BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH AT PUNE

APPLICATION NO. 28/2019

IN THE MATTER OF

MR. TANAJI BALASAHEB GAMBHIRE ...APPLICANT

VERSUS

UNION OF INDIA THROUGH

SECRETARY-MoEF & CC & ORS. ...RESPONDENTS

FILE-A

[VOLUME-___]

AFFIDAVIT CUM OBSERVATIONS IN JOINT INSPECTION OF SITE HELD ON 29.12.2021 & ANNEXURES

(FOR PAPERBOOK INDEX KINDLY SEE INSIDE)

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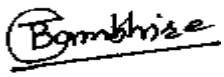

APPLICANT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 28/2019

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ....APPLICANT

VERSUS

UNION OF INDIA THROUGH SECRETARY,
MoEF & CC AND OTHERS ....RESPONDENTS

AFFIDAVIT CUM OBSERVATIONS IN JOINT INSPECTION OF SITE HELD ON 29.12.2021

I, Mr. Tanaji Gambhire S/o Shri. Balasaheb Gambhire Aged: 38 Years, Occupation: Service, R/at: CTS No. 296, Shukrawar Peth, Flat No-16, Laxmi Apartment, Near Shivaji Maratha High School, White House Lane, Pune-411002, do hereby solemnly affirm and state on oath as follows:

1. I state that, as per the direction of this Hon'ble Tribunal vide Orders dated 05.02.2020 & 08.12.2021, Joint Committee of SEIAA & MPCB Official call this Original Applicant for Joint Site inspection vide their email dated 24.12.2021 and accordingly site inspection of the disputed project have been carried out on 29.12.2021, which is subject matter of this Original Application.

2. INTERFERENCE OF THE VARIOUS PERSONALS IN ILLEGAL MANNER IN SITE VISIT AND CONDUCT OF THE JOINT COMMITTEE MEMBERS:

I state that, the following members/ personnel's were present during the site inspection and discussion in the conference room at project site.

	Project Site	93 Avenue Mall at Survey No. 93 (P), Village-Wanwadi Taluka-Pune City, District-Pune
	Scheduled Visit Timing	11:00 AM to 5:00 PM
	Discussion time taken by Joint Committee, Government Officials with Project Proponent without involvement of Original Applicant	11:00 AM to 12:00 PM
	Discussion Time with Applicant in Conference Room	12:00 PM to 3:00 PM
	Physical Site Inspection	3:00 PM to 4:30 PM
Sr.	**Name Representative**	**Organisation**
1.	Mr. Pankaj Joshi	SEIAA, Maharashtra
2.	Mr. Nitin Shinde	RO-MPCB
3.	Mr. Pratap Jagtap	SRO-MPCB, Pune-I
4.	Mrs.	Field Officer, MPCB, Pune-I
5.	Mrs. Radhika Hawal-Bartake	Tehsildar Pune City as Representative of Collector.
6.	Mrs. Harshada Shinde	Executive Engineers, Building Permission Department, PMC
7.	Mr. Ramesh Kakade	Dy. Engineer, Building Permission Department, PMC
8.	Mr. Shamik Shevate	Building Inspector, Building Permission Department, PMC
9.	Mr. Ratnakar Taru	Tree Authority, PMC
10.	Mr. Prashant Ranpise	CFO, Fire Department, PMC

11.	Mr. Sham Taru	AMC, Wanwadi
12.	Adv. Anirudh Kulkarni	Advocate for SEIAA Maharashtra
13.	Adv. Sachin Gore	For Intervener-PP on behalf of Adv. Raghunath Mahabal
14.	Mr. Abhinandan Sankala	Project Proponent
15.	Mr. Sachin Agrawal	Office Bearer of PP
16.		Architect of PP
17.		Two Photographers & video recording Cameraman engaged by PP
18.		15 Other Personnel's including Bodyguards & other Office Bearer called by PP
19.	Mr. Tanaji Gambhire	Original Applicant
20.	Adv. Nitin Lonkar	Advocate for Original Applicant

That the interference of Mr. Abhinandan Sankla, Partner of PP, Mr. Sachin Agrawal officer bearer of PP, Architect of PP, Photographers and Cameraman for video recording, Adv. Sachin Gore as advocate of intervener-PP is shocking and even after the pointing out this issue to Joint Committee, Members of Joint Committee did not gave any heads to the this serious issue and were encouraging their interference. However, these representative of PP despite active partishipation creating nuisance in the Site Inspection intentionally not given their appearance.

3. THREAT BY PROJECT PROPONENT:

I state that, Mr. Sachin Agrawal-PP representative has given threat to me in presence of my advocate by stating that, the

PP has paid Rs. 50 Lakhs to one Mr. Bhosale to settle score of Original Applicant and Applicant will face such consequences and same thing is pointed out to the Joint Committee Members immediately.

4. OBSERVATIONS DURING JOINT SITE VISIT HAVING ADVERSE IMPACT ON THE ENVIRONMENT:

a. PP has carried out substantial construction from 21.07.2007 for more than 40000 M^2 without obtaining prior Environment Clearance dated 15.06.2018 and Consent to Establish dated 07.01.2019 and it amounts to violation of EIA Notification-2006 dated 14.09.2006. For which Joint Committee promised to calculate the environmental damages as per the formulas and their practices to which this Original Applicant has right to take objection.

b. EC dated 15.06.2018 and CTE dated 07.01.2019 are obtained in Ex-post facto manner.

c. Occupancy Certificate is obtained on 01.11.2018 prior to CTE dated 07.01.2019 and CTO dated 06.05.2019 and Operations of project are undertaken prior to

d. No arrangement for Solar System on accounts of energy saving undertaken by PP in Environment Clearance is made at site.

e. No arrangement for rain water harvesting is made at project site and not shown any such arrangement during site inspections

f. Entire Marginal spaces around the building is concretises and no space for ground water recharge is provided in the project.

g. There is no open space provided by PP at site and Open space show in sanction plan is the 60 Mtrs. DP Road widening area and remaining area is front site margin on raised basement/ podium of the building.

h. Tree No. 68 to 98 are planted in unscientific manner in Concrete Pot and have no connection with round, and also tree no. 149 to 158 are planted on raised basement area. Garden department has clearly pointed out that this plantation is not allowed and this type of plantation is not accepted. Joint Committee directed to shift the fire pile on the rear wall and to make the scientific plantation.

i. There are two basements for which there is no permission in Environment Clearance and there is continuous dewatering of more than 50000 Liters of ground water collected from ground water seepage, which is directly discharged to the PMC sewer line and there is no permission from CGWA for such dewatering and its adverse impact on the environment.

j. Sewage collection tank is directly exposed to the Air and there is no covering to the tank and gases are directly released to the air.

k. No clear fire tender movement at South-East direction i.e. rear site of building and staircase & other structures are constructed in rear site margin of the project and that Corner have turning radius of 6.4 Mtrs. only instead of 7.5 Mtrs. In this issue, Joint Committee Member Mr. Pankaj Joshi surprisingly give solution to PP to remove the obstructing staircases & structures installed in SE direction corner.

l. Joint Committee has denied to place on record the SOP under EIA Notification, 2006 related to grant of ex-post facto EC and procedure adopted by SEIAA for grant of EC within One day.

m. Also Joint Committee Members, refused to make any adverse observations on illegality committed by their Superiors in granting of EC & Consents in illegal manner.

n. PP & PMC has shown two wheelers parking in the site margin on their sanctioned plan and that needs to be removed and plans need to be amended.

o. That the slope to the basement in the first basement is **"1:8.8"** & slope to the second basement is **"1:9.16"** against mandatory requirement of 1:10 and these slopes are in violation.

p. Project under violation is sharing boundary with Defence establishment and installation. PP representative were asked for NOC from Ministry of Defence obtained from MOD for present construction adjoining the Defence Installation & establishment. In this regards, PP representative Mr. Sachin Agrawal misbehaved and arrogantly, said there is some civil court order from Civil Judge Senior Division, Pune passed in 2004 and same will be produced before the Joint Committee, However, PP representative was unable to disclose the suit number & date of judgment or decree in this respect. It is brought to the notice of Joint Committee that there is false information provided in the Form-1 and Defence Activity can be put under surveillance easily and this can result in threat to defence operation.

q. Admittedly at Page No. 424 of OA Compilation, the quantities of excavated material for Top soil is 6189.12 M^2,

Soft rock & Hard rock is 27851 M², Murum is 12348 M² and in this regards Tehsildar Pune City representative of Collector will check for the permissions obtained for such huge excavation and will give its report. However, PP failed to disclose its scientific disposal.

r. Admittedly, the land use change sanctioned by collector Order is only to residential purpose and present use is commercial for this purpose Tehsildar Pune City has imposed some fine for regularisation and accepted to produce the details of such authority, powers & Order details to the Joint Committee.

s. Admittedly, as per Development Plan dated 05.01.1987, present project land were notified as Non-development zone and as per Development Plan of 2017, present land is notified as residential area and PMC alleged that said land is notified as R-2 Zone as per the Notification issued in 1997 and commercial land use in this R-2 zone is permissible. In this respect, PMC will submit the specific details for project land notified as R-2 zone permitting commercial use prior to 2017 and such changes granted by Government of Maharashtra and Joint Committee has directed PMC to submit specific details on present project land comes under R-2 zone prior to its original sanction in the year 2002 and its permissible use for commercial mall. However, PMC during site visit failed to prove that the land is notified as R-2 zone permitting commercial mall construction.

t. PMC admitted that the Original sanction was for residential use and later on in the year 2004, it is converted in commercial mall.

u. PMC admitted that there are number of revised sanctions.

v. PMC also admitted that there number of revised sanctions granted by PMC after the grant of EC dated 15.06.2018 from SEIAA.

w. PMC also admitted that the plinth check is issued on 27.07.2007 after the issuance of EIA Notification, 2006 dated 14.09.2006 by MoEF and the Total BUA for the covered construction was more than 20000 M2.

x. PMC also admitted that the Plinth Check dated 27.07.2007 contains mandatory conditions of obtaining Traffic Department NOC within one month and same is not obtained till date. And PP has produced some office note issued by Asst. Police Commissioner of traffic department, which is not NOC.

y. PMC also agreed to submit the sanction wise TBA for each sanction, as Original Applicant has alleged that, each sanction is having TBA of more than 20000 M2 area, which attract prior EC after issuance of EIA Notification, 14.09.2006 and PP is failed to obtain such EC from 14.09.2006 to up till 15.06.2018 and CTE from 14.09.20006 to up till 07.01.2019. This amounts to the violation of EIA Notification.

z. Joint Committee and PMC agreed that there are two basements.

aa. Joint Committee & Garden Department of PMC agreed that the tree No. 68 to 98 and 149 to 158 will not survive due to their unscientific plantation in concrete pot & on raised basement.

bb. STP is installed in basement and it is not containing all necessary units, PP fails to disclose the detailed documents

and also committee is cursory on the same. PP is agreed to provide the details of STP along with electricity bills for STP & OWC for its operation period.

cc. DG Sets are installed in basements and its chimney is of not adequate height.

dd. Joint Committee have accepted to calculate the damages by using their research papers released by SEIAA Maharashtra in 2019 & standard SOP adopted by them on account of illegal construction since 14.09.2006 to 07.01.2019 i.e. till grant of CTE, as the PP were carried out substantial construction of more than 42200 M^2 prior to EC & Consents and also obtained Occupancy in 2018.

ee. Also Joint Committee has accepted the damage to the environment on account of dewatering of ground water, non-providing of RG Area, Solar Panel non-installations, concretisation of marginal spaces and other open spaces around the building impacting the ground water recharging & rain water harvesting, illegal exaction & its unscientific disposal.

ff. Joint Committee dined to counter sing the observations made during the site inspection and seen inclined to protect their superiors from hierarchy who have done illegality in the regulation of this illegal construction project.

gg. However, the conduct of Joint Committee was not pro-environment and it was clearly supporting the PP and their superiors form MPCB & SEIAA, DoE who have committed illegality in this respect.

hh. Hence this primary observations cum affidavit on behalf of the Original Applicant.

5. THEREFORE, IT IS PRAYED THAT;

In the present facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass the following orders:

A. Hon'ble NGT may kindly ignore or set aside the Joint Committee Reports dated 20.04.2019, 29.11.2019, & 06.10.2021 and appropriate actions may kindly be initiated against the Joint Committee members for unfair state of affairs.

B. Hon'ble NGT may kindle issue the notice to the other Respondents and after hearing the PP, imposed heavy environmental compensation.

C. Hon'ble Tribunal may kindly pass an appropriate Orders against the erring Officers.

Whatever stated above is true and correct to the best of my knowledge, belief and information, hence, to verify the same I have signed hereunder at Pune.

Place: Pune
Date: 20.01.2022

Noted and Registered
at Sr. No. 36/2022
Date:- 21 JAN 2022

BEFORE ME
Shashikant B. Kurhade
Notary Govt. of India

NOTARY SHASHIKANT B. KURHADE REGD.NO. 10476 PUNE CITY EXPIRY OF COMMISSION 3/11/2023 GOVERNMENT OF INDIA

APPLICANT
MR. TANAJI B. GAMBHIRE

NOTARIAL NOTARIAL NOTARIAL NOTARIAL NOTARIAL

35/2022

ANNEXURE-A-1

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

Appeal No. 66 of 2014

In the matter of:

1. Sunil Kumar Chugh,
   Room no. 409/5th floor,
   Om Shiv Shakti C.H.S,
   G.T.B Nagar, Mumbai- 400037

2. Ravindra Khosla
   Bldg no. 15/704
   1st floor, G.T.B Nagar,
   Mumbai- 400037

..... Applicants

Versus

1. Secretary
   Environment Department
   Government of Maharashtra
   Mantralaya, Mumbai- 400032

2. Member- Secretary
   State Level Environment Impact Assessment Authority
   Environment Department,
   Mantralaya, Mumbai- 400032

3. Member- Secretary
   State Level Expert Appraisal Committee
   Environment Department,
   Mantralaya, Mumbai- 400032

4. Chief Executive Officer
   Slum Rehabilitation Authority
   Bandra East, Mumbai – 400051

5. Mssrs. Priyali Builders
   102 Triveni Shalimar CHS Ltd,
   Smd Road, Wadala East,
   Mumbai – 400037

6. The Secretary
   Om Shivshakti CHS (proposed)
   Punjabli Colony, JK Bhasin Marg,

TRUE COPY

Sion Koliwada, Mumbai – 400022.

……Respondents

Counsel for appellant:
Mr. Aditya Pratap, Advocate for appellant

Counsel for Respondents:
Mr. Vikas Malhotra and Mr. M.P. Sahay Advs.
for respondent No. 1
Ms. Preeti Bhardwaj and Mr. Dhruve Pal Adv.
for Ms. Hemantika, Advs. for respondent no. 2 & 3.
Mr. AnandYagnik and Mr. Abhimanue Shrestha,
Advs. for Respondent no. 4

Present:
Hon'ble Mr. Justice Swatanter Kumar (Chairperson)
Hon'ble Mr. Justice U.D. Salvi (Judicial Member)
Hon'ble Dr. D.K. Agrawal (Expert Member)
Hon'ble Prof. A.R. Yousuf (Expert Member)

JUDGMENT

Per U.D. Salvi J.(Judicial Member)

Reserved on: 12th December, 2014

Pronounced on: 3rd September, 2015

1. **Whether the judgment is allowed to be published on the net?**
2. **Whether the judgment is allowed to be published in the NGT Reporter?**

1. This is an appeal assailing the grant of Environmental Clearance on 25th March, 2014 to a building project of the respondent no. 5-M/s Piyali Builders at CS No. 2 (part) and 89 (part), Salt Pan Division, admeasuring 6535 sq. meters (total plot area), Punjabi Colony, J.K. Bhasin Marg, Sion Koliwada, Mumbai, broadly on two grounds: firstly, having started construction without obtaining Environmental

Clearance and in violation of imperatives prescribed by the Ministry of Environment and Forests (MoEF) vide Office Memoranda dated 12th December, 2012 and 27th June, 2013 and secondly, the project had been constructed in violation of Town Planning laws and Development Control Regulations.

2. Both the appellants claimed to be residents of Mumbai having deep concern about the environment degradation occasioned by the said project coming up in the locality where they reside. Undisputedly, the total built up area of the project ad measures 29150.07 sq. meters (FSI area; 16871.82 sq. meters and Non- FSI area; 12278.25 sq. meters). It is also not disputed that the land developed was encroached by slums and was reserved for Municipal Office as well as a DP road set back; and the respondent no. 5 submitted a proposal to Slum Rehabilitation Authority under Slum rehabilitation scheme to develop the said land to accommodate 324 tenements in 1997; for which respondent no. 5 was required to hand over an area ad measuring 760 sq. meters to the Municipal Corporation for Greater Mumbai (MCGM) towards road setback for the benefit of public at large; and the first Letter Of Intent (LoI) for the built up area of 14608 sq. meters was received by the respondent no. 5 on 18th February, 2002 and this was followed by revised LoI for built up area of 15887 sq. meters on 06th January, 2006 on account of the change in the plan and a commencement certificate was issued to the respondent no. 5 on 7th

September, 2006 in accordance with DC Regulations in force at the relevant time.

3. Pertinently, the Notification No. S.O. 1553 (E) dated 14th September, 2006 requiring prior Environmental Clearance to the building and construction projects having built up area of more than 20,000 sq. meters was issued by the MOEF, Government of India in exercise of its powers under Section 3 of the Environment (Protection) Act, 1986 and the Rules framed there under. Thereafter the Government of Maharashtra vide notification no. TPB/308/897/CR145/08/UD-11 increased the area for eligible rehabilitation tenements from 225 sq. feet to 269 sq. feet due to which an amended LoI dated 13th August, 2006 for an area of 17804 sq. meters was issued and MCGM gave concurrence for a consolidated rehabilitation building along with the Municipal Office on 30th March, 2013.

4. According to the appellant, the Slum Rehabilitation Authority had recorded in clear terms that the proposed built up area of the project exceeded 20,000 sq. meters and thus required Environmental Clearance from MoEF, Government of India and the same will be insisted upon before approval of further CC (Commencement Certificate) to 1st rehabilitation building. Notwithstanding the fact that the Notification of 2006 clearly stated that no construction of any nature shall commence without obtaining prior Environmental Clearance, yet the construction of the project started in full swing and the

authorities including the Environment Department of Government of Maharashtra, failed to take any effective action against such construction despite various complaints lodged by the appellants, both with the Environment Department and the law enforcing agencies. The project proponent applied for the Environmental Clearance to the State Level Environment Impact Assessment Authority after the commencement of the said project i.e. on 21st February, 2011.

5. The Appellant quoted the progress of the proposals for the grant of Environmental Clearance as under:

(a) "Initial discussion about the project vide Minutes of 3rd meeting of State Level Environment Impact Appraisal Committee-2 dated 4-6 October, 2012 ("ANNEXURE A- 8"). In this meeting the following decision was taken:

"1. PP could not produce documents indicating width of the existing road which is proposed as right of way for the proposed project as per the requirement of the OM dated 7th Feb. 2012 issued by MoEF.
2. PP was directed to produce appropriate documents from competent authority indicating the right of way to their property along with its width.
In view of the foregoing observations are addressed and submitted for reconsideration."

(b) Discussion about the project vide Minutes of 10th meeting of State Level Environment Impact Appraisal Committee-2 dated 14-16 March, 2013. (ANNEXURE "A- 9"). *In this meeting the following decision was taken:*

"The project proposal was discussed on the basis of presentation made on compliance points and documents submitted by the proponent. It was noted that the proposal was earlier discussed in the 3rd SEAC II meeting.

During discussion, following point emerged:

1.PP to recast the proposal as per the road width of 27.3m in consonance of Office Memorandum dated 7th Feb, 2012.

In view of above, the proposal is deferred and shall be considered further after the above observation is addressed and submitted for reconsideration."

(c) Final discussion about the project vide Minutes of 18th Meeting of State Level Environment Impact Appraisal Committee-2 dated 19-21 September, 2013 ("ANNEXURE A- 10"). In this meeting the following decision was taken:

"PP informed that they have already constructed about 13,734.03 m2 of rehabilitation component.

Considering the orders of the Hon'ble High Court regarding Construction to be undertaken up to 20,000 m2 and the letter dated 29th June 2013 from Environment department, Committee decided to appraise the project though there is violation subject to the final decision on the same by SEIAA on the same.

The project proposal was discussed on the basis of presentation made on compliance points and documents submitted by the proponent. It was noted that the proposal was earlier discussed in the 3rd and 10th SEAC II meeting. All issues related to environment, including air, water, land, soil, ecology and biodiversity and social aspects were discussed.

During discussion following points emerged:

1. *Parking for rehab portion is hapzardly proposed in the rehab portion, which is to be revised. PP to submit revised layout showing details for parking along with parking statement as per NBC Norms.*
2. *Rain water storage capacity should be based on 2 days utilisation.*
3. *STP for rehab portion shall be constructed first and excess treated water shall be used for construction purposes of sale building.*
4. *PP to submit construction and demolition waste management plan with quantification.*
5. *PP to provide solar PV panels for energy generation and revise energy saving calculations accordingly.*

After deliberation, Committee decided to recommend the proposal for Environmental Clearance to SEIAA, in view of the court orders allowing construction up to 20,000 m2 and the letter dated 29th June 2013 from Environment department subject to compliance of above points."

(d) Final Decision about the project vide Minutes of the 66th Meeting of State Level Environment Impact Assessment Authority dated 27-28 January, 2014

("ANNEXURE A-11"). *In this meeting the following decision was taken:*

"Authority noted that the proposal was considered by SEAC-11 in its 3rd& 10th meeting and recommended it in 18th meeting under screening category 8(a) B2 as per EIA points. (i) parking for rehab portion is haphazardly proposed in the rehab por6tion, which is to be revised, PP to submit revised layout showing details for parking along with parking statement as per NBC Norms. (ii) Rain water storage capacity should be based on 2 days utilisation. (iii) STP for rehab portion shall be constructed first and excess treated water shall be used for construction purposes of sale building, (iv) PP to submit construction and demolition waste management plan with quantification, (v) PP to provide solar PV panels for energy generation and revise energy saving calculations accordingly.

The project proponent has complied with or agreed to comply with the above points. The Authority elaborately discussed the proposals and noted that the refuge area has been provided in the layout design. It was also observed that one podium acts as a refuge area also. The concession given by SRA in their IOA on account of the Rehab nature of the project were also considered. It was also noted that the commencement certificate had been issued prior to the judgment given by Hon'ble Supreme Court in Civil Appeal No. 11150 of 2013 (out of Special Leave petition (Civil) No. 33402/2012) dated 17th December, 2013. After detailed discussion, the SEIAA decided to grant EC to the project."

Based on such a decision taken by the State Level Environment Impact Assessment Authority, the Impugned Environment Clearance was granted vide letter dated 25th March, 2014, without informing or hearing the appellants."

6. The appellants are seeking quashing of the Environmental Clearance dated 25th March, 2014 granted to the project in question with consequent reliefs of stoppage of project work, demolition of the construction carried out till this date, invocation of Polluter Pay Principle for the violation of Environmental Clearance Regulations and such other action against the public officials who abdicated their statutory

powers for according their favours by granting EC in question on following amongst other grounds:

I. Despite a clear perception that the project built up area exceeded 20,000 sq. meters and as such required prior Environmental Clearance, the respondent no. 2 SEIAA and respondent no. 3 SEAC turned a blind eye to the construction carried out by the project proponent to the extent of 13,734 sq. meters.

II. The Slum Rehabilitation Authority had conceived development of three separate buildings on the plot in question under DP Reservation of Municipal Office;

(i) Independent Municipal Office having 5 floors with 10 parking spaces on a separate carved out plot.

(ii) Rehabilitation Building.

(iii) Building for sale.

III. However, the project proponent merged the Municipal Office building with the Rehabilitation Building thereby putting strain on the environment which fact was ignored by the respondent no. 2 and 3.

IV. The appellants despite making complaints and sending notice under Section 19(1)(b) of the Environment (Protection) Act, 1986 was not given a proper opportunity of hearing and the Environment Clearance was granted upon one sided representation made by the project proponent.

V. The project proponent suppressed the fact of commencement of construction of sale building from the respondent no. 3 SEAC and continued with the same.

VI. The construction of the project was raised to such an extent as to render the collection of base line data and making provision for parking spaces as per the National Building Code of India in compliance with SEIAA condition a virtual impossibility. Grant of Environment Clearance to the project after its work had been substantially accomplished is violative of Article 14 of Constitution of India for having discriminated with the one who is required to obtain prior EC before proceeding with the construction work.

VII. Un-wholesome compromising of Town Planning stipulations relating to fire safety and marginal open spaces, recreation ground and parking spaces.

VIII. Responsibility of public servant who permitted construction to be carried out without EC under Section 17 of the EP Act, 1986, particularly, when there is no provision under the Environment (Protection) Act, 1986 to regularise the construction which has come up in violation of environment laws.

