

SITTING AT PUNE

ORIGINAL APPLICATION NO. 54 OF 2017

BETWEEN:

Pratap Lal Teli

.. Applicant

versus

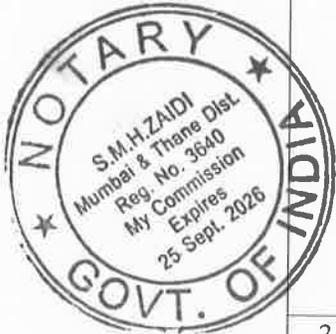
Member-Secretary, State Level Environment

Impact Assessment Authority and Ors.

.. Respondents

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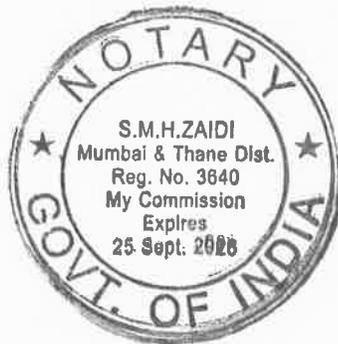
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S.M.H. Zaidi
Advocates for Respondent No. 3



BETWEEN:

Pratap Lal Teli .. Applicant

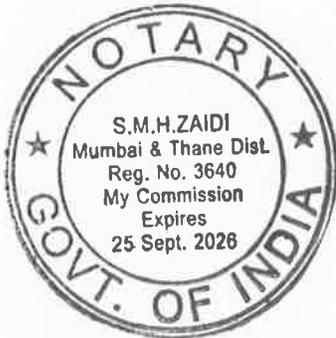
versus

Member-Secretary, State Level Environment

Impact Assessment Authority and Ors. .. Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF THE
RESPONDENT NO. 3 TO THE AMENDED ORIGINAL
APPLICATION (pursuant to amended application served
on 22.12.2022)**

I, Kanwar Dilersingh Sandhu, aged 39 years, of Mumbai, Adult Indian Inhabitant, the Partner of the Respondent No. 3 firm abovenamed, having my address at 41, Sandhu Palace, Pali Hill, Bandra (West), Mumbai – 400 050, do solemnly affirm and state as under:-



1. I say that I have read a copy of the amended Original Application, served upon the Respondent No. 3 on 22nd December 2022. By and under the Order dated 22nd February 2023, this Hon'ble Tribunal has directed the Respondents to file the reply to the amended Original Application, which shall be treated as the Original Application in the present case. Accordingly, reference to

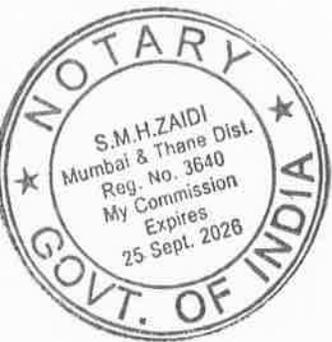


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the amended Original Application served on 22nd December 2022 shall be reference to Original Application No. 54 of 2017 (OA) in the present affidavit. I say that I am conversant with the facts of the case and am able and authorised to depose to the same based on the records maintained by the Respondent No. 3. Hereto annexed and marked as EXHIBIT – “1” is a copy of the Resolution passed by Respondent No. 3 authorising me to sign and depose to the present Affidavit.

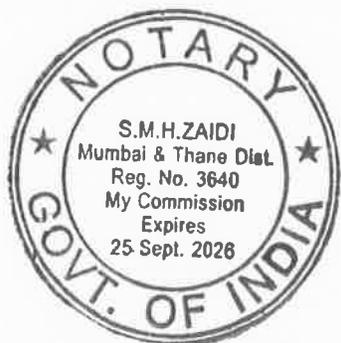
2. At the outset, I repeat, reiterate, confirm and adopt, all and singular, the statements, averments, allegations, contentions and insinuations, as stated in the (i) Affidavit in Reply dated 23rd September 2017 (to the earlier amendment application) and (ii) Affidavit in Reply dated 28th November 2017 to the Original Application (after the first amendment), as if the same are incorporated herein in verbatim and traversed in seriatim and deny all that is contrary thereto and/or inconsistent therewith and with what is stated hereinafter. Further, I deny all and singular, the statements, averments, allegations, contentions and insinuations as stated by the Applicant in the OA as if the same were set out herein in verbatim and traversed in seriatim. Nothing that is not specifically dealt with therein shall be deemed to have been admitted, merely for want of traverse.



3. Before advertng to the OA on merits, I shall state out the following facts and circumstances, demonstrating how the aforesaid OA is not maintainable and ought to be dismissed.

Bar of Limitation:-

4. The aforesaid OA filed by the Applicant and the IA is hopelessly time barred by the law of limitation, inasmuch as, the requirement for EC was dispensed with in the present case in 2017 and the Occupation Certificate ("OC") was granted by Municipal Corporation of Greater Mumbai ("MCGM") on 9th October 2018. However, the aforesaid IA is filed in December 2022, i.e., after a period of 4 (years) and 2 (two) months. Admittedly, the Applicant was aware of or ought to have been aware of the construction carried out by the Respondent in the year 2006 itself as the cause of the action is when it first arises. The aforesaid Original Application only on 16th March 2017 i.e., after a period of 11 years after the plans are approved. The construction itself stated on 24th February 2006. I submit that, the Original Application being itself not maintainable and barred by limitation consequently, no amendment to such an Application can be maintainable in law. Without prejudice, any amendment would also be barred by limitation. I therefore submit that the present Amendment Application and the aforesaid Original

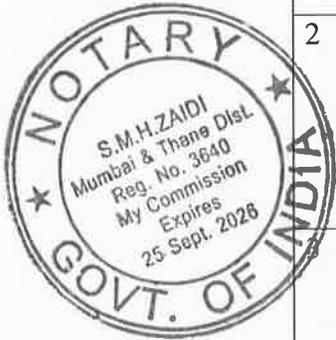


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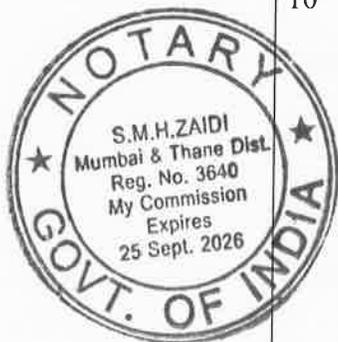


Application deserve to be dismissed with costs. The complete chronology in the matter is as follows:-

Sr. No.	Date	Events
1	14.03.2017	Original Application No. 54 of 2017 ("OA") is filed by Pratap Lal Teli (unrelated individual and not concerned with the project) (Applicant) against (i) Member Secretary, State Environment Impact Assessment Authority (SEIAA) (Respondent No. 1); (ii) MCGM (Respondent No. 2) and (iii) M/s. Sandhu Builders (Developer of the Project) (Respondent No. 3) before the Hon'ble National Green Tribunal, Western Zone Bench, Pune ("Hon'ble Tribunal")
2	March 2017 to April 2017	Applicant takes no steps to serve the OA upon the Respondents
	24.04.2017	Matter listed for hearing before the Hon'ble Tribunal. None present. OA dismissed (Item No. 16) (Order No. 1)
4	29.05.2017	Applicant files Application for Restoration



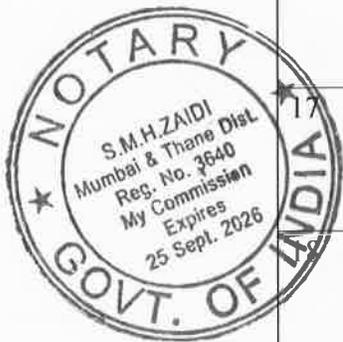
		of OA (MA/182/2017), which was allowed (Item No. 16) (Order No. 1)
5	17.07.2017	OA admitted after hearing. Issue Notice to Respondents order passed. <u>Applicant directed to carry out necessary amendments</u> (Item No. 3) (Order No. 3)
6	18.07.2017	Notice given by informing Respondents that and that the same is fixed for the first hearing on 21.08.2017 at 10:30 a.m.
7	12.08.2017	Notice alongwith copy of OA served upon Respondents
8	14.08.2017	Notice alongwith copy of OA received by Respondent No. 3 (Developer)
9	19.08.2017	Applicant files affidavit of service in respect of OA
	19.08.2017	<u>Amendment Application (MA/54/2017) alongwith Schedule of Amendment prepared by Applicant. The same remained to be filed</u>
10	21.08.2017	<u>Amendment Application (MA/54/2017) was moved in terms of Order dated 17.07.2017 Applicant directed to serve Amendment Application (MA/54/2017) in terms of Order dated 17.07.2017 (Item No. 5) (Order No. 4)</u>
11	18.09.2017	Respondent No. 3 files Affidavit in Reply



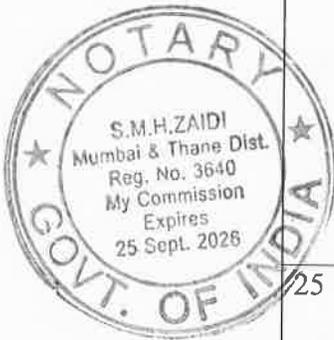
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		to OA (prior to amendment). Vide Letter dated 18.09.2017, the same is served upon the Applicant
12	25.09.2017	Respondent No. 2 (MCGM) files Affidavit in Reply to OA (prior to amendment)
13	27.09.2017	Rejoinder filed by Applicant to Reply of Respondent No. 3 (prior to amendment)
14	28.09.2017	<u>Applicant failed to carry out amendment to the OA pursuant to Order dated 17.07.2017.</u> Matter placed on 23.10.2017 for dismissal (Item No. 11) (Order No. 5)
15	20.10.2017	MA filed by Applicant to set aside Order dated 28.09.2017 and consider the facts already on record as the grounds in support of the amendment. Cognizance of this MA was not taken by this Hon'ble Tribunal
16	23.10.2017	MA/309/2017 for amendment allowed, keeping the issue of limitation open (Item No. 7) (Order No. 6)
17	31.10.2017	<u>Amended OA filed by Applicant and served upon Respondents</u>
	28.11.2017	Affidavit in Reply dated 28.11.2017, on behalf of Respondent No. 3 to amended OA filed and served upon Applicant
19	04.12.2017	Respondent Nos. 1 and 2 granted time to



		file Reply to amended OA (Item No. 3) (Order No. 4)
20	12.12.2017	Affidavit in Reply dated 28.11.2017, on behalf of Respondent No. 3 to amended OA filed and served upon Respondent No. 2 (MCGM)
21	19.12.2017	Affidavit in Rejoinder filed on behalf of the Applicant to the Affidavit in Reply dated 28.11.2017, on behalf of Respondent No. 3 to amended OA
22	12.01.2018	Question of maintainability of OA raised by Counsel for Respondent No. 3 at the time of hearing
23	30.01.2018	Two weeks' time granted to Respondents to file reply to amended OA as a last chance
24	09.07.2018	At the time of hearing, <u>it was discovered that Applicant had not filed the amended OA with the Hon'ble Tribunal.</u> Applicant was directed to file amended OA <u>within 2 weeks</u> thereof and serve copies thereof on parties.
25	2018 to 17.11.2022	Matter adjourned from time to time
26	18.11.2022	At the time of hearing, none appeared for the Applicant. Last chance given to



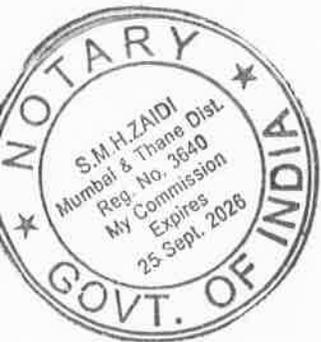
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		Applicant to comply with Order dated 9 th July 2018 i.e., amendment, failing which, OA shall be dismissed for non-prosecution.
27	22.12.2022	Amended OA served by Applicant to Respondents.

Abuse of Process of Law and Locus Standi:-

5. I submit that the present Application is an abuse of process of law. The Applicant has evidently made an Application under RTI Act 2005 on 3rd June 2014 i.e., after a period of nearly 8 years after the construction of the project undertaken by this Respondent had commenced. The Applicant received a reply from the Information Officer on 18th June 2014 (Annexure 'A-4' to the OA). The Applicant was aware of the details of the entire Project and also the alleged irregularities qua the environment norms and the same is the date of knowledge for the Applicant. Even thereafter, the Applicant waited for a period of nearly 3 years before filing the Original Application before this Hon'ble Tribunal. The Original Application was filed before this Hon'ble Tribunal only on 14th March 2017. I submit that as per the provisions of Section 14(3) of the Nation Green Tribunal Act 2010 (Act No. 19 of 2010) ("NGT Act"), the Original Application has to be filed within a period of 6 months from the date of which the cause of action allegedly arose. I state that assuming



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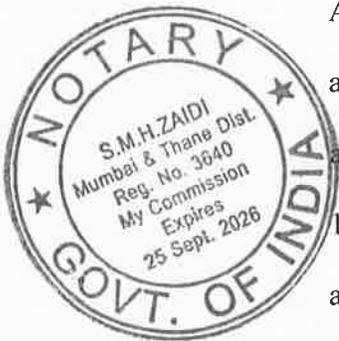


without admitting that the cause of action allegedly arose on 18th June 2014, the present Application is far beyond the period prescribed by law under the statute and is liable to be dismissed inter alia on this ground alone. I submit that it is clear and manifest from the conduct of the Applicant that the Applicant allowed the construction of the project of this Respondent to reach at the finishing stage and then with a malafide intention filed and moved the present Application so as to harass and extract monies from this Respondent. I further submit that at the time of the first date of the hearing of this Application on 24th April 2017 before this Hon'ble Tribunal, none were present for the Applicant and accordingly, the present Application was dismissed for default, though later restored to file. The same is recorded in the Order dated 24th April 2017 which is on the file of this Hon'ble Tribunal. I submit that therefore, the same goes to show that the Applicant is not an activist, who has a genuine concern for environmental issues in the city of Mumbai, but is merely employing the machinery of this Hon'ble Tribunal as his modus operandi to further his nefarious, ulterior and malafide motives in extorting money from this Respondents, and possibly several other project proponents elsewhere and/or has been put up as an Applicant by others with ulterior motives and for collateral purpose. It is also respectfully submitted that the Applicant has no locus in the matter. He resides in Sion Koliwada,




Mumbai, which is nearly 10 kilometers away from Pali Hill, Bandra, Mumbai, where the Project is situated. He is an interloper having no locus to file the OA. I submit that the present Application is an abuse of process of the Court and consequently deserves to be dismissed with compensatory costs.

6. In light of the aforesaid submissions, that the Applicant had sufficient opportunity to produce the material place the same on record. Applicant had filed the said MA/54/2017, wherein he has annexed photographs of the Project i.e., (i) photograph of the site before the construction started, (ii) photograph of the old buildings demolished at site and (iii) photograph of the new building substantially complete. Admittedly, the Applicant was in possession of the photographs of the old/original buildings on 10th March 2006 and of the new building (which is substantially complete) on 13th January 2013. Thus, the Applicant's was aware of the Project on 10th March 2006, and continued to monitor the Project till 13th January 2013 and even thereafter. However, the Applicant has waited till 14th March 2017 i.e., after a period of 11 years from 2006 and 4 years from 2013 to file the aforesaid Original Application and further has taken out the present Amendment Application only on 22nd December 2022 i.e., after a further period of nearly 16 years and/or 6 years. I submit that the OA is grossly time barred. I further submit



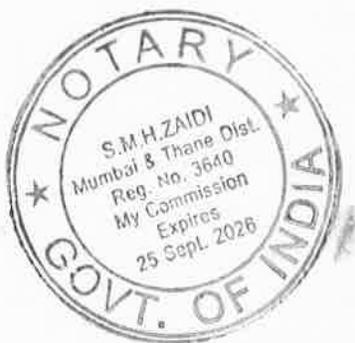
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that the Applicant has not disclosed anywhere in the Original Application, the reason as to why the Applicant was unable to or prevented from so placing on record the said facts and/or documents. The said photographs, which formed a part of MA/54/2017, do not form a part of the OA amended as on 22nd December 2022. I put the Applicant to the strict proof as to the veracity, correctness and truthfulness of the photographs (Annexure A-10, page 52 to the OA). I further submit that the facts and documents annexed now to the OA are also not subsequent facts and/or events which were not known to the Applicant or could not have come into the possession of the Applicant from the date of knowledge till the date of filing of the OA. I submit that it is evident from the aforesaid that the present OA has been filed only with a view to harass Respondent No. 3. I further submit that the documents annexed to the OA admittedly relate to the years 2006-2013 and hence, it is most respectfully reiterated that the present OA is grossly barred limitation and not maintainable and ought to be and should be dismissed with exemplary costs. I submit that, the Original Application being itself not maintainable and barred by limitation, even the Application, as amended, would be barred. I therefore submit that the Application deserves to be dismissed with costs.




7. Further, I submit that the Applicant has not disclosed in the aforesaid OA, his locus standi to file the same. I further submit that the Applicant has no cause of action to file the aforesaid OA, inasmuch as the Applicant herein is not an "Aggrieved Party" within the meaning of law.
8. Further, the OA has been affirmed and verified by the Applicant who does not speak or understand English, thus making it apparent that he has been put up. The OA deserves to be dismissed with compensatory costs.
9. Further, the IA and also the OA is motivated, malafide and is nothing but an abuse of the process of law and deserves to be dismissed with costs. I further submit that the Applicant has not disclosed the date on which the material/documents now sought to be placed on record were obtained/taken by him. The documents produced also do not show that they were obtained under R.T.I. It is mandatory for such a party to disclose how and where he got the documents from. I submit that the Applicant is not serious about environment issues and is merely using this Hon'ble Tribunal to cause hardship and inconvenience to project proponents like the Respondent No. 3 herein. I submit that the present Amendment Application is nothing but an abuse of the process of law and deserves to be dismissed with costs.



Unclean hands

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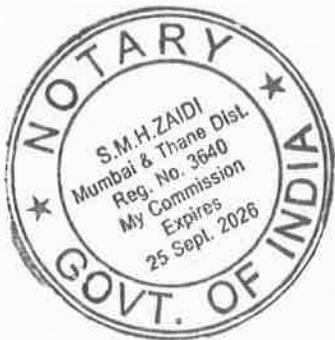
10. Further, it is submitted that the Applicant has not approached this Hon'ble Tribunal with clean hands and has deliberately made wrong statements with a view to misguide this Hon'ble Tribunal. I state that at the time of hearing on 17th July 2017, the Applicant made a bald statement that "construction was started in the year 2013". I state that the same came to be recorded in the said Order dated 17th July 2017. I further state that the Applicant has stated in the Amendment Application that the "building is substantially complete in January 2013". I submit that the Applicant has made false statements on oath and hence, the present Application ought to be dismissed with costs.

11. It is further submitted that the requisites, as directed by this Hon'ble Tribunal, were to be complied within 3 days from 17th July 2017, i.e. by 20th July 2017, were complied with only on 21st August 2017, which is a month later than the time granted by this Hon'ble Court. It is and submitted that the Applicant has flouted the directions of this Hon'ble Tribunal. I reiterate that the Applicant is not serious in pursuing the present Application and hence looking into the said conduct of the Applicant, the present Original Application be dismissed with costs. I crave leave to refer to and rely upon the said Orders dated 29th May 2017, 17th July 2017 and the minutes of the proceedings in the aforesaid matter till date, for their true and correct




meaning, interpretation, scope and legal effect thereof, at the time of hearing.

12. I further submit that the Applicant has not disclosed the date on which the material/documents now sought to be placed on record were obtained/taken by him. The documents produced also do not show that they were obtained under Right to Information Act, 2005 (RTI). It is mandatory for such a party to disclose how and where he got the documents from. In such circumstances, I submit that the Applicant is not serious about environment issues and is merely using this Hon'ble Tribunal to cause hardship and inconvenience to project proponents like the Respondent No. 3 herein. I submit that it can be seen, in light of the aforesaid submissions, that the Applicant had sufficient opportunity to produce the material on record and place on record, the facts which the Applicant now proposes to do so by way of the present Amendment Application. I submit that the Applicant has not disclosed anywhere in the said Amendment Application, the reason as to why the Applicant was unable to or prevented from so placing on record the said facts and/or documents which the Applicant now proposes to do so under the present Amendment Application. I further submit that the facts and documents now sought to be placed on record are also not subsequent facts and/or events which were not known to the Applicant or could not have come into the



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possession of the Applicant. I submit that it is evident from the aforesaid that the present Amendment Application, as also the aforesaid Original Application has been filed only with a view to harass the Applicant. I further submit that the facts and documents now sought to be placed on record admittedly relate to the year 2011-2013 and hence, it is most respectfully submitted that the present Amendment Application, as also the aforesaid Original Application is grossly barred limitation and not maintainable and ought to be and should be dismissed with exemplary costs. I submit that the present OA is nothing but an abuse of the process of law and deserves to be dismissed with costs.

13. Further, I submit that the contentions and allegations made by the Applicant in the present OA are of a general nature. I submit that the Respondent has not pointed out any specific instance of any alleged environmental violation, but has sought to hold this Respondent for "*the fragile and deteriorating environment of the city of Mumbai*". I submit that the Respondent has tried to establish a conclusion not found in evidence. I submit that no relief can be and ought to be granted by this Tribunal on pleadings of such a generalized, vague, arbitrary nature, which are prima facie result of the overstretched imagination of the Applicant and /or the person /s who has put him up to file the present Application.

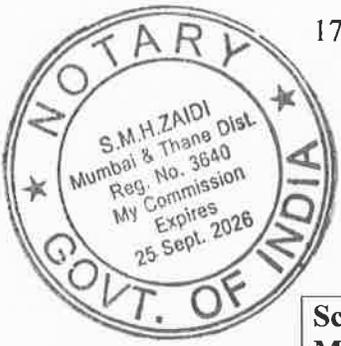



Reliefs sought for in the IA and OA overlap

- 14. The Applicant filed the amendment application (MA/54/2017) alongwith the schedule of amendment, which was allowed pursuant to Order dated 17th July 2017. The amended OA was served upon the Respondents on 31st October 2017 and also claimed to have been filed with the Hon'ble Tribunal.
- 15. However, till the passing of the Order dated 18th November 2022, the amended OA was actually not filed with the Hon'ble Tribunal.
- 16. Applicant served an amended OA copy upon Respondent No. 3 on 22nd December 2022. It is submitted that the amendment carried out in the amended OA served on 22nd December 2022 differs from the Schedule of Amendment to MA/54/2017.

17. The difference in the schedule of amendment to MA/54/2017 and the amended OA served on 22nd December 2022 is as under:-

Schedule of Amendment to MA/54/2017	Amended OA served on 22.12.2022 (amended portion)
<u>SCHEDULE OF AMENDMENT</u>	ORIGINAL APPLICATION
(A) TO ADD Para 3.5 to the	(Consolidated along with Amendments)



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Original Application No.
54 of 2017:

3.5 GROUND NO. 5:

The Applicant submits that the impugned building was constructed right from the inception without Environment Clearance. The Applicant seeks the demolition of the building based on a ruling of the Hon'ble High Court, where it was clearly stated that the building which is constructed without Environment Clearance ought to be demolished.

In this reference, the Applicant reproduces the relevant part ruling of the Hon'ble High Court MANU/MH/0623/2016

IN THE HIGH COURT OF
BOMBAY

Writ Petition No. 369 of 2011
Decided On: 29.04.2016

Appellants: Adarsh Co-op.
Housing Society Ltd. and Ors.

Vs.

Respondent: Union of India and
Ors. as under:

"75. Unfortunately, despite repeated judgments by the this Court and High Courts, the builders and other affluent people engaged in the construction activities, who have, over the years shown scant respect for regulatory mechanism envisaged in the municipal and other similar laws, as also the master plans, zonal development plans, sanctioned plans etc., have received encouragement and support from the State apparatus. As and when the courts have passed orders or the officers of local and other bodies have taken action for ensuring rigorous compliance of laws relating to planned

1.1. The address of the Applicant is as given above for the service of notices of this Application.

1.2. The addresses of the Respondents are as given above for service of notices of the Application.
(Paras 1.2-A added as amendment)

1.2-A This Origin Application, incorporating the amendments to the Original Application, is being filed pursuant to the Orders of the Hon'ble Tribunal dated 17 July, 2017, read with Order dated and Order dated 19th August, 2017.

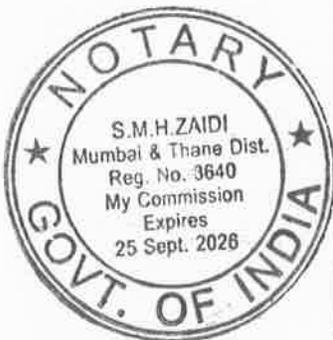
1.2-B In essence the Order of the Hon'ble Tribunal, focuses on the following:

Order dated 17th July, 2017:

The Applicant shall carry out necessary amendments in the Application so as to quote the concerned Authorities and grounds for demolition, date of commencement of construction with clarity within a week.

Order dated 19th August, 2017:

"Broadly speaking the Respondent No. 3 has questioned the date of commencement of the construction as sought to be pleaded by the Applicant



development of the cities and urban areas and issued directions for demolition of the illegal/ unauthorized constructions, those in power have come forward to protect the wrong doers either by issuing administrative orders or enacting laws for regularization of illegal and unauthorized constructions in the name of compassion and hardship. Such actions have done irreparable harm to the concept of planned development of the cities and urban areas. It is high time that the executive and political apparatus of the State take serious view of the menace of illegal and unauthorized constructions and stop their support to the lobbies of affluent class of builders and others, else even the rural areas of the country will soon witness similar chaotic conditions.”

377. Applying the tests laid down in the aforesaid cases as also for the reasons recorded earlier, we are more than satisfied that this is eminent case to order demolition as the entire construction carried out by the Petitioners is unauthorized and illegal and in total defiance of provisions of E.P. Act as also M.R.&T.P. Act. The building is liable to be demolished and we accordingly order that the Adarsh building constructed by the petitioners shall be demolished and the cost thereof shall be recovered from the petitioners.” (Emphasis supplied).

The Petitioner submits that this construction right from the inception was contemplated to be in excess of 20,000 square meters. The Respondent No. 2 and 3 had full knowledge that a prior Environment Clearance

and contends that the Original Application appears to be time barred and therefore, no amendment be allowed.

Keeping the issue of limitation open we grant permission to carry out the amendment.”

1.2-C Subsequent to the above, the Applicant had carried out the amendment and was recorded by the Hon’ble Tribunal vide Order dated 4th December, 2017. However, it seems that due to some filing issues the said amendment could not be placed in the records.

1.2-D Accordingly, the Applicant herein is filing a revised Amendment Application in a consolidated manner for an earlier comprehension and for being earlier to submit online.

QUESTION A:

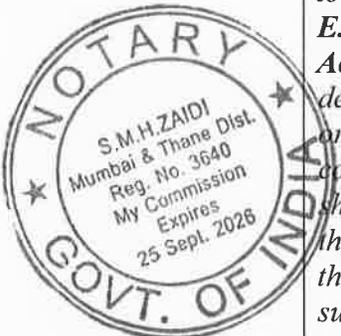
In view of the claim of the Develop does this Original Application gets hit by the limitation.

QUESTION B:

The law based on which the Applicant is seeking the demolition of this building.

1.2-F Accordingly, the amendments are being made in this Original Application, and more particularly, answered to under the heading **FOUNDATIONS**, placed particularly in Para **GROUND NO. 5** and **GROUND NO. 6** hereunder.

1.3. The Applicant above-



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was required. I.e. the Environment Clearance ought to have been taken before the construction as this was the only way to do the baseline studies. Moreover, this construction was in the highly sensitive Pali Hill area of Mumbai. Being at the hill, it was all the more required that baseline studies be done so that adequate precaution could be taken to protect the environment. Now when the construction is almost complete it would be impossible to do the baseline studies and to take precautions. This would be possible only when the building is demolished and the environment restored to the original state.

For the reason mentioned above, this is an apt case where the ruling of the Hon'ble High Court in case of Adarsh CHS quoted above be applied on this case also and accordingly, this Hon'ble Tribunal may issue orders for the demolition of the impugned building.

**(B) TO ADD Para 3.6 of the Original Application No. 54 of 2017:
3.6 GROUND NO. 6:**

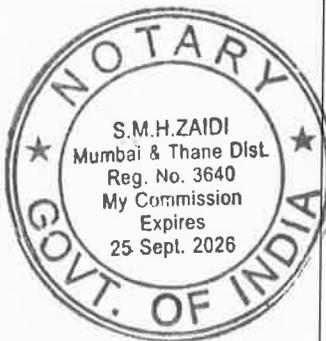
The Applicant submits that the chronology of construction of the building as apparent from the Google Earth Satellite Photographs are given hereunder:

Google Earth Satellite Photograph dated 10th March, 2006: This satellite photograph shows the state of the original buildings. (ANNEUXRE 'A-9').

Google Earth Satellite Photograph dated 10th March, 2006: This satellite photograph

named begs to present the Memorandum of Application against the gross inaction by the State Level Environment Impact Assessment Authority (SEIAA) by abandoning its statutory powers and thereby taking no action on the project which was constructed without Environment Clearance and which ought to face demolition considering the principles evolved in the ruling of the Hon'ble High Court in the case of Adarsh Co-operative Housing Society Ltd. in High Court Original Side Writ Petition No. 369 of 2011. In this way, SEIAA by turning a Nelson's eye has been conniving at such illegal construction.

1.4. The essence of the issues at stake is related to a large construction which has been taking place in the sensitive Pali Hill area of Mumbai, without any Environment Clearance. The SEIAA, which has been accorded specific statutory powers to take action under section 5 of the Environment Protection Act, 1986, vide Notification dated 4th March, 2017



shows the old buildings have been demolished and excavation work has commenced. (ANNEXURE 'A-10').

Google Earth Satellite photograph dated 10th January, 2013: This satellite photograph shows that the building is substantially complete. (ANNEXURE 'A-11').

The Applicant submits that as per his knowledge that the Municipal Corporation has still not granted the Occupancy Certificate for this building and for this reason, the apartments have not been inhabited. However, fuller details in the matter could be stated by Respondent No. 2, i.e. the relevant department of the Municipal Corporation.

(C) TO ADD the following entries in the Index:

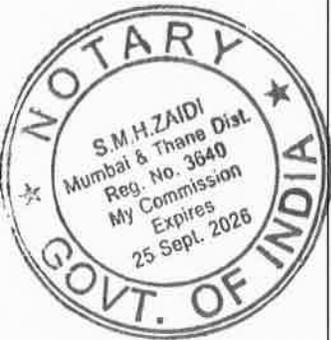
9.	Google Earth Satellite Photograph dated 10 th March, 2006, showing the state of the original building	'A-9'	41
10.	Google Earth Satellite Photograph dated 28 th February 2007 showing that the old buildings have been demolished and excavation work has commenced.	'A-10'	42
11.	Google Earth Satellite Photograph	'A-11'	43

The officers of the SEIAA despite full knowledge that the construction was illegal yet closed their eyes and refused to take action even though full facts were within their knowledge and despite the fact that they were duty bound to take requisite action under the provisions of the Notification dated 1th March, 2014:

The Applicant further submits that the officers of the SEIAA had a duty cast upon them to invoke their statutory powers and to issue directives under section 5 of the Environment Protection Act, 1986, against a person who had openly and blatantly violated the Environment Protection Act, 1986. This statutory duty was cast upon them vide Notification dated 4th March, 2014 a copy of which has been annexed above and marked as ANNEXURE 'A-1'.

It is further seen that the Applicant had lodged a complaint giving full information about the illegal construction to the SEIAA vide letter dated 18th June, 2014 (ANNEXURE 'A-4') and further vide letter dated 15th April, 2015 (ANNEXURE 'A-5'). However, the officers of the SEIAA closed their eyes and took no action and thereby afforded an enormous pecuniary advantage to the law violator.

For the reason of such conscious acts of the officers of the SEIAA to let an



dated 10th
January 2013
showing that
the building
has been
substantially
complete.

illegality stem and to
sustain, they ought to be
made liable under the laws
of the land and that this
Hon'ble Tribunal may issue
necessary observations so
that appropriate
consequences visit such
officers.

(C) TO ADD the following Exhibits:

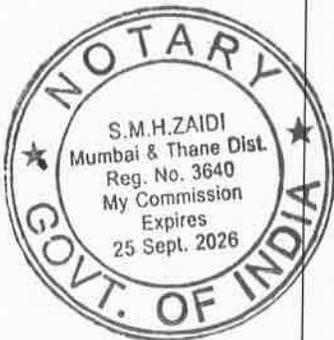
To add Annexures 'A-9',
Annexure 'A-10' and
Annexure 'A-11' as Exhibits
as annexed herewith.

**3.5 GROUND NO. 5:
(RELATED TO
QUESTION OF
LIMITATION)
(Added as amendment to
Original Application):**

*The claim of the Developer
that if 5 years have elapsed
from the date of start of
construction then limitation
sets in and thus the
construction without
Environment Clearance is
automatically regularised –
This is preposterous and
untenable:*

The Applicant submits that
the Developer has taken the
position that since 5 years
have elapsed from the date
of construction, which
started in the year 2007,
therefore, the construction
gets automatically
regularised as the limitation
period of taking action on
the infringing construction
has got over in view of the
provisions of The National
Green Tribunal Act, 2010.

