Violation and Non-compliance:

The Standard Operating Procedure (SoP) considers 'Violation' & 'Non-compliance' from the following perspective:

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i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

10. Standard Operating Procedure – Guiding Principles:

i. Without prejudice to any other consequences, **action has to be initiated under section 15 read with section 19** of The Environment (Protection) Act, 1986 **against all violations.**

ii. Projects not allowable/permissible, for grant of EC, as per extant regulations: **To be demolished.**

iii. Projects allowable/permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted).**

iv. **Polluter pays:** Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

11. SOP for dealing with the violation cases:

Step 1: Closure or Revision

Sl no.	Status of EC	Actions
1	If no prior EC has been taken	Order to close its operation
2.	If prior EC is available for existing/old unit	Order to revert the activity/production to permissible limits.
3.	If prior EC was not required for earlier production level but is now required	Restrict the activity/production to the extent to which prior EC was not required.

Step 2: Action under Environment (Projection) Act, 1986

Action under section 15 read with section 19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

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Step: 3: Appraisal under EIA Notification, 2006

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

A. If not permissible:

i. The project shall be **ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing.**

*Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be **closed & demolished.***

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

B. If permissible:

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued **which shall be effective from the date of issue.**

v. However, during appraisal after examination if it is found that even though the project may **be permissible but not environmentally sustainable in its present**

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form/configuration/features then the project shall be directed to be **modified so that the project would be environmentally sustainable.**

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be **demolished/ closed. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).**

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to **submit a bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA).** The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and **will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan.**

Note - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, **shall be effective only from the date of issuance of such clearance** and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

12. Penalty provisions for Violation cases and applications:

a. For new projects:

- i. **Where operation has not commenced:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]
- ii. **Where operations have commenced without EC:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs.1.25 Cr]

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b. For expansion projects:

- i. **Where operation/production with expanded capacity has not commenced:**
1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.
- ii. **Where operation/ production with expanded capacity have commenced:**
1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

13. Identification of Violation cases:


With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section. 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment. Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

- i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention& Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
- iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.

14. This is issued with the approval of the Competent Authority.


 (Dr. Sujit Kumar Bajpayee)
 Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

Copy for information:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS for Environment, Forest and Climate Change
3. PPS to Secretary(EF&CC)
4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).