IX. 'Precautionary Principle' and 'Polluter Pays Principle', need to be invoked for quashing of EC and imposing compensatory cost on the project proponent for having

carried out construction without obtaining prior EC so as to account for loss to environment.

7. A brief reply dated 17th May, 2014 giving resume of how the proposal for grant of EC to the project in question waded its course through several meetings of SEAC between 4th October, 2012 and 28th January, 2014 leading to the grant of EC in question was filed along with relevant extracts of the minutes of the said meetings by the respondent nos. 1 to 3. The respondent nos. 1 to 3 affirmed that the part construction work of the project not exceeding 20,000 sq meters without obtaining EC is not violative of the provision of EIA Notification, 2006. However, the respondent nos. 1 to 3 submitted that it had issued circular dated 17th January, 2014 in pursuant to the orders passed by the Hon'ble High Court of Bombay in WP (L) 2305/13 dated 18th December, 2013, *M/s Vardman Developers vs. U.O.I and Ors.* involving issues of construction of rehabilitation component below 20,000 sq meters that the construction of rehabilitation component below 20,000 sq. meters may not be considered as violation of EIA notification, 2006 and be read with OM of 12th December, 2012. However, it was added that it is desirable that all such cases of environmental concerns should be addressed at the planning stage. According to respondent nos. 1 to 3, in the given fact situation, the decision of issuing EC to the project after addressing of environmental issues in accordance with law particularly,

orders of the Hon'ble High Court of Bombay and OM dated 12th December, 2012 issued by MoEF has to be clarified by the MoEF.

8. The respondent no. 4- CEO, Slum Rehabilitation Authority vide brief affidavit dated 23rd May, 2014 urged for the dismissal of the present appeal with cost. According to him the land in question owned by the Municipal Corporation of greater Mumbai was fully encroached upon by slum dwellers who were not even having sanitation or basic necessities of life and as such it was first declared as a slum and as per the policy of the Government of Maharashtra Slum Rehabilitation scheme was sanctioned under the DC Regulations 33(10) by the authority; and the appellant being one of the slum dwellers is a beneficiary of the said scheme as a allottee of free permanent accommodation (tenement 409) in rehabilitation building no. 1, and as such has no right to challenge the scheme in the present appeal. The respondent no. 4 further revealed that initial LOI dated 18th February, 2002 issued by the respondent authority was revised/amended from time to time i.e. on 6th January, 2006, 7th February, 2009 and 13th August, 2009 and a part occupation certificate dated 01-10-2013 has been issued to the rehabilitation building and the allottees of the permanent rehabilitation tenements are presently residing there. According to the respondent no. 4, when the LoI was first issued on 18th February, 2002 the permissible Built Up Area

(BUA) was less than 20,000 sq meters and the change in Government policies brought about increase in the area of residential rehabilitation tenements from 20.90 sq. meters to 25 sq meters and *in situ* FSI was increased from 2.5 to 3 with consequent change in the entire planning and therefore revised LoI were issued last being 13th August, 2009 and yet the permissible BUA was still below 20,000 sq meters and did not warrant prior EC from MoEF. It further added that in order to make Slum Rehabilitation scheme viable, no parking for the slum dweller in the rehabilitation building is mandatory as the commencement Certificate was issued on 7th September, 2006. It is only upon the notification dated 4th April 2011 regarding BUA it was made clear that BUA both under FSI and free of FSI areas shall be considered and accordingly, the project proponent was asked to submit NOC from MoEF and accordingly the EC dated 25th March, 2014 for the scheme was obtained. The respondent no. 4 asserted that the respondent no. 5, the project proponent had obtained a requisite sanction/Commencement Certificate from Municipal Council for Greater Mumbai. As regards the Municipal Office, it added, the requisite concurrence from the Municipality was obtained on 30th March, 2013 and there is no violation of the Slum Rehabilitation Scheme as regard to the said issue and the requisite RG as per the parameters set out in Appendix (iv) clause 6.20 has been proposed and there is no violation as regards the RG or provided in the scheme.

9. Refuting the contentions raised by the appellants, respondent no. 5, the project proponent filed a detailed affidavit dated 21st May, 2014 along with the documents in support. Reiterating the facts asserted by the respondent no. 4-Slum Rehabilitation Authority and the revision of LOI's, the respondent no. 5 submitted that the EC Regulations of 2006 came into force on 14th September, 2006 and as such there was no violation of law in commencement of the construction work upon the issuance of commencement certificate to the respondent no. 5 on 7th September, 2006. Inviting our attention to the process stipulated for grant of EC under the EC Regulations, 2006, the respondent no. 5 submitted that the EC in question was duly granted and the appellant was not entitled to extend the scope of the appeal preferred by them under Section 16 read with Section 18 of the NGT Act, 2010 and raise the issues relating to substantial questions relating to environment and seek reliefs consequent thereto. According to respondent no. 5 there is no document placed by the appellants either to show the bonafides and locus standii or the damage caused to the environment due to construction done prior to the grant of Environment Clearance. According to respondent no. 5 the environment Management Plan was in place during construction and all such care was taken by the project proponent to protect the environment to the extent it would be protected.

10. Quoting diary of events leading to the Environment Clearance, the project proponent stated that the authorities had taken an objective decision to grant the Environment Clearance on the basis of the material required to be furnished in form 1(A), conceptual plan power point presentation as required under law. The project proponent further stated that there was increase in total built up area from time to time and LOI were issued accordingly, last one being LOI dated 13th August, 2009 by virtue of which the total built up area of the rehabilitation component was increased from 20.90 sq meters to 25 sq. meters per each Rehab tenement. However, total built up area never exceeded 20,000 sq. meters. According to the respondent no. 5, the Commencement Certificate (CC) was granted on 7th September, 2006 i.e. prior to the Environment Clearance Regulation coming into force and as such they are saved from the rigour of the Environment Clearance Regulations. The respondent no. 5, further contended that there existed a confusion regarding the interpretation of the Category 8(a) under Environment Clearance Regulations, dated 14th September, 2006, particularly, as to whether the built up area referred to therein included non- FSI areas such as balconies, canopies, sills, pump house, common utility, etc. and such confusion prevailed not only amongst the builders but also amongst the authorities including SRA and MCGM; and such confusion vanished only when the notification dated 4th April, 2011 was issued by the MoEF, thereby making the

position clear. The project proponent contended that the delay in obtaining the Environment Clearance before the commencement of the construction cannot be said to be deliberate or ill intended. Quoting Judgments of the Hon'ble High Court of Bombay, particularly with reference to the Judgment of Western Zone Bench, of this Tribunal in cases of *M/s Aadi properties (P) Ltd vs. State Level Environmental Impact & Ors. Appeal No. 73/2013*, the respondent no. 5 submitted that construction not exceeding 20,000 sq. meters under SRA/restoration projects without obtaining Environment Clearance were not considered illegal. On this background the respondent no. 5 further contended that there was no violation of the Environment Clearance Regulations and as such no action was required to be initiated against anyone including the project proponent and the authorities for such alleged violations.

11. The respondent no. 5, the project proponent submitted that the plans for construction were duly approved in accordance with the DC Regulations, then prevailing which did not provide parking to rehabilitation buildings in SRA schemes. According to respondent no. 5, project proponent the National Building Code can be treated as guidelines but not as law having a binding force.

12. The appellant filed rejoinder to the reply of the project proponent dated 22nd May, 2014 on 25th June, 2014. The

appellant in its rejoinder summarised the main contentions of the project proponent as under;

a. *That the Developers were not bound to take Environment Clearance and have done so in a voluntary manner without any obligation under the law:*
b. *That construction of up to 20,000 square meters without Environment Clearance is legal and permitted as per the ruling of the Bombay High Court in the cases of Saumya Buidcon and Vardhaman Developers.*
c. *That the Developers did not have mens rea or an intention to commit the offence under section 15 of the Environment Protection Act, 1986.*
d. *That the National Building Code of India is only advisory and does not have the force of law.*
e. *That since the Environment Clearance, Commencement Certificate and Letter of Intent have been received for the project, it is legal in all respects:*
f. *That SEIAA and SEAC were not bound to hear the complaint filed by the Appellants as public hearing is not mandatory for building and construction projects under Item 8(b).*
g. *SEAC cannot look into parking and Open spaces as they are the exclusive domain of the Municipal Corporation of Greater Mumbai and the Slum Rehabilitation Authority.*
h. *The Parking requirements in Development Control Regulations are not applicable to slum rehabilitation projects.*

13. The appellants made attempts to rebut them with some facts and their exposition of law. Referring to the google earth satellite photographs dated 22nd February, 2007 the appellants submitted that no construction activity had started by that date and the construction work commenced only after 28th February, 2007; on this backdrop the appellants asserted that the project proponent was mandated to obtain prior Environment Clearance for the construction project undertaken by them as per para 2 of EIA Notification, 2006 dated 14th September, 2006. Referring to the amendment in the Category 8(a) of the Environment

Clearance Regulations effected EIA Notification dated 4th April, 2011, the appellant contended that it being a clarifying amendment has/had retrospective effect and therefore, the construction which exceeded 20,000 sq. meters being carried out without Environment Clearance was illegal and the Environment Clearance granted to it deserves to be quashed. Referring to the cases of *M/s. Saumya Buildcon Pvt. Ltd vs. Union of India & Ors. W.P. No. 470/2013 and M/s. Vardhman Developers limited vs. Union of India W.P.(L) No. 2305/2013* cited by the project proponent, the appellants submitted that the decisions in the said cases were given in peculiar circumstances and in no way interpret the provisions of Environment Clearance Regulations, EIA Notification, 2006 requiring prior Environment Clearance for the construction projects and therefore, the Judgments in the cases cannot be treated as judicial precedents having binding effect on other courts. According to the appellants, commencement of construction without obtaining prior Environment Clearance leaves no scope for base line studies and robs the SEAC of the opportunity of objective appraisal of the proposal for Environment Clearance.

14. Admittedly, the project in question is a project of building and construction enumerated entry 8(a) of the schedule to the Environment Clearance Regulations, 2006 and falls in category B as stipulated therein. Going by their own version of events, the construction of the project commenced on 7th

September 2006 and in any event prior to the making of the application for Environment Clearance on 21st February, 2011. Therefore, the question arises as to whether post construction Environment Clearance could have been granted in violation of EC Regulations, 2006. We are therefore, obliged to examine the entire concept and scheme of granting Environmental Clearance to the projects of such kind.

15. Environment Clearance Regulations, 2006 is the product of the exercise of powers conferred by sub-section (1) and clause (V) of sub- section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of Sub-Rule 3 of Rule 5 of the Environment (Protection) Rules, 1986. Section 3 of the said Act confer powers on the Central Government in order to take all such measures as deemed necessary or expedient for the purposes of protecting and improving the quality of Environment and preventing, controlling and abating Environment pollution; and in particular, to take such measures for restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under sub-section (2) clause (V) of the said section. Thus the purpose of employing such measures for which the powers are conferred under section 3 of the Act is to protect the environment and prevent, control and abate environmental pollution that may arise as a result of any industrial operation or the process.

Keeping this purpose in mind the Central Government in clear terms directed vide Environment Clearance Regulations, 2006 that on or from date of its publication i.e. 14th September, 2006 the required construction of new projects or activities or the expansion or modernisation of existing projects or activities listed in the Schedule to the Notification (Regulations) entailing capacity in addition with change in process and/or technology shall be undertaken in any part of India only after prior Environmental Clearance in accordance with the procedure specified in the Regulation. Such direction had been issued for the purposes of protecting the environment at the place of activity in question from the likely adverse impacts of such activity. A reading of Environment Clearance Regulations 2006 copiously reveals that the required construction of new projects or activities or the expansion and modernisation of existing projects or activities listed in the Schedule has to be undertaken in any part of India only after the prior Environment Clearance. Idea is to regulate such construction in order to avoid its adverse impacts on the environment and its genesis is in precautionary principle governing the approach in handling the delicate and often complex as little understood aspects of environment which includes not only the elemental component like water, air and land but its environment relationship with all living organisms drawing the sustenance there from. We have therefore, no hesitation in holding that

commencement, or continuation of construction activity without obtaining environment clearance is violative of Environment Clearance Regulations 2006 and can attract penal consequences u/s. 15 of the Environment (Protection) Act, 1986.

16. Defending its acts the respondent no. 5 submitted that the commencement of the construction took place prior to the Environment Clearance Regulations 2006coming into force and the term 'built up area' referred to in the column 4 of the entry 8(a) of the Regulation was mis-understood till the amendment to the conditions vide Notification dated 4th April, 2011 came into force.

17. Reliance has been placed by the project proponent on the Commencement Certificate issued on 7th September, 2006 to say that the construction activity commenced some seven days prior to EC Regulations, 2006 coming into force. For a construction of the dimensions as revealed by the respondent no. 5 hardly any material change had occurred within those seven days at the ground level. We have before us two things- firstly, the assertions made by the appellants with reference to Google earth satellite photographs dated 22nd February, 2007 that no construction activity had started at the project area by that date and construction activity commenced only after 22nd February, 2007 and secondly, the increase in area of the rehab tenements from 225 sq. feet to 269 sq. feet pursuant to notification dated 14th May, 2008.

This notification stipulated that the new area would only be applicable to those slum rehabilitation projects which had received commencement certificate but where construction had not started. On this backdrop the respondent no. 5, without giving details of the revised Commencement Certificate merely claims that he started construction on the basis of revised Letter of Intent issued to him in 2009.Moreover, one can be alive to the fact that increase in the area of the rehab tenement component would mean change in structural features such as foundation, plinth and walls. Obviously, this called for revision and amendment to the plans and its consequent approval by the planning authority. Silence is kept by the respondent no. 5 as to when this approval to the amended plans was granted and fresh Commencement Certificate was issued. However, letter dated 06-11-2009 at annexure A-21 to the written submission addressed to the Municipal Corporation Greater Mumbai, Fire Brigade brings forth a fact that the amended plans for U-shaped rehabilitation building/compound; high rise residential accommodation, rehab shops, welfare centre, society office, sale offices and Municipal offices were submitted for approval. Evidently, no approval was granted by them to the plans for construction of rehabilitation component, and obviously, therefore, the construction can said have been commenced well after the Environmental Clearance Regulations 2006 came into force.

18. It is true that the term "built up area" was not defined in the EIA notification 2006. The import of the term "build up area" could be understood from its plain meaning and could have been very well understood, as pointed out by the appellants, from DC Regulations for Greater Mumbai, 1991. What is built or constructed is that which can be called as built up. In common parlance therefore, that term "built up area" would mean total constructed area. If one refers to Development Control Regulations for Greater Mumbai, 1991,we find clear distinction between "built up area" and Floor Space Index (FSI) in following terms:

> ***DCR 2(13): "Built-up area"*** *means the area covered by a building on all floors including cantilevered portion, if any, but excepting the areas excluded specifically under these Regulations.*
> ***DCR 2 (42): "Floor space index (FSI"):*** *means the quotient of the ratio of the combined gross area of all floors, excepting areas* ***specifically exempted*** *under these Regulations, to the total area of the plot, viz. :-*
> ***Floor Space Index (FSI)*** *= Total covered area on all floors/ plot area*

19. DC Regulations 1991 do not afford any specific exception as regard any area for computation of "built-up area" unlike specific exemption of area for computation of FSI specified as in DCR-35. Certain areas or structures permitted in recreational open spaces and areas covered by features permitted in open spaces as well as stair-case rooms, lift rooms above the topmost storey, lift-wells, stair cases and passage thereto, chimneys, elevated tanks are not to be counted towards FSI with certain exceptions as given under DCR-35. From definitions of "built-up area" and "FSI area" one can clearly see that these terms

have independent and distinct meanings and they cannot be substituted or used inter-changeably with one another. No justification or excuse therefore, is available to the respondent no. 5 to contend that there was any room for misunderstanding the meaning of "built-up area" and only "FSI" area could have been the basis of coming to the conclusion whether the Environment Clearance for the project in question was necessary or not. The contention of the appellants that there was clear perception regarding the built-up area of the project exceeding 20,000 sq. meters amongst all stakeholders- project proponent and authorities concerned is meritorious.

20. Assuming that the Amendment of 2011 to the EIA notification, 2006 vide Gazette of India (Extraordinary) Notification S.O. 695(E) was enacted with the object of explaining and clarifying the meaning of the term built up area in the EIA Notification 2006, the applicants argued with reference to Zile Singh case *(Zile Singh V. State of Haryana &Ors. Appeal (Civil) 6638 of 2004)* that the rule against retrospective application of the statute is inapplicable to such legislations which are explanatory and declaratory in nature. The hon'ble Apex Court in Zile Singh case held as under:

> *"It is cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have a retrospective operation. But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the Legislature to affect existing rights, it is deemed to be prospective only' nova constitution*

futuris formamim poneredebet non praeteritis' _ a new law ought to regulate what is to follow, not the past. (See; Principles of Statutory Interpretation by Justice G.P. Singh, Ninth Edition, 2004 at p.438). It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil of the benefit of the community as a whole. (ibid, p.440) The presumption against retrospective operation is not applicable to declaratory statutes. In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is 'to explain' an earlier Act, it would be without object unless constructed retrospective. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statue is curative or merely declaratory of the previous law retrospective operation is generally intended. An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect. (ibid, pp. 468-469).

……..

Where a statute is passed for the purpose of supplying an obvious omission in a former statute or to 'explain' a former statute, the subsequent statute has relation back to the time when the prior Act was passed. The rule against retrospectivity is inapplicable to such legislations as are explanatory and declaratory in nature. The classic illustration is the case of Att. Gen. Vs. Pougett ([1816] 2 price 381,392). By a Customs Act of 1873 (53 Geo. 3, c. 33) a duty was imposed upon hides of 9s. 4d., but the Act omitted to state that it was to be 9s. 4d. per cwt., and to remedy this omission another Customs Act (53 Geo. 3, c. 105) was passed later in the same year. Between the passing of these two Acts some hides were exported, and it was contended that they were not liable to pay the duty of 9s. 4d. per cwt., but Thomson C.B., in giving judgment for the Attorney-General, Said: "The Duty in this instance was in fact imposed by the first Act, but the gross mistake of the omission of the weight for which the sum expressed was to have been payable occasioned the amendment made by the subsequent Act, but that had reference to the former statute as soon as it passed, and they must be taken together as if they were one and the same Act." (p.395)

21. Preamble of the said amending notification which is reproduced hereunder makes it abundantly clear that the amending Notification was to provide clarification with regard to the term "built-up area":

> *"And whereas, it has been decided to provide clarification with regard to the term "built-up area" used in the said Notification and also to make various paras of the Notification mutually consistent and to restore the unintent6ional changes, which got into the Notification while making amendment vide S.O. 3067 (E) dated 1st December, 2009, in particular the entry against item No. 7 (f) in the schedule to the EIA Notification, 2006 relating to highway projects and for this purpose to issue suitable amendments in the said Notification."*

obviously therefore, the clarification given necessarily applies to EIA Notification, 2006 with retrospective effect from 14th September, 2006 the date on which EIA came into force.

22. Several judgments of the Hon'ble High Court of Judicature at Bombay namely, copy of order dated 29-03-2012 in *Naresh janardhan Mali vs. The State of Maharashtra and Ors.*, Copy of order dated 24-09-2012 in *Vardhaman Developers ltd. vs. Union of India*, Copy of order dated 16-01-2013 in *Nahur Vivekanand CHS vs. union of India,* copy order dated 06-03-2013 in *Saumiya BuildconPvt. Ltd. Vs. Union of India*, copy of order dated 09-05-2013 in *Tridhatu Ventures LLP Vs. State of Maharashtra*, copy of order dated 21-06-2013 in *Vision Developers v. Union of India*, Copy of order dated 18-12-2013 in *Vardhaman Developers Ltd. Vs. Union of India*, copy of order dated 24-03-2014 in *Glomore Construction Vs. Union of*

India were cited to buttress the claim that the construction without prior Environment Clearance was legally permissible. In answer, Learned Counsel appearing on behalf of the appellants submitted that these judgments cannot be regarded as a law declared and will not be binding upon this Tribunal, more particularly so because the Hon'ble High Court gave permission to construct up to 20,000 sq. meters without Environment Clearance only on a case to case basis and did not expound law with reference to EIA Notification, 2006. It is true that the said Judgments cannot be regarded as a law declared and binding all courts within the territory of India as is the law declared by the Supreme Court under Article 141 of the Constitution. However, if the expounding of the law has been made by the Hon'ble High Court, such exposition of law will certainly have persuasive effect on us. On perusal of these judgments one finds merit in the submission made by the appellants that the Hon'ble High Court dealt with the exigencies of the fact situation on case to case basis and granted permissions to construct up to 20,000 sq. meters without Environmental Clearance. Nowhere we find that the Hon'ble High Court considered the scope and scheme of the EIA notification, 2006 and expounded the law concerning need to have prior EC for the construction as specified in Entry 8(a) of EC Regulation, 2006. Significantly, in Vardhman Developers case the Hon'ble High Court directed the petitioners not to claim any equity on the basis of

the order made and further clarified that no equity shall be created in favour of the petitioner when its application for Environment Clearance is considered by the authority and the authority was to consider such proposals for Environment Clearance on its merits without being influenced by the order. The judgments, therefore, need not persuade us to hold that the respondent no. 5 is without any blame of violating EIA notification, 2006 by undertaking construction and continuing with it before the Environmental Clearance was granted.

23. For answering the present controversy which arises as a result of the commencement of the construction in question prior to the grant of environmental clearance, it is further necessary to know what happens upon the violation of the EC Regulations, 2006 by undertaking construction as aforesaid. This can be better understood by knowing what is achieved as a result of going through the process of appraisal for the grant of Environmental Clearance to the projects of construction like the one in question.

24. Needless to reiterate that the proposal for grant of EC to the project in question listed as Category B in item 8(a) of the Schedule of the EC Regulations, 2006 does not require scoping and can be appraised on the basis of I. Form-1, Form-1A and the conceptual plan-vide7(i) II. Stage (2) EC Regulations, 2006. “Public Consultation” as conceived under para 7(i) III. Stage (3) of EC Regulation, 2006 is also not

needed in respect of such project of building or construction or area development projects (which do not contain any Category 'A' project and activities) and Townships. It is only the appraisal i.e. the detailed scrutiny by the SEAC that needs to be done and the recommendations of SEAC are required to be placed thereafter before the Competent Authority i.e. SEIAA for final decision for grant of Environmental Clearance. EC Regulations, 2006 prescribes procedure for appraisal at Appendix V thereto. Para-3 therein is relevant for the purpose of this case and is therefore, reproduced therein below:

> *"3. Where a public consultation is not mandatory, the appraisal shall be made on the basis of prescribed application in Form-1 and environment impact assessment report, in the case of all projects and activities (other than item 8 of the Schedule), except in case where the said project and activity falls under category 'B2', and in the case of items 8(a) and 8(b) of the Schedule, considering their unique project cycle, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall appraise projects or activities on the basis of Form-1, Form-1A, conceptual plan and the environment impact assessment report [required only for projects listed 8(b)] and make recommendations on the project regarding grant of environment clearance or otherwise and also stipulate the conditions for environmental clearance."*

25. It is seen from the procedure prescribed that the SEAC is mandated to appraise projects or activities of the kind in question on the basis of Form-1, Form-1A and conceptual plan and make recommendations on the project regarding grant of Environmental Clearance or otherwise and also stipulate the conditions for Environmental Clearance. Form-

1 makes or should make available exhaustive information or data in respect of the project proponent and the land in question for scrutiny under the following heads:

I. Basic information (description of the land proposed and the project proponent, need of clearance under: the Forest (Conservation) Act, 1980, the Wildlife (Protection) Act, 1972, CRZ Notification, 1991, Government policy in respect of the site in question, involvement of forest land, tendency of litigations against the project and/or land proposed).

II. Activity:

1. Construction, operation or decommissioning of the project involving actions, which will cause physical changes in the locality (topography, land use, change in water bodies, etc.)

2. Use of natural resources for construction or operation of the project (such as land, water, material or energy, especially any resources which are non-renewable or in short supply.)

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.

4. Production of solid wastes during construction or operation or decommissioning.

5. Release of pollutants or any hazardous, toxic or noxious substances to air.

6. Generation of noise and vibration, and emissions of light and heat.

7. Risk of contamination of land or water from releases of pollutants into the ground or into sewers, surface water, ground water, coastal waters or the sea.

8. Risk of accidents during construction or operation of the project, which could affect human health or the environment.

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 the planned activities in the locality.