In other words, what the
Developer is claiming is
akin to the law on adverse
possession i.e. ownership by
adverse possession, where
limitation to evict a person
from adverse possession is
12 years. So, if a person is in
adverse possession of a land
12 years, and the landowner



does not commence eviction proceedings during that period, then the adverse possessor of land can seek a declaratory suit for title.

However, in the realm of environmental law, there is no such rule. Here, if a construction has infringed an environment law, then so long as the infringement sustains, the limitation becomes endless. For, an infringement of environmental law is detrimental to a public and is a cause of continuous injury.

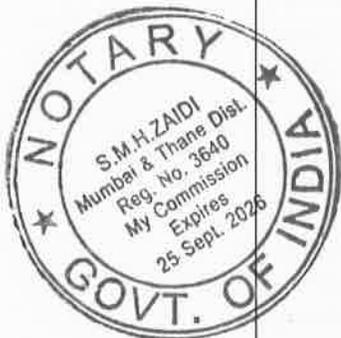
Thus the claim of the Developer is preposterous, and is contrary to the laws of the land. The reasons for this are given hereunder:

REASONS WHY CLAIM OF LIMITATION IS UNTENABLE:

REASON NO. 1:

It is a settled position in the law that if the construction which ought to have taken Environment Clearance and has been constructed without Environmental Clearance, then it becomes a case of recurring Cause of Action'.

The Applicant submits that the purpose of taking Environment Clearance is to prevent damage to environment. If the construction is done without Environment Clearance, then the damage to environment could be significant. Accordingly, if a damage is done to environment then it ought to be corrected and therefore,



there is recurring Cause of Action', in cases where construction has been done without Environment Clearance.

In this reference, the Applicant would rely on ruling given by the National Green Tribunal in the following case:

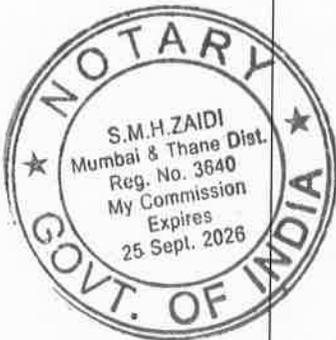
Case of Shiv Prasad in Application No. 24 of 2014 (NGT Principal Bench, New Delhi):

“Running of industries without EC or without enough environmental safeguards have generated serious adverse effect on flora and fauna and eco-system in and around such industries and cumulatively have given rise to an independent cause of action which will be recurring cause of action”. (Emphasis supplied).

Case of Lokmangal Sansthan Application No. 22 of 2013 (NGT WZ)

“The continuity of the nuisance and air pollution as well as noise pollution amounts to continuity of cause of action. Hence, the suit cannot be deemed as barred by limitation.”

In this case, there has been a serious damage to environment, including a massive quarrying on an eco-sensitive hilltop of Mumbai i.e. Pali Hill. This quarrying was done for the purpose of making basement. Further, the Developer has done a massive construction and there is no space left to plant



250 number of trees which he ought to plant as per the letter of the Tree Authority annexed as ANNEXURE 'A-9'.

A Google Earth Satellite Photograph of the project dated December 2017, (ANNEXURE 'A-10') clearly shows that the said 250 number of trees do not exist at the site and that there are a very small number of trees actually present at the site. This was despite the fact that it was claimed vide the letter of the Architect of 11th February, 2013, that 250 number trees were planted. In fact, in such 250 trees were planted in the year 2013, then then 9 years later such trees ought to have assumed the height of at least 50 feet by now. However, the Google Earth Satellite Photograph cited above clearly shows that no such 250 trees are in existence.

A committee for the actual site inspection formed by this Hon'ble Tribunal could reveal the specific truth, as to how many local variety of trees were planted and what is the height such trees have assumed.

It is seen that as per the general conditions of Environment Clearance, trees of local varieties ought to be planted. Since Mumbai is in the tropics, the trees are vegetation rich and go upto the height of about 70 feet.

To plant trees which can bear such an enormous height, roots have to be



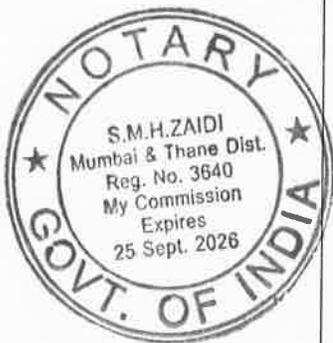
widespread and go upto about 20 feet deep below in the mother earth. However, the Project Proponent has constructed a basement below and therefore, all that can be planted there are small plants or shrubs and then named them as trees. Trees of a local variety cannot be planted on a shallow soil.

It is reiterated that it is impossible to have such trees because the Project Proponent has made a 2-level basement by quarrying on the hilltop and that there is no earth available for the roots to sustain such tropical trees. In this way, the Project Proponent is causing an injury to environment on each day, and thus on each day a fresh 'Cause of Action' arises as because of the action of the Project Proponent in violation of the law, adverse effect is being cast on the oxygen levels linked to trees.

REASON NO. 2:

To permit a building exist without Environment Clearance would be discriminatory against those scrupulous Developers who did construction without Environment Clearance:

The Applicant submits that if a Project Proponent is permitted to circumvent the environmental laws and permitted to do construction without Environment Clearance, and thereby escaping the stringent conditions specific to such



clearance for the purposes of safeguarding the environment, then this would lead to creation of a discriminatory advantage to the Project Proponent vis-à-vis those who scrupulously abide by the law and seek Environment Clearance, and follow all safeguards.

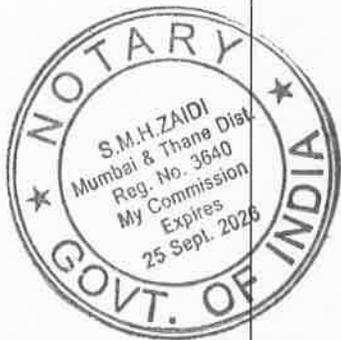
Since such a situation would violate Article 14 of the Constitution of India, hence the Developer cannot be permitted to violate the law, damage the environment and then be given advantage of limitation.

REASON NO. 3:

There is no period of limitation specified in the Environment Protection Act, 1986 to take action against the law violators:

The Applicant submits that while in The National Green Tribunal Act, 2010 there is a provision related to limitation, however, in the Environment Protection Act, 1986 there is no limitation specified for a person who has done environmental violation. Accordingly, if any application is made to the Statutory Authority to take action under the Environment Protection Act, 1986, and the date when such Statutory Authority decides on the issue at stake, the limitation would start from such date when the Statutory Authority has taken action.

The Applicant submits that his Original Application is essentially directed against inaction by the Competent

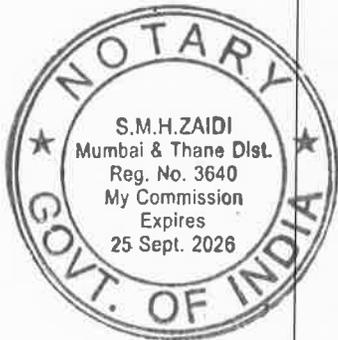


Authority to invoke its statutory powers so as to address the situation arising out of construction without Environment Clearance. The Competent Authority is not fettered in any way, with respect to limitation. To the Competent Authority the limitation is indefinite as per the Environment Protection Act, 1986. Therefore, if the argument of the Project Proponent is accepted, then by implication it would fetter the powers of the Competent Authority to take action under section 5 of the Environment Protection Act, 1986.

In short, the disposition of the Developer in putting words into a statute by stipulating that by implication there is a limitation imposed in the Environment Protection Act, 1986, when actually there is no limitation, these run contrary to fundamental legal principles expressed in the legal maxims as under:

- A. *A verbis legis non recedendum est*: A provision of the law shall not depart; or From the words of the law, there must be no departure.
- B. *Ut Respondent magis valet quam preheat*: It is better for a thing to have effect than to be made void.

In short, if the argument of limitation of the Project Proponent is accepted, then it would mean that the Environment Protection Act, 1986, imposes a limitation to the Statutory Authority to



act within a time period, even though unlike The National Green Tribunal Act, 2010, the Environmental Protection Act, 1986 does not provide for any limitation. Hence, the limitation will come into play, only after the final order is issued by the Statutory Authority by invoking its stutler powers.

REASON NO. 4:

The Architect of the Project has himself admitted that Environment Clearance was required and thereupon got the Occupation of A wing – Now the Project Proponent cannot turnaround to say that no Environment Clearance is required since limitation period is over.

The Applicant submits that it is a given fact that the Developer i.e. the Project Proponent had applied for Environment Clearance, however, he was absent on the presentation (ANNEXURE 'A-11') before the State Level Environment Impact Assessment Authority. Further, the Developer himself has taken the position whereby he considered that Environment Clearance was required and hence had applied for Environment Clearance. Since the Developer was not able to obtain the said Environment Clearance, therefore he has now taken the position that there is no need for Environment Clearance. Such a conduct



cannot be permitted under the provisions of section 115 of the Indian Evidence Act, 1872 related to the principles of estoppel.

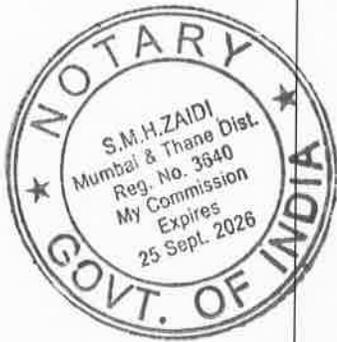
REASON NO. 5:

Environment Impact Assessment Notification of 2006 clearly states that Environment Clearance was required if Built-up Area was more than 20000 square metres – it is on record that Built-up Area on all floors combined is more than double of the threshold.

The Applicant submits that as per the threshold limit of Built-up Area set in Environment Impact Assessment Notification of 2006, as it was prevailing on the date of notification was as under:

“(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)”

As per the approved plans, each floor has got an area of 77.06 m x 18.62 m which comes to 1434.85 square metres (typical floor plan is annexed and marked as **ANNEXURE ‘A-12’**. This area is confirmed by the Area Measurement Tool of Google Earth Satellite Photograph, which gives the approx. area of each floor as 1444 square metres (**ANNEXURE ‘A-13’**). Since this building is of G+18 floors, and has got 2 basements, hence even if 21 (18 floors plus Ground Floor and 2 basements) floors are reckoned, then the Built-up Area comes to 30114 square



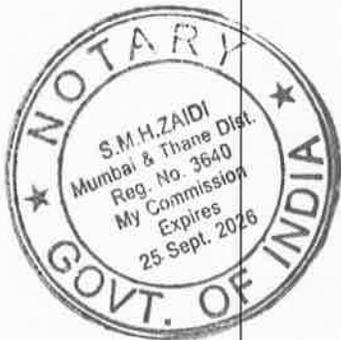
metres. In addition, there are large podium areas and basements going beyond the building line.

Either way, the total Built-up Area exceeds 20000 square metres, if the words reckoned in the Environment Impact Assessment Notification of 2006, as in September 2006 are reckoned. Needless to add that it is the golden rule of Interpretation of Statutes that the words have to be construed as they are in the statutes.

In this reference, the Ministry of Environment and Forests, New Delhi vide its Office Memorandum dated 7th July, 2017 (ANNEXURE 'A-14'), that the definition of Built-up Area before the threshold dated of amendment shall be as per the definition of Built-up Area given in the respective town planning Regulations.

In order to escape from the rigours of Environment Clearance, the Developer has taken the position, whereby, he has stated that since the FSI area is less than 20000 square metres, hence no Environment Clearance is required. This argument taken by the Developer is specious and an identical case has already been considered by this Hon'ble Tribunal in

The said definitions have been clearly and categorically covered in the ruling given by the Hon'ble National Green Tribunal in



Appeal No. 66 of 2014 in the case of Sunil Kumar Chugh, (Relevant part annexed as ANNEXURE 'A-15') where the following interpretation was made by the Hon'ble Principal Bench:

"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 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, the 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. 3 to contend that there was any room for misunderstanding the meaning of "built-up area" and only "FSI" area cold 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."



[Handwritten signature]

(Emphasis supplied).

In short, the definition of Built-up Area before the 2011 amendment to the Environment Impact Assessment Notification of 2006, is no longer Respondent integra.

Notwithstanding the aforesaid position in law, yet it is indeed unfortunate that the Municipal Corporation did not reckon the law as has been explained by the Hon'ble Tribunal as above, and has clearly held that FSI and Built-up Areas are different. Yet the Municipal Corporation did not consider the ruling of the Hon'ble Tribunal and also the words the words of the law and treated Built-up Area and FSI Area as one and the same. Thereupon the Municipal Corporation issued the Occupancy Certificate to the building in flagrant violation of the law and that is how the building has got occupied. The noting of the Municipal Corporation dated 28 September 2018, in accepting the specious contention of the Developer and not considering the clear-cut ruling of the Hon'ble Tribunal as cited above is annexed hereto and marked as ANNEXURE 'A-16'.

The Applicant submits that if the interpretation of the Project Proponent is taken then almost all the Environment Clearances issued to scrupulous Developers, would turn inconsequential. Needless to



add that his interpretation is preposterous and militates against the Built-up Area definition given in the Development Control Regulations of Greater Mumbai, 1991, as cited above.

Needless to add that the Developer has got the plans amended much after the year 2011 and therefore, even otherwise the stipulation of prior Environment Clearance would be applicable to him as with every amendment to plan a fresh Environment Clearance is required.

REASON NO. 5:

The Developer has shown large areas as Fire Escape and holding areas, which are free of FSI – these areas are now getting unauthorisedly attached to the respective flats which abut such areas – An inspection is required as these have now become FSI areas:

The Applicant submits that as per the typical floor plan annexed as ANNEXURE 'A-12' annexed above (with supplied illustrations), large areas have been kept as fire escape areas which are disproportionately large vis-à-vis the useable areas. From the outside view of building it is clear that the adjacent flat owner has attached such area to his flat, and thereby such areas become FSI areas. The individual flat owners have placed false ceiling on such areas and have put curtain



blinds. This is notwithstanding the fact that such areas have to be kept open and encroached.

Accordingly, even if the contention of the Developer is accepted, the fact remains that the said non-FSI areas are actually FSI areas and they have got individually attached to the flats adjacent. And if this is considered that even the FSI area would exceed the threshold area of 20000 square metres.

**3.6 GROUND NO. 6:
(RELATED TO
QUESTION OF
LIMITATION)**

*(Added as amendment to
Original Application):*

QUESTION B:

The law based on which the Applicant is seeking the demolition of this building.

The Applicant is seeking demolition of this building on the essential ground that it is not possible to accord a post facto Environment Clearance because the infringement to environmental laws done by him cannot be corrected unless the building is demolished.

More specifically, the Developer has done the following violations which cannot be rectified by a post facto Environment Clearance:

(A) The Developer has covered the entire area where the impugned construction has taken place



either under the building or under the basement. Accordingly, the 250 trees which have to be planted most of them have to be place on the concrete slab where at best 6 to 10 inch soil can be placed. As per the general Environment Clearance conditions. Local variety of trees have to be planted. Mumbai being a tropical area, the trees grow at the height of about 70 feet. It is impossible that a soil above a basement slab and sustain trees of such massive rights, who roots generally spread over wide areas and got about 15 to 20 feet deep.

(B) The Developer has not left any rear setback in the building and has made a Recreation Ground on that place. Since rear side open spaces are mandatory, this cannot serve as a garden. Therefore, unless the building is demolished, this correction cannot be done, as both rear open space and the garden have to be separately provided.

In the back drop as above, the Applicant seeks to rely upon following rulings as under:

Civil Appeal No. 3116 of 2020 in the case of Gajubha Jadeja Jesar:

63. Ex post facto environmental clearance should not be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse



consequences of denial of ex post facto approval outweigh the consequences of regularization of operations by grant of ex post facto approval, and the establishment concerned otherwise conforms to the requisite pollution norms, ex post facto approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications.

(B) Ruling in the case of Adarsh CHS:

The Applicant seeks the demolition of the building based on a ruling of the Hon'ble High Court, where it was clearly stated that the building which is constructed without Environment Clearance ought to be demolished.

*In this reference, the Applicant reproduces the relevant part ruling of the Hon'ble High Court MANU/MH/0623/2016
IN THE HIGH COURT OF BOMBAY*

Writ Petition No. 369 of 2011

Decided On: 29.04.2016

Appellants: Adarsh Co-op. Housing Society Ltd. and Ors.

Vs.

Union of India

demolished and the cost thereof shall be recovered from the petitioners." (Emphasis supplied).

In view of the rulings cited above, the Applicant seeks the demolition of the



impugned building for the following reasons:-

(A) The Developer has done construction, where there is no place to plant 250 trees of the indigenous variety, i.e. tropical trees which go to the height of about 70 feet and for which a deep soil with sufficient width on all sides of the girth is required. There is no such space available to plant such 250 tropical trees in the manner that they assume full height.

(B) The Developer did a cosmetic show compliance of planting 250 number of trees. Even after 9 years, there are no signs of such tropical trees. It is apparent that to satisfy this condition, the Developer planted some plants or some saplings, which never became trees. This is an irreversible position and unless the building is demolished and deep soil created, there cannot be any environment friendly tropical trees growing to their full height of 70 feet.

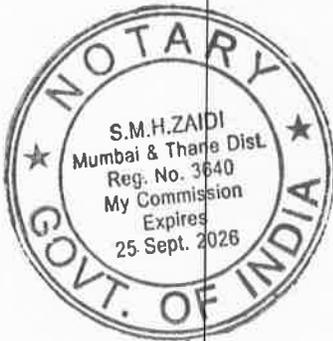
(C) The Developer has not left any rear open space and has shown it as a garden. Since rear open space is required for movement of fire tender, it cannot serve as a garden (plan annexed as **ANNEXURE 'A-17' with supplied illustrations**). A garden as required under the law (provisions of DCR 23 annexed as **ANNEXURE**



'A-18') and is also necessary to maintaining the environment. Since such a rectification is not possible, hence the building ought to be demolished so as to undo the harm to environment.

(D) The Developer has excavated a double basement on a sensitive hilltop of Pali Hill, through quarrying and this has been done without Environment Clearance. For the protection of the environment, the excavated portions of the hill have to be restored and without the demolition of the building this cannot be done.

(E) The Applicant submits that this construction right from the inception was contemplated to be in excess of 20,000 square metres. The Respondent No. 2 and 3 had full knowledge that a prior Environment Clearance was required. I.e. the Environment Clearance ought to have been taken before the construction as this was the only way to do the baseline studies. Moreover, this construction was in the highly sensitive Pali Hill area of Mumbai. Being at the hill, it was all the more required that baseline studies be done so that adequate precaution could be taken to protect the environment. Now when the construction is almost



complete it would be impossible to do the baseline studies and to take precautions. This would be possible only when the building is demolished and the environment restored to the original state.

For the reason mentioned above, this cannot be an exceptional case where a post facto Environment Clearance can be given. It is an apt case where the ruling of the Hon'ble High Court in case of Adarsh CHS quoted above be applied on this case also and accordingly, this Hon'ble Tribunal may issue orders for the demolition of the impugned building.

4.0 LIMITATION:

It is submitted that since the construction is going on without Environment Clearance and since there has been a serious violation of Environment Clearance conditions for which reason enormous damage is taking place on environment with each passing day, and since such damage is required to be restored and compensated for under the 'Polluter-Pays Principle', hence the limitation period of making such an application is for five years under the provisions of section 15 (3) of the National Green Tribunal Act, 2010. Since the construction is still going on and since the Applicant got to know about the illegality only 18th June, 2014, when Environment Department of the

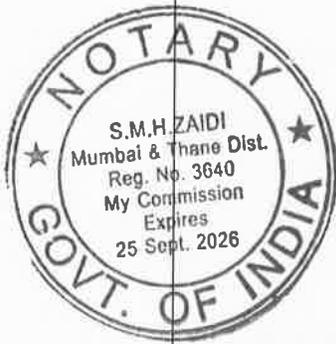


Government of Maharashtra informed that no Environment Clearance had been taken, hence, this Original Application is being filed within the limitation period.

THAT the ground taken by the Developer that he is not required to take Environment Clearance in view of the amendment to the Notification of 2011 be rejected by duly considering of the categorical ruling made by this Hon'ble Tribunal in the case of Sunil Kumar Chugh (supra Appeal No. 66 of 2014 of NGT Principal Bench).

(f) (Added as an amendment to the Original Application)

THAT during the pendency of this Original Application the Municipal Corporation has consciously granted the Occupancy Certificate in violation of the law, without considering the interpretation of the words Built-up Area as expressed by this Hon'ble Tribunal in the case of Sunil Kumar Chugh (supra Appeal No. 66 of 2014 of NGT Principal Bench). Accordingly, the Occupancy Certificate of the building be revoked and orders be issued for the demolition of this building.



18. It is submitted that no separate application for amendment was filed in respect of the purported amendment carried out on 22nd December 2022. It is most respectfully



submitted that the purported amendment carried out on 22nd December 2022 is baseless, vexatious, malafide and bad-in-law and is a fraud played upon this Hon'ble Tribunal. The same out to be and should be dismissed with costs.

Matter pending before Hon'ble Bombay High Court

19. I state and most respectfully submit that the challenge to the EC herein forms a part of the larger challenge to the OC by Chetak Co-operative Housing Society Limited, the mother society which has granted development rights to Respondent No. 3. The Applicant has filed a comprehensive writ petition before the Hon'ble Bombay High Court, namely Writ Petition No. 155 of 2019, *inter alia* challenging the part Occupation Certificate issued by the MCGM, in respect of Wing 'A' of the Project and the permissions/sanctions on the basis of which, the part Occupation Certificate has been issued. The prayers in the said Writ Petition No. 155 of 2019 are reproduced herein for the sake of reference as under:-

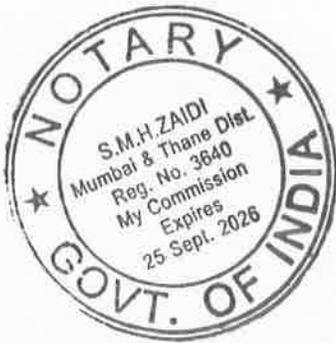
QUOTE

- a) That this Hon'ble Court be pleased to issue a writ off mandamus under Article 226 of the Constitution of India and/or any other appropriate writ/orders under any other article of the Constitution of India, call the records and proceedings of the impugned occupation certificate dated 9th October 2018 and revise approved plans dated 9th October 2018, sanctioned and issued by Respondent No. 1 to 4 herein and after going through the validity and legality of the same, be pleased to pass the



necessary orders/direction for
revocation/cancellation of the impugned OC and
plans,

- b) That this Hon'ble Court be pleased to issue a writ off mandamus under Article 226 of the Constitution of India and direct the Respondent No. 1 to 4 herein to forthwith revoke/cancel the impugned OC plans,
- c) That the pending the hearing and final disposal of the present petition, this Hon'ble Court be pleased to pass the necessary orders/directions and stay the implication and effect to the impugned OC and plan,
- d) That pending the hearing and final disposal of the present petition, this Hon'ble Court be pleased to pass the necessary order/direction and restrain Respondent No. 1 to 4 herein from creating any third party right/interest and/or parting with possession of any unit/apartment or any premises in the building known as "Sandhu Palace" situated on the property bearing CTS 1381 and CTS 1382C, situate lying and being at village Danda, Palli Hill Road, Bandra (West), Mumbai 400 050;
- e) That the pending the hearing and final disposal of the present petition, this Hon'ble Court be pleased to pass the necessary order/direction and direct Respondent No. 1 to 4 herein to maintain status quo in respect of the subject building i.e. "Sandhu Palace" situated property bearing CTS 1381 and CTS 1382C, situate lying and being at village Danda, Palli Hill Road, Bandra (West), Mumbai 400 050 and restrain them from carrying out any further construction activities on the said property bearing CTS 1381 and CTS 1382C, situate lying and being at village Danda, Palli Hill Road, Bandra (West), Mumbai 400 050.
- f) Ad-interim/interim reliefs in terms of prayer clause (a) to (e) above.
- g) For the cost of the Petition.
- h) For such further and other relief as the nature and circumstances of the case may require.



UNQUOTE



I state and most respectfully submit that therefore, the challenge to the part Occupation Certificate includes the challenge to all the permissions/sanctions which form the basis on which the part Occupation Certificate was granted, including *inter alia* the EC requirement. I state that since the question of grant of EC is already under challenge in the said Writ Petition No. 155 of 2019, which is pending before the Hon'ble Bombay High Court. I submit that therefore, the issue pending in the aforesaid OA is already sub-judice before the Hon'ble Bombay High Court in multiple proceedings. I crave leave to refer to and rely upon the papers and proceedings in the said writ petition and the orders passed therein and the other litigation pending between the parties, as and when produced. Thus, the present OA is thus barred by the principle of *Res Judicata* and ought to be dismissed with costs.

Suppresio veri and Suggestio falsi :-

20. Without prejudice and at the further outset, I state and submit that the Applicant has not placed on record, the true and correct position regarding the applicability of EC for the Project and has attempted to mislead this Hon'ble Tribunal. In this regard, the complete facts regarding the applicability of EC and the correct chronology of facts pertaining to the Project are as under:-

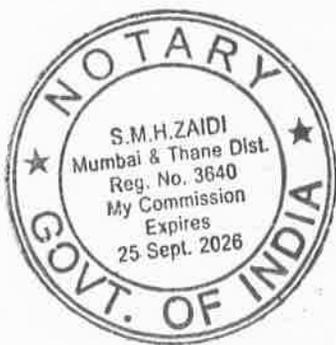


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(a) The plans in respect of the Project Building comprising of 'A' Wing of 2 (two) basement parkings + ground floor + 18 upper floors + 19th floor (pt.) and 'B' Wing of 2 (two) basement parkings + ground floor + 5 upper floors) were sanctioned and approved on 24th February 2006 by the MCGM. At that time, Notification dated 27th January 1994, bearing number S.O. 60(E) issued by the MOEF in respect of Environmental Impact Assessment ("EIA"), and published in The Gazette of India : Extraordinary (Part II Sec. 3(ii)) ("**1994 Notification**") was in force. I state and submit that the 1994 Notification did not provide for EC for building projects of the kind undertaken by these Respondents. Hereto annexed and marked as EXHIBIT – "2" is a copy of the 1994 Notification;

(b) Thereafter, EIA Notification dated 14th September 2006, bearing number S.O. 1533, and published in The Gazette of India : Extraordinary (Part II Sec. 3(ii)) came into force ("**2006 Notification**"). It is submitted that the requirement for obtaining EC for building projects of the kind undertaken by Respondent No. 3 was mandated for the first time in the 2006 Notification. It is submitted that the 2006 Notification is prospective in nature. It is submitted that unless it is clear from the intention of the

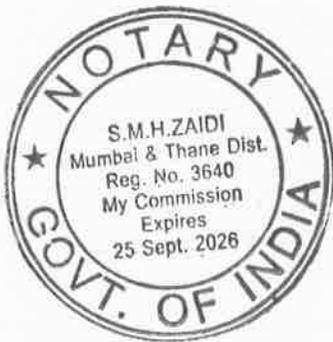


legislature that a particular enactment is to take effect retrospectively, it is always deemed to be prospective in nature. I reiterate that therefore, the requirement for prior EC for Building Projects was introduced only on 24th September 2006, when the 2006 Notification came into force and repealed the 1994 Notification. Therefore, Respondent No. 3, at the time of the first sanction of the building plans on 24th February 2006, did not apply for prior EC as there was in fact no requirement for obtaining prior EC at that time, which can be seen from a tabular comparison of the Schedules to both the 1994 Notification and the 2006 Notification, as under:-

NOTIFICATION 1994 SCHDEULE 1	NOTIFICATION 2006 SCHDEULE
<ol style="list-style-type: none"> 1. Nuclear Power and related projects such as heavy water Plants, nuclear fuel complex, rare earths. 2. River Valley projects including hydel power, major irrigation and their combination including flood control. 3. Ports, Harbours, Airports (except minor ports and harbours). 4. Petroleum Refineries including crude and product pipelines. 5. Chemical Fertilizers (Nitrogenous and Phosphatic other than single superphosphate). 6. Pesticides (Technical). 	<p>.... Continued</p> <p>8 (a) Building and construction projects \geq 20000 sq. mts and $<$ 1,50,000 sq. mts of built up area # # (built up area for covered construction in the case of facilities open to the sky it will be activity area)</p> <p>8 (b) Townships and Area Development projects - Covering an area \geq 50 ha and or built up area \geq 1,50,000 sq. mts ++</p> <p>(++ All projects under 8(b) shall be appraised as category B1)</p>



7. Petrochemical complexes (Both Olefinic and Aromatic) and Petrochemical intermediates such as DMT, Caprolactam, LAB etc and production of basic plastics such as LDPE, HDPE, PP, PVC.
8. Bulk drugs and pharmaceuticals.
9. Exploration for oil and gas and their production, transportation and storage.
10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
- 13.(a) Primary metallurgical industries (such as production of Iron and steel, Aluminium, Copper, zinc, lead and Ferro Alloys.)
- (b) Electric arc Furnaces (Mini Steel Plants).
14. Chlor-alkali industry.
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fibre and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloy.
18. All tourism projects between 200m- 500m of High Tide Line or at locations with an elevation of more than 1000 m with investment of more than Rs. 5 Crores.
19. Thermal Power plants.



20. Mining projects (major minerals) with leases more than 5 hectares.	
21. Highway projects.	
22. Tarred Roads in Himalayas and/or Forest areas.	
23. Distilleries.	
24. Raw skins and Hiders.	
25. Pulp, paper and newsprint.	
26. Dyes.	
27. Cement.	
28. Foundries (individual)	
29. Electroplating.	

Hereto annexed and marked as **EXHIBIT – “3”** is a copy of the 2006 Notification.

- (c) Thereafter, the said 2006 Notification was amended vide EIA Notification dated 4th April 2011, bearing number S.O. 695(E), and published in The Gazette of India : Extraordinary (Part II Sec. 3(ii)) (“**2011 Notification**”), whereby *inter alia*, the definition of the term ‘Built up Area’ was changed in Item 8(a) of the Schedule of the said 2006 Notification. The revised notification of the term ‘Built Up Area’ as per the 2011 Notification is as under:-



QUOTE

.....
(iii) against item 8(a),-



In column (5), for the entry, the following entry shall be substituted, namely:-

“The built up area for the purpose of this Notification is denied as “the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects”.

UNQUOTE

It is thus submitted that the definition of the term ‘Built Up Area’ was clarified for the purposes of effective implementation of the 2006 Notification.

Hereto annexed and marked as EXHIBIT – “4” is a copy of the said 2011 Notification;

- (d) Accordingly, in view of the said changed position regarding applicability of EC, Respondent No. 3 made an online Application to obtain EC dated 24th March 2015 with the Member Secretary, State Environment Impact Assessment Authority, Department of Environment, Mantralaya, Maharashtra, Mumbai, stating that the Project falls under Category B2 of projects 8(a) (Building and Construction Projects) of the 2006 Notification (as amended by the 2011 Notification). The physical filing of the Application was 2015 Application for EC with SEIAA was done on 19th May 2016. The said 2015 Application for EC with SEIAA was pursued by Respondent No. 3 from 2015 to 2017.



(e) Meanwhile, Architect for Respondent No. 3, vide his 2 (two) identical Letters, one dated 9th March 2016 and the other dated 23rd March 2016, certified that the Building comprising of 1st basement and 2nd basement for parking, ground floor for stilt and 1st floor to 19th floor part for residential floors is complete (Building Completion Certificate) and requested the Executive Engineer H/West Ward, Building Proposal Department of the Respondent No.1 to depute its staff to inspect the building and further process the building file for occupation permission.

(f) Further, Architect for these Respondent, vide his Letter dated 23rd March 2016, certified that the erection and full development works of the Building has been completed as per the plans and specifications and no provision of any law/regulations has been violated and the same is fit for occupancy. The Architect forwarded a copy of the completion plans and further requested the Executive Engineer H/West Ward, Building Proposal Department of the Respondent No.1 to arrange for the inspection of the building and further grant permission for occupation of the Building.