III. Environmental sensitivity.

IV. Proposed Terms of Reference/or EIA Studies.

26. Thus all such information helps to understand what could happen as a result of the said project and in conjunction with other existing or planned activities in the locality and this is required to be taken cognizance of by SEAC for the process of the appraisal for making suitable recommendations regarding grant of Environmental Clearance. Form-1A in Appendix II of EC Regulations, 2006 is an exhaustive questionnaire seeking answers to the specific questions in respect of Land Environment, Water Environment, Vegetation, Fauna, Air

Environment, Aesthetics, Socio-Economic Aspects, Building Material, Energy Conservation and Environment Management Plan. Answers to these questions are of material importance for objective appraisal of the proposal for grant of Environmental Clearance. Environment Management Plan which is to be the part of Form-1A is expected to give all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimise adverse environmental impacts as a result of the activities of the project and is further expected to delineate the environmental monitoring plan for compliance of various environmental Regulations and must state the steps to be taken in case of emergency such as accidents at the site including fire. Nowhere the EC Regulations, 2006 has made any provision for providing hearing to the beneficiaries of the project of building or construction or area development project (which do not contain any category 'A' project and activities) and Townships. A question as to whether proper opportunity of hearing was given to the appellants or not in the process of granting EC in question, therefore, does not survive.

27. Gap between the commencement of construction (as pleaded by the project proponent as having commenced upon the issuance of Commencement Certificate dated 07-09-2006) and making of the application for grant of EC on 21-02-2011, gives scope for concealment or misrepresentation of certain

facts pertinent to grant of EC, and, therefore, possibility of any mischief in furnishing information/Data as required to be furnished vide Form-1 and Form-1A cannot be ruled out. In other words, collection and availability of wholesome baseline data necessary for objective appraisal of environmental impacts and for prescribing safeguards or corrective measures becomes farcical nay virtual impossibility as contented by the appellants.

28. In the given fact situation we can easily conclude that such Environment Management Plan must have been submitted long after the commencement of actual construction. Environment Management plan, therefore, can be suitably tailored to match the conditions for obtaining EC at the time of making the application, when things get altered due to previous construction and there remains no source of assessing its efficacy or validity with reference to the things obtaining at the time of commencing the construction.

29. On this backdrop, the appellants have chosen to make a specific grievance regarding inadequacy of open/recreational spaces and available parking spaces with reference to DC Regulations and National Building Code of India.

30. Whatever little window that is offered to what happened after submission of an application for grant of Environmental Clearance in the present case is through the minutes of the meeting of SEAC placed before us. From the reading of Minutes of 18th Meeting of the SEAC dated 19th -21st

September, 2013, we can very well gather that Environmental Management Plan was inadequate or in-appropriate as regards parking for rehab portion, rain water storage capacity, STP for rehab portion, construction and demolition, Waste Management, solar PV Panels, and yet the construction of 13,734.03 sq. meters of rehabilitation component had already come up. Nothing more needs to be stated as regard the environmental damage incurred due to the transgressions of EC Regulations, 2006 by undertaking construction prior to grant of Environmental Clearance.

31. Minutes of 66th Meeting of SEAC dated 27th -28th June, 2014 reveals how the final decision for recommendations of the grant of Environmental Clearance to the project was taken. SEAC noted the shortcomings in the project vis-à-vis parking in rehab portion, rain water storage capacity, STP for Rehab portion, solar PV panels and construction and demolition waste management plan as noticed previously and merely recorded that the project proponent has complied with or agreed to comply with the requisition made in respect of the said shortcomings and thereafter proceeded to decide the grant of Environmental Clearance in favour of the project.

32. The record before us-the lay out plan and the Environmental Clearance dated 25th March, 2014 tells us a different story. It is revealed that the green area (RG) provided on the ground is less than 8 per cent of the net plot area i.e. 5775.00 sq meters and as such is not as prescribed by the Slum

Rehabilitation Authority vide clause 6.20, Appendix iv, DCR 33(10). RG area on the ground is only 380.41 square meters i.e. 6.58 per cent of the net plot area. Thus it falls short by 81.59 sq. meters which ought to have been provided in the project.

33. The record reveals that only 91 off street parking spaces are made available in the said project. According to the respondent no. 5 the project proponent, the appellant no. 1 was the slum dweller with no basic amenities, and is now beneficiary of slum rehabilitation scheme who could now enjoy permanent alternative accommodation in a new building with modern amenities and improved environmental conditions as a result of the project in question. It therefore, does not lie in the mouth of appellant no. 1, according to the respondent no. 4 the project proponent, untenable allegations against the project. It is true that the appellant no. 1 is the beneficiary of SRA scheme and was a slum dweller at one point of time. However, this cannot put him to discount to say that he enjoys little lesser rights than any non-slum dweller, particularly, right to healthy living and clean environment. The appellant no.1 being consensual party to the development of the slum under slum rehabilitation scheme does not give any license to the developers to subvert the law and develop the area as he likes particularly, to the detriment of the rights which law confers upon every citizen alike. We therefore, do not wish to countenance the

submission made in that regard on behalf of the project proponent.

34. As regards recreational/open space area it is the case of the respondent no. 5 that reduction in amenity space to 8 per cent was permitted by the respondent no. 4 SRA as per clause 6.20 under Appendix iv of DCR 33(10) and a revised plan however was subsequently submitted wherein additional amenity space above podium level is much in excess to what was required has been provided. In this context our attention is invited to the Judgment of the Hon'ble Apex Court delivered in the case- Municipal Corporation of Greater Mumbai vs. Kohinoor CTNL Infrastructure Co. Pvt. Ltd. and Anr;(2014) 4 SCC 538 by the Learned Counsel appearing on behalf of the appellants. He submitted that availability of open/recreational space at the ground level is necessary to avoid adverse impact on the environment and human health as held by the Hon'ble Apex Court. The Hon'ble Apex Court held that the right to clean and healthy environment is within the ambit of Article 21 and the provisions of DCR 23 requiring recreational open space permanently open to the sky for growing trees are mandatory in the interest of basic requirements for good life and this position cannot be altered by the fact that the development schemes under DCR 33 (7), 33 (9), and 33(10) provide lesser recreational area/amenities spaces. The Hon'ble Apex Court however, held that the recreational area/amenities spaces has to be on the land i.e.

on the ground level the relevant extract from the Judgment are quoted herein below;

> *The right to a clean and healthy environment is within the ambit of Article 21. Furthermore, the right to a clean and pollution free environment, is also a right under our common law jurisprudence. (para 30)*
>
> *The provisions of DCR 23 are mandatory. Besides, under sub-clause (f) of DCR 23 there is a requirement of keeping the recreational open space permanently open to the sky and trees are to be grown in that space as laid down i.e. five trees per hundred square metres of the recreational space within the plot. DCR 2(64) defines "Open Space" to mean an area forming an integral part of a site left open to the sky. A "site" is defined under DCR 2(83) to mean a parcel or piece of land enclosed by definite boundaries. These DCRs when read together very much make it clear that the recreational/amenity space has to e on the land i.e. on ground level and it has got to be 15%, 20% or 25% of the area depending upon its size, as prescribed in DCR 23. The requirement of recreational space on the podium under DCR 38(34)(iv) is discretionary. Besides, as DCR 38(34)(iii) lays down, the podium shall be basically used for parking. Besides, DCR 38(34)(iv) does not contain a non-obstante clause to override the requirement under DCR 23 making it mandatory to provide recreational space on the ground floor. That being so, the provision under DCR 38(34) cannot be read in derogation of the requirement under DCR 23 or else it will result into serious erosion in the basic requirements for a good life affecting the guarantee of right to life under Article 21 of the Constitution of India. Therefore, DCR 38(34)(iv) has to be read down as inapplicable and not excluding the mandatory provision under DCR 23. (Paras 19, 27 and 28)*
>
> *This position is not altered by the fact that the development schemes under DCRs 33(7), 33(9) and 33(10) provide for lesser recreational area/amenity spaces. For development projects under DCR33(7) for reconstruction of cessed buildings, and for the urban renewal schemes under DCR 33(9), and for the slum rehabilitation projects under DCR 33(10), it is permissible to reduce the recreational/amenity open spaces to the limit prescribed in the respective Regulations to facilitate these schemes. Thus, under DCRs 33(7) and 33(10) reduction in the amenity open space is permitted to make the project viable, but still minimum 8% of the project area is required to be maintained as amenity open space. Similarly, for the*

schemes under DCR 33(9) minimum 10% of the plot area is required to be retained as recreational space. However DCRs 33(7), (9) and (10) are not generally applicable, since in other properties, where there are no such constraints to make the development schemes of rehabilitation or reconstruction of old buildings or slums viable, there is no reason why amenity open space at the ground level should be read as permissible, to be reduced. The only ground for reducing this mandatory open space at the ground level being given is that more parking and more accommodation may be provided, meaning thereby more construction, concretisation and financial expediency. Such a purpose cannot be read into the provisions as they presently exist, nor is it desirable to do so from the point of view of the requirement of minimum open spaces at the ground level. Besides, the requirement of having trees and open land around them is necessary from an environmental point of view, since there is already excessive concretisation, and a very serious reduction in open spaces at the ground level. (Paras 20 and 29)

Thus, having 15%, 20% or 25% of the area (depending upon the size of the lay out) as the recreational/amenity area at the ground level is a mandatory minimum requirement, and it will have to be read as such. Hence, it is not permissible to reduce the minimum recreational area provided under DCR 23 by relying upon DCR 38(34). However, if the developers wish to provide recreation area on the podium, over and above the minimum area mandated by DCR 23 at the ground level, they can certainly provide such additional recreational area. (Para 32)

We have therefore no hesitation in holding that respondent no. 5, the project proponent failed to provide minimum space at the ground level as required under law.

35. At this stage it would be worthwhile to consider the importance of Town Planning. Town Planning is the art and science of orderly use of land, setting up of buildings and communication routes in order to:

1. Make right use of the land for the right purpose.

2. Create and promote healthy conditions and environment for all the people, both rich and poor, to work, play or relax.
3. Provide social, economic, cultural and recreational amenities etc. and lastly to preserve the individuality of the town and aesthetics in the design of all elements of town or city plan.

36. Every development though conceived independently has to be in consonance with total and composite planning of the city of which it forms the part. If this is not adhered to, it tends to destroy or frustrate the planning for which it is conceived i.e. creation and promotion of healthy conditions and environment for all the people. If such planning is thrown to winds, there would be uneven and inadequate development, congested transport network, and obviously, its victim would be generally environment and particularly the people or humans who live in it.

37. In the instant case, initially three buildings- rehabilitation building having permissible FSI of 8,850 sq. meters, sale building having permissible FSI of 8,290 sq. meters and Municipal building having permissible FSI of 866.25 sq. meters were planned on the net plot area ad measuring 5,775 sq. meters were planned. Later on with the concurrence of the Municipal Corporation Rehabilitation building and Municipal building were merged together. Thus rehabilitation

building/component and sale building/component are planned to house the following tenements:

Rehabilitation Building	**Sale Building**
Shops :61(25 sq.m each) Residential Flats : 263 Balwadi : 04 Welfare Center : 04 Society Office : 04 Municipal Office :01 (866.25 sq.m)	Shops: 08 Residential Flats: 53

38. To sub-serve the aims and objectives of Town Planning the advisory like National Building Code and the DC Regulations come into play. As per NBC, 2005 annex B (clause10.1) one off street car parking space is recommended per: one residential tenement of 100 sq. meters of (built up) FSI area, every 50 sq.m of area or fraction thereof of the administrative office area for educational institute and public service or for mercantile office, and 100sq.m of area or fraction thereof of Municipal building. Applying these standards to the tenements in rehabilitation and sale building the following picture emerges:

Rehabilitation Building

Shops : 61; If we consider 25 sqm FSI for each shop then total FSI = 1525 sqm

Balwadi: 04; If we consider 25 sqm FSI for each shop then total FSI = 100sqm

Welfare centre: 04; If we consider 25 sqm FSI for each shop then total FSI = 100 sqm

Society Office: 04; If we consider 25 sqm FSI for each shop then total FSI = 100 sqm

Residential facility: Total FSI –FSI of shops + FSI of Balwadi + FSI of welfare center i.e.
8850sqm -1525 sqm-100sqm-100sqm-100sqm = 7025 sqm
Municipal Office: 01 (ad measuring 866.25 sqm)
Considering the Built up (FSI) area of each component of rehabilitation building the parking spaces which are warranted as per NBC, 2005 are as under:
Parking required for residential facility = 7025/100=70.25 or 71 spaces
Parking required for Commercial Facility = 1525/50=30.5 or 31 spaces
Parking required for Balwadi = 100/50=2 spaces
Parking required for Welfare centre= 100/50=2 spaces
Parking required for Society Office = 100/50=2 spaces
Parking required for Municipal Office = 866.25/100=8.66 or 9 spaces

Thus total parking spaces required as per NBC, 2005 for the rehabilitation component comprising of residential tenements shops, Balwadi, Welfare centre, Society Office and Municipal Office are 117 ECS

Sale Building:
Shops: 08; If we consider 25sqm FSI for each shop then total FSI = 200sqm
Residential Facility: Total FSI-FSI of Shops
= 8290sqm – 200sqm = 8090sqm
Parking required for residential facility = 8090/100=80.9 or 81
Parking required for commercial Facility = 200/50 = 2

Thus parking required in sale building = 81+2 = 83 ECS

Interestingly, the project proponent-the respondent no. 5 herein, Minutes of 66th Meeting of SEIAA dated 27th - 28thJanuary, 2014 reveal, agreed to comply with and revise layout and the parking statement as per NBC norms and now after the grant of EC in question contends that there is no obligation on his part to provide parking spaces to the rehabilitation component and comes forth with the provision of 91 parking spaces in sale building/component.

39. As regards the parking spaces, the respondent no. 5, contended that the unamended Regulation 36 of DCR prior to the amendment dated 12-08-2009 did not provide for any parking space for the rehabilitation component and what is claimed by the applicants as regards the parking is on the basis of amendment to the DCR-36 dated 12-08-2009. According to the respondent no. 5, the building plans in respect of rehabilitation component were sanctioned prior to 12-08-2009 and even the Commencement Certificate was issued on 07-09-2006 and; as such as per the DCR then in force one parking space was to be provided for every 04 tenements having carpet area about 35sq.m each and not for any tenement having lesser area. Significantly, it is the case of the respondent no. 5 that the area of rehabilitation tenements was increased from 225 sq. feet to 269 sq. feet vide Government order no. TPR/4308/497/CR/145/08/UD-11 and amended LOI was issued by the respondent no. 5 on 07-02-2009. Obviously, this called for revision and

amendment to the plans and its consequent approval by the planning authority. Silence is kept by the respondent no. 5 as to when this approval to the amenities was granted. As discussed above no approval was granted by the corporation to the amended plans for construction. It therefore, does not lie in the mouth of the respondent no. 5 to say that Commencement Certificate for such amended rehabilitation component was issued and therefore, rigour of amendment to DCR 36 dated 12-08-2009 requiring parking spaces for rehabilitation component could be avoided.

40. Development Control Regulation of Greater Mumbai Table 15- as amended lay down the following norms:

For Rehab Building:
For Residential Facility: One parking space required for redevelopment (residential facility)= 8 tenements having carpet area upto 35 sqm each.
(In addition to this parking spaces for visitors shall be provided to the extent of at least 25 % of the number stipulated above subject to a minimum of one.)

For Commercial facility: one parking for every 80 sqm of areas exceeding 800sqm.

For Educational facility: One parks for 35 sqm carpet area of the administrative office area or public service area.

Welfare centre will use as community centre; assembly and assembly halls or auditorium without fixed seats, one parks space for every 15 sqm of floor area.

For Office facility: one parking space for every 37.5 sqm of office space upto 1500sqm

For Sale Building:
For Residential Facility: (IECS required for 1 tenement with carpet area exceeding 70 sqm)

For Commercial facility: one parking space for every 40 sqm of floor area upto 800m

For Municipal Buildings
One parking space for every 37.5 sqm of office space upto 1500sqm.

Applying these norms the following picture regarding the requirement of parking spaces would emerge:

Parking required for Rehab Building:

For residential facility = 263 no of flats = 263/8=32.8 or 33 spaces

Visitor parking = 33x25/100 = 8.25 or 8 Spaces or 1 space (if considered for minimum 1)

Parking required in residential facility of Rehab. Building = 41spaces or 34 spaces

Parking required for shops in Rehab Centre:

Considering floor area per shop as 25 sqm total floor area for 61 shops = 61x25 = 1525 sqm

Parking required 1 space for 80m²area.

1525/80 = 19.06 or 19 spaces

Parking required for welfare centre, Balwadi & Society Offices

Balwadi: 4; If we consider 25 sq. m FSI for each Balwadi then total FSI = 100sqm

Welfare Centre: 4; If we consider 25 sq. m FSI for each Balwadi then total FSI = 100sqm

Society office: 4; If we consider 25 sqm FSI for each Balwadi then total FSI = 100sqm

Parking required for Balwadi = 100/35= 2.85 or 3 spaces

Parking required for welfare Centre = 100/15=6.66 or 7 spaces

Parking required for Society Office = 100/37.5= 2.66 or 3 spaces

Total parking space required in Rehab. Building = 41+19+3+7+3 = 73 spaces or 34+19+3+7+3 = 66 spaces

Parking required for Sale Building:

Considered flats having carpet area exceeding 70 sqm

For residential facility = 53 no of flats = 53 spaces

For Shops considering 25 sqm area

8 shops = 25x8= 200sqm

Parking required = 200/40= 5 spaces

Total parking required in Sale building = 53+5 = 58 spaces
For Municipal Office:
Parking required = 866/37.5 = 23 spaces
Total Parking required (Rehab +Sale Building) = 73+58= 131 spaces
Total Parking required = 73+58+23 = 154 spaces or 66+58+23 = 147 spaces

41. A town or a city is not static but is an evolving or developing entity. It is for this reason that amendments to the Development Control Regulations are effected from time to time to meet the challenges concerning grant of EC to the project in question. A modest and rational view of the facts and circumstances discussed above persuades us to hold that the project proponent ought to have provided 147 car spaces in the project to avoid congestion with corresponding increase in pollution level.

42. Consequences of commencing construction before the grant of EC are thus self-evident and multi-fold. First and the foremost, it is the denial of realistic base-line data in respect of the Environmental parameters namely land, air, water and the living components of the environment i.e. humans, living creatures, plants and properties. Secondly, the construction activity in such cases also proceeds in un-regulated manner without the environmental safeguards in the place. This can be perceived from various terms and conditions stipulated in para 3 of the EC dated 25th March, 2014 as well as the

Environmental Management Plan referred to in the said EC. A look at the EC conditions reveals that the project proponent was required to keep in place all required sanitary hygienic measures before starting construction activities. Arrangements for safe disposal of waste water and solid waste generated during construction phase, disposal of muck without creating any adverse effects on the neighbouring properties and only at the approved sites, disposal of hazardous waste generated during construction phase, proper use of the diesel generators sets and maintenance of noise emission standards, effluent management and sagacious use of water including ground water during construction phase are some of the things which were expected to be properly regulated during construction phase. Minutes of the 18th Meeting of the SEAC reveal, as informed by the project proponent, the construction of rehabilitation component was carried out to the extent of 13,734 sq. meters and yet the STEP for rehab portion was not done and solar PV panel for energy generation were not in place. Lastly but importantly, there is little space left for making necessary changes in the construction plan for effecting such measures necessary to safeguard the environment from the adverse impacts of the projects so undertaken. The very purpose of regulating the development/construction with certain safeguards in place as envisaged under section 3(2)(v) of the Environment(Protection), 1986 in exercise of which the EC

Regulations 2006 have come into being, is frustrated or is likely to be frustrated.

43. In the instant case, it is evidently clear that the project proponent violated the EC Regulations, 2006 by undertaking construction before the EC was granted and thereby denied the realistic environmental safeguard to be in place. It is also seen that inadequate recreational space and parking space is proposed in the said project. This begs a pertinent question as to whether EC in question needs to be set aside and the construction which includes rehabilitation component/building comprising of 263 flats, 61 shops, 4 tenements of welfare centre, 4 tenements of Balwadi, society office and Municipal office should be exposed to its logical consequence. In our considered opinion when there is some space left for providing certain safeguards and seek re-compense for the violation of EC Regulations, it would be rather harsh to set aside the EC and instead the project proponent needs to be saddled with appropriate measure of compensation and directed to make certain amends in the construction of sale component building, the construction of which has been stopped vide order dated 30th April 2014 to maintain *status quo* so as to provide adequate parking spaces as required, to avoid spilling over of the vehicles on the public streets and cause congestion of traffic leading to adverse impact on the environment.

44. We are aware that it may not be possible to determine compensation on account of violations of EC Regulations with consequential untold damage to the environment and with some exactitude, but that should not be the reason for the project proponent to avoid their liability in that regard.

45. The Hon'ble Supreme Court in the case of *M/s Sterlite Industries (India) Ltd. V. Tamil Nadu PCB &Ors., JT 2013 (4) SC 388*had provided payment of Rs. 100 crores by the company which operated without consent of the Board, though M*/s Sterlite Industries* possessed the consent of the Board prior as well as subsequent to the period for which the compensation was imposed. In the case of *Goa Foundation vs. Union of India &Ors., (2014) 6 SCC 590* the Hon'ble Apex Court directed compensation at the rate of 10 per cent of the project cost to be deposited at the instance. These cases justify imposition of compensation at the modest rate of 5 per cent of estimated cost of the project i.e. 64.18 crores in the present case, which works out to roughly 3 crores. In addition thereto, the project proponent needs to be saddled with the compensation amount computed at the rate of market value of the land/recreational area as on March, 2014 (date of grant of EC) falling deficient than the required area for the project i.e. Rs. 40,000/- per sq. meter- circle rate as published by Department of Registration and Stamps, Government of Maharashtra for the area in question for the

year 2014 multiplied by 81.59 which works out to Rs. 32,63,600/-.

46. As regards the deficient parking spaces, it is just and necessary not to allow construction of the sale building to proceed unless the project proponent makes necessary amends in construction plan of the sale building and makes available adequate number of additional floors of the building for making provision for adequate parking spaces available to both sale and rehabilitation buildings. In our opinion three floors shall be made available from 7th floor onwards, from the area available for construction of residential flats. This will ensure adequate parking spaces in relation to the number of occupants in both rehab building and sale building and ensure that vehicles do not spill out on the public streets resulting in congestion and prevent adverse impacts on the environment as the consequence thereof. We, therefore, dispose of this appeal with following directions:

1. The respondent no. 5 shall pay and remit a sum of Rs. 3 crores to the Authority, specified under sub-section (3) of section 7(A) of the Public Liability Insurance Act, 1991 to be credited to the Environmental Relief Fund within a fortnight.
2. The respondent no. 5 the project proponent shall pay an amount of Rs. 32,63,600/- being market price of the deficient recreational area as on March, 2014 to the Maharashtra Pollution Control Board for incurring

expenses on Environmental and ecological rehabilitation within a fortnight.

3. The respondent no. 5 shall make necessary amends in the construction plan of the sale building, get it approved as per law and make available additional parking spaces on adequate number of floors in sale building commencing from 7th floor upwards and within 32 floors so as to make parking space available for both rehab building and sale building by utilising the floors which otherwise would have been made available to the sale building.
4. Construction of the sale building shall not proceed and no third party interest by way of sale, transfer, assignment, lease or parting with possession of any portion of sale building/component in any manner whatsoever shall be made unless the amounts as directed hereinabove are paid and necessary amends to comply with the directions to provide additional parking spaces as aforesaid are made.
5. The appeal thus stand disposed of with cost of Rs. 1,00,000/- (one Lakh).

……, CP
(Swatanter Kumar)

……, JM
(U.D. Salvi)

……, EM
(Dr. D.K. Agrawal)

……, EM
(Prof. A.R. Yousuf)

ANNEXURE-A-2

SEIAA-2018/CR-150/SEIAA
Environment Department
Room No. 217, 2nd Floor,
Mantralaya,
Mumbai- 400032.
Date: 30.01.2019

To
The Chairman, SEAC-1
The Chairman, SEAC-2
The Chairman, SEAC-3

Sub : Consideration of proposals involving violation of EIA notification, 2006 amended till date.

Dear Sir,

In pursuance of the notification dt. 14.03.2017 and O.M. dt. 15.03.2018 & 16.03.2018 issued by Ministry of Environment and Forest (MoEFCC) on procedure to be adopted for dealing with the EC violation cases, the development of a protocol for Assessment for Environmental Damage and Estimation of Remediation Costs for Building Construction Projects was under consideration.

Accordingly committee was constituted for evaluation process to evolve uniform guidelines to deal with the cases of violations under the chairmanship of chairman, SEIAA as below-

1. Shri. Ajay Deshpande, (Ex. Expert Member, NGT)
2. Shri Mukund Athavale, Member, SEIAA
3. Dr.B.N.Patil (Director, Env.), M.S., SEAC-II
4. Shri. Abhay Pimparkar (Sci-I), M.S., SEAC-I
5. Shri Joy Thakur, SCi-II, M.S., SEAC-III
6. Shri Raghunath Mahabal, Advocate

Above committee has submitted its report to Environment Department. Further, after due consultation with stakeholders and NABET accredited consultants in a round table workshop held at Pune on 21st December, 2018, it is decided to follow the provisions of MoEF&CC notification dated 14.03.2017 and refer the report submitted by committee for Assessment of Environmental Damage And Estimation of Remediation Costs For Building Construction Projects initiated without obtaining mandatory Environmental clearance. Copy of the same is enclosed herewith for kind perusal.