- (g) Accordingly, Respondent No. 1 scrutinized the completion plans submitted by the Architect vide his aforesaid Letters and vide its Letter dated 21st April 2016, called upon the Respondent No. 3 through its Architect to comply with the objections as stated therein.
- (h) Accordingly, the Architect for the Respondent No. 3, vide its Letter dated 9th May 2016, submitted all the compliances sought for and requested the concerned authority to issue completion and occupation certificate for the Building.
- (i) Thereafter, the said 2006 Notification, as amended by the 2011 Notification, was further amended vide EIA Notification dated 9th December 2016, bearing number S.O. 3999(E), and published in The Gazette of India : Extraordinary (Part II Sec. 3(ii)) (“**2016 Notification**”), whereby *inter alia*, the definition of the term ‘Built up Area’ was changed in Item 8(a) of the Schedule of the said 2011 Notification, to exclude certain categories of constructions. Hereto annexed and marked as EXHIBIT – “5” is a copy of the said 2016 Notification.
- (j) Thereafter, with a view to effectively determine which projects are to be considered as a case of

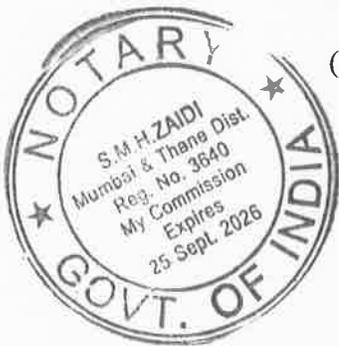


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violation of the 2006 Notification (as amended by the 2011 Notification and further amended by the 2016 Notification) and to lay down guidelines to strictly deal with such projects, EIA Notification dated 14th March 2017, bearing number S.O. 804(E) was issued and published in The Gazette of India : Extraordinary (Part II Sec. 3(ii)) (“**2017 Notification**”). Hereto annexed and marked as **EXHIBIT – “6”** is a copy of the said 2017 Notification.

(k) One of the salient features of the 2017 Notification was that the same provided for a mechanism for obtaining EC directly from MOEF at New Delhi instead of SEIAA (state department). Therefore, Respondent No. 3 requested the SEAC-II that the matter be referred directly to MOEF at New Delhi and accordingly, filed an Application for Environment Clearance dated 20th May 2017 with the MOEF, New Delhi.

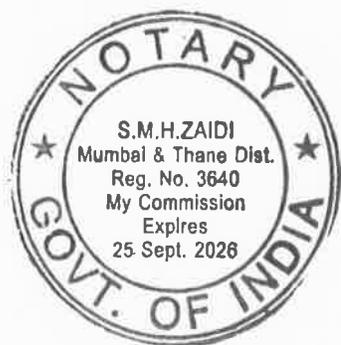


(l) Thereafter, MOEF, vide its Letter dated 6th October 2017, addressed to the then Additional Chief Secretary, Environment Department, Maharashtra, stated that in view of the 2016 Notification read with the order dated 7th July 2017, no separate EC is required for building and construction projects less than 1,50,000 square metres built up area. It further



stated that the authority competent to grant building permissions will integrate environment conditions following the process envisaged in the 2016 Notification. I categorically state that it is a matter of record that the Project of Respondent No. 3 is 40,317.33 square metres. Therefore the Project of Respondent No. 3 did not require separate EC. Hereto annexed and marked as EXHIBIT – “7” is a copy of the said Letter dated 6th October 2017. In terms of the said order dated 7th July 2017, MOEF, New Delhi issued a Letter dated 15th November 2017, addressed to the Municipal Commissioner, MCGM and copies to Respondent No. 1 (through the Additional Chief Secretary) and Respondent No. 3, clarified that in view of the order dated 7th July 2017 (clarifying the applicability of Notification No. S.O. 695 E dated 4th April 2011 by amending the Notification No. S.O. 155 (E) dated 14th September 2006), the EC to the Building can be granted. Hereto annexed and marked as EXHIBIT – “8” is a copy of the said Letter dated 15th November 2017;

- (m) Thereafter, the Architect for Respondent No. 3, vide its Letter dated 5th February 2018, *inter alia* forwarded the aforesaid clarification of MOEF regarding EC for the Project and requested for grant of part OC for ‘A’ Wing of the Project. Hereto



annexed and marked as EXHIBIT – “9” is a copy of the said Letter dated 5th February 2018.

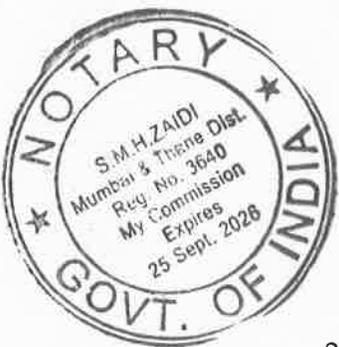
I state and respectfully submit that thus, in view of the aforesaid, the said EIA Notification dated 14th September 2006, as amended by the said EIA Notification dated 4th April 2011 and as clarified by the said order dated 7th July 2017, does not provide for prior EC or even a separate EC in respect of the Building constructed by these Respondents. Thus, I state and most respectfully submit that Applicant is guilty of *suppresio veri* and *suggestio falsi* and thus, the IA deserves to be dismissed with costs.

Non-Joinder of Necessary Party :-

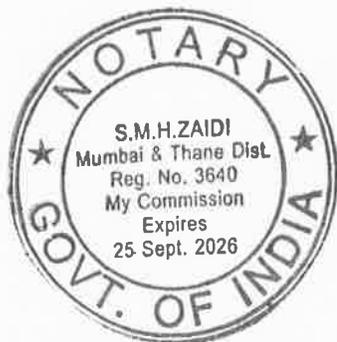
21. At the further outset, Applicant has not impleaded Ministry of Environment and Forests (“MOEF”), which is the apex body who has issued a clarification that Environmental Clearance (“EC”) is not required for Respondent No. 3’s Project. In the circumstances, I state and submit that the aforesaid Application No. 54 of 2017 is bad for non-joinder of a necessary party and consequently, the same deserves to be dismissed with costs.

Paragraph-wise comments :-

22. Without prejudice to the aforesaid, I shall now deal with the Original Application (consolidated alongwith amendments) (OA) paragraph wise in seriatim as under:-



- (a) With reference to paragraph 1.1, the contents therein are a matter of record.
- (b) With reference to paragraph 1.2, the contents therein are a matter of record.
- (c) With reference to paragraph 1.2-A (added as amendment), there is no explanation as to why the amendment was not filed immediately after passing of the Order dated 17th July 2017 read with Order dated 19th August 2017 and why the same has been filed and served upon the Respondents after a period of more than 5 (five years) i.e., on 22nd December 2022. I repeat and reiterate that the amendment carried out in the OA served on 22nd December 2022 differs from the Schedule of Amendment to MA/54/2017.
- (d) With reference to paragraph 1.2-B (added as amendment), I crave leave to refer to and rely upon the Orders dated 17th July 2017 and Order dated 19th August 2017 for their true and correct meaning, legal interpretation, scope and effect thereof, at the time of hearing.
- (e) With reference to paragraph 1.2-C (added as amendment), admittedly, the amendment allowed



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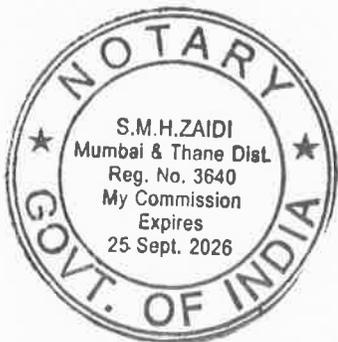
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vide Order dated 17th July 2017 was carried out by the Applicant and was recorded by this Hon'ble Tribunal vide its Order dated 4th December 2017. The said amendment was served upon the Respondents on 31st October 2017. Therefore, there exists no basis whatsoever for the Applicant to file the present OA, without filing an amendment application seeking leave of this Hon'ble Tribunal. The Applicant has not explained what filing issues were faced by him, which remained unresolved for 5 years i.e., from 2017 to 2022.

- (f) With reference to paragraph 1.2-D, I state and submit that the Applicant has not made out any valid ground to file the OA in an alleged consolidated manner. The Applicant has also not placed on record of this Hon'ble Tribunal, any filing receipt to demonstrate that the e-filing of any amendment application was done with this Hon'ble Tribunal.
- (g) With reference to paragraph 1.2-E, I crave leave to refer to and rely upon the Orders dated 17th July 2017 and Order dated 19th August 2017 for their true and correct meaning, legal interpretation, scope and effect thereof, at the time of hearing.
- (h) With reference to paragraph 1.3, in view of what is stated hereinabove, I state that the present



Memorandum of Application, as filed is not maintainable. I deny that there is gross or any inaction by the State Environment Impact Assessment Authority (SEIAA) or that the SEIAA has abandoned its statutory powers by taking no action against the project of this Respondent or that the project of this Respondent ought to face demolition as alleged. I submit that the Applicant has not demonstrated as to how he is an aggrieved party under the provisions of the NGT Act, 2010. I reiterate that the Applicant has deliberately not placed on record the facts regarding the deemed grant of EC, which goes to show the deliberate and mischievous intent of the Applicant. I deny that the ratio in the case of [*Adarsh Co-operative Housing Society Limited in High Court (original side) Writ Petition No. 369 of 2011*] is applicable to the present case and crave leave to refer to and rely upon the same for its true and correct meaning, interpretation, scope, and legal effect thereof, at the time of hearing. I deny that the construction as carried out by this Respondent is illegal and put the Applicant to strict proof thereof. I deny that SEIAA or any other I repeat and reiterate that the Applicant has flouted the directions of this Hon'ble Tribunal and is not serious in prosecuting the present Application. In this regard, I repeat and reiterate all that is stated by me in the preliminary

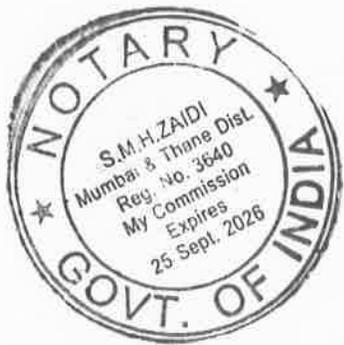


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submissions hereinabove and deny all that is contrary thereto and/or inconsistent therewith.

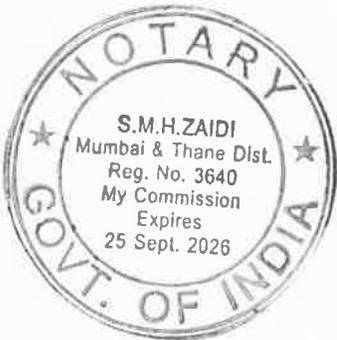
- (i) With reference to paragraph 1.4, I deny that the work has been carried on without EC. I deny alleged illegal construction having any severe or other environmental consequences. I deny that there is any illegality that is allegedly getting perpetuated or otherwise or at all. I crave leave to refer to and rely upon the Notification dated 4th March 2014 (Annexure 'A-1', page 33 to the OA) for its true and correct meaning, legal interpretation, scope and effect thereof, at the time of hearing.
- (j) With reference to paragraphs 2.0 and 2.1, I put the Applicant to strict proof of the contents thereof. I submit that on a bare reading of the contents of the paragraphs under reply demonstrate that the Applicant has no locus whatsoever with the project of this Respondent. I submit that by making vague and baseless statements that "*the Applicant has taken up issues relating to environmental violations*" and for the reason of "*fast deteriorating environment of Mumbai, the Applicant felt aggrieved by the reckless violation of environmental laws enunciated in this Original Application. As a sequel thereto, the Applicant seeks the lawful orders from this Hon'ble*



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Tribunal, to provide the necessary relief in relation thereof” is nothing but a malafide attempt to establish a nexus with Section 18 of the NGT Act, 2010 where none exists. Vague allegations cannot form the subject matter of an application under Section 14 of the NGT Act 2010. I say that I am not aware whether the Applicant has in the past, taken up any issues related to environmental violations and put the Applicant to strict proof thereof. The Applicant is not an “*aggrieved person*” within the meaning of NGT Act, 2010. Further, I deny that the lis in controversy in the present case can in any way be connected to the Fundamental Duties of the Applicant under Article 51A(g) of the Constitution of India. I repeat and reiterate that the Applicant is not connected in any manner with this Respondent or its project and has failed to demonstrate its locus standi to file the present OA. I submit that the Applicant has no cause of action against this Respondent. I repeat and reiterate that the OA is an abuse of the process of the court. The OA has been affirmed and verified by the Applicant who does not speak or understand English, thus making it apparent that he has been put up. In this regard, I repeat and reiterate all that is stated by me hereinabove and deny all that is contrary thereto and/or inconsistent therewith. I categorically deny



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that the Applicant is entitled to seek any of the reliefs as prayed for in the OA.

(k) With reference to paragraph 2.2, I deny that any discriminative construction is being done without EC as falsely alleged. I reiterate that the Applicant has no locus to file present Application. On the own showing of the Applicant, the Applicant has no direct locus to the project undertaken by this Respondent nor is an aggrieved party in respect of any alleged violation of environmental norms. I submit that except making a bare statement that *“Since, the Applicant is a frequent visitor of Bandra area, he is aggrieved by this grave violation of environmental laws. Therefore, he is making this Original Application for seeking necessary relief in relation thereof.”* I state that the Applicant has failed to disclose any cause of action inasmuch as, the present Original Application is not a Public Interest Litigation, nor is this Hon’ble Tribunal the Fora to agitate such reliefs. I deny that this Respondent is in fact responsible for the fragile and deteriorating environment of the city of Mumbai as alleged or at all, more so in the absence of material particulars of any alleged environmental violation by this Respondent. I submit that no relief can be and ought to be granted by this Tribunal on pleadings of such a generalized, vague, arbitrary nature, which are

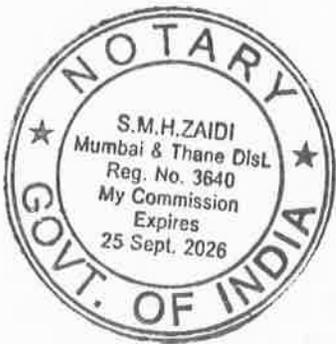


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prima facie result of the overstretched imagination of the Applicant and /or the person /s who has put him up to file the present Application.

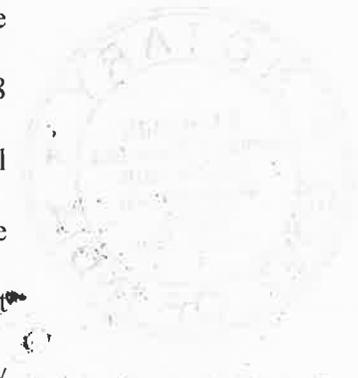
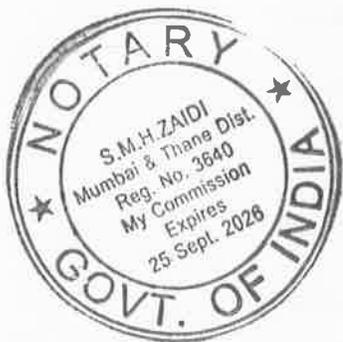
- (I) With reference to paragraph 2.3, I say that it is shocking that the Applicant has without any proof / documentary evidence, has gone to the extent to alleged that the officers of the MCGM, including *inter alia*, Respondent No. 2 herein are "compromised". I submit that no such allegation against a public officer ought to have been made by the Applicant without any substantial proof in support thereof. I submit that the Applicant has also not sought leave of this Hon'ble Tribunal to place any such purported proof or documentary evidence on record in support of his unsubstantiated, baseless, fanciful and malicious allegation against the officer of the Respondent No.2. I most respectfully say and submit that strict view thereof be taken by this Hon'ble Tribunal and the present Original Application be dismissed with costs. Without prejudice, all such allegations and contentions are beyond the scope and jurisdiction of this Hon'ble Tribunal. I deny that the project of this Respondent has jeopardized the fragile environment of Mumbai, more so in absence of any material particulars of any alleged environmental violation by this Respondent. I reiterate that no relief can be and ought to be granted




by this Tribunal on pleadings of such a generalized, vague, arbitrary nature, which are prima facie result of the overstretched imagination of the Applicant and /or the person /s who has put him up to file the present Application. I submit that in view thereof this Hon'ble Tribunal ought to completely disregard the contentions of the Applicant and dismiss the present Original Application.

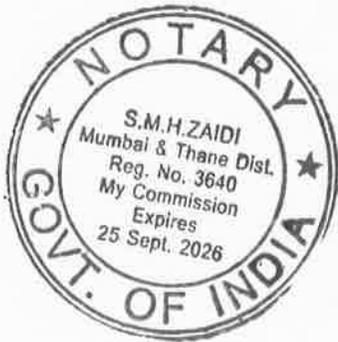
(m) With reference to paragraph 2.4, I state that the contents therein are a mere reproduction of the 2006 Notification. I crave leave to refer to and rely upon the 2006 Notification for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing. In this regard, I repeat and reiterate all that is stated hereinabove and deny all that is contrary thereto and/or inconsistent therewith.

(n) With reference to paragraphs 2.5 and 2.6, I state that the contents therein are either a reproduction of the Office Memorandum dated 5th February 2008 (Annexure 'A-2, page 35 to the OA) or the legal submissions in respect thereof. I repeat and reiterate that when the building plans in respect of Respondent No. 3's Project were sanctioned on 24th February 2006, the 1994 Notification was in force, which did not provide for prior EC in respect of building



projects like that of Respondent No. 3. I state and most respectfully submit that this fact has been conveniently suppressed by the Applicant. I crave leave to refer to and rely upon the Office Memorandum dated 5th February 2008, for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.

- (o) With reference to paragraph 2.7, I state that the Applicant has yet again, gone to the extent of defaming the officers of the MCGM, including *inter alia*, Respondent No. 2 herein, by making false and baseless statements like “.....*was accorded by the officers of the Municipal Corporation, owned by the Respondent No. 3.....*”. This Respondent reserves its rights to institute defamation proceedings against the Applicant for the same. Further, I deny that the approval for construction was obtained on a blank statutory application form as falsely alleged by the Applicant. I submit that it can be seen from a bare perusal of the Application Form (Annexure ‘A-3’, page 36 to the OA) that the relevant fields in the Application Form were answered by this Respondent by giving reference to the documents attached to the Application Form. I submit that the Applicant has deliberately stated the same with a view to mislead and prejudice this Hon’ble Tribunal and has made



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false statement on oath. I further state that the Applicant has not disclosed how he obtained the said document from the concerned authority as the same does not bear a stamp that the same has been obtained pursuant to any application under RTI Act, 2005. I state and submit that the Applicant be directed to disclose on oath, as to how he has obtained the said document. I submit that strict view of the same ought to be taken by this Hon'ble Tribunal and on this ground alone, the OA be dismissed with costs.

- (p) With reference to paragraph 2.8, I state that the Letter dated 18th June 2014 (Annexure 'A-4', page 42 to the OA) demonstrates that the RTI Application was filed by the Applicant on 3rd June 2014. I have stated hereinabove that the EC Application was filed with SEIAA in 2015 and with the MOEF in 2017. Therefore, the Applicant received the reply on 18th June 2014 that the project has "*not considered by SEAC and SEIAA under EIA Notification 2006*". The Applicant has evidently misled this Hon'ble Tribunal by putting incomplete facts on record, solely to prejudice the mind of this Hon'ble Tribunal against Respondent No. 3 and also the various government officials. The Applicant, despite having no locus standi, has deliberately sought to fish out information regarding the project of Respondent No. 3, with a



view to false a false and frivolous case and extract monies from Respondent No. 3 and also defame the officers of Respondent Nos. 1 and 2. I crave leave to refer to and rely upon the said Letter dated 18th June 2014 for its true and correct meaning, interpretation and legal effect thereof, at the time of hearing.

- (q) With reference to paragraph 2.9, I submit that the minutes of the meetings State Level Expert Appraisal Committee dated 2nd December 2015, 3rd December 2015, 3rd March 2016, 4th March 2016 and 5th March 2016 (Annexure 'A-5', page 43 to the OA) only record Respondent No. 3's request for adjournment and its inability to attend the meeting. However, the Applicant is attempting to give a twisted interpretation to the same by insinuating that the EC was not obtained by Respondent No. 3 in view of its alleged inability to attend the said meeting. I state and submit that the sequence of events stated hereinabove clearly demonstrate that Respondent No. 3 diligently applied for EC and only when the requirement for EC was dispensed with, did Respondent No. 3 proceed to obtain the OC for the Project. I reiterate that this Respondent has been pursuing its matter before the SEIAA and the MOEF at Mumbai and at New Delhi for the grant of the EC despite the fact that this EC may not be required for the Project. I submit that the



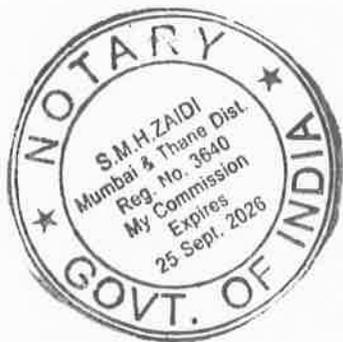




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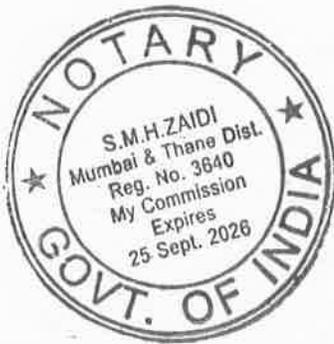
minutes of the meetings of the State Level Expert Appraisal Committee merely states that the meeting was deferred at the request of the Respondent. I submit that the Applicant has falsely stated that the Application of this Respondent was not considered, whereas in fact, it is the Respondent, who has been following up with the various departments for grant of EC and for waiting clarification and the circulars governing the grant of EC. I submit that the contents of the paragraph under reply has been deliberately falsely projected with a view to prejudice and mislead this Hon'ble Tribunal. I further state that the Applicant has not disclosed how he obtained the said document from the concerned authority as the same does not bear a stamp that the same has been obtained pursuant to any application under RTI Act, 2005. I state and submit that the Applicant be directed to disclose on oath, as to how he has obtained the said document. I crave leave to refer to and rely upon the minutes of the meetings State Level Expert Appraisal Committee dated 2nd December 2015, 3rd December 2015, 3rd March 2016, 4th March 2016 and 5th March 2016 for their true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.



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(r) With reference to paragraph 2.10 (two paragraphs, both numbered 2.10), I deny that this Respondent has made any admission before the SEIAA that it has carried out the construction without EC as alleged. I state that in its letter dated 20th April 2016 at (Annexure 'A-6', page 45 to the OA) this Respondent has merely stated that there was a lack of information about the said procedure of SEIAA, especially in view of what is stated herein above. I deny that the Municipal Officers openly violated the law and permitting the building to come-up without any EC at all and put the Applicant to strict proof thereof. I further state that the Applicant has not disclosed how he obtained the said document from the concerned authority as the same does not bear a stamp that the same has been obtained pursuant to any application under RTI Act, 2005. I state and submit that the Applicant be directed to disclose on oath, as to how he has obtained the said document. Further, the photocopy of the said document annexed at Annexure 'A-6' bears some internal notes/markings of the officers of the Environment Department, Government of Maharashtra, which is not accessible to the general public. In this regard, I repeat and reiterate all that is stated in herein above and deny all that is contrary thereto and/or inconsistent therewith.



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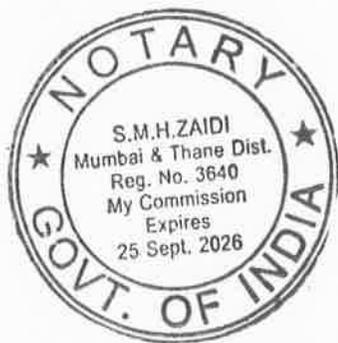
(s) With reference to paragraph 2.11, I submit that the contents therein are merely legal submissions with reference to the case of Adarsh CHS as decided by the Hon'ble Bombay High Court. I submit that the Applicant has merely draw parallels between Adarsh CHS case and the present case, ignoring or rather concealing the fact that Adarsh CHS case involved violation of CRZ norms whereas the present case does not. I crave leave to refer to and rely upon the papers and proceedings in Adarsh CHS case as also the ruling of the Hon'ble Bombay High Court for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.

(t) With reference to paragraph 2.12, I state that admittedly, the Applicant has stated that he was aware of the alleged violations of environmental norms by this Respondent as early as 2nd July 2014 i.e., when the alleged Complaint (Annexure 'A-7', page 47 to the OA) was filed. I reiterate that the Applicant has waited for a period of nearly three years for filing the present OA and another 6 years before the amended OA was filed. I reiterate that the OA is barred by the law of limitation. I reiterate that from a bare reading of the paragraph under reply, it is evident that the Applicant has no locus whatsoever with the Project of Respondent No. 3 and is merely



harassing Respondent No. 3 and the officers of Respondent Nos. 1 and 2, in the guise of narrating false grievances regarding environmental degradation. I further state that the Applicant has not disclosed how he obtained the said document from the concerned authority as the same does not bear a stamp that the same has been obtained pursuant to any application under RTI Act, 2005. I state and submit that the Applicant be directed to disclose on oath, as to how he has obtained the said document. In this regard, I repeat and reiterate all that is stated by me hereinabove and deny all that is contrary thereto and/or inconsistent therewith. I submit that therefore, the Original Application ought to be dismissed with costs.

- (u) With reference to paragraph 2.13, I state that I am not aware whether any alleged reminder was sent on 15th April 2015 or otherwise by the Applicant to SEIAA or MCGM to take action and put the Applicant to strict proof thereof (Annexure 'A-8' page 49 to the OA). The Applicant has no locus whatsoever to address any communication whatsoever to any authority in respect of Respondent No. 3's project, nor has Respondent No. 3 authorised the Applicant to do so. In any event, the Applicant issuing any communication does not give rise to any cause of

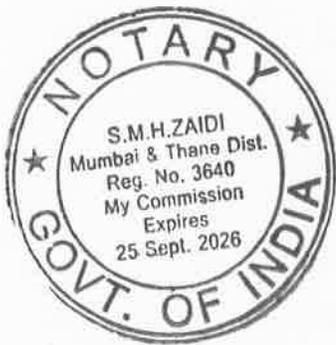


action for maintaining a proceeding under Section 14 of the NGT Act 2010.

- (v) With reference to paragraph 2.14, the contents of the paragraph under reply does not concern this Respondent and it is in any event irrelevant. It is possible that the concerned authorities must have thought it fit not to reply to the frivolous complaints and follow-up of the Applicant and hence, did not give any response to the Applicant.
- (w) With reference to paragraph 2.15, I deny that any statutory action is imperative in the present matter. I deny that this Respondent is an alleged law violator. I deny that the SEIAA has completely and/or otherwise abdicated its statutory powers as conferred on it vide Notification dated 28th February 2014 as alleged or otherwise or at all. I deny that the present Application can be maintained and/or the present case is a fit case for issuance of directions under Section 5 of the Environment Protection Act 1986. I state that in any event, this Hon'ble Tribunal is not vested with the power to issue any directions under Section 5 of the Environment Protection Act, 1986 and the powers lie with the Central Government to do the same. I put the Applicant to strict proof of the same.



(x) With reference to paragraph 2.16, I deny that that The Member Secretary, State Level Environment Impact Assessment Authority (Respondent No. 1 herein) is a relevant and/or necessary and/or proper party for the present proceeding, allegedly for not taking action against the Project Proponent for alleged blatant violation of environment laws. I deny that The Commissioner, MCGM (Respondent No. 2 herein) is a relevant and/or necessary and/or proper party for the present proceeding, for according permission to construct allegedly in violation of the Environment Protection Act, 1986 and/or allegedly not taking action when the alleged violation came to notice. I deny that M/s. Sandhu Builders, the Project Proponent (Respondent No. 3 herein) is a relevant and/or necessary and/or proper party for the present proceeding. I deny any alleged violation on the part of Respondent No. 3 and/or that Respondent No. 3 has done a mammoth construction without EC in the eco-sensitive area of Pali Hill, Mumbai. I put the Applicant to strict proof to the contents.



(y) With reference to paragraph 2.17, I deny that the specific grounds and/or provisions of law and/or the respective parties is relevant. I submit that the present Original Application is not maintainable, in view of what is stated in the present Affidavit and submit that



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the same ought to be and should be dismissed with costs.

- (z) With reference to paragraphs 3.0 and 3.1 (Ground No. 1), I submit that the Applicant has misunderstood and/or misinterpreted the contents of the 1994 Notification and the 2006 Notification. I reiterate that the requirement for obtaining EC for building projects of the kind undertaken by Respondent No. 3 was mandated for the first time in the 2006 Notification. It is submitted that the 2006 Notification is prospective in nature. It is submitted that unless it is clear from the intention of the legislature that a particular enactment is to take effect retrospectively, it is always deemed to be prospective in nature. I reiterate that therefore, the requirement for prior EC for Building Projects was introduced only on 24th September 2006, when the 2006 Notification came into force and repealed the 1994 Notification. Therefore, Respondent No. 3, at the time of the first sanction of the building plans on 24th February 2006, did not apply for prior EC as there was in fact no requirement for obtaining prior EC at that time, which can be seen from a tabular comparison of the Schedules to both the 1994 Notification and the 2006 Notification. I categorically deny that notwithstanding clear and categorical provisions of law, Respondent No. 3 did a mammoth construction allegedly without EC. I



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categorically deny any alleged violation of the Environment Protection Act, 1986 or otherwise or at all, for which Respondent No. 3 is liable to be proceeded with under the provisions of section 5 of the Act, as alleged or otherwise or at all. I categorically deny that the impugned building ought to be demolished so that the principles of "Rule of Law" are upheld. I state and submit that all the alleged grounds for demolition of the Building/Project of Respondent No. 3 have been proved to be false, as stated in the present Affidavit in Reply. I reiterate that prior EC was not a condition in the 1994 Notification which governed Respondent No. 3 when the plans in respect of the Project were sanctioned by MCGM 24th February 2006, which predates the effective date of the 2006 Notification i.e., 15th September 2006. The 2006 Notification does not have retrospective effect and hence, there was no requirement for any prior EC for Respondent No. 3's Project. Respondent No. 3, pursuant to the 2006 Notification coming into effect, has made the necessary application for EC with the concerned authorities and the requirement for a separate EC has been dispensed with in its case. In this regard I repeat and reiterate all that is stated by me in the preliminary submissions herein above and deny all that is contrary thereto and/or inconsistent therewith.



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(aa) With reference to paragraph 3.2 (Ground No. 2), I reiterate that prior EC was not a requirement under the 1994 Notification. Therefore, when the requirement for obtaining EC arose for the first time under the 2006 Notification, Respondent No. 3 has applied for EC firstly before SEIAA and later before MOEF, as aforesaid. The balance contentions therein are merely submissions in relation to EIA Notification of 2006 and Section 5 of the Environment Protection Act 1986 and shall be dealt with at the time of hearing. I categorically state that no ground for demolition of the building constructed by this Respondent has been made out and categorically deny that it is necessary to demolish the same to bring the land to its original state. I categorically deny that the law laid down by the Hon'ble Bombay High Court in the case of *Adarsh CHS* is not applicable to the present case as the same relates to violation of CRZ norms, which is not so in the present case. The contents therein relate to a ruling given in a matter which has no relevance to the present case. I submit that the issue involved in the case of *Adarsh (supra)* was violation of CRZ norms, which is not at all a lis in controversy in the present case. I submit that in the circumstances, the ratio in the case of *Adarsh (supra)* cannot be applied in the



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present case. I submit that it would be a travesty of justice if the present matter is decided on the basis of principles of law not applicable to it. I crave leave to refer to and rely upon the judgement of the Hon'ble Bombay High Court in the case of *Adarsh (supra)* for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing. In this regard I repeat and reiterate all that is stated by me in the submissions herein above and deny all that is contrary thereto and/or inconsistent therewith.

(bb) With reference to paragraph 3.3 (Ground No.3), I state that bald, bold, vague, unsubstantiated, false, fanciful, malicious and defamatory allegations have been made against the officers of MCGM by the Applicant. I put the Applicant to strict proof of the same. I submit that at each stage, this Respondent has obtained the necessary clearances from MCGM and then only has proceeded with the construction of the building. I submit that MCGM must have thought it fit not to reply to the frivolous complaints and follow-up of the Applicant and hence, did not give any response to the Applicant. Rest of the allegations are denied.



(cc) With reference to paragraph 3.4 (Ground No.4), I deny that the officers of SEIAA have by their

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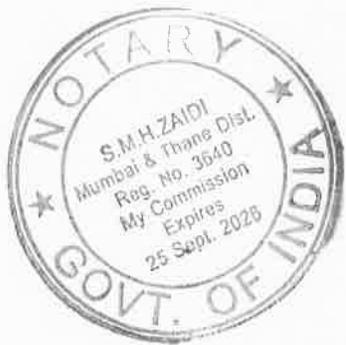


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inaction or otherwise afforded an enormous pecuniary advantage to this Respondent as alleged. The allegation is devoid of any material particulars and details and such bald and unsubstantiated allegations ought to be rejected with the contempt that it deserves. I state that bald, bold, vague, unsubstantiated, false, fanciful, malicious and defamatory allegations have been made against the officers of SEIAA by the Applicant. I put the Applicant to strict proof of the same. I submit that at each stage, this Respondent has obtained the necessary clearances from SEIAA and then only has proceeded with the construction of the building. I submit that SEIAA must have thought it fit not to reply to the frivolous complaints and follow-up of the Applicant and hence, did not give any response to the Applicant. In this regard I repeat and reiterate all that is stated by me in the preliminary submissions herein above and deny all that is contrary thereto and/or inconsistent therewith.

(dd) With reference to paragraph 3.5 (Ground No. 5), I state that the contents therein are a preposterous interpretation of the contentions raised by Respondent No. 3. Law of Limitation is applicable to cases in respect of alleged environmental violation. It is pertinent to note that although the Applicant has tried



to deal with the ground of limitation raised by Respondent No. 3 in the paragraph under reply, it has not given any explanation to show that the present OA is within the period of limitation. I deny that the contentions raised by Respondent No. 3 is anywhere based on the principle of the law of adverse possession. The entire explanation of the Applicant on the point of limitation is based on surmises and conjectures and the same ought to be rejected at the very threshold. The Applicant be called upon by this Hon'ble Tribunal to demonstrate as to how the present OA is within limitation. I shall now deal with the various reasons why the claim of limitation is allegedly untenable, according to the Applicant:-

- (1) With reference to Reason No. 1 in paragraph 3.5 (Ground No. 5), I categorically deny that there is any continuing cause of action against Respondent No. 3. I reiterate that MOEF, vide its Letter dated 6th October 2017, addressed to the then Additional Chief Secretary, Environment Department, Maharashtra, stated that in view of the 2016 Notification read with the order dated 7th July 2017, no separate EC is required for building and construction projects less than 1,50,000 square metres built up area. It further stated that the authority competent to



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grant building permissions will integrate environment conditions following the process envisaged in the 2016 Notification. I categorically state that it is a matter of record that the Project of Respondent No. 3 is 40,317.33 square metres. Therefore the Project of Respondent No. 3 did not require separate EC. The Applicant is trying to mislead this Hon'ble Tribunal that the Project of Respondent No. 3 was carried on without EC, when in fact, the requirement of a separate EC was dispensed with. Further, MCGM has granted OC in respect of Wing 'A' of the Project only after satisfying itself that the EC requirements were complied with. I categorically deny any damage to the environment by the Project of Respondent No. 3 and put the Applicant to strict proof thereof. The Applicant, in the entire OA, has not provided any proof whatsoever of the nature and quantum of any alleged damage to the environment. The entire Reason No. 1 is based on surmises and conjectures. I categorically deny that the ruling given by the Hon'ble National Green Tribunal Principal Bench at New Delhi in the case of [*Shiv Prasad in Application No. 24 of 2014*] and the ruling given by the Hon'ble National Green Tribunal Western Zone Bench at Pune in the



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case of [*Lokmangal Sansthan in Application No. 22 of 2013*] is applicable to the present case. I crave leave to refer to and rely upon the said two rulings for their true and correct meaning, scope, interpretation and legal effect thereof, at the time of hearing. In any event, had the Applicant been so concerned for the environment of the Pali Hill area, allegedly due to massive and/or other quarrying in the Pali Hill area for the purpose of constructing the Basement in the Project. The Letter dated nil, issued by the Tree Authority, MCGM, to Respondent No. 3 (Annexure A-9, page 51 to the OA) acknowledged the fact that trees have been planted on the plot and directs Respondent No. 3 Developer to handover the trees alongwith the property to the owner, at the time of handover. The Applicant is falsely insinuating that the trees have not been planted and is making an indirect allegation against the MCGM officers. Further, on the Applicant's own showing, the Applicant was in possession of the photographs of the old/original buildings on 10th March 2006 (in the OA prior to amendment) and on December 2017 (present OA). Thus, the Applicant's date of knowledge can be taken as 10th March 2006. However, the Applicant has waited till 16th March 2017 to file



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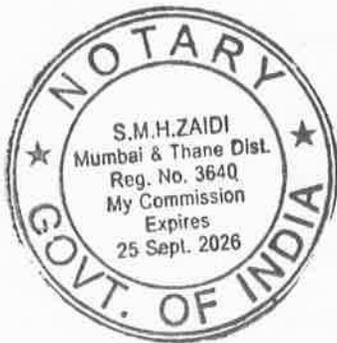
the aforesaid Original Application and further has served the Amendment Application only on 22nd December 2022. I submit that the Application is grossly time barred, even if the date of knowledge is taken in December 2017. I deny that any committee for actual site inspection will reveal the actual truth as alleged, as to the number and height of local varieties of trees planted. I submit that no case whatsoever has been made out by the Applicant for any site inspection. I put the Applicant to strict proof thereof that non-local varieties of trees cannot be sustained in Mumbai. The contention regarding the same is at best a conjecture. I put the Applicant to strict proof of the fact that trees in a tropical region like Mumbai go upto a height of 70 (seventy) feet, which would be approximately as tall as a building of 10 (ten) floors. The Applicant be directed to reveal the source of his so-called research regarding the height of trees in Mumbai. I put the Applicant to strict proof of the contention that to plant trees of such enormous height, roots have to be widespread and go upto 20 feet below in the earth. I call the Applicant to produce any evidence whatsoever to show that there is no earth available for roots to sustain tropical trees. I state and submit that,



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without prejudice and in the alternative, once the requirement of a separate EC is dispensed with, there is no question of any alleged continuing cause of action. I put the Applicant to strict proof of the fact that the oxygen levels are adversely affected solely due to the Project of Respondent No. 3. I state and submit that the Applicant has not been consistent in his pleadings. I state and submit that if the Applicant's conduct in this regard is ignored by this Hon'ble Tribunal, then it is likely that the Applicant shall on one pretext or the other, delay the hearing of the present Application, solely with a view to harass the Respondent No. 3 and to coerce the Respondent No. 3 to give in to his illegal demands. I submit that strict view of the same be taken by this Hon'ble Tribunal. I further submit that the Applicant did not crave leave to produce the photographs at the time when it originally filed the present Application. I further submit that the Applicant has not disclosed the date of which the said photographs were obtained/taken by him or whether they were taken by him or he is aware how to obtain such photographs. In such circumstances, I submit that allowing the present Application would only amount to condoning the lack of material



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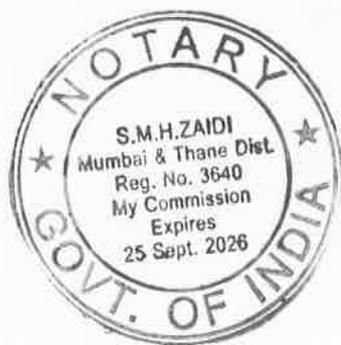
particulars mandated by law. I reiterate that the Applicant is not serious about environment issues and is merely using this Hon'ble Tribunal to cause hardship and inconvenience to project proponents like the Respondent No. 3 herein. I reiterate that the present Application is nothing but an abuse of the process of law and deserves to be dismissed with costs.

- (2) With reference to Reason No. 2 in paragraph 3.5 (Ground No. 5), the contents therein are at best, surmises and conjectures. contents therein appear to be legal submissions which are completely without merit or substance and is in fact a surplusage of English words, which shall be dealt with at the time of hearing. I repeat and reiterate that the present construction is carried on as per law. This Hon'ble Tribunal is not vested with constitutional powers. If as alleged, then be any violation of Article 14 of the Constitution of India, this Hon'ble Tribunal would not be an appropriate forum. This entire paragraph is conjectured, irrelevant and extraneous to the jurisdiction of this Hon'ble Court. This paragraph also clearly reflects a hidden hand and such language, difficult as it is for a normal advocate is well nigh impossible



for an applicant who is not conversant with English. I crave leave to refer to and rely upon the provisions of Article 14 of the Constitution of India, for its true and correct meaning, scope, interpretation and legal effect thereof, at the time of hearing.

- (3) With reference to Reason No. 3 in paragraph 3.5 (Ground No. 5), the Applicant has admitted that the NGT Act, 2010 has a period of limitation for filing cases relating to alleged environment violation. The NGT Act, 2010 is the remedy for any aggrieved person to file any case in respect of any alleged environmental violation under the Environment Protection Act, 1986, before the competent National Green Tribunal, within the time provided for under the NGT Act, 2010. The Applicant has no explanation worth the name to the contention that the OA (as originally filed and post amendment) is beyond limitation and the Applicant's stand that the OA the cause of action is a continuing one is legally untenable as more particularly stated hereinabove. I put the Applicant to strict proof of the statement that is any application is made to the Statutory Authority under the Environment Protection Act, 1986 and the date when such Statutory

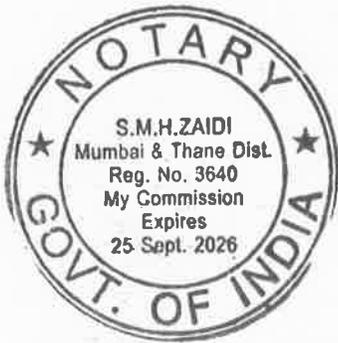


Authority decides on the issue at stake, the limitation would start from such date when the Statutory Authority takes action. The Applicant contention that the OA is essentially against the alleged inaction of the Competent Authority to invoke its statutory powers so as to address the situation arising out of construction without EC is legally untenable, for two reason – firstly, the Applicant has not immediately approached the Competent Authority to take action from the date of knowledge and secondly, the Applicant has conveniently overlooked the fact that the fact that a period of limitation has in fact been provided for in the NGT Act, 2010. I deny that limitation puts any fetters on the power of any Competent Authority. I submit that if limitation was to be given a go-by, then the maxim “*law does not help those who sleep over their rights*” would be defeated and genuine project proponents/unit purchasers would be harassed even several years after the project is completed and handed over to the society/common organization. I state and submit that the legal maxims relied upon by the Applicant do not apply to the present circumstances. I crave leave to refer to and rely upon the legal maxims “*A verbis legis non recedendum est*” and “*Ut res*



magis valet quam preheat" for their true and correct meaning, scope, interpretation thereof, at the time of hearing. Rest of the contents are denied.

- (4) With reference to Reason No. 4 in paragraph 3.5 (Ground No. 5), I repeat and reiterate that the condition of prior EC was not applicable to the Respondent No. 3's Project as the Project was governed by the 1994 Notification at the time of its commencement. The requirement of EC arose only when the 2006 Notification came into effect, by which time, the plans of Respondent No. 3 had already been sanctioned and commenced. I reiterate that the 2006 Notification has only a prospective effect and not a retrospective effect. I deny that Respondent No. 3 has taken the alleged position that the EC is not required because limitation has expired and put the Applicant to strict proof thereof. The Applicant is merely mixing up the issues of limitation and the requirement of EC, which are independent of each other. I state that the principle of estoppel under section 115 of the Indian Evidence Act, 1872 is wholly inapplicable to the present case. I reiterate that there was no requirement of obtaining a separate



EC, which is evident from the material on record.

- (5) With reference to Reason No. 5 in paragraph 3.5 (Ground No. 5), I state and submit that the entire calculation of the Built-Up Area by the Applicant is false, as the Applicant has also included, while calculating the Built-Up Area, the area which is available free-of-FSI under the plans sanctions by the MCGM in respect of the Project. The typical floor plan (Built-Up Area) is approximately 642 square metres, which ought to be considered as the Built-Up Area for the Project. The Applicant is attempting to mislead this Hon'ble Tribunal by including even free of FSI areas within the definition of the term 'Built-Up Area', so as to prejudice the mind of this Hon'ble Tribunal that Respondent No. 3 is an alleged violator. Applicant had filed the said MA/54/2017, wherein he has annexed photographs of the Project i.e., (i) photograph of the site before the construction started, (ii) photograph of the old buildings demolished at site and (iii) photograph of the new building substantially complete. Admittedly, the Applicant was in possession of the photographs of the old/original buildings on 10th March 2006



and of the new building (which is substantially complete) on 13th January 2013. Thus, the Applicant's was aware of the Project on 10th March 2006, and continued to monitor the Project till 13th January 2013 and even thereafter. However, the Applicant has waited till 14th March 2017 i.e., after a period of 4 years to file the aforesaid Original Application and further has taken out the present Amendment Application only on 22nd December 2022 i.e., after a further period of nearly 6 years. I submit that the OA is grossly time barred. I further submit that the Applicant has not disclosed anywhere in the Original Application, the reason as to why the Applicant was unable to or prevented from so placing on record the said facts and/or documents. The said photographs, which formed a part of MA/54/2017, do not form a part of the OA amended as on 22nd December 2022. I put the Applicant to the strict proof as to the veracity, correctness and truthfulness of the photographs (Annexure A-10, page 52 to the OA). I further submit that the facts and documents annexed now to the OA are also not subsequent facts and/or events which were not known to the Applicant or could not have come into the possession of the Applicant



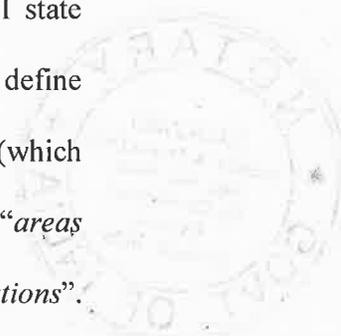
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from the date of knowledge till the date of filing of the OA. I submit that it is evident from the aforesaid that the present OA has been filed only with a view to harass Respondent No. 3. I deny that Respondent No. 3 has tried to escape from the rigours of EC as alleged or otherwise or at all. I state and most respectfully submit that he ruling of the *[Hon'ble National Green Tribunal Principal Bench at New Delhi in the case of Sunil Kumar Chugh in Appeal No. 66 of 2014]* is not applicable to the present case and that the ratio thereof has been grossly misinterpreted by the Applicant only to create purported grounds of arguments in support of its case against Respondent No. 3. I crave leave to refer to and rely upon the same for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.

Further, under the Development Control Regulations for Greater Mumbai, 1991, I state and submit that Regulation 2(13) (which define 'Built-Up Area') and Regulation 2(42) (which define Floor Space Index (FSI)) excludes "*areas specifically exempted under the Regulations*". Further, the amended definition of 'Built-Up Area' is reproduced herein as under:-

QUOTE



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(iii) against item 8(a),-

In column (5), for the entry, the following entry shall be substituted, namely:-

“The built up area for the purpose of this Notification is denied as “the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects”.

UNQUOTE

The aforesaid definition also includes covered area only and area which is free of FSI area as per DCR. Further, even under Item 8(a) to the Schedule to the 2006 Notification, there is a clear distinction between “Built-Up Area” and “Activities Area”, which is the open area. In any event, it is a matter of record that Respondent No. 3 has indeed applied for EC and the requirement of a separate EC was dispensed with and hence, the entire argument of the Applicant in the paragraph under reply is null and void. I deny that each floor area has got an area of 77.06 m * 18.62 m which comes to 1,434.85 square metres and put the Applicant to strict proof thereof. I deny the veracity and correctness of the Area Measurement Tool of Google Earth Satellite Photograph which gave an approximate area of each floor as 1,444 square metres as alleged. I deny that the satellite calculations are correct and precise as alleged or



at all. I deny that the alleged calculations arrived at by the Applicant can be applied to 21 floor (including 2 basements) and out the Applicant to strict proof of the fact that the Built-Up Area is 30,114 square metres. I categorically deny that there are large podiums and/or basements going beyond the building line. I submit that no portion of the building is beyond the 'P' line of the building. I submit that the Applicant is not in possession of the building plans in respect of the Project but is still making false and incorrect statements about the Project. I deny that the MCGM has accepted the contention of the Respondent No. 3 (Annexure A-16, page 64 to the OA) without considering the ruling of the Tribunal in *[Sunil Chugh case] (supra)* smacks of malice and contempt towards the officers of the MCGM. It seems that the Applicant is trying to settle scores with officials of MCGM, MOEF and SEIAA through Respondent No. 3 and by filing the present case for reasons best known to the Applicant. I submit that the definition of both - FSI and Built-Up Area do not include 'open area' and include only 'covered area'. I deny that a fresh EC is required for every amendment to the sanction plans and put the




Applicant to strict proof thereof. Rest of the contentions are mere surmises and conjectures.

(6) With reference to Reason No. 6 in paragraph 3.5 (Ground No. 5) (wrongly numbered again as Reason No. 5), the Applicant ought to explain as to how the contents therein relate to alleged violation of environment norms. The contents therein relate to alleged violation of building sanction plans, which is already being decided by the Hon'ble Bombay High Court as aforesaid. The Applicant has clearly no locus to raise this contention nor does it have any locus to the disputes between Respondent No. 3 and the Society, to which even the MCGM is a party. The Applicant is raising every plausible contention to falsely demonstrate the violation of environment norms by Respondent No. 3 even if the same do not fall within the purview of 'environment violations'. Rest of the contentions are denied.



(ee) With reference to paragraph 3.6 (Ground No. 6) (Question B), I deny that the building Project of Respondent No. 3 ought to be demolished because post facto EC cannot be granted. The Applicant has no clear understanding of either the material on



record or the law in question. The construction work of the Project has been duly sanctioned by the MCGM and the Applicant cannot sit in appeal over what could have been sanctioned or what could not. I will now deal with the contentions regarding the alleged violations as under:-

- (1) With reference to paragraph (A) (under the head Question B of paragraph 3.6 (Ground No. 6)), I reiterate that the Letter dated nil, issued by the Tree Authority, MCGM, to Respondent No. 3 (Annexure A-9, page 51 to the OA) acknowledged the fact that trees have been planted on the plot and directs Respondent No. 3 Developer to handover the trees alongwith the property to the owner, at the time of handover. The Applicant is falsely insinuating that the trees have not been planted and is making an indirect allegation against the MCGM officers. Further, on the Applicant's own showing, the Applicant was in possession of the photographs of the old/original buildings on 10th March 2006 (in the OA prior to amendment) and on December 2017 (present OA). Thus, the Applicant's date of knowledge can be taken as 10th March 2006. However, the Applicant has waited till 16th March 2017 to file the aforesaid Original



Application and further has served the Amendment Application only on 22nd December 2022. I submit that the Application is grossly time barred, even if the date of knowledge is taken in December 2017. I deny that any committee for actual site inspection will reveal the actual truth as alleged, as to the number and height of local varieties of trees planted. I submit that no case whatsoever has been made out by the Applicant for any site inspection. I put the Applicant to strict proof thereof that non-local varieties of trees cannot be sustained in Mumbai. The contention regarding the same is at best a conjecture. I put the Applicant to strict proof of the fact that trees in a tropical region like Mumbai go upto a height of 70 (seventy) feet, which would be approximately as tall as a building of 10 (ten) floors. The Applicant be directed to reveal the source of his so-called research regarding the height of trees in Mumbai. I put the Applicant to strict proof of the contention that to plant trees of such enormous height, roots have to be widespread and go upto 20 feet below in the earth. I call the Applicant to produce any evidence whatsoever to show that there is no earth available for roots to sustain tropical trees. I state and submit that



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once the requirement of a separate EC is dispensed with, there is no question of any alleged continuing cause of action. I put the Applicant to strict proof of the fact that the oxygen levels are adversely affected solely due to the Project of Respondent No. 3. I state and submit that the Applicant has not been consistent in his pleadings.

- (2) With reference to paragraph (B) (under the head Question B of paragraph 3.6 (Ground No. 6)), the contents therein relate to provision for Recreation Ground (RG) on the plot as per the DCR. I submit that the Applicant ought to explain as to how the contents therein relate to alleged violation of environment norms. The contents therein relate to alleged violation of building sanction plans, which is already being decided by the Hon'ble Bombay High Court as aforesaid. The Applicant has clearly no locus to raise this contention nor does it have any locus to the disputes between Respondent No. 3 and the Society, to which even the MCGM is a party. The Applicant is raising every plausible contention to falsely demonstrate the violation of environment norms by Respondent No. 3 even if the same do not fall within the purview



of 'environment violations'. I state and submit that the rulings in the case of [*Civil Appeal No. 3116 of 2020 in the case of Gajubha Jadeja Jesar*] and [*Adarsh case*] (*supra*) are not applicable to the present case and crave leave to refer to and rely upon the same for their true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.

- (3) With reference to reasons (A) and (B) cited by the Applicant for seeking the alleged demolition, I reiterate that the Letter dated nil, issued by the Tree Authority, MCGM, to Respondent No. 3 (Annexure A-9, page 51 to the OA) acknowledged the fact that trees have been planted on the plot and directs Respondent No. 3 Developer to handover the trees alongwith the property to the owner, at the time of handover. The Applicant is falsely insinuating that the trees have not been planted and is making an indirect allegation against the MCGM officers. Further, on the Applicant's own showing, the Applicant was in possession of the photographs of the old/original buildings on 10th March 2006 (in the OA prior to amendment) and on December 2017 (present OA). Thus, the Applicant's date of knowledge can be taken as 10th March 2006.



However, the Applicant has waited till 16th March 2017 to file the aforesaid Original Application and further has served the Amendment Application only on 22nd December 2022. I submit that the Application is grossly time barred, even if the date of knowledge is taken in December 2017. I put the Applicant to strict proof thereof that non-local varieties of trees cannot be sustained in Mumbai. The contention regarding the same is at best a conjecture. I put the Applicant to strict proof of the fact that trees in a tropical region like Mumbai go upto a height of 70 (seventy) feet, which would be approximately as tall as a building of 10 (ten) floors. The Applicant be directed to reveal the source of his so-called research regarding the height of trees in Mumbai. I put the Applicant to strict proof of the contention that to plant trees of such enormous height, roots have to be widespread and go upto 20 feet below in the earth. I call the Applicant to produce any evidence whatsoever to show that there is no earth available for roots to sustain tropical trees. I deny that the Respondent No. 3 planted some saplings which never became trees. I put the Applicant to strict proof as to the veracity and truthfulness of each



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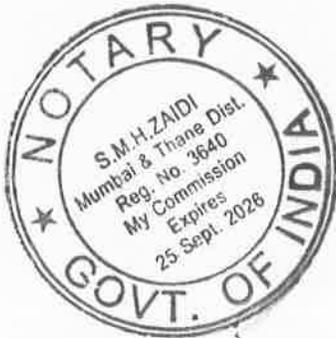
and every statement. I deny that the building ought to be demolished to create any deep soil to plant any environment friendly tropical trees. I submit that the Applicant be called upon to disclose his knowledge of the nature and size of tree growth in Pali Hill, Mumbai area before any importance is given to his statements. I state and submit that the Applicant has not been consistent in his pleadings.

- (4) With reference to reason (C) cited by the Applicant for seeking the alleged demolition, the contents therein relate to provision for Recreation Ground (RG) on the plot as per the DCR. I submit that the Applicant ought to explain as to how the contents therein relate to alleged violation of environment norms. The contents therein relate to alleged violation of building sanction plans, which is already being decided by the Hon'ble Bombay High Court as aforesaid. The Applicant has clearly no locus to raise this contention nor does it have any locus to the disputes between Respondent No. 3 and the Society, to which even the MCGM is a party. The Applicant is raising every plausible contention to falsely demonstrate the violation of environment norms by Respondent No. 3



even if the same do not fall within the purview of 'environment violations'. With reference to the plan (Annexure A-17, page 67 to the OA), it is evident that the Applicant has not relied on the final OC plan in respect of the Project and in any event, is not concerned with the same. The MCGM has granted part OC only after satisfying itself as to compliance with all permissions and sanctions prior to such grant. I crave leave to refer to and rely upon the provisions of DCR 23 for its true and correct meaning, interpretation, scope and effect thereof, at the time of hearing.

- (5) With reference to reason (D) cited by the Applicant for seeking the alleged demolition, the double basement has been constructed in accordance with the sanction plans. If the contentions raised by Respondent No. 3 in the OA are to be taken at face value, then any unconnected individual/entity can go behind any project at any time and stage of its constructions, make false allegations and insinuations about the same and then seek an order for demolition on some false pretext or another. The fact that MOEF has stated that no separate EC is required for the present Project states that it has



extensively applied its mind to all factors and then issued the letter as aforesaid.

(6) With reference to reason (E) cited by the Applicant for seeking the alleged demolition, the contents therein are mere repetitions, which have been dealt with by me hereinabove and hence denied. There is no question of Respondent No. 2 and/or 3 to have knowledge that prior EC is required because the condition for obtaining prior EC was introduced for Building Projects only under the 2006 Notifications, by which time, the plans in respect of the Project were already sanctioned. There is no question of doing any baseline studies at this stage. The Applicant has not given any explanation on the issues of locus standi and limitation to this Hon'ble Tribunal. The Applicant, being a mere outsider, cannot be assumed to be in full knowledge and possession of all documents in respect of the Project and hence, no statement of the Applicant can be taken seriously or at the face value. I deny that any order for demolition of the Project building ought to be or can be issued.

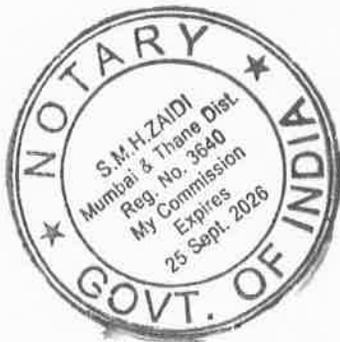


(ff) With reference to paragraph 4, I state that the Applicant, on realizing that the present Original



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Application is grossly time barred, has now sought to rely upon the provisions of Section 15(3) of the NGT Act, 2010 to bring the present Application within the period of limitation. I submit that for grant of any relief or compensation or restitution under Section 15 of NGT Act, 2010, adjudication of the Application under section 14 of the NGT Act, 2010 is a condition precedent for the same. I reiterate that under section 14 of the Act, the time period provided for filing of an Application is within 6 months from the date on which the cause of action arises. I reiterate that on the own showing of the Applicant, the cause of action arose in 2006 i.e., when it came into possession of the Google Earth photos and started monitoring the construction activity carried on by this Respondent. I submit that the Applicant has failed to make out a case for maintaining the present Application under Section 14 of the NGT Act 2010 and consequently, it is not entitled for any relief under section 15 of the NGT Act 2010. I reiterate that the present Application is grossly time barred and deserves to be dismissed with costs. In any event, the Applicant is now way affected by this project. I state that the Applicant has made a false statement with respect to the date of knowledge being 18th June 2014, when he was clearly in possession of alleged evidence much prior to that date. The Applicant is making a false



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statement on oath either with respect to date of knowledge or has produced manipulated evidence on record to support his case of alleged continuous cause of action and the same ought to be taken a strict view of, by this Hon'ble Tribunal.

(gg) With reference to paragraph 5, I categorically deny that the Applicant is entitled to any reliefs as prayed for therein. I state and respectfully submit that in view of what is stated herein and the own conduct of the Applicant, the OA be dismissed with costs.

23. In view of the aforesaid facts and circumstances, I respectfully submit that the present Original Application be dismissed with costs.

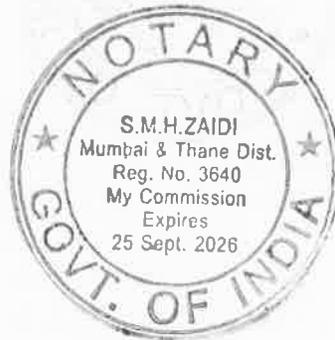
Solemnly affirmed at Mumbai)

This day of April, 2023)



DEPONENT

Before me,



Identified by me,

Taribhat Resai
Advocates for Respondent No. 3.

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VERIFICATION

I, Dilersingh Sandhu, aged 39 years, of Mumbai, Adult Indian Inhabitant, partner of Respondent No. 3 abovenamed, having my office at 41 Pali Hill, Bandra (West), Mumbai-400 050, do hereby solemnly declare that what is stated in the foregoing paragraph 22 is based on the records maintained by Respondent No. 3 in the ordinary course of business and what is stated in the balance paragraphs 1 to 21 and 23 is based on legal advice and I believe the same to be true.

Solemnly declared at Mumbai)

This day of April, 2023)

12 APR 2023



DEPONENT

Before me,

Identified by me,

Advocates for Respondent No. 3



BEFORE ME

S. M. H. ZAIDI
NOTARY
Government of India
Mumbai & Thane Dist.
12 APR 2023



NOTED & REGISTERED
Sr. No. 1276 Page No. (1)
Book No. 19 Date 12 APR 2023



SANDHU GROUP
SDL

SANDHU BUILDERS

Regd off, & Admn. Off.: Sandhu Palace, 41, Pali Hill Road, Bandra (W), Mumbai - 400050.
Tel : - 26051177 / 1277 / 1377 Fax : 2605 1477
E-Mail: sandhugroup@hotmail.com Website :www.sandhugroup.net

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE PARTNERS OF SANDHU BUILDERS HELD ON _____ AT THE REGISTERED OFFICE OF THE FIRM

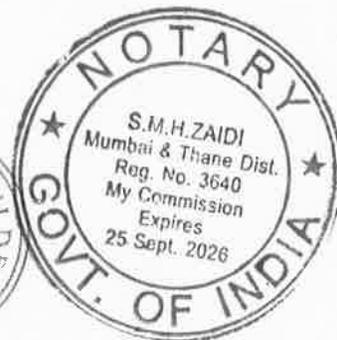
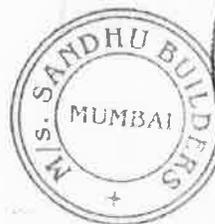
RESOLVED THAT Mr.Kanwarjeet Singh Sandhu Partner/ Mr. Kanwar Diler Singh Sandhu Partner/Mr.Kanwar Dara Singh Sandhu Partner/Mr. Saturn Fernandes, Manager Business Development, be and is hereby authorised to represent M/s. Sandhu Builders in all proceedings before any court/tribunal/authority/for a and for that purpose, sign, declare, verify, affirm and file Plaints, Statement of Claims, Replies, Affidavits, Appeals, Reviews, Revision, Applications, Authorities, Interim Applications, Vakalatnamas, Criminal Complaints, Criminal Revision Applications, Criminal Writ Petitions and writings of any and every description as may be necessary to be signed, verified and executed for the purpose of any suits, actions, criminal proceedings, arbitration proceedings, applications, references, appeals and proceedings of any and every kind whatsoever before any Court of Law whether of Original, Appellate, Civil, Criminal, Testamentary or Revisional Jurisdiction or before any other Judicial Authority or Tribunal or Arbitrators and to do all acts and appearances and submit applications in any such proceedings brought or commenced and to answer or oppose the same or obtain Judgments or Decrees to be passed taken or pronounced or to consent to the same in any such proceedings and to execute such Decrees on behalf of the Firm, to compound or enter into compounding on behalf of the Firm and to fix the stamp/common seal of the Firm wherever necessary.

Dated this 21st day of February 2023 at Mumbai.

Certified to be true

For M/s. Sandhu Builders

(Authorised Signatory)



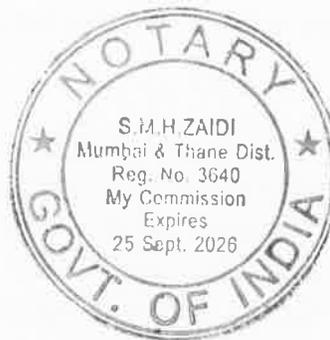
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PUD

Attest



INDIA

**THE ENVIRONMENTAL IMPACT
ASSESSMENT NOTIFICATION, 1994**
(As amended on 4-5-94)



Government of India
Ministry of Environment & Forests
New Delhi

True Copy
PHD



MINISTRY OF ENVIRONMENT & FORESTS

NOTIFICATION

ON

Environmental Impact Assessment of Development Projects

New Delhi, the 27th January, 1994.

(as amended on 04/05/1994)

1. S.O.60(E) Whereas a notification under clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 inviting objections from the public within sixty days from the date of publication of the said notification, against the intention of the Central Government to impose restrictions and prohibitions on the expansion and modernization of any activity or new projects being undertaken in any part of India unless environmental clearance has been accorded by the Central Government or the State Government in accordance with the procedure specified in that notification was published as S.O. No. 80(E) dated 28th January, 1993;

And whereas all objections received have been duly considered;

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

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and from the date of publication of this notification in the Official Gazette expansion or modernization of any activity (if pollution load is to exceed the existing one) or a new project listed in Schedule I of this notification shall not be undertaken in any part of India unless it has been accorded environmental clearance by the Central Government in accordance with the procedure hereinafter specified in this notification.

2. Requirements and procedure for seeking environmental clearance of projects:

- 1.(a) Any person who desires to undertake any new project or the expansion or modernisation of any existing industry or project listed in Schedule I shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi.

The application shall be made in the proforma specified in Schedule II of this notification and shall be accompanied by a project report which shall, inter alia, include an Environmental Impact Assessment Report/Environment Management Plan prepared in accordance with the guidelines issued by the Central Government in the Ministry of Environment and Forests from time to time.

- (b) Cases rejected due to submission of insufficient or inadequate data and plans may be reviewed as and when submitted with complete data and plans. Submission of incomplete data or plans for the second time would itself be a sufficient reason for the Impact Assessment Agency to reject the case summarily.

II. In case of the following site specific projects:

- (a) mining;
- (b) pit-head thermal power stations;
- (c) hydro-power, major irrigation projects and/or their combination.



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including flood control;

- (d) ports and harbours (excluding minor ports);
- (e) prospecting and exploration of major minerals in areas above 500 ha.,

The project authorities will intimate the location of the project site to the Central Government in the Ministry of Environment and Forests while initiating any investigation and surveys. The Central Government in the Ministry of Environment and Forests will convey a decision regarding suitability or otherwise of the proposed site within a maximum period of thirty days. The said site clearance shall be granted for a sanctioned capacity and shall be valid for a period of five years for commencing the construction, operation or mining.