In this regard, I have been directed to infnrm you to start appraising the proposals under violation as per the provisions of MoEFCC notification dtd.14.03.2017 and O.M. dtd. 15.03.2018 & 16.03.2018 and refer the report of committee on Assessment for Environmental Damage and Estimation of Remediation Costs.

Thanking you.

(D.S.Bhalerao)
Scientist -2 , Environment
Govt. of Maharashtra

D.A.: as above

Copy to 1. Chairman, SEIAA.
2. P.S., Environment and M.S., SEIAA.
3. Member Secretary, SEAC-1/2/3

TRUE COPY

An Approach for Assessment for Environmental Damage And Estimation of Remediation Costs For Building Construction Projects initiated without obtaining mandatory Environmental clearance (Violation Cases)

1. Ministry of Environment and Forest (MoEFCC) has issued a notification on procedure to be adopted for dealing with the EC violation cases on 14.3.2017[1] and also, give 6-month amnesty window for such proponents who have violated the EC regulations. These violations are primarily related to initiating the project work or carrying out the project activities without obtaining the mandatory EC. Special EAC was also notified to deal with violations cases at the central level. Subsequently, on 8.3.2018[2], MoEFCC issued another notification which delegated the powers to deal with such 'violation cases' to the concerned SEIAA and further provided an additional amnesty window of one month for such project proponents to apply for grant of EC.

2. The notification dated 14.3.2017 stipulated the procedure for consideration of such cases where construction of projects was carried out without obtaining EC, treating such cases as violation cases. The important provisions for considerations of such proposal in the said notification are as under;

(2) In case the projects ar activities requiring priar enviranmental clearance under Enviranment Impact Assessment Natificatian, 2006 from the concerned Regulatory Autharity are brought for enviranmental clearance after starting the constructian wark, or have undertaken expansian, madernizatian, and change in praduct- mix withaut prior enviranmental clearance, these projects shall be treated as cases of violatians and in such cases, even Categary B projects which are granted environmental clearance by the State Enviranment Impact Assessment Authority constituted under sub-section (3) Section 3 of the Environment (Pratection) Act, 1986 shall be appraised for grant of enviranmental clearance only by the Expert Appraisal Committee and enviranmental clearance will be granted at the Central level. (3) In cases af vialatian, action will be taken against the project prapanent by the respective State or State Pollutian Control Board under the provisions of sectian 19 af the

[1] MoEF notification SO 804 (E) Dated 14.3.2017
[2] MoEFCC notification SO 1030 (E) dated 8.3.2018

Environment (Protection) Act, 1986 and further, no consent to operate or accupancy certificate will be issued till the project is granted the environmental clearance. (4) The cases of violation will be appraised by respective sector Expert Appraisal Committees canstituted under subsectian (3) of Sectian 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been canstructed at a site which under prevailing laws is permissible and expansion has been dane which can be run sustainably under campliance af environmental narms with adequate enviranmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, clasure of the praject will be recammended along with other actions under the law. (5) In case, where the findings af the Expert Appraisal Cammittee an point at sub-para (4) above are affirmative, the projects under this categary will be prescribed the appropriate Terms af Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan. Further, the Expert Appraisal Committee will prescribe a specific Terms of Reference for the praject an assessment of ecalagical damage, remediation plan and natural and community resource augmentatian plan and it shall be prepared as an independent chapter in the environment impact assessment repart by the accredited cansultants. The callection and analysis af data for assessment af ecological damage, preparation of remediation plan and natural and community resource augmentatian plan shall be done by an environmental laboratary duly natified under Environment (Pratectian) Act, 1986, or a environmental laboratory accredited by Natianal Accreditatian Board for Testing and Calibratian Labaratories, or a labaratory of a Council af Scientific and Industrial Research institutian working in the field of environment. (6) The Expert Appraisal Committee shall stipulate the implementation af Enviranmental Management Plan, comprising remediatian plan and natural and community resaurce augmentatian plan carresponding to the ecalagical damage assessed and ecanamic benefit derived due ta violation as a canditian af enviranmental clearance.

(7) The praject prapanent will be required ta submit a bank guarantee equivalent ta the amount of remediatian plan and Natural and Cammunity Resource Augmentatian Plan with the State Pallutian Control Baard and the quantification will be recommended by Expert Appraisal

Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited priar to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regianal office of the Ministry, Expert Appraisal Cammittee and appraval af the Regulatory Authority.

Subsequently, vide notification dated 8.3.2018, such powers have also been delegated to concerned SEIAA.

3. Maharashtra Scenario: In Maharashtra, there are about 104 cases which have been submitted for grant of EC under this 'violation' notification. As per the information given by DoE, there are 91 cases related to building construction projects and 14 cases related to industry. However, this number is likely to increase substantially, as during evaluation of new EC cases, the SEAC generally finds non-compliance in the appraisal process.

4. Department of Environment (DoE) and SEIAA Maharashtra wanted to streamline the process of evaluation of the 'environmental damage assessment' for such violation cases to bring reasonable consistency and uniformity in approach and assessment while dealing with such cases. The assessment of environmental damage is no doubt a very specialised study and the parameters, approach, weightages, techniques are likely to vary significantly from project to project and also, from area to area. Still however, it would be necessary and prudent to develop some broad structure and framework for such environmental damage assessment which can be used by concerned SEAC for consistent and uniform methodology. The SEACs can obviously incorporate any new specific aspect of evaluation, based on project type, damages anticipated and sensitivity of project area by making special reference to such compelling factors to incorporate additional evaluation aspects. This report is outcome of such requirement of DoE and SEIAA Maharashtra.

5. The present approach paper deals only with Building construction project. However, the broad principles can be adopted with suitable modifications for the industrial projects. The subject of environmental damage

assessment and also, restitution and restoration of environment is a very complex and multidisciplinary subject and the present approach paper is based on desktop studies to prepare some basic framework for assessment of the proposal received in order to ensure a broader consistency in appraisal for various SEAC. The framework is generic in nature and obviously, open for further updating with gain of knowledge and experience while dealing with subject, based on field level data and information.

6. Assessment of environmental damages and preparation of remediation plan are highly specialised subject and very much case specific. The methods and techniques to assess the damage would vary from project to project and also, has significant correlation with project site. Considering this, the scope of this approach paper has been limited to preparation of broad guidelines and framework to assess the damage, rather than detailing actual procedure and methodology. Considering the types of projects, the environmental damage assessment methodology can be conveniently grouped in three types of activities/process namely; a. building and construction activities b. infrastructure and mining and c. industries. The broader contours of environmental damage assessment of these three sectors would vary significantly in its content, scope of investigation and analytical processes to assess the damages. Considering the present scope of this report, the report only deals with damage assessment aspects of violation cases. In fact, most of the literature on environmental damage assessment is related to unauthorised effluent discharges, ecological damages, chemical accidents, ground water contamination, hazardous waste disposal etc. Though, there is also a serious and urgent need of developing India specific protocols for such environmental damage assessment as a part of enforcement strategy and interventions, the report does not deal with these aspects and the scope strictly remains limited to damage assessment for violation cases as per MoEFCC notification dated 14.3.2018, with main focus on Building and construction projects as per the requirement of DoE and SEIAA.

7. Legal background: The "Polluter Pays" principle as interpreted by Supreme Court[3,4] means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental of the damaged environment is part of the process of "Sustainable Development" and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of the reversing the damaged ecology The precautionary principle and the polluter pays principle have been accepted as part of the law of the land. It is thus settled by Supreme Court that one who pollutes the environmental must pay to reverse the damage caused by his acts. In *Vellore Citizens' Welfare Forum v. Union of India and Ors.: AIR1996SC2715*, the precautionary principles and polluter pays principle were held to be part of the environmental law of the country. It was held that the polluter pays principle means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of sustainable development.

8. The use of liability assessment following instances of physical damage or pollution of environmental resources has long been a feature of national legislations. The restitution and restoration aspects have been part of Water (P&CP) Act, 1974, but unfortunately no specific guidelines or protocol have been established so far. There are also not much of established success stories of restitution which can provide some guidance. The National Green Tribunal Act, 2010 specifically provides provisions for restitution, restoration and compensation in case of environmental damages or incidences of environmental degradation, on strict liability basis. However, no technical guidelines or procedures are available for such environmental damage assessment or restoration or compensation etc except one prepared for CPCB for liability assessment

[3] Enviro-Legal Action vs. Union of India 1996 (2) JT 196

[4] (1997)1SCC388B . W.P.(C] No996: M.C. Mehta Vs Kamal Nath and ors.

for HW disposal.[5] Still however, there are no published case studies regarding application of these guidelines.

9. For example, the US Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) has provided for the clean-up of hazardous waste sites since 1980 and requires resource damage assessment for this and similar instances of environmental injury. In Europe, the Environmental Liability Directive (ELD 2004/35/EC) now applies a common approach to assessment which aims to prevent and remedy environmental damage by holding those responsible liable for remediation. However, while there are prescribed procedures for remediation, there remain the difficulty of how to achieve an equivalent level of habitat quality to that, which existed before an incident and how to account for interim losses, including losses to social wellbeing.

10. Damage as defined by the ELD presupposes that liability can be identified. Where this is possible, the ELD allows for three types of remediation:
    a. Primary remediation to restore a damaged resource or impaired service to its baseline condition;
    b. Complementary remediation when a site cannot be fully restored using primary remediation and which involves intervention or improvements to habitat at another site which is physically or geographically linked in terms of species/ habitats or human interactions;
    c. Compensatory remediation in cases where there are interim losses before ecological functions can be fully restored or replaced.

11. Liability to the government for clean-up costs and natural resource damages under CERCLA is generally joint and several, unless the defendant can show that the harm is divisible or another reasonable basis for apportionment. However, in the present case, as there is only single project, there is no occasion to consider proportioning the liability. The entire liability (absolute) on the complementary basis stands against the

[5] Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty, published by CPCB 2016.

project proponent, as the remediation and restoration of construction site is not envisaged.

12. A number of US courts have applied the "Gore factors," so named because they were part of a 1980 proposed amendment to CERCLA sponsored by then-Senator (now Vice President) Albert Gore (which was not ultimately enacted):
    a. the ability of the parties to show that their contribution to a discharge, release or disposal of a hazardous waste can be distinguished;
    b. the amount of the amount of hazardous waste involved; - the degree of toxicity of the hazardous waste involved;
    c. the degree of involvement by the parties in the generation, transportation, treatment, storage, or disposal of the hazardous waste;
    d. the degree of care exercised by the parties with respect to the hazardous waste; and
    e. the degree of party cooperation with government officials.

13. Federal courts have also applied the following other equitable factors:
    a. the relative fault of the parties in causing the release of the hazardous materials;
    b. the knowledge and/or acquiescence of the parties in the contaminating activities;
    c. the benefits received by the parties from the contaminating activities;
    d. the relative clean-up costs incurred as a result of the released hazardous wastes;
    e. the financial resources of the parties involved;
    f. contracts between the parties bearing on the subject;
    g. circumstances and conditions of property conveyance in cases involving successive owners; and
    h. any traditional equitable defences as mitigating factors.

14. Role of Consultants: The PP and industries generally take advise of the NABET approved consultants for preparation of EIA report and also, for

compieting EC procedure. These consultants are 'accredited' consultants duiy recognised by NABET after careful evaluation of their capabilities and understanding of environmental law and regulations besides technical competence. In other words, these consultants have been given special recognition and also, the MoEFCC notification has especially mandated that all the EIAs and EC procedures needs to be done only through NABET approved consultants, carving out a niche business for these consultants. Such a recognition and special business opportunity will obviously entail with 'responsibility' cast upon these consultants to advise the project proponents on compliance, identify the non-compliance and aiso, bring it to notice of project proponents/reguiators at the first instance whiie advising the project proponents to ensure timely compliance. it is therefore necessary that the roie of such consuitants, if they are associated with the project proponents during the occurrence of such violation or immediateiy thereafter, needs to be criticaiiy examined in order to ensure that these consuitants perform their duty to ensure compiiance in a more effective way. The proposed damage and iiabiiity assessment exercise needs to cover these aspects which wiii ensure that the non-compiiances in future are brought to the notice of project proponents and reguiator in time, for timely enforcement and compiiance actions.

15. Considering the above discussions, it is proposed that in this phase of report, methodologies for damage assessment and liability evaluation are proposed for building and construction projects, with following considerations;
    a. These methodologies are for the projects (construction and industries) which are in 'permissible' in the area where project is located and are included in 'regulated' activity as per EC regulations and associated notifications. The methodology cannot be and should not be applied for the projects in non-conforming zone.
    b. These methodologies are evolved only to consider limited violation in terms for initiating the project activities without EC. They cannot and should not be applied in case of any case pollution or degradation incident for which separate methodologies need to be developed and adopted.

16. Damage Assessment and Remediation cost:

The notification of 14.3 2017 describes the rationale for assessment of environmental damage costs and remediation costs as under;

"6. *The Expert Approisal Committee shall stipulote the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentotion plan corresponding ta the ecological domage assessed and economic benefit derived due to violatian as a condition of environmental clearance.*

7. The project prapanent will be required ta submit a bank guarantee equivalent ta the amount af remediation plan and Natural and Cammunity Resource Augmentatian Plan with the State Pallution Cantral Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatary Autharity and the bank guarantee shall be depasited prior ta the grant of enviranmental clearance ond will be released after successful implementation of the remediatian plan and Natural and Community Resource Augmentation Plan, and after the recommendatian by regianal affice of the Ministry, Expert Appraisol Committee and appraval of the Regulatory Autharity. "

16. Three aspects emerge from the above as under;

a. The project proponent needs to develop remediation action plan commensurate with the environmental damage assessed and also, the economic benefit derived due to violation of EC.
b. The PP also needs to develop natural and community Resource Augmentation plan (NCRAP) along with the cost. This is not linked with the environmental damage or economic benefits accrued from violation.
c. Both the remediation and NCRAP needs to be implemented by PP independently which needs to be verified by regulatory authority. There is no time limit or verification methodology defined for such implementation. Still however, the time limit can always be

considered by authority as a part of EMP while approving the EMP and EC.

17. The literature and references available on environmental damages are mainly related to environmental degradation resulting from waste disposal or degradation of forest. The important aspects in the design of remediation program can be as under;

a. Damage assessment and significance;
   i. Definition of the status of the resource prior to the incident causing damage; (Baseline)
   ii. Assessment of the scale of damage; (Services and beneficial use of site)
   iii. Impact assessment; (modeling) and;
   iv. Determining whether damage is 'significant'. (Significance threshold and integrity of site)

b. Primary restoration options,
   i. With an aim to restore the damaged resource and, if possible, return the resource to baseline (pre-incident) conditions
   ii. Setting restoration targets;
   iii. Identifying primary restoration options;
   iv. Selecting primary restoration options; and
   v. Estimating interim losses

c. Compensatory restoration options.
   i. Setting the objectives for compensatory restoration options;
   ii. Monetary compensation and/or resource compensation;
   iii. Identifying the compensatory options; and
   iv. Selecting the compensatory options.

18. Generally, the remediation and restoration need to be designed based on either of the three following approaches in order to design, select and determine the scale of the compensatory restitution and restoration options

a. **Service-to-service approach:** Accept a one-to-one trade-off between the services that are lost due to damage and the services that are created through compensatory restoration. Reasonable to make this

assumption if the replacement resources are of the same type, quality and of comparable value.

b. **Value-to-value approach:** Used for scaling of Class II and II options, i.e. when the assumption of a one-to-one match between lost services and compensatory services is not necessarily valid. The approach estimates the economic value of interim losses and the economic value of the services generated by the compensatory restoration option.

c. **Value-to-cost approach:** Within this approach, restoration is scaled by equating the cost of the restoration plan to the value (in monetary terms) of losses due to the injury. This approach is only suitable when damage is relatively minor.

The remediation plan also needs to be proactive on futuristic issues and need to consider following;

- should be the result of an evaluation process based on, but not limited to the following :
  - The cost to carry out the option;
  - Time it will it take for the restoration to be effective;
  - Extent to which each option is expected to return the damaged resource to its baseline;
- Likelihood of success of each option;
- The extent to which each option will prevent future damage (flowing from the initial incident), and avoid collateral damage as a result of implementing the option;
- The extent to which each option generates benefits for the damaged and/or other natural resources beyond returning the damaged resource to its baseline; and
- The effect of each alternative on public health and safety

19. The total environmental damage needs to be assessed based on the environmental restoration cost required considering the above-mentioned project related attributes and as per the settled legal principles, such assessment need to be based on 'absolute' liability principle.

The notification refers to covering mainly three aspects in overall damage assessment studies prior to consideration of such violation cases, namely;

- Opportunity cost: benefits accrued due to early implementation of project without obtaining the mandatory EC and shall also include Cost for deterrence (penalty) for violation of EC regulation which needs to consider factors like project proponents track record, factors contributing to environmental damage etc.
- Environmental damage cost to be assessed based on the available data
- Cost of remediation and restoration.

20. While working on these themes, it would be necessary to keep in mind that the entire exercise is being under the provisions of the EC regulation 2006, as amended and the Environmental protection Act. It is also necessary to note that there are hardly any scientific studies to assess the environmental damages in holistic manner and also, there are very few cases where environmental restoration and restitution has fully been achieved. However, they are related to remediated of contaminated sites and/or contaminated ground water. There are several cases where the SC, HCs and NGT have ordered remediation and restoration, but there are hardly any studies where both restitution/restoration and damage assessment has been carried out simultaneously. It would therefore be necessary to adopt an approach which may be advoc in nature but based on scientific approach. There could be uncertainty in damage assessment but as already held by judicial pronouncements, the uncertainly in environmental damage and restoration on a positive side, towards preserving environment (precautionary principle) is acceptable, while demonstrating the good efforts in assessing the same.

21. Economic Benefit Assessment: One of the important aspects of this notification is inclusion of concept of economic benefits accrued due to violation of EC regulations. Traditionally, this concept has always been integrated in effective enforcement of standards and regulations all over the world because any violation or relaxation in environmental regulations, would result into economic advantage, rather in many cases, environmental norms are violated to derive economic advantages and benefits. In order to ensure that the compliance is encouraged, it would

be in the best interest to develop some tools to incorporate financial disadvantage for the non-compliance.

22. Violators obtain an economic benefit from violating the law by delaying compliance, avoiding compliance or achieving an illegal competitive advantage. In delaying compliance, the violators eventually comply, but they use the money that should have been spent on compliance. The violators then use that money for profit-making investments. In a very simple sense, the violators "gain" the interest on the amount of money that should have been invested in pollution prevention and control measures. When an offender avoids compliance, it essentially does not incur the costs that would have been necessary to come into compliance. The third type of economic benefit is derived from an illegal competitive advantage. It is necessary to have reliable methods to calculate any significant economic benefit of non-compliance. The existence of a well-defined and substantiated methodology strengthens the enforcement agency's position in case of eventual appeal of the assessment.

Though there are several references available for such assessment particularly by USEPA and also, several state environmental agencies besides OECD, One of the good case studies is prepared by OECD and is available at http://www.oecd.org/env/outreach/46959936.pdf. [6]. The study illustrates a key principle that in order to deter future non-compliance, a fine should at a minimum eliminate any financial gain or benefit the operator has obtained as a result of his non-compliance. The "benefit component" of a fine corresponds to the delayed or avoided compliance costs or the illegal competitive advantage and puts the violator in a less favourable situation compared to those who comply with the requirements in a timely manner. The additional penalty amount, or the "gravity component", should reflect the seriousness of the offence and the operator's behaviour. USEPA has also elaborate case studies on such efforts and has also developed the penalty and financial models that can be used to analyze the financial aspects of enforcement actions. https://www.epa.gov/enforcement/penalty-and-financial-models. BEN (S.8.0) - Calculates a violator's economic benefit of noncompliance from delaying or avoiding pollution control expenditures. The model requires the date the violation occurred, the date of compliance, the costs of

[6] REMOVING ECONOMIC BENEFITS OF ENVIRONMENTAL VIOLATIONS IN AZERBAIJAN: Case Study Report, By OCED

compliance and the year the costs were estimated, and the date the penalty will be paid. Still however, no much work has been done in Indian context on this principle of effective environmental governance, particularly enforcement.

All such economic benefit assessment needs to carefully designed in case of construction projects as scope and extent of construction in such building cases are rather governed by local municipal rules particularly for built up area, FSI, requirement of open area, parking etc. In many cases, the municipal laws are amended and some modifications are made in available permissible limits for the above criteria. The general trend in building industry to initiate the construction in anticipation of such amendments and modification. And therefore, in order to assess the economic benefits, it is proposed to consider the applicable laws on the date of violation, rather than while assessment of the damages and benefits accrued. The allowable built up, FSI, open space etc only shall be considered and any violation of these ground should also be assessed as economic benefits. Based on the actual data, three scenarios can be envisaged for violation of EC regulations by Building construction Industry;

A. The construction work is fully/partly completed without EC and the flats/commercial area is already sold to third parties.
B. The construction work is started and some amount has been received from third party, but now the work is stopped.
C. The construction work is started but no amount has been received from any third party.

23. One such approach adopted by Indiana government [7] elaborately discuss the matrix of calculations for the penalties for environmental violations. Though, presently, this approach paper does not deal with penalties, but the process and structured approach adopted therein, can suitably be adopted in the present study.

Violators Track record: As referred in above references, the violators track record and also, action subsequent to noticing the violations play an important role in formulation of environmental restoration and

[7] INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT NONRULE POLICY DOCUMENT, https://www.in.gov/idem/ctap/files/nrpd_enf-002.pdf

restitution program. Hon'ble Supreme Court in CIVIL APPEAL NO. 10854 OF 2016 decided on 10th August 2018 has elaborately considered such aspects and it is necessary to adopt the same approach while dealing with the EC violators.[8]

24. **Proposed Framework**: Considering the discussions above, following broad approach and framework is suggested to derive the environmental damage cost which needs to be considered while appraising the remediation plan and the costs associated with such proposed remediation costs. Moreover, such cost needs to be appropriately accounted for the opportunity costs which *inter alia* should include the factors related to environmental track record of the project proponents. The proposed framework is suggestive in nature and is an attempt to develop a framework for such assessment in future, based on scientific evidence. Moreover, this framework is essentially for cases of violation of EC regulations in terms on obtaining the EC by construction projects and is not aimed to be used as enforcement tool in case of violation of EC conditions and/or incidences of pollution of environmental degradation. Still however, the SEAC can expand the scope of such assessment and costing with reference to any specific incidence on case to case basis, particularly where construction is carried out at industrial sites and/or there are complaints of pollution due to construction which will further strengthen such appraisal process. It is necessary to collect some specific information from the project proponents to assess such cost of remediation and also, opportunity cost. Therefore, a set of information is proposed to be called from PP as under. Some of the information could be repetitive but it would be worth to have all such relevant information at a place to understand the process.

[8] https://www.sci.gov.in/supremecourt/2016/37233/37233_2016_Judgement_10-Aug-2018.pdf

25. Information Required:

A. Project details;

1	Name and address of Project	
2	Name of Directors	
3	Total construction completed (built-up area as per EC notification):	
4	Total construction proposed, built-up area as per EC notification	
5	Whether the project has any EC; if yes, give details including approved built up area	
6	Total cost of the project and total cost of the project already executed? Also, give total cost of the project constructed without EC.	
7	Date of commencement of project	
8	Date of violation of EC regulation (please justify with documentary evidence)	
9	Date of first submission of information of such violation to the SEIAA or SEAC, if self-notified, along with stoppage of construction work	
	1. No. of days of violation (9-8)	
10	Name and address of Environmental consultant, with date of engagement of such consultant	
11	Any other case of EC violation is reported or pending or decided earlier for projects where any of	

	the directors are involved? If yes, give details	
12	Any court case related to EC violation pending or decided against any of the directors including High Court, NGT and sessions court?	