III.(a) The reports submitted with the application shall be evaluated and assessed by the Impact Assessment Agency, and if deemed necessary it may consult a Committee of Experts, having a composition as specified in Schedule-III of this Notification. The Impact Assessment Agency (IAA) would be the Union Ministry of Environment and Forests. The Committee of Experts mentioned above shall be constituted by the IAA or such other body under the Central Government authorised by the IAA in this regard.

(b) The said Committee of Experts shall have full right of entry and inspection of the site or, as the case may be, factory premises at any time prior to, during or after the commencement of the operations relating to the project.

(c) The Impact Assessment Agency shall prepare a set of recommendations based on technical assessment of documents and data, furnished by the project authorities, supplemented by data collected during visits to sites or factories, if undertaken, and interaction with affected population and



D



environmental groups, if necessary. Summary of the reports, the recommendation and the conditions, subject to which environmental clearance is given, shall be made available subject to the public interest to the concerned parties or environmental groups on request. Comments of the public may be solicited, if so decided by Impact Assessment Agency, within thirty days of receipt of proposal, in public hearings arranged for the purpose after giving thirty days notice of such hearings in at least two newspapers. Public shall be provided access, subject to the public interest, to the summary of the reports/ Environmental Management Plans at the Headquarters of the Impact Assessment Agency.

The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the project authorities and completion of public hearing, where required, and decision conveyed within thirty days thereafter.

The clearance granted shall be valid for a period of five years for commencement of the construction or operation.

No construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and/or site clearance is obtained.

- IV. In order to enable the Impact Assessment Agency to monitor effectively the implementation of the recommendations and conditions subject to which the environmental clearance has been given, the project authorities concerned shall submit a half-yearly report to the Impact Assessment Agency. Subject to the public interest, the Impact Assessment Agency, shall make compliance reports publicly available.
- V. If no comments from the Impact Assessment Agency are received within the time limit, the project would be deemed to have been approved as proposed by project authorities.



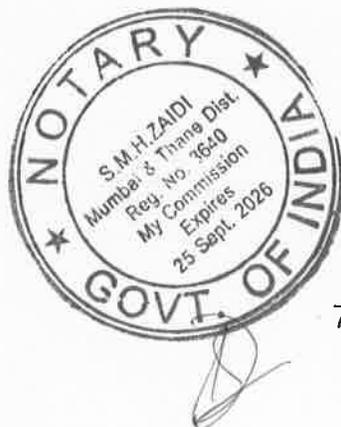
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3. Nothing contained in this Notification shall apply to:
- (a) any item falling under entry nos. 3, 18 and 20 of the Schedule-I to be located or proposed to be located in the areas covered by the Notifications S.O. No. 102(E) dated 1st February, 1989; S.O. 114(E) dated 20th February, 1991 S.O. No. 416(E) dated 20th June, 1991 and S.O. No. 319(E) dated 7th May, 1992.
- (b) any item falling under entry Nos. 1, 2, 3, 4, 5, 7, 9, 10, 12, 13, 14, 16, 17, 19, 21, 25 and 27 of Schedule-I if the investment is less than Rs. 50 crores.
- (c) any item reserved for Small Scale Industrial sector with investments less than Rs. 1 crore.
4. Concealing factual data or submission of false, misleading data/reports, decisions or recommendations would lead to the project being rejected. Approval, if granted earlier on the basis of false data would also be to be revoked. Misleading and wrong information will cover the following:
- False information.
 - False data.
 - Engineered reports.
 - Concealing of factual data.
 - False recommendations or decisions.

(No. Z-12013/4/89-IA-I)

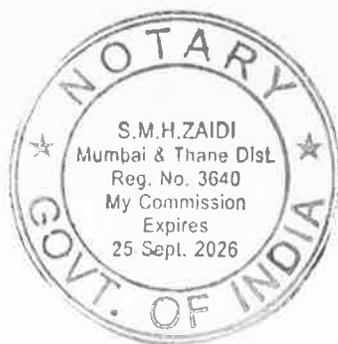
R. RAJAMANI, Secy.



SCHEDULE -I
(See paras 1 and 2)

**LIST OF PROJECTS REQUIRING ENVIRONMENTAL
CLEARANCE
FROM THE CENTRAL GOVERNMENT**

1. Nuclear Power and related projects such as Heavy Water Plants, nuclear fuel complex, rare earths.
2. River Valley projects including hydel power, major irrigation and their combination including flood control.
3. Ports, Harbours, Airports (except minor ports and harbours).
4. Petroleum Refineries including crude and product pipelines.
5. Chemical Fertilizers (Nitrogenous and Phosphatic other than single superphosphate).
6. Pesticides (Technical).
7. Petrochemical complexes (Both Olefinic and Aromatic) and Petro-chemical intermediates such as DMT, Caprolactam, LAB etc. and production of basic plastics such as LDPE, HDPE, PP, PVC.
8. Bulk drugs and pharmaceuticals.
9. Exploration for oil and gas and their production, transportation and storage.



10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
- 13.(a) Primary metallurgical industries (such as production of Iron and Steel, Aluminium, Copper, Zinc, Lead and Ferro Alloys).
- (b) Electric arc furnaces (Mini Steel Plants).
14. Chlor-alkali industry.
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fibre and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloy.
18. All tourism projects between 200m--500 meters of High Tide Line or at locations with an elevation of more than 1000 meters with investment of more than Rs. 5 crores.
19. Thermal Power plants.
20. Mining projects (major minerals) with leases more than 5 hectares.
21. Highway Projects.
22. Tarred Roads in Himalayas and/or Forest areas.
23. Distilleries.
24. Raw Skins and Hides.



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- 25. Pulp, paper and newsprint.
- 26. Dyes.
- 27. Cement.
- 28. Foundries (individual).
- 29. Electroplating.



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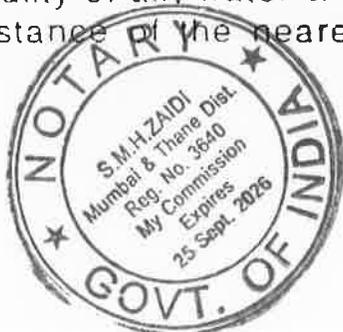


SCHEDULE -II

(See Sub-para I(a) of Para 2)

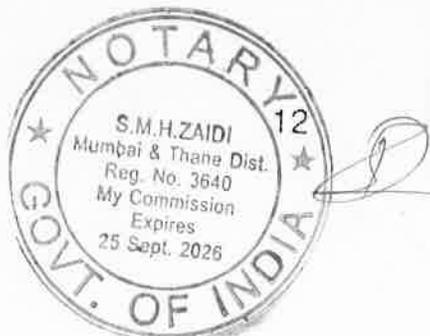
APPLICATION FORM

1. (a) Name and Address of the project proposed:
 - (b) Location of the project:
Name of the place:
District, Tehsil:
Latitude/Longitude:
Nearest Airport/Railway Station:
 - (c) Alternate sites examined and the reasons for selecting the proposed site:
 - (d) Does the site conform to stipulated land use as per local land use plan:
2. Objectives of the project:
3. (a) Land Requirement:
Agriculture Land:
Forest land and Density of vegetation:
Other (specify):
 - (b) (i) Land use in the Catchment/within 10 kms. radius of the proposed site:
 - (ii) Topography of the area indicating gradient, aspects and altitude:
 - (iii) Erodability classification of the proposed land;
- (c) Pollution sources existing in 10 km. radius and their impact on quality of air, water & land:
- (d) Distance of the nearest National Park/Sanctuary Biosphere



Reserve/Monuments/heritage site/Reserve Forest:

- (e) Rehabilitation plan for quarries/borrow areas:
 - (f) Green belt plan:
 - (g) Compensatory afforestation plan:
4. Climate and Air Quality:
- (a) Windrose at site;
 - (b) Max./Min./Mean annual temperature
 - (c) Frequency of inversion:
 - (d) Frequency of cyclones/tornadoes/cloud burst:
 - (e) Ambient air quality data:
 - (f) Nature & concentration of emission of SPM, Gas (CO, CO₂, NO_x, CH_n etc.) from the project.
5. Water balance:
- (a) Water balance at site:
 - (b) Lean season water availability:
 - (c) Source to be tapped with competing users (River, Lake, Ground, Public supply):
 - (d) Water quality:
 - (e) Changes observed in quality and quantity of ground water in the last 15 years and present charging and extraction details:
 - (f) (i) Quantum of waste water to be released with treatment details:
 - (ii) Quantum of quality of water in the receiving body before and after disposal of solid waste:
 - (iii) Quantum of waste water to be released on land and type of land:



(g) (I) Details of reservoir water quality with necessary Catchment Treatment Plan;

(II) Command Area Development Plan;

6. Solid wastes :

(a) Nature and quantity of solid wastes generated.

(b) Solid waste disposal method:

7. Noise and Vibrations:

(a) Sources of noise and vibrations;

(b) Ambient noise level;

(c) Noise and Vibration control measures proposed;

(d) Subsidence problem if any with control measures:

8. Power requirement indicating source of supply: Complete environmental details to be furnished separately, if captive power unit proposed:

9. Peak labour force to be deployed giving details of:

-- Endemic health problems in the area due to waste water/air/soil borne diseases:

-- Health care system existing and proposed:

10. (a) Number of village and population to be displaced:

(b) Rehabilitation Master Plan:

11. Risk Assessment Report and Disaster Management Plan:

12. (a) Environmental Impact Assessment } Report prepared as per

(b) Environment Management Plan: } guidelines of MOEF

(c) Detailed Feasibility Report: } issued from time to time

(d) Duly filled in questionnaire }



13. Details of Environmental Management Cell:

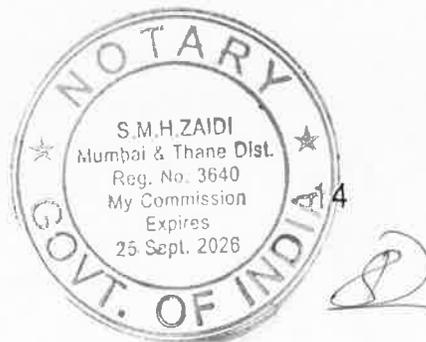
I hereby give an undertaking that the data and information given above are true to the best of my knowledge and belief and I am aware that if any part of the data/information submitted is found to be false or misleading at any stage, the project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.

Signature of the applicant
with name and full address

Date:
Place:

Given under the seal of
organisation on behalf of
whom the applicant is signing

In respect to item for which data are not required or is not available as per the declaration of project proponent, the project would be considered on that basis.



SCHEDULE III

(See sub-para III(a) of Para 2)

COMPOSITION OF THE EXPERT COMMITTEES FOR ENVIRONMENTAL IMPACT ASSESSMENT

- I. The Committees will consist of experts in the following disciplines:
 - (I) Eco-System Management
 - (II) Air/Water Pollution Control
 - (III) Water Resource Management
 - (IV) Flora/Fauna Conservation and Management
 - (V) Land Use Planning
 - (VI) Social Sciences/Rehabilitation
 - (VII) Project Appraisal
 - (VIII) Ecology
 - (IX) Environmental Health
 - (X) Subject Area Specialists.
 - (XI) Representatives of NGOs/Persons Concerned With Environmental Issues.

2. The Chairman will be an outstanding and experienced ecologist or environmentalist or technical professional with wide



managerial experience.

3. The representative of IAA will act as Member - Secretary.
4. Chairman and members will serve in their individual capacities except those specifically nominated as representatives.
5. The membership of a Committee shall not exceed 15.



**EXPLANATORY NOTE REGARDING THE IMPACT
ASSESSMENT NOTIFICATION
DATED 27TH JANUARY, 1994**

1. Expansion and modernisation of existing projects

A project proponent is required to seek environmental clearance for a proposed expansion/modernisation activity if the resultant pollution load is to exceed the existing levels. The words "pollution Load" will in this context cover emissions, liquid effluents and solid or semi-solid wastes generated. A project proponent may approach the concerned State Pollution Control Board (SPCB) for certifying whether the proposed modernisation/expansion activity as listed in Schedule-I to the notification is likely to exceed the existing pollution load or not. If it is certified that no increase is likely to occur in the existing pollution load due to the proposed expansion or modernisation, the project proponent will not be required to seek environmental clearance, but a copy of such certificate issued by the SPCB will have to be submitted to the Impact Assessment Agency (IAA) for information. The IAA will however, reserve the right to review such cases in the public interest if material facts justifying the need for such review come to light.

2. Availability of Summary Feasibility Report, EIA/EMP Report etc. to concerned parties or groups

The project proponent will have to submit an executive summary incorporating in brief the essence of project details and findings of environmental impact assessment study which could be made available to concerned parties or environmental groups on request.

3. Clarification about concerned parties or environmental groups

The concerned parties or environmental groups will be the bonafide residents located at or around the project site or



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site of displacement or site of alleged adverse environmental impact.

4. Public Hearing

Public hearings could be called for in case of projects involving large displacement or having severe environmental ramifications.

5. Requisite information required for site clearance/project clearance.

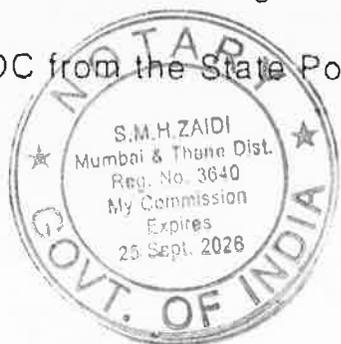
(a) Site Clearance:

Site clearance will be given for site specific projects as mentioned in para-2(ii) of the notification. Project proponents will be required to furnish information according to the environmental appraisal questionnaires for site clearance, as may be prescribed by the IAA from time to time. Additional information whenever required by the IAA will be communicated immediately to the project proponents who will then be required to furnish the same within the time frame specified:

(b) Project clearance:

In addition to the application form as mentioned in Schedule II to the notification, project proponents are required to furnish the following information for environmental appraisal:

- (i) EIA/EMP report (20 copies);
- (ii) Risk Analysis report (20 copies): however, such reports if normally not required for a particular category of project, project proponents can state so accordingly, but the IAA's decision in this regard will be final;
- (iii) NOC from the State Pollution Control Board;



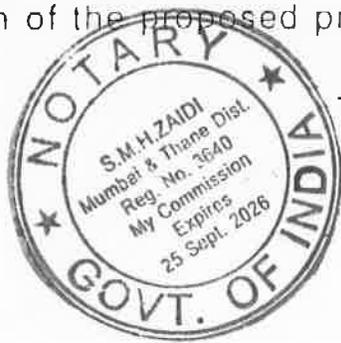

- (iv) Commitment regarding availability of water and electricity from the competent authority;
- (v) Summary of Project report/feasibility report (one copy);
- (vi) Filled in questionnaire (as prescribed by the IAA from time to time) for environmental appraisal of the project;
- (vii) Comprehensive rehabilitation plan, if more than 1000 people are likely to be displaced, otherwise a summary plan would be adequate.

As a Comprehensive EIA report will normally take at least one year for its preparation, project proponents may furnish Rapid EIA report to the IAA based on one season data (other than monsoon), for examination of the project. Comprehensive EIA report may be submitted later, if so asked for by the IAA.

The requirement of EIA can be dispensed with by the IAA, in case of project which are unlikely to cause significant impacts on the environment. In such cases, project proponent will have to furnish full justification for such exemption, for submission of EIA. Where such exemption is granted, project proponents may be asked to furnish such additional information as may be required.

6. Submission of Insufficient or inadequate data

Regarding cases liable to be rejected due to inadequacy of data, it is clarified that the IAA will make such rejection within 30 days from the date of submission of the proposal. While rejecting a proposal due to insufficient or inadequate data after the first evaluation, the IAA may also stipulate additional requirement of information/clarification for impact assessment purposes if deemed essential due to the specific nature of location of the proposed project whose data as prescribed is



not available, the IAA can examine the project on the basis of available data.

7. Application Form

(i) In order to remove any hardship to the project proponent in providing any information, the project proponent may, where some information is not available or would cause inordinate delay, mention this in their application form. The IAA may consider the project proposal based on the information available.

(ii) Quality and quantity of ground water

If 15 years data on the quantity and quality variation of ground water is not available with the concerned Department or Authorities, the project proponent may mention this accordingly in the application form prescribed in Schedule-II to the notification. Further, in case of projects, where ground water is not to be used, and effluents are not to be discharged on the land, the requirement of ground water variation data for the previous 15 years will be dispensed with.

(iii) A project proponent may write the words "Not Applicable" while filling the application form as mentioned in Schedule-II to the notification in respect of items which are not relevant for the purposes of the proposed project.

8. Exemption for projects already initiated

For projects listed in Schedule-I to the notification in respect of which the required land has been acquired and all relevant clearances of the State Government including NOC from the respective State Pollution Control Boards have been obtained before 27th January, 1994, a project proponent will not be required to seek environmental clearance from the IAA. However those units who have not as yet commenced production will inform the IAA.



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- 50. Air (P & CP) Amend. Rules (U.T).
- 51. Hazardous Waste Amend. Rules.
- 52. Environment Audit Rules.

Note: 'P' and 'C.P' - 'Prevention and Control of Pollution'.

Reference: The above listing is adapted
From:

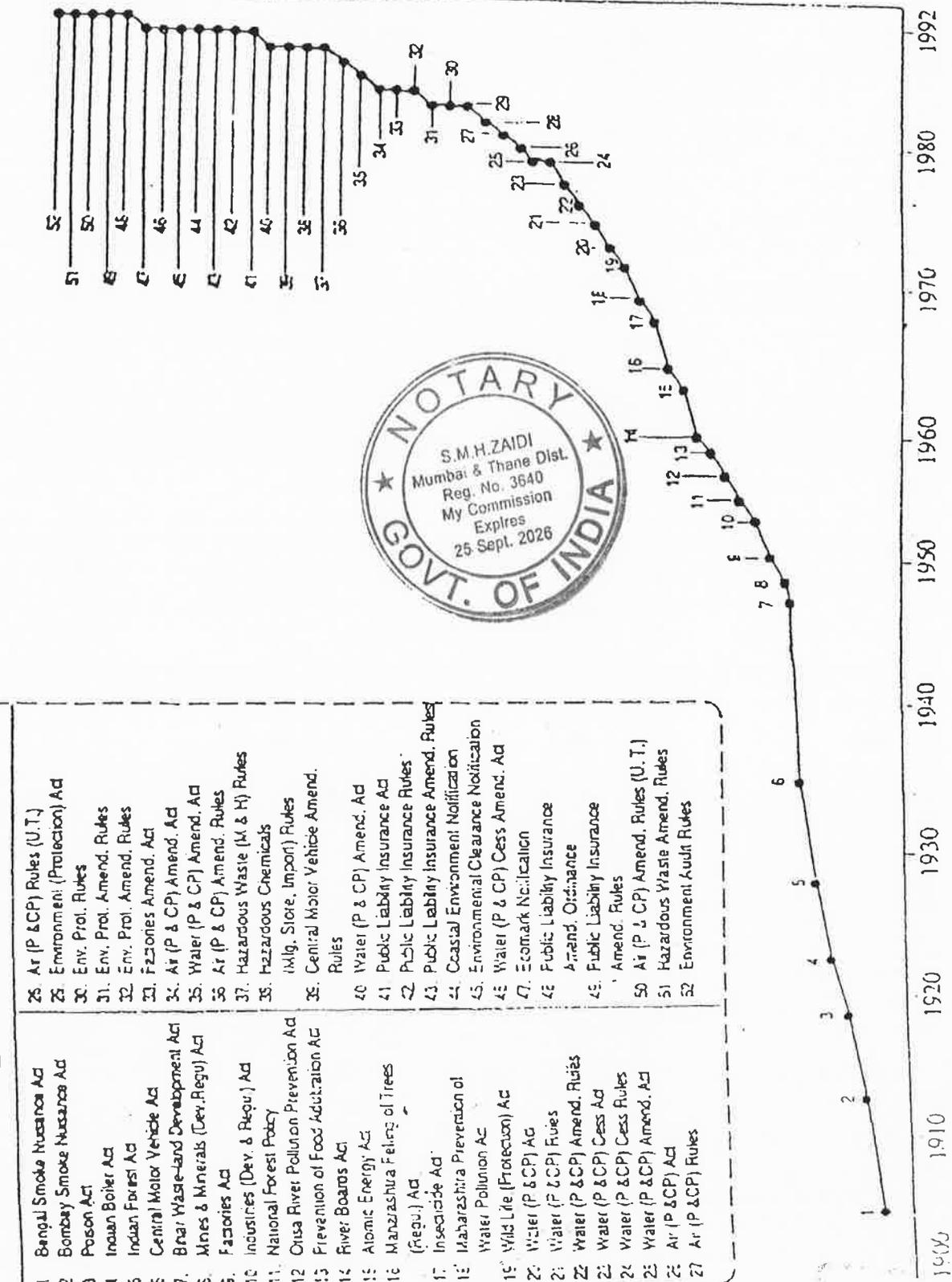
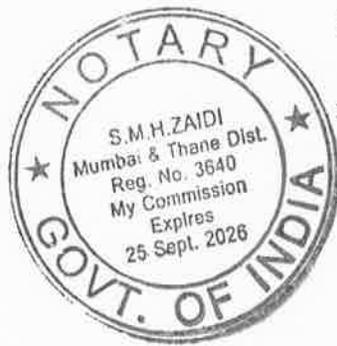
'Environmental Audit' (An overview) (page 12)
by 'Anilok Keshav Mishra',
M/B. 'MEDIA ENVIRO',
Pune.



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LEGEND

1	Bengal Smoke Nuisance Act	28	Air (P & CP) Rules (U.T.)
2	Bombay Smoke Nuisance Act	29	Environment: (Protection) Act
3	Poison Act	30	Env. Prot. Rules
4	Indian Boiler Act	31	Env. Prot. Amend. Rules
5	Indian Forest Act	32	Env. Prot. Amend. Rules
6	Central Motor Vehicle Act	33	Factories Amend. Act
7	Bihar Waste-Land Development Act	34	Air (P & CP) Amend. Act
8	Mines & Minerals (Dev. Regu) Act	35	Water (P & CP) Amend. Act
9	Factories Act	36	Air (P & CP) Amend. Rules
10	Industries (Dev. & Regu.) Act	37	Hazardous Waste (M & H) Rules
11	National Forest Policy	38	Hazardous Chemicals (Mfg. Store, Import) Rules
12	Orissa River Pollution Prevention Act	39	Central Motor Vehicle Amend. Rules
13	Prevention of Food Adulteration Act	40	Water (P & CP) Amend. Act
14	River Boards Act	41	Public Liability Insurance Act
15	Atomic Energy Act	42	Public Liability Insurance Rules
16	Maharashtra Felling of Trees (Regu.) Act	43	Public Liability Insurance Amend. Rules
17	Insecticide Act	44	Coastal Environmental Clearance Notification
18	Maharashtra Prevention of Water Pollution Act	45	Environmental Clearance Notification
19	Wild Life (Protection) Act	46	Water (P & CP) Cess Amend. Act
20	Water (P & CP) Act	47	E-commerce Notification
21	Water (P & CP) Rules	48	Public Liability Insurance Amend. Ordinance
22	Water (P & CP) Amend. Rules	49	Public Liability Insurance Amend. Rules
23	Water (P & CP) Cess Act	50	Air (P & CP) Amend. Rules (U.T.)
24	Water (P & CP) Cess Rules	51	Hazardous Waste Amend. Rules
25	Water (P & CP) Amend. Act	52	Environment Audit Rules
26	Air (P & CP) Act		
27	Air (P & CP) Rules		



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(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)
MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi 14th September, 2006

Notification

S.O. 1533 Whereas, a draft notification under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India¹, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy as approved by the Union Cabinet on 18th May, 2006 and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15th September, 2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15th September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

¹Includes the territorial waters



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2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

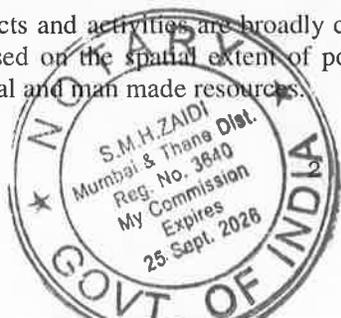
- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

3. State Level Environment Impact Assessment Authority:- (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary to be nominated by the State Government or the Union territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.
- (3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.
- (4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- (7) All decisions of the SEIAA shall be unanimous and taken in a meeting.

4. Categorization of projects and activities:-

- (i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.



(ii) All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;

(iii) All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, *will* require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project;

5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs (hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEAC's shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

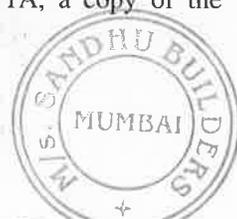
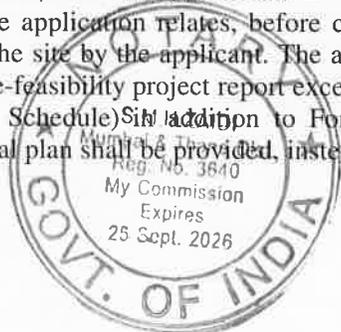
(c) The EAC and SEAC shall be reconstituted after every three years;

(d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;

(e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.



7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

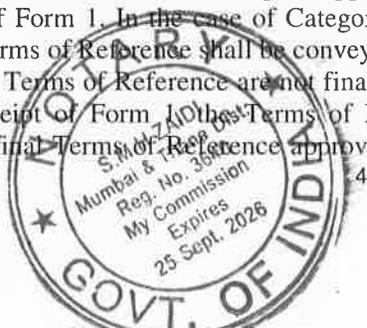
I. Stage (1) - Screening:

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

II. Stage (2) - Scoping:

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form 1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities .If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of



Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

- (a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).
- (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- (d) all Building /Construction projects/Area Development projects and Townships (item 8).
- (e) all Category 'B2' projects and activities.
- (f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.

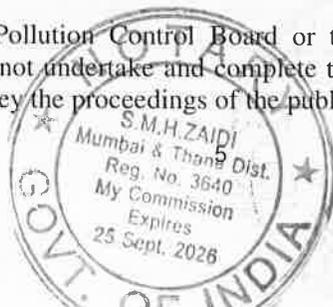
(ii) The Public Consultation shall ordinarily have two components comprising of:-

(a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;

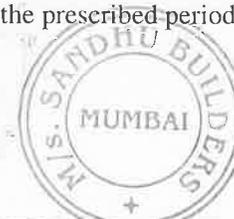
(b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five) of a request to the effect from the applicant.

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period



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directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form , within seven days of the receipt of a written request for arranging the public hearing . Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form I and Form IA as applicable, any other relevant



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validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V ;

7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:

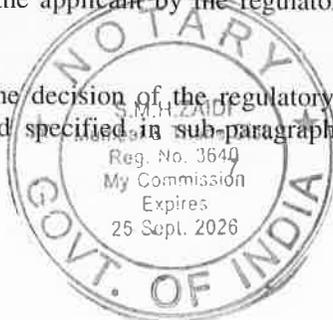
All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

8. Grant or Rejection of Prior Environmental Clearance (EC):

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the



applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

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

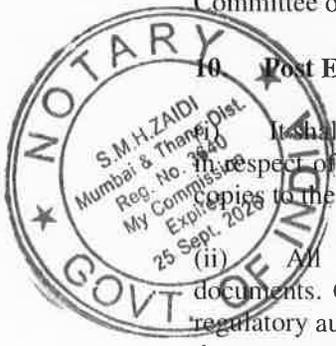
9. Validity of Environmental Clearance (EC):

The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

10. Post Environmental Clearance Monitoring:

(i) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

(ii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.



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11. Transferability of Environmental Clearance (EC):

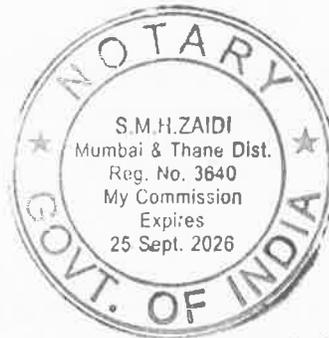
A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

12. Operation of EIA Notification, 1994, till disposal of pending cases:

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27th January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I, or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.

[No. J-11013/56/2004-IA-II (I)]

(R.CHANDRAMOHAN)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA



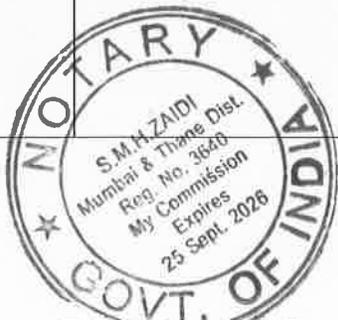
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SCHEDULE

(See paragraph 2 and 7)

LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

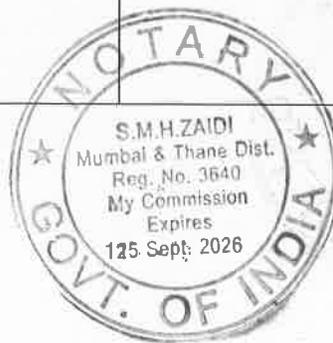
Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
1(a)	Mining of minerals	<p>≥ 50 ha. of mining lease area</p> <p>Asbestos mining irrespective of mining area</p>	<p><50 ha</p> <p>≥ 5 ha .of mining lease area.</p>	<p>General Condition shall apply</p> <p><u>Note</u> Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(b)	Offshore and onshore oil and gas exploration, development & production	All projects		<p><u>Note</u> Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey</p>
1(c)	River Valley projects	<p>(i) ≥ 50 MW hydroelectric power generation;</p> <p>(ii) ≥ 10,000 ha. of culturable command area</p>	<p>(i) < 50 MW ≥ 25 MW hydroelectric power generation;</p> <p>(ii) < 10,000 ha. of culturable command area</p>	General Condition shall apply
1(d)	Thermal Power Plants	<p>≥ 500 MW (coal/lignite/naptha & gas based);</p> <p>≥ 50 MW (Pet coke diesel and all other fuels -)</p>	<p>< 500 MW (coal/lignite/naptha & gas based);</p> <p><50 MW</p> <p>≥ 5MW (Pet coke ,diesel and all other fuels)</p>	General Condition shall apply



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(1)	(2)	(3)	(4)	(5)
1(e)	Nuclear power projects and processing of nuclear fuel	All projects	-	
2	Primary Processing			
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	<1million ton/annum throughput of coal	General Condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal)
2 (b)	Mineral beneficiation	≥ 0.1million ton/annum mineral throughput	< 0.1million ton/annum mineral throughput	General Condition shall apply (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)



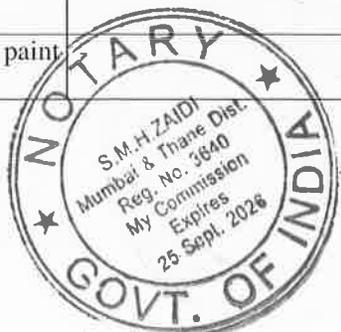
3				
(1)	(2)	(3)	(4)	(5)
3(a)	Metallurgical industries (ferrous & non ferrous)	<p>a) Primary metallurgical industry All projects</p> <p>b) Sponge iron manufacturing ≥ 200TPD</p> <p>c) Secondary metallurgical processing industry</p> <p>All toxic and heavy metal producing units $\geq 20,000$ tonnes /annum</p>	<p>Sponge iron manufacturing < 200TPD</p> <p>Secondary metallurgical processing industry</p> <p>i.) All toxic and heavy metal producing units $< 20,000$ tonnes /annum</p> <p>ii.) All other non-toxic secondary metallurgical processing industries > 5000 tonnes/annum</p>	General Condition shall apply for Sponge iron manufacturing
3(b)	Cement plants	≥ 1.0 million tonnes/annum production capacity	< 1.0 million tonnes/annum production capacity. All Stand alone grinding units	General Condition shall apply



4		Materials Processing		
(1)	(2)	(3)	(4)	(5)
4(a)	Petroleum refining industry	All projects	-	-
4(b)	Coke oven plants	≥2,50,000 tonnes/annum	<2,50,000 & ≥25,000 tonnes/annum	-
4(c)	Asbestos milling and asbestos based products	All projects	-	-
4(d)	Chlor-alkali industry	≥300 TPD production capacity or a unit located out side the notified industrial area/ estate	<300 TPD production capacity and located within a notified industrial area/ estate	Specific Condition shall apply No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this Notification
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units out side the industrial area	All new or expansion of projects located within a notified industrial area/ estate	Specific condition shall apply
5		Manufacturing/Fabrication		
5(a)	Chemical fertilizers	All projects	-	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	-	-



(1)	(2)	(3)	(4)	(5)
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	All projects -	-	-
5(d)	Manmade fibres manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate -	Located in a notified industrial area/ estate	Specific Condition shall apply
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	Specific Condition shall apply
5(g)	Distilleries	(i) All Molasses based distilleries (ii) All Cane juice/ non-molasses based distilleries ≥ 30 KLD	All Cane juice/non-molasses based distilleries - <30 KLD	General Condition shall apply
5(h)	Integrated paint industry		All projects	General Condition shall apply




(1)	(2)	(3)	(4)	(5)
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp& Paper manufacturing industry -	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	≥ 5000 tcd cane crushing capacity	General Condition shall apply
5(k)	Induction/arc furnaces/cupola furnaces 5TPH or more	-	All projects	General Condition shall apply
6		Service Sectors		
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks /sanctuaries/coral reefs /ecologically sensitive areas including LNG Terminal	All projects -		



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(1)	(2)	(3)	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)	-	All projects	General Condition shall apply
7	Physical Infrastructure including Environmental Services			
7(a)	Air ports	All projects	-	-
7(b)	All ship breaking yards including ship breaking units	All projects	-	-
7(c)	Industrial estates/parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area. Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	-Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	Special condition shall apply Note: Industrial Estate of area below 500 ha. and not housing any industry of category A or B does not require clearance.
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only	General Condition shall apply



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(1)	(2)	(3)	(4)	(5)
7(e)	Ports, Harbours	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	General Condition shall apply
7(f)	Highways	i) New National High ways; and ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	i) New State High ways; and ii) Expansion of National / State Highways greater than 30 km involving additional right of way greater than 20m involving land acquisition.	General Condition shall apply
7(g)	Aerial ropeways		All projects	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply



(1)	(2)	(3)	(4)	(5)
8		Building /Construction projects/Area Development projects and Townships		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq .mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

Note:-**General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

Specific Condition (SC):

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre -defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).




APPENDIX I

(See paragraph – 6)

FORM 1

(I) Basic Information

Name of the Project:

Location / site alternatives under consideration:

Size of the Project: *

Expected cost of the project:

Contact Information:

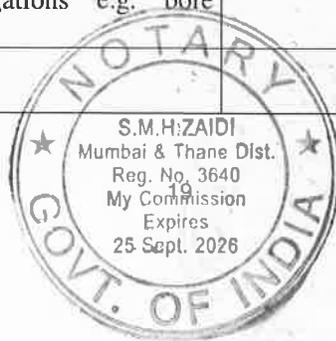
Screening Category:

- Capacity corresponding to sectoral activity (such as production capacity for manufacturing, mining lease area and production capacity for mineral production, area for mineral exploration, length for linear transport infrastructure, generation capacity for power generation etc.,)

(II) Activity

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

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)		
1.2	Clearance of existing land, vegetation and buildings?		
1.3	Creation of new land uses?		
1.4	Pre-construction investigations e.g. bore houses, soil testing?		
1.5	Construction works?		

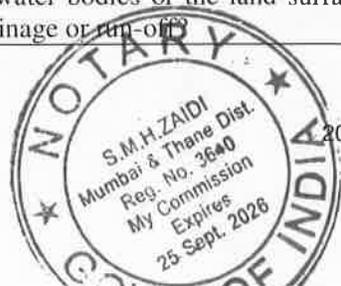


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1.6	Demolition works?		
1.7	Temporary sites used for construction works or housing of construction workers?		
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.9	Underground works including mining or tunneling?		
1.10	Reclamation works?		
1.11	Dredging?		
1.12	Offshore structures?		
1.13	Production and manufacturing processes?		
1.14	Facilities for storage of goods or materials?		
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.16	Facilities for long term housing of operational workers?		
1.17	New road, rail or sea traffic during construction or operation?		
1.18	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?		
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.20	New or diverted transmission lines or pipelines?		
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.22	Stream crossings?		
1.23	Abstraction or transfers of water form ground or surface waters?		
1.24	Changes in water bodies or the land surface affecting drainage or run-off?		



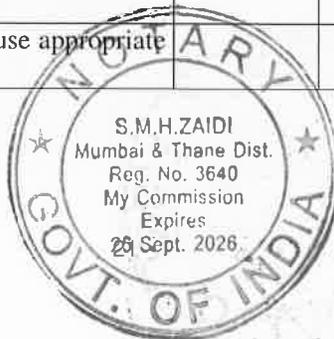
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1.25	Transport of personnel or materials for construction, operation or decommissioning?		
1.26	Long-term dismantling or decommissioning or restoration works?		
1.27	Ongoing activity during decommissioning which could have an impact on the environment?		
1.28	Influx of people to an area in either temporarily or permanently?		
1.29	Introduction of alien species?		
1.30	Loss of native species or genetic diversity?		
1.31	Any other actions?		

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

S.No.	Information/checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source & competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material – stone, aggregates, and / soil (expected source – MT)		
2.5	Forests and timber (source – MT)		
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		



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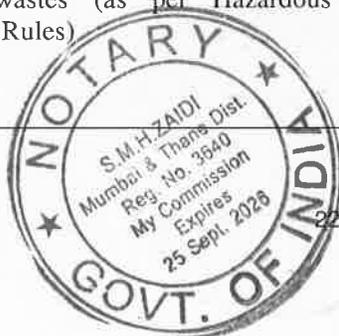


3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)		
3.3	Affect the welfare of people e.g. by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,		
3.5	Any other causes		

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

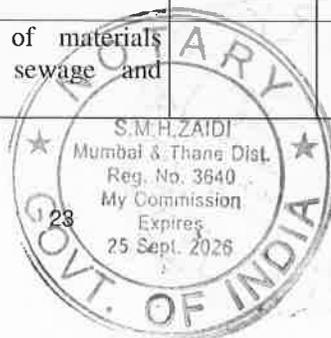
S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		



4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		




5.6	Emissions from incineration of waste		
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)		
5.8	Emissions from any other sources		

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

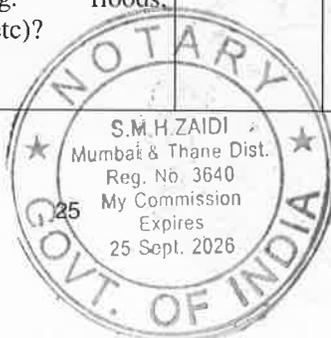



7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		

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

S.No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?		

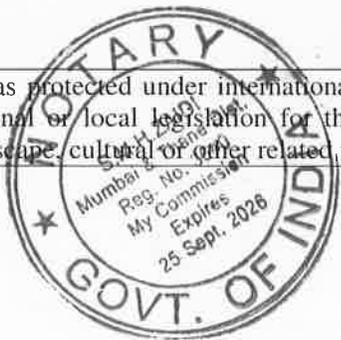


9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

S. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	<p>Lead to development of supporting, utilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.:</p> <ul style="list-style-type: none"> • Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) • housing development • extractive industries • supply industries • other 		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

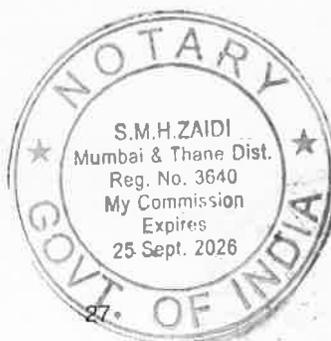
(III) Environmental Sensitivity

S.No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		



2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4	Inland, coastal, marine or underground waters		
5	State, National boundaries		
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7	Defence installations		
8	Densely populated or built-up area		
9	Areas occupied by sensitive man-made land uses (<i>hospitals, schools, places of worship, community facilities</i>)		
10	Areas containing important, high quality or scarce resources (<i>ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals</i>)		
11	Areas already subjected to pollution or environmental damage. (<i>those where existing legal environmental standards are exceeded</i>)		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (<i>earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions</i>)		

(IV). Proposed Terms of Reference for EIA studies



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APPENDIX II

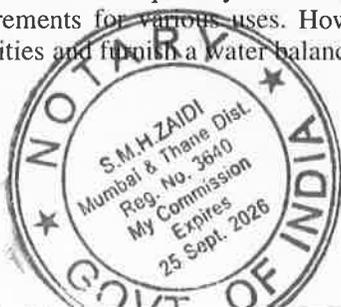
(See paragraph 6)

FORM-1 A (only for construction projects listed under item 8 of the Schedule)**CHECK LIST OF ENVIRONMENTAL IMPACTS****(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)****1. LAND ENVIRONMENT****(Attach panoramic view of the project site and the vicinity)**

- 1.1. Will the existing landuse get significantly altered from the project that is not consistent with the surroundings? (Proposed landuse must conform to the approved Master Plan / Development Plan of the area. Change of landuse if any and the statutory approval from the competent authority be submitted). Attach Maps of (i) site location, (ii) surrounding features of the proposed site (within 500 meters) and (iii) the site (indicating levels & contours) to appropriate scales. If not available attach only conceptual plans.
- 1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc.
- 1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing landuse, disturbance to the local ecology).
- 1.4. Will there be any significant land disturbance resulting in erosion, subsidence & instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).
- 1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)
- 1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)
- 1.7. Give details regarding water supply, waste handling etc during the construction period.
- 1.8. Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)
- 1.9. Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal)

2. WATER ENVIRONMENT

- 2.1. Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources & quantities and furnish a water balance statement.



- 2.2. What is the capacity (dependable flow or yield) of the proposed source of water?
- 2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)
- 2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)
- 2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)
- 2.6. What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)
- 2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.
- 2.8. What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?
- 2.9. What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)
- 2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts)
- 2.11. How is the storm water from within the site managed?(State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)
- 2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)
- 2.13. What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)
- 2.14. Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.

3. VEGETATION

- 3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with it's unique features, if any)



A handwritten signature in black ink, appearing to be "S.M.H ZAIDI".



3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale)

4. FAUNA

4.1. Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

4.3. Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna

5. AIR ENVIRONMENT

5.1. Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions)

5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with areas under each category.

5.5. Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above.

5.6. What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details.

6. AESTHETICS

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

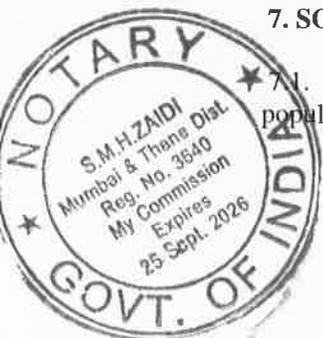
6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

6.3. Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered.

7. SOCIO-ECONOMIC ASPECTS

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.



7.2. Give details of the existing social infrastructure around the proposed project.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

8. BUILDING MATERIALS

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency)

8.2. Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

8.4. Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project.

9. ENERGY CONSERVATION

9.1. Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

9.2. What type of, and capacity of, power back-up to you plan to provide?

9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

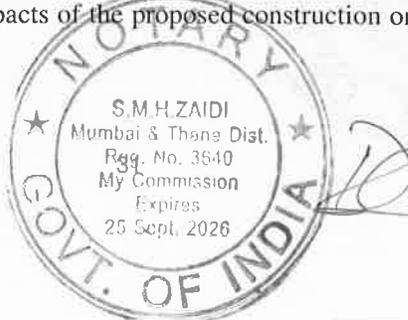
9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

9.5. Does the layout of streets & buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

9.6. Is shading effectively used to reduce cooling/heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?



9.9. What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details of the material used and the U-values or the R values of the individual components.

9.10. What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans.

9.11. If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.

9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

10. Environment Management Plan

The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.



APPENDIX III

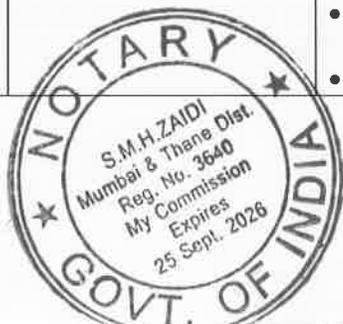
(See paragraph 7)

GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESMENT DOCUMENT

S.NO	EIA STRUCTURE	CONTENTS
1.	Introduction	<ul style="list-style-type: none"> • Purpose of the report • Identification of project & project proponent • Brief description of nature, size, location of the project and its importance to the country, region • Scope of the study – details of regulatory scoping carried out (As per Terms of Reference)
2.	Project Description	<ul style="list-style-type: none"> • Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following: <ul style="list-style-type: none"> • Type of project • Need for the project • Location (maps showing general location, specific location, project boundary & project site layout) • Size or magnitude of operation (incl. Associated activities required by or for the project) • Proposed schedule for approval and implementation • Technology and process description • Project description. Including drawings showing project layout, components of project etc. Schematic representations of the feasibility drawings which give information important for EIA purpose • Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope) • Assessment of New & untested technology for the risk of technological failure



3.	Description of the Environment	<ul style="list-style-type: none"> • Study area, period, components & methodology • Establishment of baseline for valued environmental components, as identified in the scope • Base maps of all environmental components
4.	Anticipated Environmental Impacts & Mitigation Measures	<ul style="list-style-type: none"> • Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project • Measures for minimizing and / or offsetting adverse impacts identified • Irreversible and Irretrievable commitments of environmental components • Assessment of significance of impacts (Criteria for determining significance, Assigning significance) • Mitigation measures
5.	Analysis of Alternatives (Technology & Site)	<ul style="list-style-type: none"> • In case, the scoping exercise results in need for alternatives: • Description of each alternative • Summary of adverse impacts of each alternative • Mitigation measures proposed for each alternative and • Selection of alternative
6.	Environmental Monitoring Program	<ul style="list-style-type: none"> • Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency procedures, detailed budget & procurement schedules)
7.	Additional Studies	<ul style="list-style-type: none"> • Public Consultation • Risk assessment • Social Impact Assessment. R&R Action Plans
8.	Project Benefits	<ul style="list-style-type: none"> • Improvements in the physical infrastructure • Improvements in the social infrastructure • Employment potential –skilled; semi-skilled and unskilled • Other tangible benefits



9.	Environmental Cost Benefit Analysis	If recommended at the Scoping stage
10.	EMP	<ul style="list-style-type: none"> Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA
11	Summary & Conclusion (This will constitute the summary of the EIA Report)	<ul style="list-style-type: none"> Overall justification for implementation of the project Explanation of how, adverse effects have been mitigated
12.	Disclosure of Consultants engaged	<ul style="list-style-type: none"> The names of the Consultants engaged with their brief resume and nature of Consultancy rendered




APPENDIX III A
(See paragraph 7)

CONTENTS OF SUMMARY ENVIRONMENTAL IMPACT ASSESSMENT

The Summary EIA shall be a summary of the full EIA Report condensed to ten A-4 size pages at the maximum. It should necessarily cover in brief the following Chapters of the full EIA Report: -

1. Project Description
2. Description of the Environment
3. Anticipated Environmental impacts and mitigation measures
4. Environmental Monitoring Programme
5. Additional Studies
6. Project Benefits
7. Environment Management Plan



APPENDIX IV
(See paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2.0 The Process:

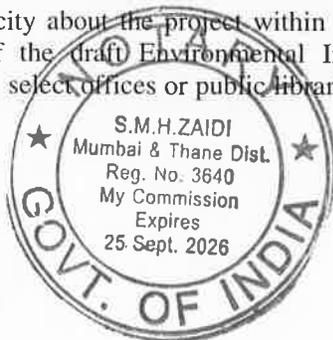
2.1 The Applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is extending beyond a State or Union Territory, the public hearing is mandated in each State or Union Territory in which the project is sited and the Applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The Applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the Ministry of Environment and Forests and to the following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate/s
- (b) Zila Parishad or Municipal Corporation
- (c) District Industries Office
- (d) Concerned Regional Office of the Ministry of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over. The Ministry of Environment and Forests shall promptly display the Summary of the draft Environmental Impact Assessment report on its website, and also make the full draft EIA available for reference at a notified place during normal office hours in the Ministry at Delhi.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or panchayats etc. They shall also additionally



make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices viz, Ministry of Environment and Forests, District Magistrate etc.

3.0 Notice of Public Hearing:

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7(seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily. A minimum notice period of 30(thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and only on the recommendation of the concerned District Magistrate the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances fresh date, time and venue for the public consultation shall be decided by the Member –Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate and notified afresh as per procedure under 3.1 above.

4.0 The Panel

4.1 The District Magistrate or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process.

5.0 Videography

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

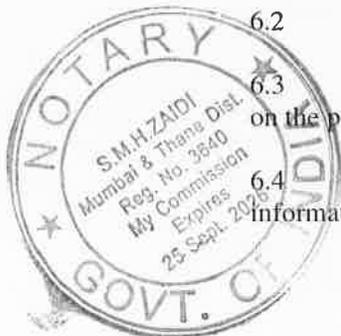
6.0 Proceedings

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 Every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant. The summary of the public



hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

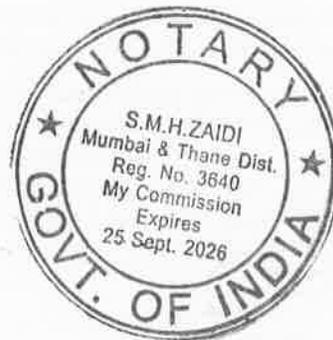
6.5 A Statement of the issues raised by the public and the comments of the Applicant shall also be prepared in the local language and in English and annexed to the proceedings:

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings which may be sent directly to the concerned regulatory authorities and the Applicant concerned.

7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of 45 (forty five) days from date of receipt of the request letter from the Applicant. Therefore the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within 8(eight) days of the completion of the public hearing. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45(forty five) days, the Central Government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this notification.



APPENDIX -V
(See paragraph 7)

PROCEDURE PRESCRIBED FOR APPRAISAL

1. The applicant shall apply to the concerned regulatory authority through a simple communication enclosing the following documents where public consultations are mandatory: -

- Final Environment Impact Assessment Report [20(twenty) hard copies and 1 (one) soft copy]
- A copy of the video tape or CD of the public hearing proceedings
- A copy of final layout plan (20 copies)
- A copy of the project feasibility report (1 copy)

2. The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinized in office within 30 days from the date of its receipt by the concerned Regulatory Authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC /SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received along with a copy of Form -1or Form 1A and scheduled date of the EAC /SEAC meeting for considering the proposal .

3. Where a public consultation is not mandatory and therefore a formal EIA study is not required, the appraisal shall be made on the basis of the prescribed application Form 1 and a pre-feasibility report in the case of all projects and activities other than Item 8 of the Schedule .In the case of Item 8 of the Schedule, considering its unique project cycle , the EAC or SEAC concerned shall appraise all Category B projects or activities on the basis of Form 1, Form 1A and the conceptual plan and stipulate the conditions for environmental clearance . As and when the applicant submits the approved scheme /building plans complying with the stipulated environmental clearance conditions with all other necessary statutory approvals, the EAC /SEAC shall recommend the grant of environmental clearance to the competent authority.

4. Every application shall be placed before the EAC /SEAC and its appraisal completed within 60 days of its receipt with requisite documents / details in the prescribed manner.

5. The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC /SEAC meeting for considering the project proposal.

6. The minutes of the EAC /SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the concerned regulatory authority. In case the project or activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.




APPENDIX VI

(See paragraph 5)

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

1. The Expert Appraisal Committees (EAC(s) and the State/UT Level Expert Appraisal Committees (SEACs) shall consist of only professionals and experts fulfilling the following eligibility criteria:

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

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

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

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

- **Environment Quality Experts:** Experts in measurement/monitoring, analysis and interpretation of data in relation to environmental quality
- **Sectoral Experts in Project Management:** Experts in Project Management or Management of Process/Operations/Facilities in the relevant sectors.
- **Environmental Impact Assessment Process Experts:** Experts in conducting and carrying out Environmental Impact Assessments (EIAs) and preparation of Environmental Management Plans (EMPs) and other Management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process
- **Risk Assessment Experts**
- **Life Science Experts in floral and faunal management**
- **Forestry and Wildlife Experts**




- **Environmental Economics Expert with experience in project appraisal**

3. The Membership of the EAC shall not exceed 15 (fifteen) regular Members. However the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.
4. The Chairperson shall be an outstanding and experienced environmental policy expert or expert in management or public administration with wide experience in the relevant development sector.
5. The Chairperson shall nominate one of the Members as the Vice Chairperson who shall preside over the EAC in the absence of the Chairman /Chairperson.
6. A representative of the Ministry of Environment and Forests shall assist the Committee as its Secretary.
7. The maximum tenure of a Member, including Chairperson, shall be for 2 (two) terms of 3 (three) years each.
8. The Chairman / Members may not be removed prior to expiry of the tenure without cause and proper enquiry.



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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 4 अप्रैल, 2011

का.आ. 695(अ).—केन्द्रीय सरकार ने, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा (3) की उपधारा (1) और उपधारा (2) के खंड (v) के अधीन जारी की गई भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना संख्यांक का०आ० 1533(अ), तारीख 14 सितंबर, 2006, द्वारा निदेश दिया था कि उसके प्रकाशन की तारीख से ही, नई परियोजनाओं या क्रियाकलापों का अपेक्षित संनिर्माण या उक्त अधिसूचना की अनुसूची में सूचीबद्ध विद्यमान परियोजनाओं या क्रियाकलापों का विस्तार या आधुनिकीकरण, प्रक्रिया और या प्रौद्योगिकी में परिवर्तन सहित क्षमता में परिवर्धन करते हुए भारत के किसी भाग में, यथास्थिति, केन्द्रीय सरकार से या केन्द्रीय सरकार द्वारा इसमें विनिर्दिष्ट प्रक्रिया के अनुसार उक्त अधिनियम की धारा 3 की उपधारा (3) के अधीन गठित राज्य स्तर पर्यावरण समाघात निर्धारण प्राधिकरण द्वारा केवल पूर्व पर्यावरण अनापत्ति के पश्चात् ही किया जाएगा;

और उक्त अधिसूचना में प्रयुक्त "निर्मित क्षेत्र" पद के संबंध में स्पष्टीकरण का उपबंध करने और अधिसूचना के भिन्न-भिन्न पैराओं को पारस्परिक रूप से संगत बनाने के लिए भी तथा ऐसे अनाश्रयित परिवर्तनों को प्रत्यावर्तित करने के लिए जो राजमार्ग परियोजना से संबंधित पर्यावरणीय समाघात निर्धारण अधिसूचना, 2006 की अनुसूची में विशेषकर मद्र संख्या 7(च) के सामने प्रविष्टि में का.आ. 3067(अ), तारीख 1 दिसंबर, 2009 द्वारा संशोधन करते समय अधिसूचना में किए गए थे और उक्त अधिसूचना में उपयुक्त संशोधन करने के इस प्रयोजन के लिए विनिश्चय किया गया है।

और उक्त पर्यावरण (संरक्षण) नियमों का नियम 5 का उपनियम (3) का खंड (क) यह उपबंधित करता है कि जब कभी केन्द्रीय सरकार यह विचार करती है कि किसी उद्योग पर या

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किसी क्षेत्र में किन्हीं प्रक्रियाओं या प्रचालन को चलाने पर प्रतिषेध या निर्बंधन अधिरोपित करना चाहिए तो वह ऐसा करने के लिए अपने आशय की सूचना देगी;

और उक्त पर्यावरण (संरक्षण) नियमों का नियम 5 का उपनियम (4) यह उपबंधित करता है कि उपनियम (3) में किसी बात के होते हुए भी, केन्द्रीय सरकार को जब कभी यह प्रतीत होता है कि ऐसा करना लोकहित में है, वह उपनियम (3) के खंड (क) के अधीन सूचना की अपेक्षा से अभिमुक्ति दे सकेगी;

अतः, अब, केन्द्रीय सरकार, उक्त पर्यावरण (संरक्षण) नियमों, के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित उक्त पर्यावरण (संरक्षण) अधिनियम की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात्:-

उक्त अधिसूचना में,-

(I) पैरा 6 में “सभी मामलों में पर्यावरणीय अनापत्ति मांगने के लिए कोई आवेदन,” शब्दों के पश्चात् “परियोजना प्रस्तावक द्वारा” किया जाएगा ।

(II) पैरा 7, के खंड (i) के उप पैरा II क्रम (2) विस्तारण के उप पैरा (i) के अंतिम वाक्य में “अनुसूची की मद 8 में प्रवर्ग ख के रूप में सूचीबद्ध सभी परियोजनाओं और क्रियाकलापों (संनिर्माण, नगरी/ वाणिज्यिक, काम्प्लैक्स/आवासन)” के स्थान निम्नलिखित शब्द रखे जाएंगे, अर्थात्:-

“अनुसूची की मद 8(क) में प्रवर्ग ख के रूप में सूचीबद्ध सभी परियोजनाओं और क्रियाकलापों (निर्माण और संनिर्माण परियोजना)” ।

(III) अनुसूची में,-

(i) मद 1(क) के सामने,-

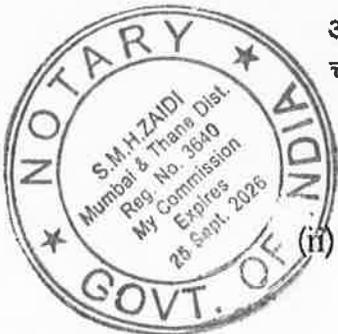
स्तंभ (5) में की प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियां रखी जाएंगी, अर्थात् -
“साधारण शर्तें लागू होंगी ।

टिप्पणः

(i) ऐसे खान पट्टे के नवीकरण के प्रक्रम पर पूर्व पर्यावरणीय अनापत्ति भी अपेक्षित है जिसके लिए आवेदन, नवीकरण की तारीख से एक वर्ष पूर्व किया जाना चाहिए ।

(ii) खनिज पूर्वक्षण छूट प्राप्त है ।”

मद 7(च) के सामने,-



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स्तंभ (4) में की प्रविष्टि के स्थान पर “ (i) सभी राज्य राजमार्ग परियोजनाएं; और” के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:-

“ (i) सभी नई राज्य राजमार्ग परियोजनाएं ” ।

(iii) मद 8(क) के सामने,-

स्तंभ (5) में की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:-

“इस अधिसूचना के प्रयोजन के लिए निर्मित क्षेत्र को “बेसमेंट (बेसमेंटों) सहित, समस्त मंजिलें एक साथ रखे जाने पर निर्मित या आच्छादित क्षेत्र और अन्य सेवा क्षेत्र जो निर्माण/संनिर्माण परियोजनाओं में प्रस्तावित किए गए हैं” के रूप में परिभाषित है।”

(IV) परिशिष्ट 5 के पैरा 3 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात्:-

“ 3 जहां कोई लोक परामर्श आज्ञापक नहीं है वहां आकलन, विहित आवेदन प्रारूप-1 और पर्यावरणीय समाघात निर्धारण रिपोर्ट के आधार पर अनुसूची की मद 8 से भिन्न सभी परियोजनाओं और क्रियाकलापों की दशा में किया जाएगा। अनुसूची की मद 8 की दशा में इसके विलक्षण परियोजना चक्र को ध्यान में रखते हुए संबंधित पर्यावरणीय निर्धारण समिति या राज्य पर्यावरणीय निर्धारण समिति प्रारूप-1, प्रारूप-1क, धारणा योजना और पर्यावरणीय समाघात निर्धारण रिपोर्ट [केवल 8(ख) के अधीन सूचीबद्ध परियोजनाओं के लिए अपेक्षित] के आधार पर परियोजनाओं या क्रियाकलापों का आकलन करेंगी और पर्यावरणीय अनापत्ति को प्रदान करने के संबंध में परियोजना पर या अन्यथा सिफारिशें करेंगी तथा पर्यावरणीय अनापत्ति के लिए शर्तें भी नियत करेंगी” ।

[फा. सं. 3-101/2010-आईए. III]

डा. नलिनी भट्ट, वैज्ञानिक 'जी'

टिप्पण: मूल नियम, भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में अधिसूचना सं. का0आ0 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और का0आ0 1737(अ), तारीख 11 अक्तुबर, 2007 और का0आ0 सं. 3067(अ), तारीख 1 दिसंबर, 2009 द्वारा संशोधित किए गए थे।



**MINISTRY OF ENVIRONMENT AND FORESTS
NOTIFICATION**

New Delhi, the 4th April, 2011

S.O. 695(E).— Whereas by notification of the Government of India in the Ministry of Environment and Forests vide number S.O. 1533(E), dated the 14th September, 2006 issued under 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, the Central Government directed that on or from the dates of its publication, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process and or technology shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act in accordance with the procedure specified therein;

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 unintentional 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.

And whereas, clause (a) of sub-rule (3) of rule 5 of the said Environment (Protection) Rules provides that, whenever the Central Government considers that



prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so;

And whereas, sub-rule (4) of rule 5 of the said Environment (Protection) Rules provides that, notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3);

Now therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the said Environment (Protection) Act, read with clause (d) of sub-rule (3) of rule 5 of the said Environment (Protection) Rules, the Central Government hereby makes the following amendments in the said Notification, namely:-

In the said notification, -

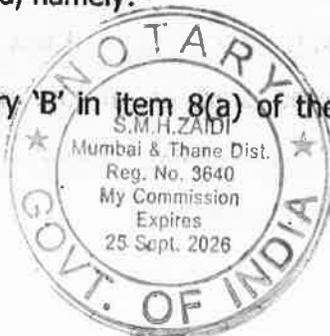
(I) In para 6, for the existing words "An application seeking prior environmental clearance in all cases shall be made", the following words shall be substituted, namely:-

"An application seeking prior environmental clearance in all cases shall be made by the project proponent".

(II) In para 7, in sub-para 7 in clause (i), sub para II, stage (2) - scoping, sub para (i), in the last sentence, for the words "activities listed as Category 'B' in item 8 of the schedule (Construction / Township / Commercial Complexes / Housing)", the following words shall be substituted, namely:-

"Activities listed as Category 'B' in item 8(a) of the schedule (building and construction projects)".

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(III) In the Schedule, -

(i) against item 1(a), -

in column (5), for the entries, the following entries shall be substituted, namely:-

"General conditions shall apply.

Note:

- (i) Prior environmental clearance is as well required at the stage of renewal of mine lease for which application should be made up to one year prior to date of renewal.
- (ii) Mineral prospecting is exempted."

(ii) against item 7(f), -

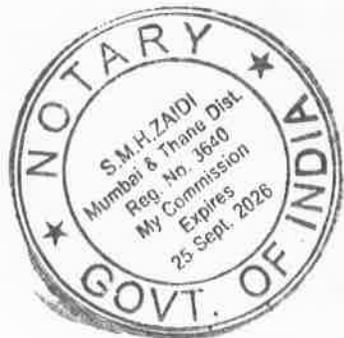
in column (4), for the entry "(i) All State Highway Projects; and" the following entry shall be substituted, namely:-

"(i) All New State Highway Projects".

(iii) against item 8(a), -

in column (5), for the entry, the following entry shall be substituted, namely:-

"The built up area for the purpose of this Notification is defined as "the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building / construction projects"."



(IV) In Appendix V, for para 3, the following para shall be substituted, namely:-

"3. where a public consultation is not mandatory, the appraisal shall be made on the basis of prescribed application Form-1 and EIA report, in the case of all projects and activities other than item 8 of the schedule. In the case of item 8 of the schedule, considering its unique project cycle, the EAC or SEAC concerned shall appraise projects or activities on the basis of Form-1, Form-1A, conceptual plan and the EIA report [required only for projects listed under 8(b)] and make recommendations on the project regarding grant of environmental clearance or otherwise and also stipulate the conditions for environmental clearance".

[F. No. 3-101/2010-IA. III]

Dr. NALINI BHAT, Scientist 'G'

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533(E), dated the 14th September, 2006 and amended vide S.O. 1737(E), dated the 11th October, 2007 and S.O. No. 3067(E) dated 1st December, 2009.