B. What can be the attributes for environmental damages: The PP and consultant needs to describe the details of each attributes in qualitative and quantitative manner; for example;
   1. Air pollution: construction dust, noise, demolition dust
   2. Water: incremental sewage increase, extra water pumped from foundations
   3. Soil: excess foundation excavation, excess ground foot print
   4. Noise: extra time required for construction,
   5. Loss of vegetation: additional trees cut (type, age and number of trees with its significance)
   6. Transport and material handling

C. Description of activities contributing to the environmental damage and degradation;

A.	**Demolition, site preparation**	
1	Whether any demolition work was carried out prior to EC? If yes what is date of commencement of demolition and also date of completion of demolition?	
2	Whether such demolition or site had some asbestos, industrial waste or contaminated soil or hazardous waste etc and if yes, how these types of waste have been segregated and disposed?	
3	If the project is located on any industrial site, whether any due diligence or environmental	

	status of site was assessed? If yes, give details	
4	State the quantity of demolition waste disposed from the site, including quantity and disposal location along with location map and photographs	
5	Any air quality (including noise) monitoring done during demolition work? If yes, results	
6	Whether building plan and layout approved and permission from local authorities is taken to commence the work prior to demolition work	
7		
B.	**Construction stage**	
1	Date of commencement of construction and completion of construction, if any	
2	Whether the construction carried out is strictly as per the sanction plan given by concerned local authority? If yes, please provide such certification	
3	In the additional construction, how much construction material including, sand, bricks, cement etc was required to be transported? No. of trucks and its average haulage?	
4	How many labours were engaged in construction, average per day?	
S	Whether, the additional construction work, over and above valid EC, if so available, has any additional ground foot print? If yes please state, ground foot print in sqm as per EC approved	

	layout and current proposed layout?	
6	Whether the expansion was carried out simultaneously with EC approved work? If not give details of time frame? If yes, please give incremental additional time required for construction of additional area	
7	Is there any change in foundation design, i.e. depth of foundation, basement etc. that were done due to additional area? If yes, what is the additional soil quantity excavated for such incremental foundation depth? Where it is disposed?	
8	What is the quantity of top soil removed and how it is managed?	
9	Also, if water is encountered at such foundation depth, what is the volume of water pumped for such additional depth of excavation?	
10	How much additional water was required for curing and construction purpose? Source of water?	
11	Rain Water harvesting details	
12	Solar light, water heating details	
13	Use of fly ash bricks ensured? Details thereof	
14	Whether any noise or air pollution control measures taken, if so what are they?	
15	Whether any air quality and noise level monitoring done	

	during construction stage, if yes attach results	
16	Whether any third-party rights are created on the construction without EC?	
17	Whether any of the construction without EC has already been occupied? If yes, number of families given such occupation. Also give total commercial area being used presently. Also state type of commercial activity i.e. offices, shops, hotels, restaurants etc.	
18	How many flats sold which are in the area of EC violation and total sale value of such flats	
19	How much commercial area sold which is in area of EC violation and total sale value of such commercial area.	
C	**Commissioning of project**	
1	Date of when the project was made operational either by giving possession of residential or commercial areas of the project?	
2	How many families are staying in project?	
3	What is total water supply to project, source and quality	
4	Total sewage generation m3/day	
5	STP details,	
6	Treated wastewater disposal	
7	Any DG sets, are they complying the norms	

26. The notification provides for *"The Expert Appraisal Committee shall stipulate the implementation af Environmental Management Plan, camprising remediatian plan and natural and community resource augmentatian plan corresponding ta the ecolagical damage assessed and ecanomic benefit derived due to violatian as a candition of environmental clearance."*. It can be seen from the provision that EMP is required to have two components i.e. 1. Remediation plan and 2. Natural and community resource augmentation plan. They are required to be corresponding to the ecological damage assessed and economical profit derived due to the violation.

Considering the broad conspectus and the need to evaluate the ecological assessment which will vary from project to project, site to site and also, will be subject of very detailed relative assessment. In absence of standard protocol and guidelines, it is proposed to adopt an advoc approach only for construction projects within the parameters specified by the notification. It is proposed to have broadly two components i.e. environmental damages and secondly economic benefits derived. The economic benefits derived can suitably take into account the construction stage besides the role and environmental performance record of the project proponent.

And therefore, the EMP and natural resource augmentation plan shall not only cover the ecological damages but also, the track record of project proponents and the economic benefits derived. As regards the ecological damages, a protocol which is rather based on basic environmental impacts like soil disposal, noise, air pollution, water pollution etc has been prepared by Gujarat SEAC, which is further modified to incorporate additional factors. The protocol format presented below is required to be prepared and certified by approved environmental consultants who are required to submit an undertaking certifying correctness of the data presented.

Format of Assessment of Environmental Damages

Attributes	Scope of saving on account of environmental protection measures	EMP cost	
		Recurring cost, per day (Rs.)	Non-recurring cost (Rs.)
Air Pollution	Water requirement for sprinkling (KL/day): Cost of 1 KL water (Rs):		
Water Pollution	A. Cost of water requirement: a). Construction phase: b). Operation phase: B. Cost of sewage treatment, reuse & disposal: a). Construction phase: b). Operation phase: C. Quantity of water pumped out during excavation and a lumpsum cost of Rs. 50 per cum for such unauthorized water extraction and disposal D. cost of construction& maintenance of recharge well:		
Soil environment	In case of demolition has carried out, the cost of demolition waste management plan needs to be discussed and finalized as non- recurring cost.		
	In case there is some hazardous waste like asbestos or the site is located on industrial area where hazardous chemical or waste was handled, the cost based on due diligence of the project site, as given by consultants. (the report must include soil analysis, water analysis, MPCB consent copies, manifest of HW if any). This requires critical examination from SPCB.		
	Cost of preservation of top soil & excavated earth to be considered. [Area (m2)xdepth (m)x sp. Gravity (kg/m3)x cost per ton (Rs.)]		

Noise and Vibration	For damage due to noise pollution & vibration, the cost of barricades around the project site should be considered. [perimeter (m) x height of the barricade(m) x cost of the sheet)		
Green Belt	In case of any tree cutting without EC cost of Rs. 10000/- per tree apart from any statutory action for such tree cutting if any, Cost of planting & maintaining trees (Number of trees as per the bye-laws) Cost of compensatory tree plantation (5 trees for each tree cut)		
RH/OHS	Cost of workers benefit to be considered in view of Building and Other Construction Workers' Welfare Cess Act, 1996		
	A. cost of health checkup of workers: B. cost of safety measures including PPEs:		
Total			

27. The economic benefits derived can be either on both costs saved on not taking appropriate environmental protection measures and also, the benefits derived by going ahead with project to gain commercial gains. This aspect has also been considered by Gujarat SEAC, by apportioning only 10% amount of profit which is considered to be 20% construction costs including the land value. All the standard literature including regulatory guidelines referred above incorporate such commercial economic benefits accrued from early going ahead by starting and commissioning project without obtaining EC. It is therefore necessary to incorporate such consideration in assessing the economic benefits which can be deterrent factor in future cases. At the same time, it is necessary that there should be a consideration for such cases where the project

proponent has applied for EC but for some reason or other the EC is not considered and granted without assigning any reason beyond a reasonable time frame. It is proposed to incorporate following scenarios for such economic benefit assessment;

- The construction (residential/commercial) under violation, where the construction is stopped after some time:
- The construction (residential/commercial) under violation and where the full construction area is occupied by the third party:
- The construction area (residential/commercial) under violation where the partial construction is occupied by the third party

Economic benefit derived can be broadly considered as 10% of Ready reckoner cost[9] of the construction under violation if it is already occupied (fully or partially) or reasonably in advance stage of completion[10] (more than 50%). In case, the construction is still not in advance stage of completion (less than 50%) and no occupation is given, then the benefits can be taken as 5% of ready reckoner cost for the construction in violation. The notification does not refer to any proportioning of the economic benefits and hence, deemed profit is taken for arriving at economic benefits in the present approach. This aspect could be seriously challenged by the proponents, however, in the absence of any leverage given in notification, such approach seems to be reasonable and consistent considering the spirit of notification. These figures are taken at random basis considering bare minimum 10% profit on the ready reckoner rate and does not truly reflect the economic benefits accrued due to sale. However, such amount can be taken up as starting point which can further evolve in future. However, it is imperative and necessary to ensure that these additional costs are required to be borne by Project proponent and cannot be and shall not be passed on to the consumers. In fact, the customers are entitled to seek any other legal remedy for any compensation etc as per prevailing laws.

[9] The ready reckoner cost is taken as most rational and documented cost available. Other cost that were also considered, were construction cost, sale price etc., but assessing those cost could itself be a complicated and arbitrary process and can lead to inconsistency which can be avoided by taking ready reckoner cost for such consideration. This ready reckoner cost is to be calculated using relevant ready reckoner rate for the year of appraisal of violation by SEIAA and total built area of construction under violation.

[10] The stage of construction needs to be certified by concerned local body (municipal corporation and councils etc.) along with undertaking by the PP.

28. In addition to above environmental damage costs, it is necessary to incorporate certain consideration for the environmental track record of the project proponent as a part of economic benefits accrued by the proponents and it is proposed that for each of earlier or similar other EC violation in other projects being developed by project proponents and/or any one of its directors shall be accounted for Rs. 10,00,000/- (Rs. Ten lakhs) in the community action plan. This consideration directly stems from Gore's correction referred earlier. This will surely bring the frequent and habitual defaulters on a common platform which is a significant step for future compliance enforcement. The regular defaulters will find such a criteria as a 'reputation risk' which itself will trigger the compliance in future. The final amount towards remediation, and natural and community resource augmentation action plan can be summation of these three aspects or the amount equivalent to the CER amount as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018, whichever is higher.

29. **Calculation of Cost of remediation plan and natural & community resource augmentation plan**

Sr	Description	Details	Amount
1.	Total of recurring cost	Cost arrived from above table per day X number of days in violation	
2	Non-recurring cost	Cost as arrived from above table	
3.	Economic benefits accrued due to violation	10% of ready reckoner cost of the construction under violation if it is already occupied (fully or partially) or in reasonably advance stage of construction (more than 50%).	
		5% of ready reckoner cost of the construction under violation, if no occupation is given in violation construction and the construction under violation is still not in advance stage of construction (less than 50%) and	
		Incremental cost of Rs. 10 lakhs for each EC violation by PP or its directors observed at any other projects in last 3 years	
4	Cost of remediation plan and natural & community resource augmentation plan	Sum of 1, 2 and 3 above or amount equivalent to the CER amount as per the MOEF&CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018, whichever is higher.	

30. It is manifest from the language of the notification that the spirit of notification is twofold; firstly, there needs to a deterrent action against EC violation and secondly, there needs to be sufficient environmental restoration and restitution of the presumed environmental damages which generally occur in the surrounding due to construction projects. In the present case, most of the construction projects are located in urban areas of Mumbai and Pune and hence, in order to ensure that the local community really gets benefitted by such planned environmental restoration program, it is proposed that majority of such environmental restoration/restitution shall be carried out within 5 km of the project location. However, this aspect will be deliberated further.

31. Another important aspect of the notification is that the PP needs to give a bank guarantee of equivalent amount and such bank guarantee will be returned on verification of implementation of such EMP by regional office of Ministry, and further recommended by SEAC and only thereafter, SEIAA can take a decision on return of BG. The notification contemplates inclusion of such action plan as part of EMP. However, it is required to note that the proposed remediation and community restoration program will have to be carried out ex-situ i.e. not at construction site and therefore, the project proponent will not have mechanism to carry out such complementary remedial actions in the areas which are not under his control. One of the options is conducting such activities similar to CSR. Be that as it may, it is an admitted fact that there is a significant gap in such verification of compliance through environmental regulatory authority and therefore it would be difficult for SEAC and SEIAA to take a decision in this regard.

32. In order to simplify the entire process, it is proposed that the proposed EMP cost can be attributed to overall environmental development works in a fixed approportionate percentage which will avoid ambiguity and inconsistency. Though such a scheme of restoration may not be ideal scenario for any environmental restoration program, but as in the present case, we are strictly dealing with ex-situ restoration or rather environmental improvement program, such a practice can be most appropriate and effective. However, such practice cannot be adopted for

any future on-site restoration/restitution and is not a substitute 'pay and pollute' formulae for well established legal principle of 'polluter pays'.

33. The actual cost of remediation proposed at site can be given separately, duly certified by the environmental consultant which can be considered by SEAC and SEIAA before considering the amount which can be reduced from the cost arrived at above. However, such remediation is not expected to cover mandatory requirements of compliance or EMP, and needs to cover only exclusive efforts of environmental damage remediation.

34. Based on discussions with DoE, following areas have been identified for resource allocation through such EMP cost, which are subject to final decision, for both activities and allocation, by SEIAA and Govt of Maharashtra;

Sr. No	Description of Activity	% allocation	Implementing agency	Remarks
1	Afforestation (can include plantation, garden development)	25	Social forestry and Local body	The afforestation can be either through social forestry or the Local body. Preferably within 50 km from project site
2	Water conservation program (Jalyukt shivar, etc)	25		Preferably within 50 km radius of project site
3	Urban environment and sanitation (can include swatccha Bharat, playground development, urban ground-water recharge schemes etc)	20	Local body	
4	Sewerage lines and STP, solid waste management,	20	Local body	

5	Urban air/noise pollution control initiatives	10	Local body	

35. Implementation strategy: DoE on recommendation of SEIAA can lay down the implementation strategy and protocol to ensure timely execution of project which is the essence of such restoration program. The project proponent will be required to deposit such approportionated funds of the proposed EMP with concerned authorities and the confirmation of deposit of such funds will be the compliance of such EMP efforts at the project proponents end. Still however, he needs to get engaged with concerned departments to ensure that the amount is effectively spent in time bound manner. A committee under Secretary, DoE can take a review at least once in two months of the progress of such works. The concerned authorities can be asked to maintain separate account for the funds received under this scheme. The outer limit for execution of the projects could be maximum 2 years, and if any amount still remains unspent then the same will be reverted back to DoE by concerned department which can conduct specific state level programs form such funds.

अधिसूचित प्रयोगशाला या राष्ट्रीय जांच और अंशांकन प्रत्यायन बोर्ड द्वारा प्रत्यायित प्रयोगशाला या वैज्ञानिक और औद्योगिक अनुसंधान परिषद् की पर्यावरण के क्षेत्र में कार्य कर रही प्रयोगशाला द्वारा किया जाएगा ।";

(घ) उपपैरा (6) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(6) विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति पर्यावरणीय प्रबंधन योजना, सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना से मिलकर बनने वाली पर्यावरणीय प्रबंधन योजना को उपदर्शित करेगी, जो कि मूल्यांकन किए गए पर्यावरणीय नुकसान और पर्यावरणीय अनापत्ति की शर्त के उल्लंघन के कारण उदभूत आर्थिक फायदे की तत्स्थानी होगी ।";

(ङ) उपपैरा (7) के स्थान पर निम्नलिखित उपपैरा रखा जाएगा, अर्थात्:-

"(7) परियोजना प्रस्तावक से सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना की रकम के समतुल्य बैंक प्रत्याभूति को राज्य प्रदूषण नियंत्रण बोर्ड के पास प्रस्तुत करने की अपेक्षा होगी और राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति द्वारा या प्रवर्ग 'क' परियोजना के लिए मात्रा की सिफारिश विशेषज्ञ मूल्यांकन समिति द्वारा की जाएगी और इसको विनियामक प्राधिकरण द्वारा अंतिम रूप दिया जाएगा तथा बैंक प्रत्याभूति को पर्यावरणीय अनापत्ति अनुदत्त करने से पूर्व जमा किया जाएगा और उसे मंत्रालय के प्रादेशिक कार्यालय, विशेषज्ञ मूल्यांकन समिति, यथास्थिति, राज्य या संघ राज्यक्षेत्र विशेषज्ञ मूल्यांकन समिति तथा विनियामक प्राधिकरण के अनुमोदन के पश्चात् सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के सफलतापूर्वक कार्यान्वयन के पश्चात् निर्मुक्त किया जाएगा ।"।

[फा. सं. जेड-11013/22/2017-आईए-II(एम)]

ज्ञानेश भारती, संयुक्त सचिव

टिप्पण: मूल अधिसूचना का.आ. 804(अ), तारीख 14 मार्च, 2017 द्वारा प्रकाशित की गई थी ।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 8th March, 2018

S.O. 1030(E). —Whereas, the Ministry of Environment, Forest and Climate Change *vide* notification number S.O.804(E), dated the 14th March, 2017 (hereinafter referred to as the said notification) has notified the process for appraisal of projects for grant of Terms of Reference and Environmental Clearance, which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance as mandated under the Environment Impact Assessment Notification, 2006 [S.O.1533 (E), dated the 14th September, 2006];

And whereas, the Ministry of Environment, Forest and Climate Change (hereinafter referred to as the Ministry) in the said notification *inter alia*, directed *vide* sub-paragraph (2) of paragraph 13, that in case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority, are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in product- mix without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal Committee and environmental clearance will be granted at the Central level;

And whereas, the Ministry has received a number of proposals relating to all sectors covered under category A and category B, for consideration in pursuance of the said notification;

And whereas, the Ministry is in receipt of representations from the public representatives and Industrial Associations, requesting delegation of powers to the respective States to deal with the violation cases for operational reasons and expediting the proposals;

And whereas, the National Green Tribunal, Principal Bench at New Delhi *vide* their order dated the 27th November, 2017 in similar matters in OA No.570/2016 titled M/s Anjli Infra Housing LLP Vs Union of India & othrs, OA No.576/2016 in the matter of M/s Ankur Khusal Construction LLP Vs Union of India & others and OA No.579/2016 in the matter of Anjli Infra Housing LLP Vs Union of India & others, has passed directions for consideration nf the projects at the State level and pass appropriate orders in regard to grant/refusal of the envirnnmental clearance in accordance with law;

And whereas, in view of the above, the Central Government finds it necessary to amend the said notification number S.O.804(E), dated the 14th March, 2017 by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the Envirnnment (Protection) Rules, 1986 regarding inviting objections and suggestions from persons likely to be affected thereby, in public interest;

Now, therefore, in exercise of the powers cnnferred by sub-section (1), sub-clause (a) of clause (i) and clause (v) of sub-section (2) of section 3 of the Environment (Protectinn) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 nf the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification by dispensing with the requirement of notice referred to in clause (a) of sub-rule (3) of rule 5 of the said rules, in public interest, namely:-

In the said notification, in paragraph 13, -

(a) for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:-

"(2) In case the prnjects or activities requiring prior envirnnmental clearance under the Environment Impact Assessment Notification, 2006 from the concerned regulatory authority are brought for environmental clearance after starting the construction work, nr have undertaken expansion, modernisation, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and the projects or activities covered under category A of the Schedule to the Environment Impact Assessment Notification, 2006, including expansion and modernisation of existing projects or activities and change in product mix, shall be appraised for grant of environmental clearance by the Expert Appraisal Committee in the Ministry and the environmental clearance shall be granted at Central level, and for category B projects, the appraisal and approval thereof shall vest with the State or Union territory level Expert Appraisal Committees and State or Union territory Environment Impact Assessment Authorities in different States and Union territories, constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.";

(b) for sub-paragraph (4), the following sub-paragraph shall be substituted, namely:-

"(4) The cases of violations will be appraised by the Expert Appraisal Committee at the Central level or State or Union territory level Expert Appraisal Committee constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has heen constructed at a site which under prevailing laws is permissihle and expansion has been done which can nin sustainahly under compliance of environmental norms with adequate environmental safeguards, and in case, where the findings of Expert Appraisal Committee for projects under category A or State or Union territory level Expert Appraisal Committee for projects under category B is negative, closure of the project will be recommended along with other actions under the law.";

(c) for sub-paragraph (5), the following suh-paragraph shall be substituted, namely:-

"(5) In case, where the findings of the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee on point at sub-paragraph (4) above are affirmative, the projects will he granted the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparatinn nf Environment Management Plan and the Expert Appraisal Comrnittee or State or Union territory level Expert Appraisal Committee, will prescribe specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants, and the collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under the Environment (Protection) Act, 1986, or a environmental laboratory accredited by the National Accreditation Board

for Testing and Calibration Laboratories, or a laboratory of the Council of Scientific and Industrial Research institution working in the field of environment.";

(d) for sub-paragraph (6), the following sub-paragraph shall be substituted, namely:-

"(6) The Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, as the case may be, shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to vinlation as a conditinn of environmental clearance.";

(e) for sub-paragraph (7), the following sub-paragraph shall be substituted, namely:-

"(7) The project proponent will be required to submit a bank guarantee equivalent to the amount nf remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects nr by the State or Uninn territory level Expert Appraisal Committee for category B projects, as the case may be, and finalised by the cnncerned Regulatory Authority, and the bank guarantee shall be deposited prior to the grant of environmental clearance and released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee and approval of the Regulatory Authority.".

[F.No.Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

Note: The principal notification was published vide number S.O.804(E), dated the 14th March, 2017.

आदेश

नई दिल्ली, 8 मार्च, 2018

का.आ. 1031(अ).—केन्द्रीय सरकार ने पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1), उपधारा (2) के खंड (i) के उपखंड (क) और खंड (v) के अधीन जारी भारत सरकार की, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में अधिसूचना संख्या का.आ.804(अ) तारीख 14 मार्च, 2017 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा उन परियोजनाओं का जिन्होंने पूर्व पर्यावरण अनापत्ति प्राप्त किए बिना कार्य आरंभ कर दिया है और ऐसे मामलों को उल्लघंन माना गया है, का मूल्यांकन करने के लिए प्रबंध किया है।

और उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (1) द्वारा निर्देश दिया गया है कि यथास्थिति केन्द्रीय सरकार से अथवा उपर्युक्त अधिनियम के अधीन केन्द्रीय सरकार द्वारा विधिवत रूप से गठित राज्य पर्यावरण समाघात निर्धारण प्राधिकरण से, पूर्व पर्यावरणीय स्वीकृति प्राप्त किए बिना भारत के किसी भी भाग में प्रक्रिया या प्रौद्योगिकी अथवा दोनों में परिवर्तन सहित अतिरिक्त क्षमता के लिए शुरू की गई पर्यावरण समाघात निर्धारण अधिसूचना, 2006 [का.आ.1533(अ) तारीख 14 सितंबर, 2006] के अधीन पूर्व पर्यावरणीय स्वीकृति की अपेक्षा वाली परियोजनाओं अथवा क्रियाकलापों या मौजूदा परियोजनाओं अथवा क्रियाकलापों के विस्तार या आधुनिकीकरण को पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उल्लंघन का मामला माना जाएगा;

और उपर्युक्त अधिसूचना में यह और उपबंध है कि ऊपर उल्लिखित परियोजनओं और क्रियाकलापों से उपर्युक्त अधिसूचना के पैरा 13 के उपपैरा (2) से (7) में विनिर्दिष्ट प्रक्रिया के अनुसार सख्ती से निपटा जाएगा;

और पर्यावरण (सरंक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त अधिसूचना के पैरा 13 के उप पैरा (4) के अनुसरण में सभी क्षेत्रों में उल्लंघन के मामलों का मूल्यांकन करने और केन्द्रीय सरकार को सिफोरिशें करने के लिए विभिन्न क्षेत्रों के विशेषज्ञों से मिलकर बनने वाली भारत सरकार, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, संख्यांक का.आ.1805(अ), तारीख 6 जून, 2017 की अधिसूचना द्वारा एक विशेषज्ञ मूल्यांकन समिति (ईएसी) का गठन किया गया था ;

और इस प्रकार गठित की गई विशेषज्ञ मूल्यांकन समिति में, श्री एस.के.श्रीवास्तव, वैज्ञानिक ई को उक्त समिति के सदस्य सचिव के रूप में पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय के प्रतिनिधि रूप में नामनिर्देशित किया गया था ।

और प्रशासनिक तथा प्रचालन संबंधी कारणों से, अतिक्रमण मामलों में कार्यवाई करने के लिए गठित की गई विशेषज्ञ मूल्यांकन समिति के सदस्य सचिव के रूप में यथास्थिति श्री एस.के.श्रीवास्तव, वैज्ञानिक ई के साथ वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी का नामांकन प्रतिस्थापित करना समीचीन हुआ है;

और अत: अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिसूचना सं0 का.आ.804(अ) तारीख 14 मार्च, 2017 के पैरा 13 के उपपैरा (4) के अनुसरण में भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 6 जून, 2017 में प्रकाशित भारत सरकार की पर्यावरण वन और जलवायु परिवर्तन मंत्रालय संख्या का.आ.1805(अ), तारीख 6 जून, 2017 के आदेश में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त आदेश की सारणी में, क्रम सं0 11 के सामने, स्तंभ (2) में प्रविष्टियों के स्थान पर, निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

"वैज्ञानिक ई या वैज्ञानिक एफ या वैज्ञानिक जी, यथास्थिति, पर्यावरण, वन और जलवायु परिवर्तन, मंत्रालय, जोरबाग रोड, नई दिल्ली-3 ।

[फा.सं.जेड-11013/22/2017-आईए-II(एम)]

ज्ञानेश भारती, संयुक्त सचिव

टिप्पण: मूल आदेश सं. का.आ.1805(अ) तारीख 6 जून, 2017 द्वारा प्रकाशित किया गया था ।

ORDER

New Delhi, the 8th March, 2018

S.O. 1031(E).—Whereas, by the notification of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O. 804(E), dated the 14th March, 2017, issued under sub-section (1), sub-clause (a) of clause (i) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 (hereinafter referred to as the said notification), the Central Government has established an arrangement to appraise the projects, which have started the work without ohtaining prior environmental clearance and such cases have been termed as cases of violation;

And whereas, vide sub-paragraph (1) of paragraph 13 of the said notification, it has been directed that the projects or activities or the expansion or modernisation of existing projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 [S.O.1533(E), dated the 14th September, 2006] entailing capacity addition with change in process or technology or both, undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Environment Impact Assessment Authority, as the case may be, duly constituted by the Central Government under the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006;

And whereas, the said notification further provides that the projects and activities referred above, shall be dealt strictly as per the procedure specified in sub-paragraph (2) to (7) of paragraph 13 of the said notification;

And whereas, in exercise of the power conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification, an Expert Appraisal Committee (EAC) was constituted by notification of the Government of India in the Ministry of Environment, Forest and Climate Change *vide* number S.O.1805(E), dated the 6th June, 2017 comprising members with expertise in different sectors to appraise and make recommendations to the Central Government as cases of violation in all the sectors;

And whereas, in this Expert Appraisal Committee so constituted, Shri S K Srivastava, Scientist E was nominated as representative of the Ministry of Environment, Forest and Climate Change as Member Secretary of the said Committee;

And whereas, due to administrative and operating reasons, it has become expedient to replace the nomination of Shri S. K. Srivastava, Scientist E with the Scientist E or Scientist F or Scientist G, as the case may be, as Member Secretary of the Expert Appraisal Committee constituted to deal with violation cases;

And now, therefore, in exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protectioo) Act, 1986 (29 of 1986) and in pursuance of sub-paragraph (4) of paragraph 13 of the said notification number S.O.804(E), dated the 14th March, 2017, the Central Governmeot hereby makes the following amendments in the order of the Government of India in the Ministry of Eovironment, Forest and Climate Change number S.O.1805(E), dated the 6th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 6th June, 2017, namely:-

In the said order, in the Table, against serial number 11, for the entries in column (2), the following entries shall be substituted, namely:-

"Scientist E or Scientist F or Scientist G, as the case may be, Ministry of Environment, Forest and Climate Change, Jorbagh Road, New Delhi-3".