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 9 दिसम्बर, 2016

का.आ. 3999(अ).—केन्द्रीय सरकार ने भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय द्वारा पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) नियम, 1986 की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) के अधीन जारी की गई अधिसूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा यह निदेश दिया था कि इस अधिसूचना के प्रकाशन की तारीख से ही नवीन परियोजनाओं या क्रियाकलापों के अपेक्षित संनिर्माण या उक्त अधिसूचना की अनुसूची में सूचीबद्ध विद्यमान परियोजनाओं या क्रियाकलापों के विस्तारण या आधुनिकीकरण के कार्य को, जिसमें प्रक्रिया या तकनीक और/या उत्पाद मिश्रण में परिवर्तन सहित क्षमता में वृद्धि किया जाना सम्मिलित है, भारत के किसी भाग में केवल, यथास्थिति, केन्द्रीय सरकार या केन्द्रीय सरकार द्वारा उक्त अधिनियम की धारा 3 की उपधारा (3) के अधीन सम्यक् रूप से गठित राज्य स्तरीय पर्यावरण समाघात निर्धारण प्राधिकरण से, उसमें विनिर्दिष्ट प्रक्रिया के अनुसार, पूर्व पर्यावरणीय अनापत्ति लेने के पश्चात् ही आरंभ किया जाएगा ;

केन्द्रीय सरकार उत्तरदायी कारबार करने की सुगमता सुनिश्चित करने के लिए कार्य कर रही है और भवन तथा संनिर्माण सेक्टर, जो आवास की व्यवस्था करने के लिए महत्वपूर्ण है, के लिए अनुज्ञाओं को सरल बना रही है तथा इस प्रयोजन के लिए शहरी क्षेत्र में कमजोर वर्ग सस्ता आवास उपलब्ध कराने के लक्ष्य के साथ वर्ष 2022 तक सभी के लिए आवास की स्कीम में महत्वाकांक्षी लक्ष्य रखा गया है ;

और उक्त पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (क) में यह उपबंधित है कि जब कभी केन्द्रीय सरकार यह विचार करती है कि किसी उद्योग पर प्रतिषेध या निर्बन्धन अधिरोपित किए जाने चाहिए, तो वह अपने ऐसा करने के आशय की सूचना देगी ;

और पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) नियम, 1986 की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पर्यावरण समाघात निर्धारण अधिसूचना, 2006 में संशोधन करने के लिए एक प्रारूप अधिसूचना का.आ.1595(अ) तारीख 29 अप्रैल, 2016 द्वारा प्रकाशित की गई थी, में संशोधन करने के लिए प्रारूप अधिसूचना पर आक्षेप और सुझाव ऐसे सभी व्यक्तियों से जिनके उससे प्रभावित होने की संभावना है, से उक्त अधिसूचना के भारत के राजपत्र में प्रकाशन की तारीख से साठ दिन में आमंत्रित किए जाते हैं ;

और केन्द्रीय सरकार द्वारा उपरोक्त निर्दिष्ट प्रारूप अधिसूचना के संबंध में प्राप्त सभी आक्षेपों और सुझावों पर सम्यक् रूप से विचार किया जाएगा ;

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अतः, अब, केन्द्रीय सरकार, उक्त पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) नियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) में खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पर्यावरण समाघात निर्धारण अधिसूचना, 2006 में निम्नलिखित और संशोधन करती है, अर्थात् :--(I) उक्त अधिसूचना में,--

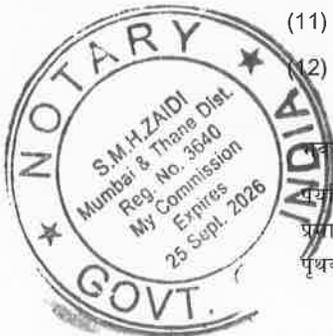
(1) पैरा 13 के पश्चात्, निम्नलिखित पैरा अंतःस्थापित किया जाएगा, अर्थात् :-

"14. निर्माण उप नियमों में पर्यावरणीय शर्तों का समाकलन :-

- (1) स्थानीय प्राधिकारियों द्वारा निर्माण अनुमति सहित समाकलित पर्यावरणीय दशा प्रदान की जाएगी और आकार के अनुसार इमारतों का निर्माण परिशिष्ट XIV में दिए गए लक्ष्य और निगरानी योग्य पर्यावरणीय दशाओं के अनुसार किया जाएगा।
- (2) राज्य जो अपनी भवन उपविधियों तथा सुसंगत राज्य विधियों में उप पैरा (1) में निर्दिष्ट इन लक्ष्यों तथा निगरानी योग्य पर्यावरणीय शर्तों को अपना रहे हैं और भवन संनिर्माण के लिए दिए गए अनुमोदनों से उन शर्तों को समाविष्ट कर रहे हैं जिससे इसे विधिक रूप से प्रवर्तनीय बनाया जा सके, व्यष्टिक इमारतों के लिए पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय से अनापत्ति की अपेक्षा नहीं होगी।
- (3) राज्य पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को अपनी उपविधियों और नियमों में ऐसे प्रस्तावित परिवर्तन भेजेंगे जो प्रारूप की समीक्षा करेगा और सहमति देगा।
- (4) जब राज्य सरकारों, वन और जलवायु परिवर्तन मंत्रालय द्वारा सहमति दिए गए उपविधियों और नियमों को अधिसूचित कर देती हैं तो केन्द्रीय सरकार यह आदेश जारी करेगी कि उन राज्य या स्थानीय प्राधिकारी क्षेत्रों में कोई पृथक् पर्यावरणीय अनापत्ति अपेक्षित नहीं है।
- (5) स्थानीय प्राधिकारियों जैसे विकास प्राधिकरण, नगरपालिकाएं स्थानीय निकायों में गठित पर्यावरण प्रकोष्ठ की सिफारिशों पर किन्हीं भवनों के लिए नियत अपेक्षाओं के अनुसार यथा लागू किए गए समापन प्रमाणपत्र के जारी किए जाने से पूर्व इन पर्यावरणीय शर्तों का अनुपालन प्रमाणित करेंगे।
- (6) राज्य सरकारें जहां उपविधि या नियम विरचित नहीं है, इस अधिसूचना में अधिकथित उपबंधों के अनुसार, व्यष्टिक परियोजनाओं के मूल्यांकन की विद्यमान प्रक्रिया तथा इमारतों और संनिर्माणों के लिए पर्यावरण अनापत्ति की मंजूरी का पालन करते रहेंगे।"
- (7) भवनों में पर्यावरण के समावेशन के संबंध में प्रमाणीकरण के प्रयोजन के लिए पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय सक्षम अभिकरण के माध्यम से अर्हित निर्माण पर्यावरणीय संपरीक्षक से इस अधिसूचना की अपेक्षाओं के माध्यम से निर्माण परियोजना का मूल्यांकन और प्रमाणित करेगी तथा अर्हित निर्माण पर्यावरणीय संपरीक्षक का प्रत्यानन के लिए प्रक्रिया और उनकी भूमिका परिशिष्ट XV पर दी गई है।
- (8) निर्माण उपविधि में पर्यावरण शर्तों के समामेलन के अनुपालन में राज्य सरकार या स्थानीय प्राधिकारी पर्यावरण प्रकोष्ठ (जिसे इसमें इसके पश्चात् प्रकोष्ठ कहा गया है), गठन करेगी तथा अपने क्षेत्राधिकार में पर्यावरण योजना को सुनिश्चित करेगा।
- (9) प्रकोष्ठ इमारतों के निर्माण के लिए पर्यावरण शर्तों के समाकलित करने के लिए बनाए गई उपविधि और नियमों के अनुपालन की निगरानी करेगा और प्रकोष्ठ किसी असावधानी, यदि कोई है, के लिए तृतीय पक्षकार संपरीक्षा प्रक्रिया की भी अनुमति देगा।
- (10) प्रकोष्ठ स्थानीय प्राधिकरणों के प्रशासनिक नियंत्रण के अधीन कार्य करेगा।
- (11) प्रकोष्ठ का गठन और कृत्य परिशिष्ट xvi में दिया हुआ है।
- (12) स्थानीय प्राधिकारी निर्माण उपविधि में पर्यावरण के संबंध में समाकलन करते समय परियोजना में उनकी सरकार के अनुसार नीचे दी गई प्रक्रिया का पालन करेगी :-

वन प्रवर्ग '1' (5000 से < 20,000 वर्ग मीटर)

पर्यावरणीय शर्तों (परिशिष्ट xiv) के अनुपालन के लिए स्व घोषणा प्ररूप और अर्हित भवन पर्यावरण संपरीक्षक द्वारा प्रमाणन प्रारूप 1क के साथ परियोजना प्रस्तावक द्वारा स्थयी प्राधिकारी से निर्माण के लिए अनुमति हेतु आवेदन के अलावा पृथक् खाते में विनिर्दिष्ट फीस सहित आनलाइन प्रस्तुत करेगा। उसके पश्चात् स्थानीय प्राधिकारी इसमें पर्यावरणीय शर्तों के



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समावेशन के लिए निर्माण अनुमति जारी करेगा तथा आवेदन के साथ स्व घोषणा और प्रमाणन के आधार पर परियोजना आरंभ करने के लिए अनुमति देगा। भवन के निर्माण के समापन के पश्चात् परियोजना प्रस्तावक अर्हित भवन पर्यावरण संपरीक्षक द्वारा की गई संपरीक्षा के आधार पर आनलाइन आधारित प्ररूप 1क को अद्यतन करेगा तथा पुनरीक्षित अनुपालन परिवचन स्थानीय प्राधिकारी को देगा। 20,000 वर्ग मीटर से कम के भवनों के अनुपालन संबंधी कोई मुद्दा विद्यमान यांत्रिकी के दौरान स्थानीय प्राधिकारी और राज्य स्तर पर विचार किया जाएगा।

अन्य भवन प्रवर्ग (>20,000 वर्ग मीटर)

परियोजना प्रस्तावक पर्यावरण मूल्यांकन के लिए विनिर्दिष्ट फीस सहित प्ररूप 1क में आनलाइन आवेदन तथा निर्माण अनुमति के लिए अतिरिक्त फीस प्रस्तुत करेगा। पर्यावरण मूल्यांकन के लिए फीस पृथक् खाते में जमा की जाएगी। पर्यावरण प्रकोष्ठ आवेदन पर कार्यवाही करेगा और उस स्थानीय प्राधिकारी में निर्माण अनुमति देने के लिए सक्षम प्राधिकारी के नेतृत्व वाली बैठक में प्रस्तुत करेगा। समिति परियोजना का मूल्यांकन करेगी और पर्यावरण शर्तों को निर्माण अनुमति में समावेशन के लिए शर्त रखेगा। समिति की सिफारिशों के पश्चात् निर्माण अनुमति और पर्यावरण अनापत्ति स्थानीय प्राधिकारी द्वारा समेकित आरूप में जारी करेगा।

परियोजना प्रस्तावक अर्हित निर्माण पर्यावरण संपरीक्षक से संनिर्माण के समापन के पश्चात् लागू पर्यावरणीय शर्तें मानकों के लिए परियोजना में सतत् अनुपालन के प्रमाणपत्र और अनुपालन आंकड़ें प्रत्येक पांच वर्ष में पर्यावरण प्रकोष्ठ को निम्नलिखित मानकों पर विशेष केन्द्रित करते हुए प्रस्तुत करेगा :-

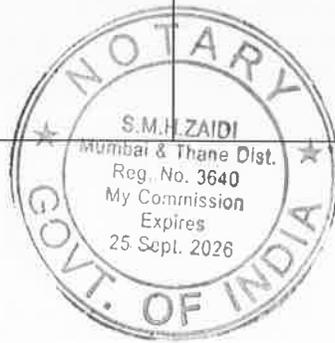
- (क) ऊर्जा प्रयोग (सभी ऊर्जा स्रोतों सहित)
- (ख) साइट पर पुनर्प्रयोग ऊर्जा स्रोतों से साइट पर उत्तपन की ऊर्जा
- (ग) साइट जल प्रयोग और अपशिष्ट जल उत्पन्न, उपचारित और पुनर्प्रयुक्त
- (घ) साइट पर पृथकीकृत और उपचारित अपशिष्ट
- (ङ) पौधारोपण और रखरखाव।

परियोजना के पूर्ण होने पर, प्रकोष्ठ पांच वर्षीय संपरीक्षा रिपोर्ट सहित परियोजना अनुपालन प्रास्थिति की अचावक जांच करेगा। राज्य सरकारें पर्यावरणीय शर्तों और मानकों के अनुपालन के लिए शास्तियां लगाने के लिए समुचित विधि अधिनियमित करेगी। प्रकोष्ठ स्थानीय प्राधिकारी शर्तें या मानकों के अनुपालन के लिए सुसंगत राज्य विधि के अधीन यथा लागू वित्तीय शास्तियों की सिफारिश करेगा। प्रकोष्ठ की सिफारिशों के आधार पर स्थानीय प्राधिकारी सुसंगत राज्य विधि के अधीन शास्तियां अधिरोपित करेगा। असत्य घोषणा या प्रकाशन की दशा में प्रत्यानन निकाय को रिपोर्ट करेगा और स्थानीय निकाय अर्हित भवन पर्यावरण संपरीक्षकों को काली सूची में डाल देगा तथा मालिक और अर्हित निर्माण पर्यावरण संपरीक्षक पर वित्तीय शास्ति लगाएगा।

जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1974 और वायु (प्रदूषण निवारक तथा नियंत्रण) अधिनियम, 1981 के अधीन स्थापन तथा प्रचालन की सहमति राज्य प्रदूषण नियंत्रण बोर्ड से सहमति 1,50,000 वर्ग मीटर के लिए रिहायशी निर्माण हेतु अपेक्षित नहीं होगी,“;

(III) अनुसूची में मद 8 और उससे संबंधित प्रविष्टियों के लिए निम्नलिखित मद और प्रविष्टियां रखी जाएंगी, अर्थात्:-

(1)	(2)	(3)	(4)	(5)
"8.		भवन/योजना संनिर्माण/विकास योजना और नगरीय		
8(क)	भवन निर्माण और संनिर्माण परियोजना		निर्मित क्षेत्र का $\geq 20,000$ वर्ग मीटर और $\leq 1,50,000$ वर्ग मीटर	इस अधिमूचना के प्रयोजन के लिए "निर्मित क्षेत्र" पद, सभी तलों को एक साथ मिलाकर निर्मित या आच्छादित क्षेत्र जिनके अंतर्गत उमका बेसमेंट भी है, जो भवन निर्माण तथा संनिर्माण परियोजनाओं में प्रस्तावित है। टिप्पण 1- परियोजनाओं या क्रियाकलापों के अंतर्गत औद्योगिक शेड, विश्वविद्यालयों,



(Handwritten Signature)



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THE GAZETTE OF INDIA : EXTRAORDINARY

[PART II—SEC. 3(ii)]

				महाविद्यालयों, शैक्षणिक संस्थाओं के लिए छात्रावास, किंतु ऐसे भवन पोषणीय पर्यावरणीय प्रबंधन, ठोस और तरल तथा परिशिष्ट 14 में दी गई शर्तों को सुनिश्चित करेगी। टिप्पण 2: साधारण शर्तें लागू नहीं होंगी। टिप्पण 3: टिप्पण 1 में प्रदत्त छूट स्थानीय प्राधिकारी के स्तर पर भवन अनुमति सहित पर्यावरणीय मानकों के समाकलन के पश्चात् औद्योगिक शेड के लिए ही उपलब्ध होगी।
8(ख)	नगरी और क्षेत्र विकास योजनाएं	निर्मित क्षेत्र का \geq 3,00,000 वर्ग मीटर या आच्छादित क्षेत्र का \geq 150 हेक्टेयर	निर्मित क्षेत्र का \geq 1,50,000 वर्ग मीटर और $<$ 3,00,000 वर्ग मीटर या आच्छादित क्षेत्र का \geq 50 हेक्टेयर और $<$ 150 हेक्टेयर	टिप्पण: साधारण शर्तें लागू नहीं होंगी

[फा. सं. जे-19-2/2013-आईए-III(भाग)]

मनोज कुमार सिंह, संयुक्त सचिव

टिप्पण: मूल अधिनियम भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में का.आ. 1533(अ), तारीख 14 सितंबर, 2006 को प्रकाशित किए गए थे और पश्चात्पूर्वी संशोधन का.आ. 1737 (अ) तारीख 11 अक्टूबर, 2007, का.आ. 3067 (अ), तारीख 1 दिसंबर, 2009, का.आ. 695 (अ) तारीख 4 अप्रैल, 2011, का.आ. 2896 (अ) तारीख 10 दिसंबर, 2012, का.आ. 574 (अ) तारीख 13 मार्च, 2011, का.आ. 2896 (अ) तारीख 13 दिसंबर, 2012, का.आ. 674 (अ) तारीख 13 मार्च, 2013, का.आ. 2559 (अ) तारीख 22 अगस्त, 2013, का.आ. 2731 (अ) तारीख 9 सितंबर, 2013, का.आ. 562 (अ) तारीख 26 फरवरी, 2014, का.आ. 637 (अ) तारीख 28 फरवरी, 2014, का.आ. 1599 (अ) तारीख 25 जून, 2014, का.आ. 2600 (अ) तारीख 9 अक्टूबर, 2014, का.आ. 3252 (अ) तारीख 22 दिसंबर, 2014, का.आ. 382 (अ) तारीख 3 फरवरी, 2015 और का.आ. 811 (अ) तारीख 23 मार्च, 2015, का.आ. 996 (अ) तारीख 10 अप्रैल, 2015, का.आ. 1142 (अ) तारीख 17 अप्रैल, 2015, का.आ. 1141 (अ) तारीख 29 अप्रैल, 2015, का.आ. 1834 (अ) तारीख 6 जुलाई, 2015 और का.आ. 2572 (अ) तारीख 14 सितंबर, 2015, का.आ. 141 (अ) तारीख 15 जनवरी, 2016, का.आ. 190 (अ) तारीख 20 जनवरी, 2016, का.आ. 648 (अ) तारीख 3 मार्च, 2016 और का.आ. 2269 (अ) तारीख 1 जुलाई, 2016 द्वारा किए गए।

परिशिष्ट - XIV

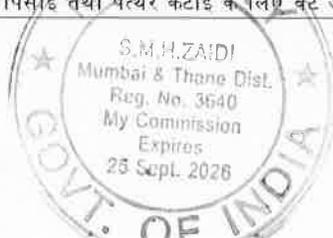
भवनों तथा निर्माण के लिए पर्यावरणीय शर्तें

(श्रेणी-'1': 5,000 से लेकर 20,000 वर्ग मीटर से कम)

माध्यम	क्र.सं.	पर्यावरणीय शर्तें
स्थलाकृति तथा प्राकृतिक ड्रेनेज	1	जल के अबाधित प्रवाह को सुनिश्चित करने के लिए प्राकृतिक ड्रेन प्रणाली का रखरखाव किया जाना चाहिए। किसी भी निर्माण कार्य को स्थल से होकर गुजरने वाले प्राकृतिक ड्रेनेज में बाधा डालने की अनुमति नहीं दी जाएगी। नम भूमि तथा जल निकायों पर निर्माण की अनुमति नहीं दी जाएगी ड्रेनेज पद्धति का रखरखाव करने तथा वर्षा जल संचयन के लिए चेक डैम, बायो-स्वेल, लैंडस्केप और अन्य वहनीय शहरी ड्रेनेज प्रणालियों की अनुमति है।
जल संचयन और जल स्तर में वृद्धि	2	जल-सक्षम उपस्करों के प्रयोग को बढ़ावा दिया जाएगा। वर्षा जल संचयन संबंधी स्थानीय उपनियम के उपबंधों का अनुपालन किया जाएगा। यदि स्थानीय उपनियम के उपबंध उपलब्ध न हों, तो शहरी विकास मंत्रालय के मॉडल भवन उपनियम, 2016 के अनुसार भण्डारण तथा रिचार्ज के लिए उचित उपबंध का अनुपालन किया जाएगा।




		वर्षा जल संचयन की एक योजना बनाए जाने की आवश्यकता है जिसमें रिचार्ज वोर (प्रत्येक 5,000 वर्ग मीटर निर्मित क्षेत्र पर न्यूनतम एक रिचार्ज) की सिफारिश की जाती है। संचित वर्षा जल के भण्डारण तथा पुनःप्रयोग को बढ़ावा दिया जाना चाहिए। ऐसे क्षेत्रों में जहां भू-जल स्तर को बढ़ाना व्यवहार्य न हो, वर्षा जल का भण्डारण और पुनःप्रयोग किया जाना चाहिए। सक्षम प्राधिकारी की अनुमति के बिना भू-जल नहीं निकाला जाएगा। सभी रिचार्ज को उथले जलभृत तक सीमित रखा जाना चाहिए।
	2 (क)	स्थानीय भवन उपनियमों में यथा अपेक्षित कम से कम 20% खुला स्थान प्रभावनीय होगा। कम से कम 50% ओपनिंग के साथ पेवर, पेवर ब्लॉकों, लैंडस्केप इत्यादि को प्रभावनीय तल समझा जाएगा।
अपशिष्ट प्रबंधन	3	टोस अपशिष्ट: अपशिष्ट के पृथक्करण को सुविधाजनक बनाने के लिए प्रत्येक इकाई में तथा भू-तल पर अलग-अलग नम और शुष्क बिनो की व्यवस्था की जानी चाहिए। सीवेज: ऐसे क्षेत्रों में जहां नगरीय सीवेज नेटवर्क नहीं है, वहां ऑनसाइट शोधन प्रणालियां संस्थापित की जानी चाहिए। लैंडस्केप से एकीकृत होने वाली प्राकृतिक शोधन प्रणालियों को बढ़ावा दिया जाएगा। जहां तक संभव हो शोधित बहिःस्त्राव का पुनःप्रयोग किया जाना चाहिए। अतिरिक्त शोधित बहिःस्त्राव को सीपीसीवी प्रतिमानों के अनुपालन में निस्तारित किया जाएगा। सेप्टिक टैंकों सहित ऑनसाइट सीवेज शोधन से निकले गाद को शहरी विकास मंत्रालय, केन्द्रीय लोक स्वास्थ्य और पर्यावरण अभियांत्रिकी संगठन (सीपीएचईईओ) के सीवरेज तथा सीवेज शोधन प्रणाली मैनुअल, 2013 के अनुसार एकत्रित, भेजना और निस्तारित किया जाएगा। टोस अपशिष्ट (प्रबंधन) नियम, 2016 तथा ई-अपशिष्ट (प्रबंधन) नियम, 2016 और प्लास्टिक अपशिष्ट (प्रबंधन) नियम, 2016 का अनुपालन किया जाएगा।
ऊर्जा	4	ऊर्जा दक्षता ब्यूरो के ऊर्जा संरक्षण भवन कोड (ईसीबीसी) का अनुपालन सुनिश्चित किया जाएगा। राज्यों में ऐसे भवन जिनमें उनके अपने ईसीबीसी अधिसूचित हैं, उनमें राज्य ईसीबीसी का अनुपालन किया जाएगा। आउटडोर तथा साझा क्षेत्र की प्रकाश व्यवस्था में लाईट एमिटिंग डायोड (एलईडी) का प्रयोग होगा। डिमांड लोड के 1% समतुल्य अथवा राज्य स्तरीय/स्थानीय भवन उपनियमों की अपेक्षा अनुसार विजली उत्पादन की पूर्ति करने हेतु सौर, पवन अथवा नवीकरणीय ऊर्जा, जो भी अधिक हो, की संस्थापना की जाएगी। वाणिज्यिक तथा संस्थागत भवनों की गर्म जल की मांग को पूरा करने के लिए अथवा स्थानीय भवन उपनियमों की आवश्यकतानुसार, जो भी अधिक हो, सोलर वाटर हीटिंग की व्यवस्था की जाएगी। आवासीय भवनों के लिए भी यथासंभव अपनी गर्म जल मांग की पूर्ति हेतु सोलर वाटर हीटिंग की सिफारिश की जाती है। भवन डिजायनों में पैसिव सोलर डिजायन की संकल्पना शामिल की जाएगी जिसमें डिजायन के तत्वों जैसे भवन अभिमुखीकरण, लैंडस्केपिंग, दक्ष भवन एन्वेलप, समुचित खिड़कियों की व्यवस्था, दिन में अधिक प्रकाश करने की व्यवस्था में सुधार और थर्मल मास इत्यादि का प्रयोग करके भवनों में ऊर्जा खपत को न्यूनतम किया जाता है। दीवारों, खिड़कियां और छत के यू-वॉल्व ईसीबीसी विशिष्टियों के अनुसार होंगे।
वायु गुणवत्ता तथा शोर	5	भवन और साथ ही स्थल के लिए धूल, धुंआ एवं अन्य वायु प्रदूषण निवारण के उपाय किए जाएंगे। इन उपायों में निर्माणाधीन भवन, स्थल के चारों ओर धूल/धूल रोकने वाली दीवारों का निर्माण (कम से कम 3 मीटर की ऊंचाई तक) के लिए आवरण में शामिल हो सकेंगे। प्लाटिक/तारपोलिन स्थल से कचरा उठाने के साथ-साथ बालू, सीमेंट, मुर्रम में चलती हुई गाड़ियां तथा अन्य निर्माण सामग्रियां धूल प्रदूषण का कारण हो सकती हैं। साइट पर बालू, मुर्रम, बिखरी मिट्टी, सीमेंट भंडार को उचित तरीके से ढक कर रखा जाएगा जिससे कि धूल प्रदूषण को रोका जा सके। पिसाई तथा पत्थर कटाई के लिए बेट जेट का प्रबंध किया जाएगा। धूल को दवाने के लिए



		बिना पटरी बिछा हुआ धरातल तथा विखरी मिट्टी पर उचित तरीके से पानी का छिड़काव किया जाएगा। निर्माण तथा विध्वंस सारे मलबे को उचित तरीके से निपटान से पहले साइट के पास इकट्ठा किया जाएगा (तथा सड़के के किनारे ढेर या बाहर खुली जगह में इकट्ठा नहीं) सभी विध्वंस तथा निर्माण अपशिष्ट को निर्माण तथा विध्वंस अपशिष्ट नियम, 2016 के उपबंधों के अनुसार प्रबंधित होगा। निर्माण स्थल पर कार्य करने वाले सभी कामगारों तथा निर्माण सामग्री की लोडिंग अनलोडिंग में शामिल, निर्माण सामग्री की ढुलाई तथा निर्माण के कचरे या धूल प्रदूषण के किसी भी क्षेत्र में कार्य कर रहे व्यक्ति को डस्ट मास्क उपलब्ध कराया जाएगा। आंतरिक वायु गुणवत्ता के लिए भारत के राष्ट्रीय भवन कोड के अनुसार वातायन के प्रावधान तैयार किए जाएंगे।
	5(क)	डीजी सेट का स्थान निर्धारण तथा निकास पाइप की ऊंचाई सीपीसीबी मानदंडों के प्रावधानों के अनुसार होगा।
हरित क्षेत्र	6	प्रति 80 वर्ग मीटर की भूमि के लिए कम से कम एक पेड़ लगाकर उसकी देखभाल की जानी चाहिए। इस उद्देश्य के लिए विद्यमान पेड़ों की गिनती की जाएगी। देशीय जाति के पौधों को प्राथमिकता दी जानी चाहिए।
	6(क)	जहां पेड़ों की कटाई आवश्यक हो, 1:3 के अनुपात में प्रतिपूरक वृक्षारोपण अर्थात् प्रत्येक एक पेड़ की कटाई के लिए 3 पौधों को लगाना तथा उनका रख-रखाव करना होगा।

(श्रेणी '2' : 20,000 वर्ग मीटर से लेकर 50,000 से कम)

माध्यम	क्रम.सं.	पर्यावरणीय शर्तें
स्थलाकृति तथा प्राकृतिक जल निकास	1	जल की अबाधित धारा मुनिश्चित करने के लिए प्राकृतिक जल निकास प्रणाली का प्रबंध होना चाहिए। साइट के माध्यम से प्राकृतिक जल निकास को अवरोध करने के लिए निर्माण की अनुमति नहीं होगी। नमभूमि और जल निकायों पर निर्माण की अनुमति नहीं होगी। जल निकास पैटर्न तथा वर्षा जल संचयन के लिए चेक डैम, बायो-स्वाल्स, लैंडस्केप तथा अन्य धारणीय शहरी जल निकास प्रणालियों (एसयूडीएस) की अनुमति होगी। जहां तक संभव हो सके, भवनों की डिजाइन में प्राकृतिक स्थलाकृति का पालन किया जाएगा। कम से कम कटाई तथा भराई होनी चाहिए।
जल संरक्षण, वर्षा जल सिंचाई तथा भूमि जल को रिचार्ज करना	2	जल संचयन, जल क्षमता और संरक्षण के लिए एक पूर्ण योजना तैयार की जाए। न्यून फिक्चर या सेंसरों वाले जल क्षमता वाले उपकरणों के उपयोग को बढ़ावा दिया जाना चाहिए। वर्षा संचयन के संबंध में स्थानीय उप नियम, उपबंधों का पालन किया जाएगा। अगर स्थानीय उप नियम उपलब्ध नहीं है तो शहरी विकास मंत्रालय का मॉडल भवन उप नियम, 2016 के अनुसार भंडारण तथा रिचार्ज के लिए पर्याप्त प्रावधानों का पालन किया जाना चाहिए। वर्षा जल संचयन योजना का डिजाइन बनाने की आवश्यकता है जहां 5000 वर्ग मीटर के निर्मित क्षेत्र में कम से कम एक रिचार्ज बोर हो तथा कम से कम कुल एक दिन के शुद्ध जल के प्रबंधन की भंडारण क्षमता की आवश्यकता होगी। उन क्षेत्रों, जहां भूमिगत जल को रिचार्ज करना संभव नहीं है, में वर्षा जल संचयन चाहिए तथा पुनः उपयोग के लिए भंडारण किया जाएगा। भूमिगत जल को सक्षम प्राधिकारी के अनुमोदन के बिना नहीं निकाला जाएगा। सभी रिचार्ज सीमित उथले जलभृत तक सीमित होनी चाहिए।
	2(क)	स्थानीय भवन उप-नियमों द्वारा यथाअपेक्षित खुले स्थानों का कम से कम 20% भाग भेद्य होगा। न्यूनतम 50% खाली जगह, भूदृश्य आदि सहित हरित खंडजों, खंडज प्रखंड के उपयोग सहित यथा प्रवेश्य धरातल के रूप में विचार किया जाएगा।
अपशिष्ट प्रबंधन	3	ठोस अपशिष्ट: प्रत्येक इकाई में और भू तल पर पृथक-पृथक गीले और सूखे कचरे के डिब्बे, अपशिष्ट के पृथक्करण को सुविधाजनक बनाने के लिए प्रदान किए जाएंगे। मलजल: अपशिष्ट 100% अपशिष्ट जल के शोधन की स्थल पर मलजल शोधन क्षमता संस्थापित की



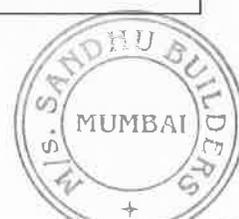

		<p>जानी है। शोधित अपशिष्ट जल को स्थल पर भूदृश्य, फलशिंग, कूलिंग टावर और अन्य प्रयोजनार्थ पुनःप्रयोग किया जाएगा। अतिरिक्त शोधित जल को सीपीसीबी मानकों के अनुसार छोड़ा जाएगा। प्राकृतिक शोधन प्रणालियों को बढ़ावा दिया जाएगा।</p> <p>सेप्टिक टैंको सहित स्थल पर (ऑन साइट) शोधन से अवमल का मल-निर्यास और मलजल शोधन प्रणाली, 2013 पर शहरी विकास मंत्रालय, केन्द्रीय लोक स्वास्थ्य और पर्यावरणीय इंजीनियरिंग संगठन (सीपीएचईईओ), के मैनुअल के अनुसार संग्रहण, ढुलाई और निपटान किया जाएगा। ठोस अपशिष्ट (प्रबंधन) नियम, 2016 और ई-अपशिष्ट (प्रबंधन) नियम 2016 और प्लास्टिक अपशिष्ट (प्रबंधन) नियम 2016 के प्रावधानों का अनुपालन किया जाएगा।</p>
	3 (क)	सभी गैर-जैवक्रमणीय अपशिष्ट प्राधिकृत पुनर्चक्रणकर्ताओं को सौंपा जाएगा, जिसके लिए प्राधिकृत पुनर्चक्रणकर्ताओं के साथ लिखित में गठजोड़ किया जाना चाहिए।
	3 (ख)	जैविक अपशिष्ट कम्पोस्ट/0.3 कि./प्रति व्यक्ति/प्रतिदिन की न्यूनतम क्षमता वाला वर्मिकल्चर/पिट संस्थापित किया जाना चाहिए।
ऊर्जा	4	<p>ऊर्जा दक्षता ब्यूरो के ऊर्जा संरक्षण भवन कोड (ईसीबीसी) का अनुपालन सुनिश्चित किया जाएगा। राज्यों में जिन भवनों ने अपने स्वयं ईसीबीसी अधिसूचित किए हैं, वे भवन राज्य ईसीबीसी का अनुपालन करेंगे।</p> <p>बाहरी क्षेत्र और साझा क्षेत्र में प्रकाश व्यवस्था एलईडी की होगी।</p> <p>पैसिव सौर डिजाइन की संकल्पना, जिसमें भवनोन्मुख, भू-दृश्य निर्माण, कौशलपूर्ण भवन आवरण, उचित गवाक्षीकरण, दिन में उन्नत प्रकाश व्यवस्था डिजाइन और ताप विद्युत मास आदि का उपयोग करके भवनों में ऊर्जा उपभोग न्यूनतम किया जाता है, भवन डिजाइन में समावेशित किया जाएगा। दीवार, खिड़की और रूफ-यू-वैल्यूज, ईसीबीसी विनिर्देशों अनुसार होनी चाहिए।</p>
	4 (क)	भार की मांग के 1% के बराबर विद्युत उत्पादन अथवा राज्य स्तरीय/स्थानीय भवन उप-नियमों की अपेक्षानुसार जो भी अधिक हो, को पूरा करने के लिए सौर, पवन अथवा अन्य नवीकरणीय ऊर्जा संस्थापित की जाएगी।
	4 (ख)	वाणिज्यिक और संस्थागत भवनों की गर्म जल की 20% मांग अथवा स्थानीय भवन उप-नियमों के यथा अपेक्षा अनुसार, जो भी अधिक हो, को पूरा करने के लिए सौर जल तापक प्रदान किए जाएंगे। आवासीय भवनों को भी यथासंभव सौर जल हीटरो से अपनी गर्मपानी की मांग पूरा करने के लिए सुझाव दिया गया है।
	4 (ग)	<p>निर्माण सामग्री की मात्रा के कम से कम 20% मात्रा हेतु ईटों, प्रखंडों और अन्य निर्माण सामग्रियों में पर्यावरण अनुकूलन सामग्री का उपयोग करना अपेक्षित होगा। इनके फ्लाइ ऐश ईटे, खोखली (हौलो) ईटें, एएसी, फ्लाइ ऐश चूनापत्थर, जिप्सम प्रखंड, कम्प्रेस्ड मृदा प्रखंड और अन्य पर्यावरण अनुकूल सामग्रियां शामिल हैं।</p> <p>फ्लाइ ऐश को समय-समय पर यथा संशोधित सितम्बर, 1999 की फ्लाइ ऐश अधिसूचना के प्रावधानों के अनुसार निर्माण में भवन सामग्री के रूप में प्रयुक्त किया जाना चाहिए।</p>
वायु गुणवत्ता और ध्वनि	5	<p>भवन के साथ-साथ निर्माण स्थल के लिए धूल कण, धुंधा और अन्य वायु प्रदूषण उपशमन उपाय अपनाए जाएंगे। इन उपायों में निर्माणाधीन भवनों के लिए स्क्रीन, निर्माण स्थल के चारों ओर सतत धूलकण/पवन को मंद करने के लिए दीवारों (कम से कम 3 मीटर ऊँची) का निर्माण शामिल हैं। निर्माण स्थल में बालू, सीमेंट, लोहबान और अन्य निर्माण सामग्रियां, जिनके कारण स्थल पर धूल प्रदूषण उत्पन्न होता है, लाने वाले और निर्माण स्थल से डेबरी ले जाने वाले वाहनों के लिए प्लास्टिक/तिरपाल की शीट कवर प्रदान किए जाने चाहिए।</p> <p>स्थल पर भण्डारण किए हुए बालू, लोहबान, खुली मृदा, सीमेंट को पर्याप्त रूप से ढका होना चाहिए ताकि धूलकण से प्रदूषण की रोकथाम की जा सके।</p> <p>निर्माण सामग्री की पिसाई और पत्थरों की कटाई के लिए वेटजेट प्रदान किए जाएं।</p> <p>निर्माण और विध्वंस का समस्त कचरा उचित ढंग से निपटान किए जाने से पूर्व स्थल पर ही रखा जाएगा (सड़क अथवा बाहर खुले स्थान पर ढेर नहीं लगाया जाएगा)। समस्त विध्वंस और निर्माण अपशिष्ट का प्रबंधन निर्माण और विध्वंस अपशिष्ट नियम 2016 के प्रावधानों के अनुसार किया जाएगा।</p>