[F. No. Z-11013/22/2017-IA-II (M)]

GYANESH BHARTI, Jt. Secy.

Note: The principal order was published vide number S.O.1805(E), dated the 6th June, 2017.

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F. No.Z-11013/22/2017-IA.II (M)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi-110003

Dated: 15th March, 2018

OFFICE MEMORANDUM

Sub: Implementation of Notification S.O.1030 (E) dated 8th March, 2018 - reg.

The Environment Impact Assessment (EIA) Notification, 2006 under the Environment (Protection) Act, 1986 mandates the requirement of prior environmental clearance to the projects/activities listed in the schedule to the said Notification. These projects/activities have been categorized under category 'A'or 'B'and require appraisal and approval by the respective regulatory authorities at the Central/State level.

2. The Ministry has issued a Notification number S.O.804(E) dated 14th March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects, already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one-time opportunity to submit the request in this regard within 6 months.

3. In order to streamline and expedite consideration of proposals, it has now been decided that the projects/activities covered under category 'B', shall be considered by the SEAC/SEIAAs in the respective States/UTs. The Ministry has issued another Notification number S.O.1030 (E) dated 8th March, 2018, amending the Notification dated 14th March, 2017 to that extent.

4. In order to operationalize the Notification number S.O.1030 (E) dated 8th March, 2018, following directions are being issued for compliance with immediate effect: -

i. The proposals received up to 13th September, 2017 on the Ministry's portal, shall be considered by the EAC or the SEAC/SEIAA in the respective States/UTs, as the case may be, in order of their submission.

ii. All the proposals of category 'B' projects/activities pertaining to different sectors, received within six months only i.e. up to 13th September, 2017 on the Ministry's portal, but yet not considered by the EAC in the Ministry, shall be transferred online to the SEAC/SEIAAs in the respective States/UTs.

iii. The proposals submitted directly for consideration of EC (in place of ToR), shall also be considered on the same lines, in order of their submission on the Ministry's portal.

iv. All the projects of category 'B' pertaining to different sectors, although considered by the EAC in the Ministry and accorded ToR, shall be appraised for grant of EC by the SEAC/SEIAAs in the respective States/UTs.

v. All projects/activities of all sectors, shall be required to adhere to the directions of Hon'ble Madras High Court vide order dated 13th October, 2017 while upholding the Ministry's Notification dated 14th March, 2017.

(Sharath Kumar Pallerla)
Scientist "F" / Director

To,

1. The Chairman of all the SEAC/SEIAA of States/UTs
2. The Member Secretary of all the SEAC/SEIAA of States/UTs

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS for Environment, Forest and Climate Change
3. PPS to Secretary (EF&CC)
4. PPS to AS (AKJ)/AS (AKM)
5. PS to JS (GB)/JS (JT)
6. All officers in IA Division
7. Website, MoEF&CC
8. Guard File

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F. No.Z-11013/22/2017-IA.II (M)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi-3

Dated: 16th March, 2018

OFFICE MEMORANDUM

Sub: Compliance of the order dated 14th March, 2018 of Hon'ble High Court of Judicature at Madras in WMP Nos.3361 and 3362 of 2018, and WMP No.3721 of 2018 in WP No.11189 of 2017 - reg.

The Ministry has issued a Notification number S.O.804(E) dated 14th March, 2017 under the Environment (Protection) Act, 1986 to appraise and regularize the projects, already taken up or under implementation without obtaining the prior environmental clearance in terms of the provisions of the EIA Notification, 2006 and thus identified to be in violation of the same. The Notification enables consideration of such proposals at Central level by providing one-time opportunity to submit the request in this regard within 6 months.

2. Pursuant to the Ministry's Notification number S.O.1030(E) dated 8th March, 2018 regarding consideration of proposals by the Expert Appraisal Committee or the SEAC/SEIAA depending upon the categorization of projects/activities (A or B) listed in the schedule to the Environment Impact Assessment Notification, 2006, the Ministry has issued Office Memorandum on 15th March, 2018 (copy enclosed) to operationalize the same.

3. Hon'ble High Court of Judicature at Madras vide Order dated 14th March, 2018 in WMP Nos.3361 and 3362 of 2018, and WMP No.3721 of 2018 in WP No.11189 of 2017, has directed as under:

"24. In this view of the matter, considering that sub-clause (i)(d) of Stage III of paragraph 7(i) of parent notification as contained in item No. 8(a) of the Schedule being housing projects, we deem it necessary to clarify that projects and project proponents falling under category alone shall be governed by the 'public consultation' clause in the parent notification.

25. With regard to the prayer of MOEF for extension of time for submission of proposals by project proponents, we are of the view that it will serve the ends of justice if time is extended by 30 (thirty) days from the date of delivery of this order in open court."

4. In view of the above orders of Hon'ble High Court, following directions are being issued for compliance with immediate effect: -

i. The project proponent, who have not submitted the proposals within six months window i.e. up to 13th September, 2017 in pursuance of this Ministry's Notification S.O.804 (E) dated 14th March, 2017, are required to submit the proposals within 30 days, to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects.

ii. (The project proponent, who have submitted the proposals on the Ministry's portal after 13th September, 2017, are also required to submit the proposals afresh within 30 days, to the EAC for category A projects or the SEAC/SEIAA in the respective States/UTs for category B projects.

iii. The projects/activities pertaining to all sectors, shall be considered as per the directions of Hon'ble High of Judicature at Madras vide Order dated 14th March, 2018 in WMP Nos.3361 and 3362 of 2018, and WMP No.3721 of 2018 in WP No.11189 of 2017.

iv. The directions issued vide this Ministry's OM dated 15th March, 2018 shall continue to apply.

5. This issues with approval of the competent authority.

(Sharath Kumar Pallerla)
Scientist F/Director

To,

1. The Chairman of all the SEAC/SEIAA of States/UTs
2. The Member Secretary of all the SEAC/SEIAA of States/UTs

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS for Environment, Forest and Climate Change
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6. All officers in IA Division
7. Website, MoEF&CC
8. Guard File

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MINISTRY OF JAL SHAKTI

(Department Of Water Resources, River Development And Ganga Rejuvenation)

(CENTRAL GROUND WATER AUTHORITY)

NOTIFICATION

New Delhi, the 24th September, 2020

S.O. 3289(E).—WHEREAS, on the directions of Hon'ble Supreme Court vide its order dated the10th December, 1996 passed in Civil writ Petition No 4677 of 1985, MC Mehta Vs Union of India, the Central Government constituted the Central Ground Water Authority (hereafter referred to as the 'Authority') vide notification number S.O. 38 (E), dated the 14th January, 1997 to exercise powers under Section 5 of the Environment (Protection) act, 1986 (29 of 1986) for the purposes of regulation and control of Ground Water management and development and to exercise certain powers and perform certain functions relating thereto;

AND WHEREAS, the Authority has been regulating ground water development and management by way of issuing 'No Objection Certificates' for ground water extraction to industries or infrastructure projects or Mining Projects etc., and framed guidelines in this connection from time to time in twenty two States and two Union territories, where ground water development is not being regulated by the State Government Union Territory administration concerned;

AND WHEREAS, some of the State Governments or, Union territories enacted legislations and issued regulatory directions or orders for regulating ground water development and management;

AND WHEREAS, the Hon'ble National Green Tribunal, New Delhi vide order dated the 15th April 2015 in OA Nos. 204/205/206 of 2014 has issued directions to the Authority to ensure that any person operating tube-well, or any means to extract ground water shall obtain permission from the Authority and shall operate the same subject to the law in force, even if such unit is existing unit or the unit is yet to be established;

AND WHEREAS, the said Hon'ble Tribunal vide its order dated the 09th July, 2015 in OA Nos. 34 and 37 of 2014 directed all industrial units which are members of the Common Effluent Treatment Plants (CETPs) to approach the Authority through State Pollution Control Board for obtaining 'No Objection Certificate' in accordance with the law;

AND WHEREAS, the aforesaid Hon'ble Tribunal vide order dated the 13th July, 2017 in OA No 200- of 2014 directed that every industry should be directed to pay for extraction of such water, that too, subject to the conditions stated in the order permitting such extraction;

AND WHEREAS, the said Hon'ble Tribunal vide its order dated the 28th August, 2018 in O.A. Nos. 176 of 2015 and 59 of 2012 respectively directed the Ministry of Water Resources, River Development and Ganga Rejuvenation to forthwith review the existing mechanism so as to ensure effective steps for conserving the groundwater resources;

AND WHEREAS, in pursuance of the directions of the Hon'ble National Green Tribunal and powers conferred by sub-section (3) of section 3 and section 5 of the Environment (Protection) Act, 1986 the Authority, with a view to protect the ground water resources had circulated the draft guidelines for grant of 'No Objection Certificate' on the 11th October, 2017 inviting comments and suggestions from all the stakeholders;

AND WHEREAS, all objections and suggestions received in response to the said draft guideline have been duly considered by the Central Government, the Authority notified the guidelines to regulate groundwater over-exploitation and to conserve the groundwater resources in the country vide notification number S.O. 6140 (E), dated the 12th December, 2018;

AND WHEREAS, the aforesaid Hon'ble Tribunal vide order dated the 03rd January 2019 in the OA No. 176 of 2015 directed that the above mentioned notification dated the 12th December, 2018 may not be given effect to as it is unsustainable if tested on 'Precautionary Principle, Sustainable development as well as Inter-generational Equity Principles' and if implemented, will result in fast depletion of groundwater and damage to water bodies and will be destructive of the fundamental right to life under Article 21 of the Constitution of India;

AND WHEREAS, the said Hon'ble Tribunal vide order dated the 11th September, 2019 constituted a committee to deliberate on steps for preventing depletion of groundwater, robust monitoring mechanism

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against unauthorised extractions and fulfillment of 'No Objection Certificate' conditions, environment compensation etc and to submit a report;

AND WHEREAS, the aforesaid committee submitted the report along-with draft guidelines to regulate groundwater extraction and groundwater conservation in Hon'ble Tribunal on the 16th March, 2020;

AND WHEREAS, the above said Hon'ble Tribunal vide order dated the 20th July, 2020 directed to comply with certain points for sustainable groundwater management while issuing 'No Objection Certificates' to commercial establishments by the Authority;

Now therefore, in pursuance of the directions of Hon'ble National Green Tribunal and the powers conferred by sub-section (3) of Section 3 read with Section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Department of Water Resources, River Development & Ganga Rejuvenation, hereby notifies the guidelines to regulate and control groundwater extraction in the country in supersession to this Ministry notification vide S.O. 6140 (E), dated the 12th December, 2018 as per the Schedule below:

SCHEDULE

Guidelines to regulate and control ground water extraction in India

(with immediate effect)

INDEX

[F. No. CGWA-21/4/2020-CGWA]

ASHISH KUMAR, Director

ANNEXURES

Annexure I: Estimation of water requirements for drinking and domestic use.

Annexure II: Guidelines for construction of piezometers and monitoring of groundwater levels and quality.

Annexure III: Measures to be adopted to ensure prevention from pollution in the plant premises of polluting industries/ projects.

Annexure IV: Outline of hydro-geological report for obtaining No Objection Certificate for industries.

Annexure V: Format of the Report on ground water conditions (for mining projects).

Annexure VI: Indicative list of Infrastructure projects.

Annexure VII: Supreme Court Order in Civil Writ petition 36 of 2009 regarding measures for prevention of fatal accidents of small children due to their falling into abandoned bore wells and tube wells.

Annexure VIII: List of States/ Union territories where ground water extraction is being regulated by Central Ground Water Authority (CGWA)

Annexure IX: Glossary of technical terms used

Annexure X : Annual water audits by the industries

Guidelines to regulate and control groundwater extraction in India

Preamble and Background:

On the directions of Hon'ble Supreme Court vide its order dated 10th December, 1996 passed in Civil writ Petition No 4677 of 1985, MC Mehta Vs Union of India, the Central Government had constituted the Central Ground Water Board as Authority vide notification number S.O. 38 (E), dated the 14th January, 1997 to exercise powers under sub section (3) of section 3 of the Environment (Protection) act, 1986 (29 of 1986) for the purposes of regulation and control of Ground Water Management and Development and to exercise certain powers and perform certain functions as per the said Act.

The Authority has been regulating ground water development and management by way of issuing 'No Objection Certificates' for ground water extraction to industries or infrastructure projects or Mining Projects etc., and framed guidelines in this connection from time to time applicable in twenty two States and two Union territories, where ground water development is not being regulated by the State Government and Union territory administration concerned.

To have sustainable management of water resources in the country groundwater abstraction guidelines have been prepared to regulate groundwater extraction and conserve the scarce groundwater resources in the country.

These guidelines will come into force with immediate effect from the date of Gazette Notification and will supersede all earlier guidelines issued by the Central Ground Water Authority (CGWA).

These guidelines will have pan India applicability. Ground water abstraction in States/ Uts (which are not regulating ground water abstraction) shall continue to be regulated by Central Ground Water Authority.

Further, wherever States/ Uts have come out with their own groundwater abstraction guidelines, which are inconsistent with the CGWA guidelines, the provisions of CGWA guidelines will prevail. However, in case the guidelines followed by such States/ Uts contain some more stringent provisions than CGWA guidelines, such provisions may also be given effect to by the States/ Uts Authorities in addition to those contained in the CGWA guidelines. States may be at liberty to suggest additional conditions/ criteria based on the local hydro-geological situations which shall be reviewed by CGWA/Ministry of Jal Shakti, Government of India before acceptance.

All new/existing industries, industries seeking expansion, infrastructure projects and mining projects abstracting ground water, unless specifically exempted under Para 1.0 below, will be required to seek No Objection Certificate from Central Ground Water Authority or, the concerned State/ UT Ground Water

Authority as the case may be. The entire process of grant of No Objection Certificate shall be online through a web based application system.

Water management plans shall be prepared by all the State Ground Water Authorities/ Organizations for all Over-exploited, Critical and Semi-critical assessment units starting with Over-exploited units. Water management plans shall be reviewed and updated periodically. Water management plans, data on water availability and scarcity and policy framed in this regard shall be placed on the websites of Central Ground Water Authority/ State Ground Water Authority.

1.0 Exemptions from seeking No Objection Certificate:

Following categories of consumers shall be exempted from seeking No Objection Certificate for ground water extraction:

(i) Individual domestic consumers in both rural and urban areas for drinking water and domestic uses.

(ii) Rural drinking water supply schemes.

(iii) Armed Forces Establishments and Central Armed Police Forces establishments in both rural and urban areas.

(iv) Agricultural activities.

(v) Micro and small Enterprises drawing ground water less than 10 cum/day.

1.1 Registration of Drilling Rigs

State / Ut Governments shall be responsible for registering drilling rigs operating within their jurisdiction and for maintaining the database of wells drilled by them. Appropriate link shall be provided in CGWA portal for making the data available to CGWA.

2.0 Drinking & Domestic use for Residential apartments/ Group Housing Societies/ Government water supply agencies in urban areas

For grant of No Objection Certificate for ground water extraction, the project proponent has to furnish the details as per the guidelines issued by the CGWA in proper format as available in CGWA website. No Objection Certificate for new /existing wells shall be granted only in such cases where the local Government water supply agency is unable to supply requisite amount of water in the area.

No Objection Certificate shall be granted subject to the following specific conditions:

i) Installation of Sewage Treatment Plants shall be mandatory for all residential apartments/ Group Housing Societies where ground water requirement is more than 20 m^3/day. The water from Sewage Treatment Plants shall be utilized for toilet flushing, car washing, gardening etc.

ii) The No Objection Certificate shall be valid for a period of five years from the date of issue or till such time local Government water supply is provided to the project area, whichever is earlier. In case the project proponent receives water supply from the concerned local Government Water Supply Agency during the validity of the No Objection Certificate, intimation regarding availability of public water supply shall be sent by the project proponent to CGWA and No Objection Certificate will be cancelled by the Authority. In other cases, the project proponent will apply for renewal of No Objection Certificate, ninety days before the expiry of No Objection Certificate.

iii) Proponents shall be liable to pay ground water abstraction charges for the quantum of ground water proposed to be extracted, as per rates mentioned in Table 5.1.

Documents to be submitted with the application

a) Details of water requirement computed as per National Building Code, 2016 **(Annexure I)**, taking into account recycling/ reuse of treated water for flushing etc.

b) Affidavit on non-judicial stamp paper of Rs. 10/- by the applicant, confirming non/ inadequate availability of public water supply in case of users requiring ground water up to 10 m^3/ day for drinking/ domestic use.

c) Certificate of non-availability of water from local government water supply agency in cases requiring ground water in excess of 10 m^3/ day for drinking/ domestic use. Government water supply agencies

applying for No Objection Certificate shall submit copy of government approval of the scheme/ project proposed to be implemented.

d) Ground water quality data of existing bore well/ tube well/ dug well from any National Accreditation Board for Testing and Calibration Laboratories (NABL) accredited laboratory or Govt. approved laboratory (in case of existing projects applying for no objection certificate)

e) Proposal for rain water harvesting/ recharge within the premises as per Model Building Bye Laws issued by Ministry of Housing & Urban Affairs.

3.0 Agriculture Sector

Agriculture sector is the backbone of the Indian economy. As per Minor Irrigation Census 2013-14, 87.86% of wells are owned by marginal, small and semi-medium farmers having land holding up to 4 hectares (ha). Around 9.18 % of wells are owned by medium farmers having land holding 4 – 10 ha and 2.96% of the wells are owned by big farmers having land holding more than 10 ha.

Considering the number of ground water abstraction structures, regulation of ground water in agriculture sector through a 'command and control' strategy will prove to be an arduous task. Therefore, a participatory approach for sustainable ground water management would be more productive.

States/Uts are advised to review their free/subsidized electricity policy to farmers, bring suitable water pricing policy and may work further towards crop rotation/diversification/other initiatives to reduce over-dependence on groundwater.

Agriculture sector shall be exempted from obtaining No Objection Certificate for ground water extraction.

4.0 Commercial Use

No new major industries shall be granted No Objection Certificate in over-exploited assessment areas except as per the policy guidelines.

Availability of ground water resources shall be given due regard while considering applications for grant of No Objection Certificate for commercial use.

Commercial entities extracting ground water shall be required to submit online annual water audit report including an audit of water use as mentioned in the relevant sections. CGWA/ State Ground Water Authority (SGWA) shall publish all such audit reports online.

CGWA/ SGWAs shall engage independent agencies to verify the compliance of No Objection Certificate conditions periodically.

4.1 Industrial Use

In Over-exploited assessment units, No Objection Certificate shall not be granted for ground water abstraction to any new industry except those falling in the category of Micro, Small and Medium Enterprises (MSME). However, No Objection Certificate for drinking/ domestic use for work force, green belt use by these new industries shall be permitted. Expansion of existing industries involving increase in quantum of ground water abstraction in over-exploited assessment units shall not be permitted. No Objection Certificate shall not be granted to new packaged water industries in Overexploited areas, even if they belong to MSME category.

No Objection Certificate for ground water extraction by industries shall be granted subject to the following specific conditions:

i) No Objection Certificate shall be granted only in such cases where local government water supply agencies are not able to supply the desired quantity of water.

ii) All industries shall be required to adopt latest water efficient technologies so as to reduce dependence on ground water resources.

iii) All industries abstracting ground water in excess of 100 m^3/d shall be required to undertake annual water audit through Confederation of Indian Industries (CII)/ Federation Indian Chamber of Commerce and Industry (FICCI)/ National Productivity Council (NPC) certified auditors and submit audit reports within three months of completion of the same to CGWA. All such industries shall be

required to reduce their ground water use by at least 20% over the next three years through appropriate means.

iv) Construction of observation well(s) (piezometer)(s) within the premises and installation of appropriate water level monitoring mechanism as mentioned in Section 15 shall be mandatory for industries drawing/ proposing to draw more than 10 m^3/day of ground water and. Monitoring of water level shall be done by the project proponent. The piezometer (observation well) shall be constructed at a minimum distance of 15 m from the bore well/production well. Depth and aquifer zone tapped in the piezometer shall be the same as that of the pumping well/ wells. Detailed guidelines for design and construction of piezometers are given in **Annexure II**. Monthly water level data shall be submitted to the CGWA through the web portal.

v) The proponent shall be required to adopt roof top rain water harvesting/ recharge in the project premises. Industries which are likely to pollute ground water (chemical, pharmaceutical, dyes, pigments, paints, textiles, tannery, pesticides/ insecticides, fertilizers, slaughter house, explosives etc.) shall store the harvested rain water in surface storage tanks for use in the industry.

vi) Injection of treated/ untreated waste water into aquifer system is strictly prohibited.

vii) Industries which are likely to cause ground water pollution e.g. Tanning, Slaughter Houses, Dye, Chemical/ Petrochemical, Coal washeries, other hazardous units etc. (as per CPCB list) need to undertake necessary well head protection measures to ensure prevention of ground water pollution **(Annexure III).**

viii) All industries drawing ground water in safe, semi-critical and critical assessment units shall be required to pay ground water abstraction charges as applicable as per Tables 5.2 A and 5.3 A.

ix) All existing industries drawing ground water in over-exploited assessment units shall be liable to pay ground water restoration charges as applicable as per Tables 5.2 B and 5.3 B.

Documents to be submitted with the application

(a) An affidavit on non judicial stamp paper of Rs. 10/- regarding non availability of water supply from local government agencies in cases where ground water requirement is up to 10 m^3/day.

(b) Certificate regarding non/ partial availability of fresh water/ treated waste water supply from the local government water supply agency in cases where requirement of ground water is more than 10 m^3/day.

(c) Ground water quality data of existing bore well/ tube well/ dug well from any NABL accredited laboratory or Govt. approved laboratory (in case of existing projects applying for No Objection Certificate)

(d) Water quality data of bore well/ tube well/ dug well in respect of existing industries from NABL accredited laboratories/Government approved laboratories.

(e) Proposal for rain water harvesting/ recharge within the premises as per Model Building Bye Laws issued by Ministry of Housing & Urban Affairs.

(f) **Impact Assessment report:** All projects extracting/proposing to extract ground water in excess of 100 m^3/day in Over-exploited, Critical and Semi-critical areas shall have to mandatorily submit impact assessment report of existing/ proposed ground water withdrawal on the ground water regime and also socio-economic impacts report prepared by accredited consultants. Pro-forma for the report is given in **Annexure IV.**

4.2 Mining Projects

All existing as well as new mining projects will be required to obtain No Objection Certificate for ground water abstraction. Since mining projects are location specific, there will be no ban on grant of No Objection Certificate for abstraction of ground water for such projects in over-exploited assessment units.

No Objection Certificate for mining projects shall be granted subject to the following specific conditions:

i) It shall be mandatory for all the mining industries to ensure that water available from de-watering operations is properly treated and should be gainfully utilized for supply for irrigation, dust

suppression, mining process, recharge in downstream and for maintaining e-flows in the river system.

ii) Construction of observation well(s) (piezometers) along the periphery in the premises, for monthly ground water level monitoring, shall be mandatory for mines drawing/ proposing to draw more than 10 m^3/day of ground water. Depth and aquifer zone tapped in the piezometer shall be commensurate with that of pumping well/ wells.

iii) In addition, the proponent shall monitor ground water levels by establishing observation wells (piezometers) in the core and buffer zones as specified in the No Objection Certificate.

iv) In case of coal and other base metal mining the project proponent shall use the advance dewatering technology (by construction of series of dewatering abstraction structures) to avoid contamination of surface water.

v) In addition to this, all mining units shall also monitor the water quality of mine seepage and mine discharge through NABL accredited/ Govt. approved laboratories and the same shall be submitted at the time of self compliance.

vi) All mining projects drawing ground water in safe, semi-critical and critical assessment units shall be required to pay ground water abstraction charges as applicable as per Tables 5.4 A.

vii) All mining projects drawing ground water in over-exploited assessment units shall be liable to pay ground water restoration charges as per Table 5.4 B.

Documents to be submitted with the application

(a) Mining plan approved by the concerned Govt. agency/ department.

(b) Proposal for rain water harvesting/ recharge within the premises as per Model Building Bye Laws issued by Ministry of Housing & Urban Affairs.

(c) Comprehensive report prepared by accredited consultant on ground water conditions in both core and buffer zones of the mine, depth wise and year wise mine seepage calculations, impact assessment of mining and dewatering on ground water regime and its socio-economic impact, details of recycling, reuse and recharge, reduction of pumping with use of technology for mining and water management to minimize and mitigate the adverse impact on ground water, based on local conditions. Format for report is given in **Annexure V.**

4.3 **Infrastructure projects:**

Since infrastructure projects are location specific, grant of No Objection Certificate to such projects located in over-exploited assessment units shall not be banned. New infrastructure projects/ residential buildings may require dewatering during construction activity and/ or use ground water for construction. In both cases, applicants shall seek No Objection Certificate from CGWA before commencement of work. However, in over-exploited assessment units, use of ground water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site. New as well as existing Infrastructure projects shall also be required to seek No Objection Certificate for abstraction of ground water.

No 'No Objection Certificate' shall be granted for extraction of groundwater for Water Parks, Theme Parks and Amusement Parks in over-exploited assessment units.

Indicative list of Infrastructure projects is given in Annexure VI.

The No Objection Certificate for ground water abstraction will be granted subject to the following specific conditions:

i) In case of infrastructure projects that require dewatering, proponent shall be required to carry out regular monitoring of dewatering discharge rate (using a digital water flow meter) and submit the data through the web portal to CGWA/SGWA as applicable. Monitoring records and results should be retained by the proponent for two years, for inspection or reporting as required by CGWA/ SGWA.

ii) Installation of Sewage Treatment Plants (STP) shall be mandatory for new projects, where ground water requirement is more than 20 m^3/day. The water from STP shall be utilized for toilet flushing, car washing, gardening etc.

iii) For infrastructure dewatering/ construction activity, No Objection Certificate shall be valid for specific period as per the detailed proposal submitted by the project proponent.

iv) All infrastructure projects drawing ground water in safe, semi-critical and critical assessment units shall be required to pay ground water abstraction charges as applicable as per Table 5.3 A.

v) All infrastructure projects (new/ existing) drawing ground water in over-exploited assessment units shall be liable to pay ground water restoration charges as per Table 5.3 B.

Documents to be submitted with the application

(a) In cases where dewatering is involved, submission of impact assessment report prepared by an accredited consultant on the ground water situation in the area giving detailed plan of pumping, proposed usage of pumped water and comprehensive impact assessment of the same on the ground water regime shall be mandatory. The report should highlight environmental risks and proposed management strategies to overcome any significant environmental issues such as ground water level decline, land subsidence etc.

(b) An affidavit on non judicial stamp paper of Rs. 10/- regarding non availability of water from any other source in case water is required for construction in safe and semi critical areas.

(c) Certificate from a government agency regarding non availability of treated sewage water for construction within 10 km radius of the site in critical and over-exploited areas.

(d) Certificate of non-availability of water from local government water supply agency in respect of all categories of assessments units for commercial use.

(e) Proposal for rain water harvesting/ recharge within the premises as per Model Building Bye Laws issued by Ministry of Housing & Urban Affairs.

(f) Details of water requirement computed as per National Building Code, 2016 **(Annexure I)**, taking into account recycling/ reuse of treated water for flushing etc. (in case of completed infrastructure projects for commercial use).

(g) Completion certificate from the concerned agency for infrastructure projects requiring water for commercial use.

5.0 Ground water abstraction/ restoration charges

All residential apartments/ group housing societies/ Government water supply agencies in urban areas shall be required to pay ground water abstraction charges.

All industries/mining/ infrastructure projects drawing ground water in safe, semi-critical and critical assessment units will have to pay ground water abstraction charges based on quantum of ground water extraction and category of assessment unit as per details given in this guideline.

All existing mining/ infrastructure projects and existing industries including MSME drawing ground water in over-exploited assessment units will have to pay ground water restoration charges based on quantum of ground water extraction. Further, new MSME, new infrastructure and new Mining projects in over exploited areas shall also be required to pay ground water restoration charges.

Existing industries, infrastructure units and mining projects which have installed/constructed artificial recharge structures in compliance of the conditions prescribed in the groundwater guidelines prevailing at the time of grant of No Objection Certificate or its renewal shall be eligible for a rebate of 50% (fifty percent) in the ground water abstraction charges/ground water restoration charges, subject to their satisfactory performance and verification.

The revenue generated from the proposed water abstraction/ restoration charges shall be kept in a separate fund for implementation of site specific suitable demand/ supply side interventions.

5.1 **Rates of Ground water abstraction /restoration charges**

I. **Drinking and domestic use for residential apartments/ group housing societies/ Government water supply agencies in Urban areas**

All residential apartments/ Group Housing Societies requiring water only for drinking/domestic use requiring No Objection Certificate would pay ground water abstraction charges as per rates given below in **Table 5.1.**

Table 5.1 Ground Water Abstraction charges for Drinking & Domestic use.

Quantum of Groundwater withdrawal (m^3/month)	**Rate of ground water abstraction charges (Rs. per m^3)**
0-25	No charge
26-50	1.00
>50	2.00

Government water supply agencies and Government infrastructure projects shall pay Ground water abstraction Charges @ Rs. 0.50 per m^3.

II. **Packaged Drinking Water units**

Rates of ground water abstraction charges for packaged drinking water units in safe, semi-critical and critical assessment units are given in Table 5.2 A and those for ground water restoration charges in over-exploited assessment units are given in Table 5.2 B.

Table 5.2 A: Rates of ground water abstraction charges for packaged drinking water units (Rs per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal				
		Up to 50m^3/day	51 to <200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Safe	1.00	3.00	5.00	8.00	10.00
2.	Semi-critical	2.00	5.00	10.00	15.00	20.00
3.	Critical	4.00	10.00	20.00	40.00	60.00

Table 5.2 B: Rates of ground water restoration charges for packaged drinking water units (Rs per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal				
		Up to 50 m^3/day	51 to <200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Over-exploited (existing industries only)	8.00	20.00	40.00	80.00	120.00

III. **Other Industries & infrastructure projects**

Rates of ground water abstraction charges for other industries and infrastructure projects in safe, semi-critical and critical assessment units are given in Table 5.3 A and those for ground water restoration charges in over-exploited assessment units are given in Table 5.3 B.

Table 5.3 A: Rates of Ground Water abstraction charges for other industries & infrastructure projects (Rs per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal			
		< 200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Safe	1.00	2.00	3.00	5.00
2.	Semi-critical	2.00	3.00	5.00	8.00
3.	Critical	4.00	6.00	8.00	10.00

Table 5.3 B: Rates of ground water restoration charges for other industries & infrastructure projects (Rs per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal			
		< 200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Over-exploited (existing industries / new Industries as per the present Guidelines)	6.00	10.00	16.00	20.00

IV. **Mining projects**

Rates of ground water abstraction charges for mining, which are drawing ground water in safe, semi-critical and critical assessment units are given in Table 5.4 A and those for ground water restoration charges in case of projects drawing ground water in over-exploited assessment units are given in Table 5.4 B.

Table 5.4 A: Rates of ground water abstraction charges for mining (Rs. per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal			
		< 200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Safe	1.00	2.00	2.50	3.00
2.	Semi-critical	2.00	2.50	3.00	4.00
3.	Critical	3.00	4.00	5.00	6.00

Table 5.4 B: Rates of ground water restoration charges for mining (Rs. per m^3)

S.No.	Category of area ↓ / Ground water use →	Quantum of ground water withdrawal			
		< 200 m^3/day	200 to <1000 m^3/day	1000 to <5000 m^3/day	5000 m^3/day and above
1.	Over-exploited	4.00	5.00	6.00	7.00

6.0 Bulk Water Supply

All private tankers abstracting ground water and use it for supply as bulk water suppliers will now mandatorily seek No Objection Certificate for ground water abstraction. The bulk water suppliers through tankers drawing ground water in safe, semi-critical and critical assessment units shall pay groundwater abstraction charges as per the **Table-6.1 A.** The bulk water suppliers drawing ground water in over-exploited assessment units shall pay the groundwater restoration charges as per the **Table-6.1 B.** All tankers will have to install GPS based system for their monitoring of movement/area of operation.

Modalities for issue of No Objection Certificate for bulk/tanker water supplies shall be worked out in consultation with States/Uts and suitable guidelines in this regard will be framed and issued separately for the same.

Table-6.1A: Groundwater abstraction charges for Bulk/Tanker water supplies	
Category	Rate per m3 (in Rs.)
Safe	**10**
Semi Critical	**20**
Critical	**25**

Table-6.1B: Groundwater abstraction charges for Bulk/Tanker water supplies	
Category	Rate per m3 (in Rs.)
Over Exploited	**35**

7.0 Abstraction of Saline ground water

Abstraction of saline ground water in areas having either saline ground water at all depths or pockets of saline ground water in an otherwise fresh water area for use by industries/ dewatering by infrastructure/ mining projects including those located in over-exploited areas would be encouraged. Such industries shall be exempted from paying ground water abstraction charges.

The list of such assessment units having saline ground water at all depths as per the latest assessment of dynamic ground water resources will be made available by the CGWA in their website. However, due care shall be taken in respect of disposal of effluents by the units so as to protect the water bodies and the aquifers from pollution.

Detailed guidelines in this regard shall be prepared and issued separately.

8.0 Protection of Wetland Areas

The wet land areas in the country are very crucial as they are direct reflection of the presence of ground water in such areas. The protection of the wetland areas is being separately handled by the Wetland Authorities. Since ground water is very crucial for the survival of the wetland area, any excessive ground water development within the zone of wetland area would affect the volume of water in that wetland.

Projects falling within 500 m. from the periphery of demarcated wetland areas shall mandatorily submit a detailed proposal indicating that any ground water abstraction by the project proponent does not affect the protected wetland areas. Furthermore, before seeking permission from CGWA, the projects shall take consent/approval from the appropriate Wetland Authorities to establish their projects in the area.

9.0 General compliance conditions in No Objection Certificate

i. Installation of digital water flow meter (conforming to BIS/ IS standards) having telemetry system in the abstraction structure(s) shall be mandatory for all users seeking No Objection Certificate and intimation regarding their installation shall be communicated to the CGWA within 30 days of grant of No Objection Certificate through the web-portal.

ii. Proponents shall mandatorily get water flow meter calibrated on from an authorized agency once in a year.

iii. Proponents shall install roof top rain water harvesting & recharge systems in the project area.

iv. Proponents shall pay Ground Water Abstraction/ Restoration Charges based on quantum of ground water extraction as applicable as per the rates given in Section 6.

v. Construction of purpose-built observation wells (piezometers) for ground water level monitoring shall be mandatory as per Section 15. Water level data shall be made available to CGWA through web portal. Detailed guidelines for construction of piezometers are given in **Annexure-II.**

vi. Proponents shall monitor quality of ground water from the abstraction structure(s) once in a year. Water samples from bore wells/ tube wells / dug wells shall be collected during April/May every year and analysed in NABL accredited laboratories for basic parameters (cations and anions), heavy metals, pesticides/ organic compounds etc. Water quality data shall be made available to CGWA through the web portal.

vii. If the existing well becomes defunct due to mechanical failure within the validity period of No Objection Certificate, the user can construct a replacement well under intimation to CGWA on web portal. The defunct well shall be properly sealed **(Refer Annexure VII).** The user will be required to submit documentary proof in this regard. However, if the existing abstraction structures fails to yield water and he proponent desires to drill another tubewell in the same premises, prior permission of the Authority shall be required. If the replacement well is to be drilled in some different place, the proponent shall obtain fresh No Objection Certificate.

viii. Wherever feasible, requirement of water for greenbelt (horticulture) shall be met from recycled / treated waste water.

ix. In case of change of ownership, new owner of the industry will have to apply for incorporation of necessary changes in the No Objection Certificate with documentary proof within 60 days of taking over possession of the premises.

10.0 Monitoring of compliance of No Objection Certificate Conditions

To monitor the compliance of No Objection Certificate conditions, Central Ground Water Authority and State/ UT Ground Water Authorities shall take the following steps:

a. Suitable MIS will be developed for compliance monitoring.

b. District Collectors/Deputy Commissioners (DCs) /District Magistrates (DMs) are authorized to take enforcement measures like sealing of unauthorized ground water abstraction structures, disconnection of electricity, launching of prosecution against those violating the No Objection Certificate conditions and taking action for imposition of Environmental Compensation.

c. Technical officers of CGWB/ CGWA and State groundwater organizations are authorized to take actions with respect to monitoring and periodic inspections with the approval of competent authority.

d. In case of violation of any of the No Objection Certificate conditions, the proponents shall be liable to pay the penalties as per **Section 16.**

11.0 Renewal of No Objection Certificate

No objection certificate shall be renewed periodically, subject to the compliance of the conditions mentioned therein:

i. The applicant shall apply for renewal of No Objection Certificate at least ninety days prior to expiry of its validity.

ii. Application for renewal of No Objection Certificate shall be accompanied by the Compliance Report.

iii. Before granting renewal, Central Ground Water Authority or State/ Ut Authority shall satisfy itself that the conditions of No Objection Certificate have been complied with.

iv. In case of change in category of the assessment unit, renewals would be granted with conditions as laid down for new category.

v. No Objection Certificate will be renewed for the terms specified for various uses as follows:

Category	Use	Term of renewal
Critical, Semi-critical and safe	Infrastructure projects for drinking & domestic use and urban Water Supply Agencies	5 years
	Industries	3 years
	Mines	2 years
Over exploited	All users in 'Over-exploited areas'	2 years

vi. If the application for renewal is submitted in time and the CGWA/ the respective State/ Ut Authority is unable to process the application in time, No Objection Certificate shall be deemed to be extended till the date of renewal of No Objection Certificate.

vii. If the proponent fails to apply for renewal within 3 months from the date of expiry of No Objection Certificate, the proponent shall be liable to pay Environmental Compensation for the period starting from the date of expiry of No Objection Certificate till No Objection Certificate is renewed by the competent authority.

12.0 Extension of No Objection Certificate

If the proponent is unable to construct the well(s) during the validity period of No Objection Certificate for genuine reasons, the proponent will have to apply for extension of No Objection Certificate. Application for extension should be supported by documents justifying the reasons for delay. Other conditions for grant of extension of No Objection Certificate will be the same as that for fresh No Objection Certificate.

Extension of No Objection Certificate will be granted for a maximum period of two years. No further extension will be granted after the expiry of the extended period. In that case, the applicant will have to apply afresh for grant of No Objection Certificate.

13.0 Delegation of powers against illegal groundwater withdrawal

Central Ground Water Authority has appointed the District Magistrate/ District Collector/ Sub Divisional Magistrates of each Revenue District/Sub division as Authorized Officers, who have been delegated the power to seal illegal wells, disconnect electricity supply to the energised well, launch prosecution against offenders etc. including grievance redressal related to ground water in their respective jurisdictions.

In order to further decentralise and strengthen the monitoring and compliance mechanism as per the guidelines, officials of concerned Departments of Revenue and Industries of the States/Uts shall be appointed as Authorised Officers in consultation with the State/Ut Governments.

A copy of the No Objection Certificate issued by the CGWA in the No Objection Certificate Application Portal (NOCAP) will be forwarded to the respective District Magistrate/ District Collector. In case of any violation of the directions of Central Ground Water Authority and non-fulfilment of the conditions laid

down in the No Objection Certificate, the Authorised Officers will file appropriate Petition/Original Application etc under sections 15 to 21 of the Environment (Protection) Act, 1986 in appropriate Courts.

14.0 Ground Water Level Monitoring

All the project proponents (drawing ground water more than 10 cum/d) have to mandatorily construct Piezometers (observation wells) within their premises for monitoring of the ground water levels. Such a mechanism of compliance conditions has been made to ensure that every month the ground water level in the project area can be monitored and observed. In this regard the necessary criteria for monitoring of water levels through piezometers by the project proponents is given in Table 14.1.

Table 14.1 No. of Piezometers to be constructed & Type of Water Level Monitoring Mechanism

S.No.	Quantum of Ground water withdrawal (cum/d)	No. of piezometer required	Monitoring mechanism		
			Manual	DWLR	DWLR with Telemetry
1	<10	0	0	0	0
2	11-50	1	1	0	0
3	51-500	1	0	1	0
4	>500	2	0	1	1

The piezometer shall be suitably located to ensure that zone of aquifer tapped in the piezometer is the same as that of the pumping well.

15.0 Environmental Compensation

Extraction of ground water for commercial use by industries, infrastructure units and mining projects without a valid No Objection Certificate from appropriate authority shall be considered illegal and such entities shall be liable to pay Environmental Compensation for the quantum of ground water so extracted. The norms prescribed by Central Pollution Control Board (CPCB) shall be utilized for calculating the Environmental compensation as mentioned below:

EC_{GW} = Ground water consumption per day x Environmental Compensation rate (ECR_{GW}) x No. of days x Deterrence factor

where ground water consumption is in m3/day and ECR_{GW} in Rs./ cum

15.1 Rates of Environmental Compensation:

Rates of Environmental Compensation (ECR_{GW}) for various types of users in different categories of assessment units are given in Table 15.1 to 15.3.

Table 15.1 : ECR_{GW} for Packaged Drinking Water units

S.No.	Area Category	Water Consumption (cum/day)			
		<200/	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR_{GW}) in Rs./m3			
	Safe	12	18	24	30
2	Semi critical	24	36	48	60
3	Critical	36	48	66	90
4	Over- exploited	48	72	96	120
Note :-Minimum EC_{GW} shall not be less than Rs 1,00,000/-					

Table 15.2: ECR_{GW} for Mining/ infrastructure dewatering projects

S.No.	Area Category	Water Consumption (cum/day)			
		<200	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR_{GW}) in Rs./m3			
1	Safe	15	21	30	40
2	Semi critical	30	45	60	75
3	Critical	45	60	85	115
4	Over- exploited	60	90	120	150
Note :-Minimum EC_{Gw} shall not be less thanRs 1,00,000/-					

Table 15.3: ECR_{GW} for Industrial units

S.No.	Area Category	Water Consumption (cum/day)			
		<200	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR_{GW}) in Rs./m3			
1	Safe	20	30	40	50
2	Semi critical	40	60	80	100
3	Critical	60	80	110	150
4	Over- exploited	80	120	160	200
Note :-Minimum EC_{Gw} shall not be less thanRs 1,00,000/-					

15.2 Deterrent Factors to compensate losses and environmental damage (for packaged drinking water units, mining, industries and infrastructural dewatering projects)

The following deterrent factors based on the duration of illegal ground water extraction shall be levied to compensate for the losses and environmental damages as detailed in Table 15.4.

Table 15.4: Deterrent factor based on quantum of ground water withdrawal and number of years of illegal withdrawal

S.No.	Water Consumption	Deterrence Factor		
		< 2 years	2-5 years	>5 years
1	<1000 KLD	1.00	1.00	1.25
2	1000-5000 KLD	1.00	1.00	1.50
3	>5000 KLD	1.00	1.25	2.00

Note: KLD – Kilolitre per day

16.0 Provision of Penalty

Penalty shall be imposed on the proponents for non-compliance of No Objection Certificate conditions issued by the appropriate authority. Rates of penalty proposed for non-compliance of various conditions of No Objection Certificate are given in Table 16.1.The rates of the penalty shall be reviewed periodically with the approval of competent authority in Ministry of Jal Shakti.

Table 16.1: Penalty provision for non Compliance of No Objection Certificate conditions

S. No.	**Items**	Charges in Rs.
1	Non installation/faulty Digital water Flow meter with telemetry system.	200000
2	Non disclosure/ construction of additional groundwater abstraction structures a) Non-functional Structures. b) Defunct/Abandoned Note: Given rates are for unit non-functional/defunct/abandoned structures. This shall be multiplied with total such structures to arrive at consolidated penalty.	 200000 100000
3	Reporting of fresh water zones as Brackish / Saline zones in application.	200000
4	Non Installation of Piezometer.	200000
5	Non Installation/faulty DWLR/Telemetry system	100000
6	Non Construction/Inadequate capacity of Recharge / Water conservation structures.	500000
7	Non maintenance of Recharge structures.	200000
8	Injection of treated/untreated water into the aquifer system. Note: In addition to penalty, the proponent shall bear the cost of aquifer remediation as per the provisions of Environment (Protection) Act, 1986.	1000000
9	Non Submission of Water level/Water quality Data.	50000
10	Non-maintenance of log book of daily withdrawal/non submission of Groundwater abstraction data.	50000
11	Non submission of photograph of recharge structure(s).	50000
12	Non Submission of Self Compliance report.	100000
13	Construction of groundwater abstraction structures by un authorized/unregistered Drilling Rigs (per structures).	100000
14	Non registration of water supply tankers.	500000
15	Submission of false information/ undertaking.	100000

Charges shall also be payable for correction/modification in the existing issued No Objection Certificate letter. The details of such charges are given in Table 16.2.

Table 16.2: Proposed Charges for correction/Modification in the existing issued No Objection Certificate

S. No.	**Items**	Charges in Rs.
1	Change in recharge quantum	10000
2	Change in User ID.	5000
3	Change in firm Name	5000
4	Extension of No Objection Certificate	5000
5	Issuance of duplicate No Objection Certificate	5000
6	Issuance of corrigendum to No Objection Certificate	5000
7	Any other items/corrections etc	5000

17.0 Other important Conditions (Applicable to all):

i. Sale of ground water by a person/ agency not having valid no objection certificatefrom CGWA/State Ground Water Authority is not permitted.

ii. In infrastructure projects, paved/parking area must be covered with interlocking/perforated tiles or other suitable measures to ensure groundwater infiltration/harvesting.

iii. In case of Infrastructure projects, the firm/entity shall ensure implementation of dual water supply system in the projects. Compliance of the same shall be submitted through the web portal.

iv. Non-compliance of conditions mentioned in the No Objection Certificate may be taken as sufficient reason for cancellation of no objection certificate accorded/ non-renewal of No Objection Certificate.

v. No application shall be entertained without supporting documents as specified in relevant sections.

vi. Abstraction structure(s) should be located inside the premises of project property.

vii. Self compliance of conditions laid down in the no objection certificate shall be reported by the users online in the web portal of Central Ground Water Authority/state Ground Water Authority.

viii. Processing fee prescribed, if any, from time to time shall be charged for various services.

Note:

1. Guidelines are subject to modification from time to time.

2. In case of any discrepancy between Hindi and English versions of this document including the annexures, the English version shall prevail.

Annexure I

Estimation of Water Requirements for drinking and domestic use

(Source: National Building Code 2016, BIS)

a) Residential Buildings:

Accommodations	Population
1 Bedroom dwelling unit	4
2 Bedroom dwelling unit	5
3 Bedroom dwelling unit	6
4 Bedroom dwelling unit and above	7

Notes:

1) The above figures consider a domestic household including support personnel, wherever applicable.

2) For plotted development, the population may be arrived at after due consideration of the expected number and type of domestic household units.

3) Dwelling unit under EWS category shall have population requirement of 4 and studio apartment shall have population requirement of 2.

As a general rule the following rates per capita per day may be considered for domestic and non-domestic needs:

a) For communities with populations up to 20,000:

1)	Water supply through stand post:	40 lphd (Min)
2)	Water supply through house service: connection	70 to 100 lphd

b) For communities with: 100 to 135 lphd
population 20,000 to 100,00 together with
full flushing system

c) For communities with population: 150 to 200 lphd
above 100,000 together with
full flushing system

Note—The value of water supply given as 150 to 200 litre per head per day may be reduced to 135 litre per head per day for houses for Medium Income Group (MIG) and Low Income Groups (LIG) and Economically Weaker Section of Society (EWS), depending upon prevailing conditions and availability of water.

Out of the 150 to 200 litre per head per day, 45 litre per head per day may be taken for flushing requirements and the remaining quantity for other domestic purposes.

A. **Water Requirements for Buildings Other than Residences**

Sl No.	Type of Building	Domestic litres per head/ day	Flushing Litres per head/ day	Total Consumption Litres per head/ day
1.	Factories including canteen where bath rooms are required to be provided	30	15	45
2.	Factories including canteen where no bath rooms are required to be provided	20	10	30
3.	Hospital (excluding laundry and kitchen): a) Number of beds not exceeding 100	230	110	340
	b) Number of beds exceeding 100	300	150	450
	c) Out Patient Department (OPD)	10	5	15
4.	Nurses' homes and medical quarters	90	45	135
5.	Hostels	90	45	135
6.	Hotels (up to 3 star) excluding laundry, kitchen, staff and water bodies	120	60	180
7.	Hotels (4 star and above) excluding laundry, kitchen, staff and water bodies	260	60	320
8.	Offices (including canteen)	25	20	45
9.	Restaurants and food court including water requirement for kitchen: a) Restaurants	55 per seat	15 per seat	70 per seat
	b) Food Court	25 per seat	10 per seat	35 per seat
10.	Clubhouse	25	20	45
11.	Stadiums	4	6	10

12.	Cinemas, concert halls and theatres and multiplex	5 per seat	10 per seat	15 per seat
13.	Schools/Educational institutions: a) Without boarding facilities b) With boarding facilities	25	20	45
		90	45	135
14.	Shopping and retail (mall) a) Staff	25	20	45
	b) Visitors	5	10	15
15.	Traffic Terminal stations a) Airports	40	30	70
	b) Railway stations (Junction) with bathing facility	40	30	70
	c) Railway stations (Junction) without bathing facility	30	15	45
	d) Railway stations (Intermediate) with bathing facility	25	20	45
	e) Railway stations (Intermediate) without bathing facility	15	10	25
	f) Interstate bus terminals	25	20	45
	g) Intrastate Bus Terminals/Metro Stations	10	5	15

Notes:

1. For calculating water demand for visitors, consumption of 15 litre per head per day may be taken.

2. The water demand includes requirement of patients, attendants, visitors and staff. Additional water demand for kitchen, laundry and clinical water shall be computed as per actual requirements.

3. The number of persons shall be determined by average number of passengers handled by stations, with due considerations given to the staff and vendors who are using these facilities.

4. Consideration should be given for seasonal average peak requirements.

5. The hospitals may be categorized as Category A (25 to 50 beds), Category B(51 to 100 beds), Category C (101 to 300 beds), Category D (301 to 500) and Category E (501 to 750 beds).

Annexure II

Guidelines for construction of Piezometers and monitoring of Ground Water Levels and Quality

Piezometer is a borewell/tubewell used only for measuring the water level by lowering a tape/sounder or automatic / digital water level measuring equipment. It is also used to take water sample for water quality testing whenever needed. General guidelines for installation of piezometers are as follows:

- The piezometer is to be installed/constructed at the minimum distance of 50 m from the pumping well through which ground water is being withdrawn. The diameter of the piezometer should be about four inches to six inches.

- The depth of the piezometer should be the same as that of the pumping well from which ground water is being abstracted. If, more than one pumping wells are constructed tapping aquifers at different depths, more than one piezometers shall be required to be constructed tapping different aquifers as in the pumping wells.

- The measurement of water level in piezometer should be taken, only after the pumping from the surrounding tubewells has been stopped for about four to six hours.

- The ground water quality has to be monitored once in a year during pre-monsoon (April/ May) period by industries and mines drawing ground water. Samples of ground water should be analyzed from NABL accredited laboratory.

- A permanent display board should be installed at Piezometer/ Tubewell site for providing the location, piezometer/ tubewell number, depth and zone tapped of piezometer/tubewell for standard referencing and identification.

- Any other site specific requirement regarding safety and access for measurement may be taken care off.

Annexure III

Measures to be adopted to ensure prevention from pollution in the plant premises of polluting industries/ projects

It has been observed that ground water in and around polluting industries like Tannery, Slaughter Houses, Dye, Chemical, Coalwashery, other hazardous units, etc., is polluted. In order to prevent further deterioration of ground water quality, it is essential to take all necessary measures for well head protection. All industries/ projects falling under this category are hereby directed to follow the under mentioned procedure both for existing and new category.

1. No tube well/ bore well / dug well should be constructed in the vicinity of the processing unit. Tube well/ bore well should be constructed at the place which is hygienically maintained.

2. Only Mild Steel pipe should be used for assembly/ casing and PVC (Poly Vinyl Chloride) or similar pipes should not be used. The tube well/ bore well having PVC or similar pipes should be abandoned and filled back.

3. Around the tube well/ bore well, RCC (Reinforced Concrete Cement) grouting of 3 meters (length) x 3 meters (width) x 2 meters (depth) must be provided. The pipe of the tube well/ bore well must be raised 1 meter above ground level (1 magl). The tube well/ bore well must be surrounded by RCC wall of 0.5 meter height and 1.5 meter depth to prevent any surface contamination to enter the constructed tube well/ bore well. Plan/Sectional diagram is enclosed for reference (Appendix 1 and 2).

3. The tube well/ bore well must be fitted with NRV (Non Return Valve) in order to ensure that the constructed tube well/ bore well is exclusively used for abstraction of ground water only.

4. At no point of time there should be any injection of any water or fluid into the constructed tube well/ bore well/ Piezometer.

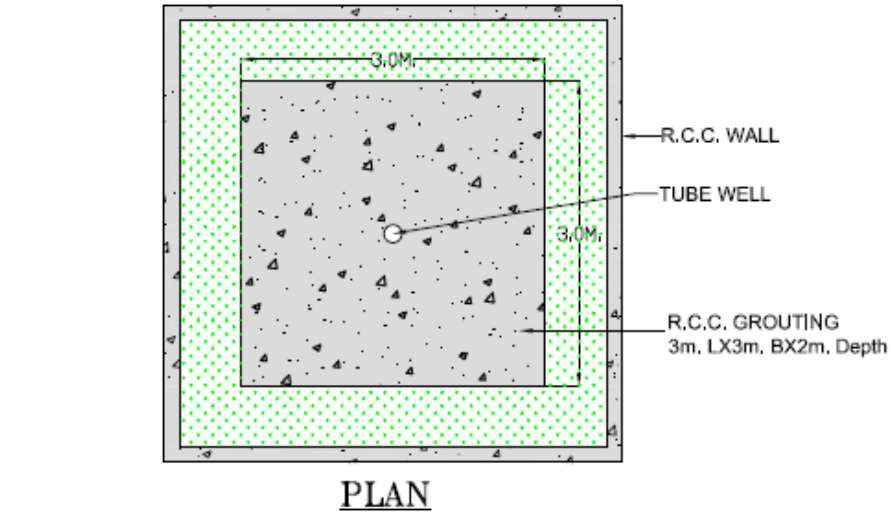
5. The industries/ projects under this category should not implement any recharge measures within the plant premises.

6. Any tube well/ bore well located/ constructed in the vicinity of STP (Sewage Treatment Plant) or ETP (Effluent Treatment Plant) should be abandoned and filled back.

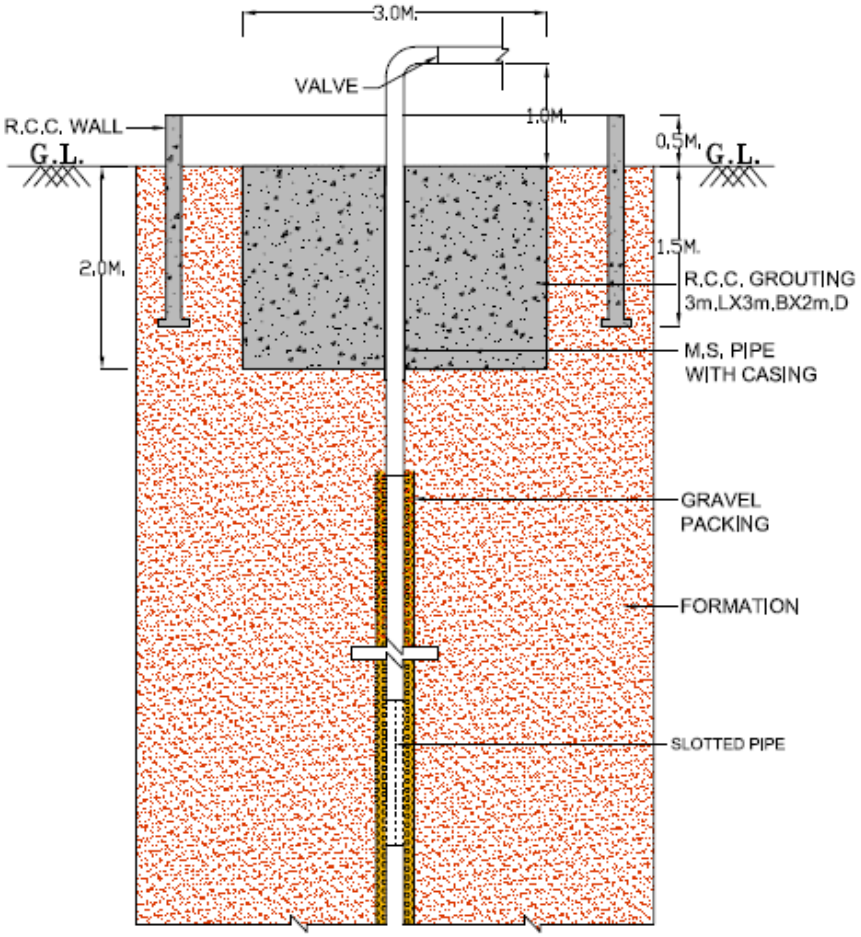
7. The piezometer to be constructed for monitoring purpose should follow the same procedure as that for tube well/ bore well for such industries/ projects.

Appendix 1

Plan/ Sectional diagram showing well head protection



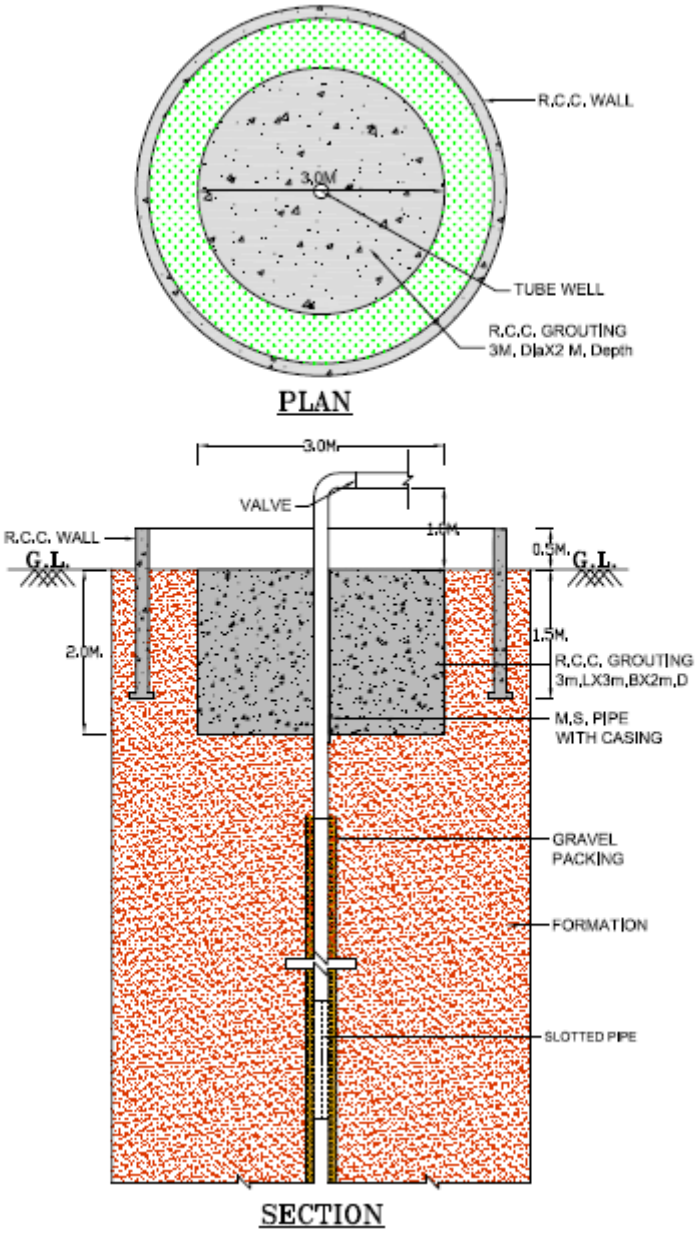
PLAN



SECTION

Appendix 2

Plan/ Sectional diagram showing well head protection



Annexure-IV

Outline of hydro-geological Report for obtaining No Objection Certificate for industries

1. Brief about the proposed project giving location details, coordinates, google/ toposheet maps, etc. demarcating the project area.

2. Ground water situation in and around the project area including water level and quality data and maps along with quality issues, if any. In case of mines, ground water conditions in both core and buffer zone should be described.

3. Details of the tubewells/ borewells proposed to be constructed. This includes the drilling depth, diameter, tentative lithological log, details of pump to be lowered, H.P. of pump, tentative discharge of tubewells/ borewells, etc. Locations to be marked on the site plan/ map. Location of proposed piezometers.

4. Details of Geophysical studies carried out in and around the project area. Ground water resources computation of the block in which the project falls.

5. Approved Mine plan in case of mines and detailed dewatering plan in case of mine/ infrastructure dewatering projects.

6. Proposed usage of pumped water in case of mining/ infrastructure dewatering projects.

7. Comprehensive assessment of the impact on the ground water regime in and around the project area highlighting the risks and proposed management strategies proposed to overcome any significant environmental issues.

8. Proposed measures for disposal of waste water by industries drawing saline water.

9. Measures to be adopted for water conservation which include recycling, reuse, treatment, etc. This includes the water balance chart being adopted by the firm along with details of water conservation methods to be adopted.

- Brief write up along with capacity and flow chart of Sewage Treatment Plants / Effluent Treatment Plants / Combined Effluent Treatment Plants existing/ proposed within the project.
- Details of water conservation measures to be adopted to reduce/ save the ground water.
- Total water balance chart showing the usage of water for various processes.

10. Any other details pertaining to the project.

Annexure V

Format of the Report on ground water conditions (for mining projects)

Introduction

Project description

Background

Objectives and scope

Regional setting

Location

Landuse

Climate

Topography and drainage

Geology –Regional and Local

General Hydrogeology (aquifer types, aquifer depth, zone tapped etc.)

Groundwater condition (In core and buffer zones)

Spatial and temporal variations in water levels Groundwater quality (Shallow and deep aquifer)

Impact of groundwater extraction on local groundwater

Hydrograph of water level/piezometer in monitoring wells

Trend analysis of historical water levels Flow net analysis (groundwater flow direction)

Year wise/ bench wise mine dewatering computation as per approved mine plan

Conclusions

Annexure VI

Indicative list of Infrastructure projects

Residential townships including commercial buildings
Office building
School
College
University
Special Economic Zone
Metro Station
Railway Station
Bus Depot
Airport
Seaport
Highway infrastructure
Fire station
Warehouse
Business Plaza
Malls & Multiplex
Hospitals
Nursing Homes
Resort
Hotel/ Restaurant/ Food Plaza
Holiday home/Guest house/ Hostels
Banquet Hall/ Marriage Gardens
IT Complex
Logistics & Cargo
Clubs
Trade Centre

Annexure -VII

Supreme Court Order in Civil Writ petition 36 of 2009 regarding measures for prevention of fatal accidents of small children due to their falling into abandoned bore wells and tube wells

In Re: Measures for prevention of fatal accidents of small children due to their falling into abandoned bore wells and tube wells

Union of India and Ors. Respondents(s)

ORDER

With this Court issuing requisite guidelines vide order dated 11th February, 2010, subject to slight modifications, nothing survives in the present writ petition.

That modification is as follows:

(i) The owner of the land/ premises, before taking any steps for constructing bore well/ tube well must inform in writing to the concerned authorities in the area, i.e., District Collector/ District Magistrate/ Sarpanch of the Gram Panchayat/ any other Statutory Authority/ concerned officers of the Department of Ground Water/ Public Health/ Municipal Corporation, as the case may be, about the construction of bore well/ tube well.

(ii) Registration of all the drilling agencies, namely, Government/ Semi Government, Private etc. should be mandatory with the district administration/ Statutory Authority wherever applicable.

(iii) Erection of signboard at the time of construction near the well with the following details:-

(a) Complete address of the drilling agency at the time of construction/ rehabilitation of well.

(b) Complete address of the user agency/owner of the well.

(iv) Erection of barbed wire fencing or any other suitable barrier around the well during construction.

(v) Construction of cement/ concrete platform measuring 0.50x0.50x0.60 meter (0.30 meter above ground level and 0.30 meter below ground level) around the well casing.

(vi) Capping of well assembly by welding steel plate or by providing a strong cap to be fixed to the casing pipe with bolts & nuts.

(vii) In case of pump repair, the tube well should not be left uncovered.

(viii) Filling of mud pits and channels after completion of works.

(ix) Filling up abandoned bore wells by clay/sand/boulders/pebbles/drill cuttings etc. from bottom to ground level.

(x) On completion of the drilling operations at a particular location, the ground conditions are to be restored as before the start of drilling.

(xi) District Collector should be empowered to verify that the above guidelines are being followed and proper monitoring check about the status of bore holes/ tube wells are being taken care through the concerned state/ Central Government agencies.

(xii) District/ Block/ Village wise status of bore wells/tube wells drilled viz. No. of wells in use, No. of abandoned bore wells/ tube wells found open, No. of abandoned bore wells/ tube wells properly filled up to ground level and balance number of abandoned bore wells/ tube wells to be filled up to ground level is to be maintained at District Level.

In rural areas, the monitoring of the above is to be done through Village Sarpanch and the Executive from the Agriculture Department.

In case of urban areas, the monitoring of the above is to be done through Junior Engineer and the Executive from the concerned Department of Ground Water/Public Health/ Municipal Corporation etc.

(xiii) If a bore well/ tube well is 'Abandoned' at any stage, a certificate from the concerned department of Ground Water/ Public Health/ Municipal Corporation/ Private Contractor etc. must be obtained by the aforesaid agencies that the 'Abandoned' bore well/tube well is properly filled upto the ground level. Random inspection of the abandoned wells is also to be done by the Executive of the concerned agency/ department. Information on all such data on the above are to b maintained in the District Collector/ Block Development Office of the State.

We are informed that the last paragraph of the earlier order dated 11th February, 2010, concerning publicity has been duly complied with.

Subject to the above, the writ petition is disposed of.

……..CJI.
[S.H. KAPADIA]

……..….J.
[K.S. RADHAKRISHNANA]

……..…….J.
[SWATANTER KUMAR]

New Delhi,
August 6, 2010

ANNEXURE VIII

List of States/Union territories where ground water extraction is being regulated by Central Ground Water Authority

1. Andaman and Nicobar Islands
2. Assam
3. Arunachal Pradesh
4. Bihar
5. Chhattisgarh
6. Dadra and Nagar Haveli and Daman and Diu
7. Gujarat
8. Haryana
9. Jharkhand
10. Madhya Pradesh
11. Maharashtra
12. Manipur
13. Meghalaya
14. Mizoram
15. Nagaland
16. Odisha
17. Punjab
18. Rajasthan
19. Sikkim
20. Tripura
21. Uttar Pradesh
22. Uttarakhand
23. Andhra Pradesh (only mining projects)
24. Telangana (only mining projects)

Annexure IX

Glossary of technical terms used

1. **Safe area**: Area categorized as SAFE from the ground water resources point of view, based on the latest ground water resources assessment carried out jointly by CGWB and State ground water organizations. Details available on the websites of NOCAP and CGWB.
2. **Semi-critical area**: Area categorized as SEMI-CRITICAL from the ground water resources point of view, based on the latest ground water resources assessment carried out jointly by CGWB and State ground water organizations. Details available on the websites of NOCAP and CGWB.
3. **Critical area**: Area categorized as CRITICAL from the ground water resources point of view, based on the latest ground water resources assessment carried out jointly by CGWB and State ground water organisations. Details available on the websites of NOCAP and CGWB.
4. **Over-exploited area**: Area categorized as OVER-EXPLOITED from the ground water resources point of view, based on the latest ground water resources assessment carried out jointly by CGWB and State ground water organisations. Details available on the websites of NOCAP and CGWB.
5. **Aquifer**: Geological formation capable of storing and transmitting ground water.
6. **Deeper Aquifer**: In areas having multiple aquifer system, the aquifer(s) occurring below the uppermost aquifer.
7. **Well**: Any structure used for the extraction of groundwater, including open wells, dug wells, bore wells, dug-cum-bore wells, tube wells, filter points, collector wells, infiltration galleries, recharge wells, or any of their combinations or variations.
8. **Government Agency**: May be Central or State Government body.
9. **Supplier**: Government/ Government approved Water Supply Agency.
10. **Mine**: Area where mining activity is taking place, or area abandoned after mining.
11. **Illegal Ground Water abstraction Structure**: Any energized abstraction structure viz. dugwell, tubewell, borewell which is being used to withdraw ground water without valid No Objection Certificate from Central Ground Water Authority.
12. **Rainwater Harvesting**: The technique or system of collection and storage of rainwater, at micro watershed scale, including roof-top harvesting, for future use or for recharge of groundwater.
13. **Mining Project**: Project which involves mining activity either open cast or underground or both.
14. **Ground Water Draft**: Quantum of ground water withdrawal.
15. **Saline Water**: Water having salinity in excess of 2500 µsiemens/cm at 25^0C.
16. **Water Table Intersection**: Intersection of the water table on excavation of the overlying material due to mining or other activities.
17. **Drinking and domestic use**: Besides drinking & domestic use of households, this category will cover drinking requirement of industries not requiring water for industrial process; drinking, washing, cleaning use etc. in case of hospitals, hotels, malls & multiplexes, institutions, offices, banquet halls, fire stations, metro stations, railway stations, airports, sea ports, stadia etc.
18. **Recycle/Reuse**: Using treated waste water for various purposes/ putting water to multiple uses.
19. **Government Department:** Either Central Government or State Government.
20. **Municipality:** Municipality, a Municipal Corporation or similar body of local urban governance by any other name.
21. **Groundwater:** Water, which exists below the surface in the zone of saturation and can be extracted through wells or any other means or emerges as springs and base flows in streams and rivers;
22. **Bgl :** Below Ground Level.
23. **BCM :** Billion cubic metres.

24. **Groundwater Abstraction structure:** Structure used to withdraw groundwater like bore well / tube well / dug well/dug cum bore well/tunnel well.

25. **Observation well or Piezometer:** A bore well/tube well used only for measuring the water level/piezometric head and to take water sample periodically but not used for groundwater abstraction.

26. **Water Audit:** A method of quantifying water use in simple or complex systems, with a view to reducing water usage and often saving money on otherwise unnecessary water use.

27. **Ground water pollution:** If concentration of any parameter in ground water exceeds the maximum permissible limit for drinking water prescribed by the Bureau of Indian Standards.

28. **Cooperative Group Housing Societies/ Builder flats**: A Housing Society is a society formed by house owners within a residential complex. The housing society formed must be formally registered with registrar of co-operatives.

29. **KLD –** Kilo Litre per day

30. $\mathbf{EC_{GW}}$ - Environmental compensation for drawing illegal ground water.

31. $\mathbf{EC_{GWR}}$ - Environmental compensation rates for drawing illegal ground water.

ANNEXURE X

Annual water audits by the industries (Source – CII)

Water audit is a systematic process of objectively obtaining a water balance by measuring flow of water from the site of water withdrawal or treatment, through the distribution system, and into areas where it is used and finally discharged. Conducting a water audit involves calculating water balance, water use and identifying ways for saving water.

Water audit involves preliminary water survey and detailed water audit. Preliminary water survey is conducted to collect background information regarding plant activities, water consumption and water discharge pattern and water billing, rates and water cess. After the analysis of the secondary data collected from the industry, detailed water audit is conducted, which involves the following steps:

- On site training and discussion with facility manager and personnel
- Water system analysis
- Quantification of baseline water map
- Monitoring and measurements using pressure and flow meters and various other devices
- Quantification of inefficiencies and leaks
- Quantification of water quality loads and discharges
- Quantification of variability in flows and quality parameters
- Strategies for water treatment and reuse or direct use

A detailed water balance is finally developed. Water quality requirement at various user areas is mapped, which helps in developing ‘recycle’ and ‘reuse’ opportunities.

The detailed water audit report contains the following:

- Water consumption and wastewater generation pattern
- Specific water use and conservation
- Complete water balance of the facility
- Water saving opportunities
- Method of implementing the proposals
- Full description and figures
- Investment required

Industries can undertake following measures for water conservation:

- Setting up of norms for water budgeting
- Modernization of industrial process to reduce water consumption
- Recycling water with a re-circulating cooling system
- Ozonation cooling water approach which can result in five fold reduction in blow down when compared to traditional chemical treatment
- Reduction in reuse of de-ionized water by eliminating some plenum flushes, converting from a continuous flow to an intermittent flow system and improving control on the use
- Use of waste water for gardening
- Proper processing of effluents to adhere to the norms of disposal.

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