		निर्माण स्थल पर कार्यरत तथा निर्माण सामग्री और निर्माण कचरे को लादने, उतराने, ढुलाई अथवा धूल प्रदूषण वाले किसी क्षेत्र में कार्यरत सभी मजदूरों को डस्ट मास्क उपलब्ध कराए जाएं। भीतरी वायु गुणवत्ता के संबंध में भारत के राष्ट्रीय भवन क्रोड के अनुसार वायुसंचार प्रावधान किए जाएं।
	5(क)	डीजी सेट का स्थान और निकास नली की ऊंचाई सीपीसीबी मानदण्डों के प्रावधानों के अनुसार होगी।
हरित आवरण	6	प्रति 80 वर्गफुट भूमि के लिए कम से कम एक वृक्ष लगाया जाना चाहिए और उसकी देख-रेख की जानी चाहिए। इस उद्देश्य के लिए विद्यमान वृक्षों की गणना की जाएगी। स्थानिक प्रजातियों के रोपण को प्राथमिकता दी जानी चाहिए।
	6(क)	जहां वृक्षों को काटे जाने की आवश्यकता है, 1:3 (अर्थात् काटे गए प्रत्येक 1 वृक्ष के लिए 3 वृक्षों का रोपण) के अनुपात में प्रतिपूरक वनीकरण किया जाए और उसका रख-रखाव किया जाए।
ऊपरी मृदा का परिरक्षण और पुनः उपयोग	7	भवनों, सड़कों, पेवड क्षेत्रों और बाह्य सेवाओं हेतु प्रस्तावित क्षेत्रों से ऊपरी मृदा को 20 सेमी. की गहराई तक खोदा जाए। इसे निर्दिष्ट क्षेत्रों में उपयुक्त तरीके से संचित किया जाए तथा स्थल पर प्रस्तावित पेड़-पौधों के रोपण के दौरान पुनः उपयोग किया जाए।
परिवहन	8	एमओयूडी सर्वोत्तम पद्धतियां दिशा-निर्देश(यूआरडीपीएफआई) के अनुसार, एक व्यापक मोबिलिटी योजना बनाई जाए ताकि मोटर-सज्जित, गैर-मोटर-सज्जित, सार्वजनिक और निजी नेटवर्कों को शामिल किया जा सके। सड़क का डिजाइन पर्यावरण, और उपयोक्ताओं की सुरक्षा को पर्याप्त ध्यान में रखते हुए बनाया जाए। सड़क प्रणाली का डिजाइन इन मूलभूत मापदंडों के अनुसार बनाया जा सकता है। वाहनीय और पैदल यातायात के उचित पृथक्करण से सड़कों का अनुक्रम। यातायात शामक उपाय। प्रवेश और निकासी बिंदुओं का उचित डिजाइन। स्थानीय विनियम के अनुसार पार्किंग मानक।

(श्रेणी '3' : 50000 से 150000 वर्ग मीटर)

माध्यम	क्र.सं.	पर्यावरणीय स्थिति
स्थलाकृति और प्राकृतिक निकासी	1	जल का अबाधित वहाव सुनिश्चित करने के लिए प्राकृतिक निकासी प्रणाली का रख-रखाव किया जाना चाहिए। ऐसे किसी निर्माण की अनुमति न दी जाए जिससे कि स्थल के माध्यम से प्राकृतिक निकासी बाधित हो। आर्द्रभूमि और जल निकायों पर किसी निर्माण की अनुमति नहीं दी जाती है। निकासी पेटर्न को बनाए रखने तथा वर्षा जल संचयन के लिए चक बांध, वाँयो.स्वेलस, भू-दृश्य, और अन्य सतत शहरी निकासी प्रणालियां (एसयूडीएस) अनुमत हैं। भवनों का डिजाइन, जहां तक संभव हो, प्राकृतिक स्थलाकृति के अनुसार बनाया जाना चाहिए। पेड़ों को काटना और गिराना न्यूनतम होना चाहिए।
जल संरक्षण-वर्षा जल संचयन और भू जल रिचार्ज	2	वर्षा जल संचयन, जल के गुणवत्ता तथा संरक्षण के लिए एक पूर्ण योजना बनाई जाए। वर्षा जल संचयन के संबंध में स्थानीय उपविधि का पालन किया जाए। यदि स्थानीय उपविधि उपलब्ध न हों, तो शहरी विकास मंत्रालय के मॉडल भवन उपविधि, 2016 के अनुसार भंडारण और रिचार्ज संबंधी उपयुक्त प्रावधानों का पालन किया जाए। एक वर्षा जल संचयन योजना डिजाइन किए जाने की आवश्यकता है जहां निर्मित क्षेत्र के प्रति 5,000 वर्ग मीटर न्यूनतम एक रिचार्ज बोर और कुल ताजा जल आवश्यकता की न्यूनतम एक दिन की भंडारण क्षमता का रिचार्ज बोर प्रदान किया जाए। ऐसे क्षेत्र जहां भूजल रिचार्ज व्यवहार्य नहीं है, वहां वर्षा जल का संचयन और पुनःउपयोग हेतु भंडारण किया जाना चाहिए। सक्षम प्राधिकारी से अनुमोदन लिए बिना भूजल न निकाला जाए।

		सभी रिचार्ज ऊपरी जलभृत एक सीमित होने चाहिए।
	2 (क)	स्थानीय भवन उप-नियमों द्वारा का यथा अपेक्षित खुले स्थान कम से कम 20% प्रवेश्य होगा। कम से कम 50% खुले स्थान वाले ग्रास पेवर, पेवर ब्लॉक, भू-दृश्य इत्यादि को प्रवेश्य सतह माना जाएगा।
	2 (ख)	जल किफायती उपकरणों के प्रयोग को बढ़ावा दिया जाए। लो-फ्लो फिक्सरों अथवा सेंसरों का प्रयोग जल संरक्षण को बढ़ावा देने के लिए किया जाए।
	2 (ग)	दोहरी प्लंबिंग प्रणाली के प्रयोग द्वारा भूरे और काले पानी को पृथक किया जाए। सिंगल स्टेक प्रणाली के मामले में दोहरी प्लंबिंग प्रणाली द्वारा फ्लशिंग के लिए अलग पुनर्संचरण लाइनें बनाई जायेंगी।
ठोस अपशिष्ट प्रबंधन	3	ठोस अपशिष्ट: अपशिष्ट के अलग-अलग करने को आसान बनाने के लिए प्रत्येक इकाई और भूतल पर अलग-अलग गीले और सूखे कूड़े दान उपलब्ध कराए जाएं। ठोस अपशिष्ट (प्रबंधन) नियम, 2016 और ई-अपशिष्ट (प्रबंधन) नियम, 2016, और प्लास्टिक अपशिष्ट (प्रबंधन) नियम, 2016 के उपबंधों का अनुपालन किया जाएगा।
	3 (क)	सभी गैर जैव-अवक्रमणीय अपशिष्ट को प्राधिकृत पुनर्चक्रणकर्ताओं के हवाले कर दिया जाएगा जिसके लिए प्राधिकृत पुनर्चक्रणकर्ताओं के साथ लिखित समझौता किया जाएगा।
	3 (ख)	न्यूनतम 0.3 किग्रा/व्यक्ति/दिन की क्षमता वाले जैविक अपशिष्ट कम्पोस्टर/वर्मीकल्चर गड्डे बनाए जायेंगे।
मल-जल शोधन संयंत्र	4	स्थल पर 100% अपशिष्ट जल शोधन क्षमता के मल-जल शोधन की अवस्थापना किया जाना। शोधित मल-जल का पुनर्प्रयोग स्थल पर लैंड-स्कैप, फ्लशिंग, कूलिंग टावर और अन्य अंतिम प्रयोक्ताओं के लिए किया जाए। अतिरिक्त शोधित जल को केंद्रीय प्रदूषण नियंत्रण बोर्ड के मानकों के अनुसार बहाया जाएगा। प्राकृतिक शोधन प्रणालियों को बढ़ावा दिया जाएगा। सेप्टिक टैंकों सहित साइट पर मल-जल शोधन से उत्पन्न तलछठ को एकत्र किया जाएगा और उसे शहरी विकास मंत्रालय, केंद्रीय लोक स्वास्थ्य और मल-जल एवं मल-जल शोधन संयंत्र, 2013 संबंधी पर्यावरणीय अभियांत्रिकी संगठन (सीपीएचईईओ) मैनुअल के अनुसार ढोकर निपटान किया जाएगा।
ऊर्जा	5	ऊर्जा दक्षता व्यरो के ऊर्जा संरक्षण भवन कोड (ईसीबीसी) का अनुपालन सुनिश्चित किया जाएगा। जिन राज्यों ने अपना स्वयं का ईसीबीसी अधिसूचित किया है, भवन अभिकल्पन में राज्य ईसीबीसी का अनुपालन करेंगे। प्रकाश व्यवस्था बाहरी और कॉमन एरिया में एलईडी की होगी। भवन अभिकल्पन में भवन अनुस्थापन, भू-दृश्यीकरण, प्रभावी भवन विकास, खिड़कियों की समुचित व्यवस्था, जिनमें प्रकाश बढ़ाने वाला अभिकल्पन और थर्मल मास इत्यादि जैसे अभिकल्पन तत्वों का प्रयोग करके भवन में न्यूनतम ऊर्जा छपत वाले पैसिव सोलर अभिकल्पन की संकल्पना को शामिल किया जाएगा। दीवार, खिड़की और छत यू-वैल्यूज ईसीबीसी विनिर्देशों के अनुसार होंगे।
	5 (क)	सौर, पवन या अन्य नवीकरणीय ऊर्जा की व्यवस्था ताकि मांग भार या राज्य स्तरीय/स्थानीय भवन उप-नियमों या जो भी अधिक हो, के अनुसार 1% के बराबर विद्युत उत्पादन पूरा किया जा सके।
	5 (ख)	व्यावसायिक और सांस्थानिक भवनों की 20% गर्म पानी की मांग को पूरा करने या स्थानीय भवन उप-नियमों की आवश्यकता, जो भी अधिक हो, के अनुसार सोलर वाटर हीटिंग उपलब्ध कराई जाएगी। आवासीय भवनों को भी, जहां तक संभव हो, अपनी गर्म पानी की मांग को सोलर वाटर से पूरा करने की सिफारिश की जाती है।
	5 (ग)	ईटों, ब्लॉक्स और अन्य निर्माण सामग्री में कम से कम 20% पर्यावरण अनुकूल सामग्री के प्रयोग की आवश्यकता होगी। इसमें फ्लाइ ऐश, ईट, हॉलॉ ईटों, एएसी, फ्लाइ ऐश लाइम जिप्सम ब्लॉकम,



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		कम्प्रेस्ड अर्थ बलॉक्स और अन्य पर्यावरण अनुकूल सामग्री शामिल होगी। समय-समय पर यथा संशोधित सितंबर, 1999 की फ्लाइ ऐश अधिसूचना के अनुसार निर्माण में भवन सामग्री के रूप में फ्लाइ ऐश का प्रयोग किया जाना चाहिए।
जल गुणवत्ता और ध्वनि	6	भवन और स्थान में धूल, धुंआं और अन्य वायु प्रदूषण निवारक उपाय किए जाएं। इन उपायों में निर्माणाधीन भवन के लिए स्क्रीन, स्थल के चारों ओर सतत रूप से धूल/हवा रोकने वाली दीवारें कम से कम 3 मीटर ऊंचाई की) शामिल हैं। स्थल पर रेत, सीमेंट, लोहबान और अन्य निर्माण सामग्री, जो कि धूल प्रदूषण का प्रमुख कारण है, के साथ-साथ स्थल में मलबे को बाहर ले जाने वाले वाहनों के लिए प्लास्टिक/तिरपाल के शीट कवर उपलब्ध कराए जाएंगे। प्रयुक्त वाहनों के पहियों की धुलाई की जाएगी। स्थल पर भण्डारित रेत, लोहबान, खुली मृदा, सीमेंट को अच्छी प्रकार से ढका जाएगा ताकि धूल प्रदूषण को रोका जा सके। पिसाई और पत्थर कटाई के लिए वेट जेट उपलब्ध कराया जाएगा। धूल को दबाने के लिए कच्ची सतहों और खुली मृदा पर पर्याप्त जल छिड़काव किया जाएगा। सभी निर्माण और विध्वंस मलबे के समुचित निपटान (बाहर सड़कों या खुले स्थानों पर ढेर नहीं लगाया जाएगा) से पहले, स्थल पर उनका भण्डारण किया जाएगा। सभी विध्वंस और निर्माण अपशिष्ट का, निर्माण और विध्वंस अपशिष्ट नियम, 2016 के उपबंधों के अनुसार प्रबंधन किया जाएगा। निर्माण स्थल पर कार्यरत और निर्माण सामग्री और निर्माण मलबे की लदाई, उतराई और ढुलाई में शामिल अथवा धूल प्रदूषण से युक्त किसी भी क्षेत्र में कार्य कर रहे सभी कामगारों को धूल रोधी मास्क उपलब्ध कराए जाएंगे। भीतरी वायु गुणवत्ता के लिए राष्ट्रीय भारतीय भवन संहिता के अनुसार वातायान-व्यवस्था के प्रावधान।
	6(क)	डीजी सेट का स्थान और निकास पाइप की ऊंचाई, सीपीसीबी मापदंडों के उपबंधों के अनुसार होगी।
हरित आवरण	7	प्रत्येक 80 वर्ग मीटर भूमि के लिए न्यूनतम 1 पेड़ लगाया जाएगा और उसका रखरखाव किया जाएगा। इस प्रयोजन से मौजूदा पेड़ों की गिनती की जाएगी। स्थानिक प्रजातियों लगाने को प्राथमिकता दी जानी चाहिए।
	7(क)	जहां पर पेड़ों को काटे जाने की आवश्यकता है वहां पर 1:3 के अनुपात (अर्थात् काटे गए प्रत्येक 1 पेड़ के लिए 3 पेड़ लगाना) में प्रतिपूरक वनीकरण किया जाएगा और रखरखाव किया जाएगा।
ऊपरी मृदा परिरक्षण और पुनर्पर्योग	8	भवनों, सड़कों, पक्के क्षेत्रों और बाहरी सेवाओं के लिए प्रस्तावित क्षेत्रों से 20 सेमी की गहराई तक ऊपरी मृदा को खोदा जाना चाहिए। इसका निर्धारित क्षेत्रों में समुचित ढंग से भण्डारण किया जाना चाहिए और स्थल पर प्रस्तावित वनस्पति के रोपण के दौरान इसका पुनर्पर्योग किया जाएगा।
परिवहन	9	शहरी विकास मंत्रालय की उत्तम प्रक्रियाओं संबंधी दिशा-निर्देशों (यूआरडीपीएफआई) के अनुसार मोटरयुक्त, गैर-मोटरयुक्त, सार्वजनिक और निजी तंत्रों को शामिल करने के लिए एक व्यापक गतिशीलता योजना तैयार की जाएगी। सड़कों को पर्यावरण और प्रयोक्ताओं की सुरक्षा पर अपेक्षित विचार करते हुए अभिकल्पित किया जाना चाहिए। सड़क प्रणाली को इन आधारभूत मानदण्डों के साथ अभिकल्पित किया जा सकता है। 1. वाहनीय और पैदल-पथ यातायात के उचित पृथक्करण के साथ सड़कों का वर्गीकरण 2. यातायात को सुचारू रखने के उपाय 3. प्रवेश और निकास बिंदुओं का उचित अभिकल्प 4. स्थानीय विनियमन के अनुसार पार्किंग मापदंड



पर्यावरण प्रबंधन योजना	10	उपरोक्त मद सं. 1 से 9 में विनिर्दिष्ट पर्यावरणीय शर्तों का अनुपालन सुनिश्चित करने के लिए एक पर्यावरणीय प्रबंधन योजना (ईएमपी) तैयार और क्रियान्वित की जाएगी। ईएमपी को क्रियान्वित करने के लिए परिभाषित क्रियाकलापों और उत्तरदायित्व के साथ एक समर्पित पर्यावरण निगरानी प्रकोष्ठ की स्थापना की जाएगी। यह पर्यावरणीय प्रकोष्ठ सुनिश्चित करेगा कि मलजल शोधन संयंत्र, भू-दृश्य निर्माण, वर्षा-जल संचयन, ऊर्जा दक्षता और संरक्षण, जल दक्षता और संरक्षण, ठोस अपशिष्ट प्रबंधन, नवीकरणीय ऊर्जा आदि जैसी पर्यावरण अवसंरचना प्रचालनारत है और अपेक्षित मानकों को पूरा करती है। पर्यावरणीय प्रकोष्ठ, पर्यावरण निगरानी और पर्यावरण अवसंरचना में संबंधित अभिलेखों का रखरखाव भी करेगा।
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परिशिष्ट-XV

पर्यावरणीय लेखा परीक्षकों (योग्य भवन लेखा परीक्षक) की मान्यता

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय (एमओईएफसीसी) योग्य अभिकरणों के माध्यम से योग्य भवन पर्यावरण लेखा परीक्षकों (क्यूबीईए) को मान्यता देगा। योग्य भवन पर्यावरण लेखा परीक्षक फर्म/संगठन अथवा वैयक्तिक विशेषज्ञ हो सकते हैं, जो अपेक्षाओं को पूरा करते हैं। मंत्रालय, भारतीय गुणवत्ता परिषद (क्यूसीआई), राष्ट्रीय उत्पादकता परिषद अथवा सरकार द्वारा मान्यता प्राप्त किसी अन्य संगठन के माध्यम से मान्यता की इस प्रक्रिया को क्रियान्वित करेगा। भारतीय हरित भवन परिषद, उर्जा दक्षता ब्यूरो इत्यादि जैसे संगठन भी मान्यता देने, प्रशिक्षण और नवीकरण की प्रक्रिया से जोड़े जा सकते हैं। भवन क्षेत्र के लिए क्यूसीआई द्वारा मान्यता प्राप्त पर्यावरणीय परामर्शी क्यूबीईए के रूप में योग्य होंगे। क्यूबीईए निम्नलिखित मानदंड पूरा करेंगे। मान्यता देने वाला प्राधिकरण इन मानदंडों का सुधार कर सकता है।

लेखा परीक्षक की योग्यताएं :

क. शिक्षा: वास्तुकार (डिग्री अथवा डिप्लोमा), नगर नियोजक (डिग्री), सिविल इंजीनियर/मैकनिकल इंजीनियर (डिग्री अथवा डिप्लोमा), पर्यावरणीय विज्ञान में स्नातकोत्तर अथवा मान्यता की स्कीम के अनुसार कोई अन्य योग्यता

प्रशिक्षण :

ख. प्रत्यायन निकाय अथवा उनके अनुमोदित प्रशिक्षण प्रदाताओं द्वारा अनिवार्य प्रशिक्षण दिया जाएगा। यह मान्यता की स्कीम के अनुसार होगा।

अनुभव :

ग. संबंधित क्षेत्र में 3 वर्ष का कार्य अनुभव अथवा क्यूसीआई द्वारा मान्यता प्राप्त भवन और पर्यावरण प्रभाव आकलन परामर्शदाता अथवा मान्यता की स्कीम के अनुसार किसी अन्य प्रकार का अनुभव मानदंड।

अवसंरचना एवं उपकरण :

घ. मान्यता की स्कीम के अनुसार

नवीकरण:

ड. प्रत्यायन 5 वर्षों के लिए मान्य होगा और प्रत्यायन स्कीम के अंतर्गत विकसित प्रक्रिया के अनुसार नवीकृत किया जाएगा।

उत्तरदायित्व/शिकायत निवारण कार्यतंत्र: क्यूबीईएएम के कार्य की गुणवत्ता के संबंध में कोई भी शिकायत प्रत्यायन निकाय को की जाएगी। प्रत्यायन निकाय शिकायत पर विचार करेगा और काली सूची में डालने अथवा व्यापक सार्वजनिक सूचना के साथ प्रत्यायन को रद्द करने सहित उपयुक्त कार्यवाही करेगा। यह दण्ड देने और काली सूची में डालने के लिए स्थानीय प्राधिकरण के स्तर पर की जाने वाली कार्यवाही के अलावा होगा। विशिष्ट शिकायत अथवा फीडबैक के मामले में मंत्रालय भी इस प्रकार की कार्यवाही कर सकता है।



परिशिष्ट-XVI

स्थानीय प्राधिकरण के स्तर पर पर्यावरणीय प्रकोष्ठ:

भवनों में पर्यावरणीय शर्तों के अनुपालन और मानीटरी को सहायता देने के लिए स्थानीय प्राधिकरण के स्तर पर पर्यावरणीय प्रकोष्ठ की स्थापना की जाएगी। यह प्रकोष्ठ अपने क्षेत्राधिकार के तहत पर्यावरणीय आयोजना और क्षमता निर्माण में सहायता भी प्रदान करेगा। इस प्रकोष्ठ के उत्तरदायित्व, इस अधिसूचना के कार्यान्वयन की मानीटरी करना और तीसरे-पक्षकार की लेखा-परीक्षा प्रक्रिया का अनुरक्षण करना है। यह प्रकोष्ठ स्थानीय प्राधिकरण के तहत संचालित होगा।

प्रकोष्ठ का संघटन :

इस प्रकोष्ठ में निम्नलिखित क्षेत्रों में कम से कम 3 समर्पित व्यक्ति शामिल होंगे:

- क. अपशिष्ट प्रबंधन (ठोस और द्रव्य)
- ख. जल संरक्षण और प्रबंधन
- ग. निर्माण सामग्रियों सहित संसाधन की कार्यकुशलता
- घ. ऊर्जा दक्षता और नवीकरणीय ऊर्जा
- च. वायु गुणवत्ता प्रबंधन सहित पर्यावरणीय आयोजना
- छ. परिवहन आयोजना और प्रबंधन

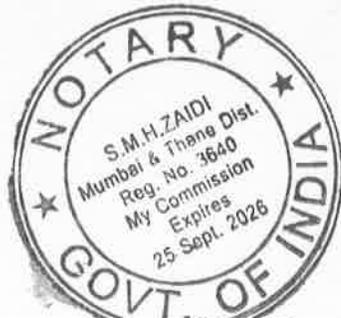
यह प्रकोष्ठ समर्पित विशेषज्ञों की आवश्यकता और पृष्ठभूमि के अनुसार कम से कम दो बाहरी विशेषज्ञों को शामिल करेगा। स्थानीय प्राधिकरण के स्तर पर मौजूदा पर्यावरणीय प्रकोष्ठों को सह-योजित और इस प्रकोष्ठ के लिए प्रशिक्षित किया जा सकता है।

वित्तीय सहायता:

पर्यावरणीय शर्तों के समाकलन और इसकी मॉनीटरिंग के लिए निर्माण अनुमति हेतु कार्यवाही शुल्क के साथ अतिरिक्त शुल्क लिया जाएगा। स्थानीय प्राधिकरण समय-समय पर इस अतिरिक्त शुल्क को निर्धारित और संशोधित कर सकता है। इस शुल्क की धनराशि, एक पृथक बैंक खाते में जमा किया जाएगा और विशेषज्ञों के वेतन/पारिश्रमिक की आवश्यकता को पूरा करने और ऑनलाईन प्रार्थना पत्र की प्रणाली को जारी रखने, सत्यापन और पर्यावरणीय प्रकोष्ठ के लिये उपयोग में लाया जाएगा।

प्रकोष्ठ के कार्य

1. यह प्रकोष्ठ अपने क्षेत्राधिकार में उस क्षेत्र के पर्यावरण सरोकारों का मूल्यांकन और आकलन करने के लिए उत्तरदायी होगा जहां निर्माण कार्यकलाप करना प्रस्तावित है। यह प्रकोष्ठ अपेक्षाओं के अनुसार अतिरिक्त पर्यावरणीय शर्तें विकसित कर सकता है और शर्तों का प्रस्ताव रख सकता है। ये शर्तें क्षेत्र विशिष्ट हो सकती हैं तथा समय-समय पर पहले से अधिसूचित की जाएंगी। ये अतिरिक्त शर्तें परामर्श की यथा प्रक्रिया का अनुसरण करते हुए अनुमोदित की जाएंगी। ये पर्यावरणीय शर्तें अनुमोदन प्राधिकारी द्वारा निर्माण अनुमति में समेकित की जाएंगी।
2. आवेदन और शुल्क के भुगतान के लिए एक ऑन लाइन प्रणाली बनाना तथा उसकी देख-रेख करना। यह प्रकोष्ठ प्राप्त सभी आवेदनों, अनुमोदित परियोजनाओं, अनुपालन लेखापरीक्षण रिपोर्ट, किए गए औचक निरीक्षणों का एक आनलाइन डाटाबेस बनाएगा। यह प्रकोष्ठ परियोजना द्वारा पर्यावरणीय शर्तों के अनुपालन की लोगों द्वारा संवीक्षा के लिए अर्हता-प्राप्त निर्माण पर्यावरण लेखा-परीक्षकों द्वारा दर्ज लेखा-परीक्षा रिपोर्टों के स्व-प्रमाणीकरण और अनुपालन सहित परियोजना ब्यौरों का सार्वजनिक प्रकटन के लिए एक पोर्टल बनाएगा।
3. अर्हता-प्राप्त निर्माण लेखा-परीक्षकों द्वारा कराई गई पर्यावरणीय लेखा-परीक्षा प्रक्रिया के कार्य की निगरानी करेगा।
4. यह प्रकोष्ठ आवेदनों की समीक्षा करेगा; स्थानीय प्राधिकरणों को आवेदन प्रस्तुत करने के 30 दिन के अंदर अतिरिक्त पर्यावरणीय शर्तों, यदि अपेक्षित हो तो, को अंतिम रूप देगा।
5. यह प्रकोष्ठ क्यूबीए के प्रमाणीकरण, पर्यावरणीय शर्तों के अनुपालन और पंच वर्षीय लेखा रिपोर्ट के लिए स्थल पर जांच करने के लिए परियोजनाओं का जोखिम आधारित औचक चयन अंगीकृत करेगा।
6. यह प्रकोष्ठ परियोजना प्रस्तावक द्वारा पर्यावरणीय शर्तों के गैर-अनुपालन के लिए वित्तीय अर्थदंड के लिए स्थानीय प्राधिकरण को सिफारिश करेगा।
7. यह प्रकोष्ठ किसी भी अर्हता-प्राप्त निर्माण पर्यावरण लेखा-परीक्षकों के विरुद्ध, यदि उनके कार्य में कोई त्रुटि पाई जाती है तो, प्रत्यायोजन निकाय और स्थानीय प्राधिकरण को सिफारिश करेगा।



(Handwritten Signature)



MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 9th December, 2016

S.O. 3999(E).—Whereas, by notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O.1533 (E), dated the 14th September, 2006 issued under sub-section (1) read with clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 and clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernisation of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process or technology and or product mix shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified therein;

And whereas, the said Ministry has received suggestions for ensuring Ease of Doing Responsible Business; and streamlining the permissions for buildings and construction sector which is important for providing houses and for this purpose the scheme of Housing for all by 2022 with an objective of making available affordable housing to weaker sections in urban area has ambitious target;

And whereas clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 provides that, whenever the Central Government considers that prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so;

And whereas, a draft notification for making amendments in the Environment Impact Assessment Notification, 2006 issued in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 was published, vide number S.O.1595 (E) dated the 29th April 2016, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date of publication of said notification in the Gazette of India;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the Environment Impact Assessment Notification, 2006 namely:-

In the said Notification,-

(I) after paragraph 13, the following paragraph shall be inserted, namely:-

“14. Integration of environmental condition in building bye-laws.-

- (1) The integrated environmental conditions with the building permission being granted by the local authorities and the construction of buildings as per the size shall adhere to the objectives and monitorable environmental conditions as given at Appendix-XIV.
- (2) The States adopting the objectives and monitorable environmental conditions referred to in sub-paragraph (1), in the building bye-laws and relevant State laws and incorporating these conditions in the approvals given for building construction making it legally enforceable shall not require a separate environmental clearance from the Ministry of Environment, Forest and Climate Change for individual buildings.
- (3) The States may forward the proposed changes in their bye-laws and rules to the Ministry of Environment, Forest and Climate Change, who in turn will examine the said draft bye-laws and rules and convey the concurrence to the State Governments.
- (4) When the State Governments notifies the bye-laws and rules concurred by the Ministry of Environment, Forest and Climate Change, the Central Government may issue an order stating that no separate environmental clearance is required for buildings to be constructed in the States or local authority areas.



- (5) The local authorities like Development Authorities, Municipal Corporations, may certify the compliance of the environmental conditions prior to issuance of Completion Certificate, as applicable as per the requirements stipulated for such buildings based on the recommendation of the Environmental Cell constituted in the local authority.
- (6) The State Governments where bye-laws or rules are not framed may continue to follow the existing procedure of appraisal for individual projects and grant of Environmental Clearance for buildings and constructions as per the provisions laid down in this notification.
- (7) For the purpose of certification regarding incorporation of environmental conditions in buildings, the Ministry of Environment, Forest and Climate Change may empanel through competent agencies, the Qualified Building Environment Auditors (QBEAs) to assess and certify the building projects, as per the requirements of this notification and the procedure for accreditation of Qualified Building Auditors and their role as given at Appendix-XV.
- (8) In order to implement the integration of environmental condition in building bye-laws, the State Governments or Local Authorities may constitute the Environment Cell (herein after called as Cell), for compliance and monitoring and to ensure environmental planning within their jurisdiction.
- (9) The Cell shall monitor the implementation of the bye-laws and rules framed for Integration of environmental conditions for construction of building and the Cell may also allow the third part auditing process for oversight, if any.
- (10) The Cell shall function under the administrative control of the Local Authorities.
- (11) The composition and functions of the Cell are given at Appendix-XVI.
- (12) The Local Authorities while integrating the environmental concerns in the building bye-laws, as per their size of the project, shall follow the procedure, as given below:

BUILDINGS CATEGORY '1' (5,000 to < 20,000 Square meters)

A Self declaration Form to comply with the environmental conditions (Appendix XIV) along with Form IA and certification by the Qualified Building Environment Auditor to be submitted online by the project proponent besides application for building permission to the local authority along with the specified fee in separate accounts. Thereafter, the local authority may issue the building permission incorporating the environmental conditions in it and allow the project to start based on the self declaration and certification along with the application. After completion of the construction of the building, the project proponent may update Form IA online based on audit done by the Qualified Building Environment Auditor and shall furnish the revised compliance undertaking to the local authority. Any non-compliance issues in buildings less than 20,000 square meters shall be dealt at the level of local body and the State through existing mechanism.

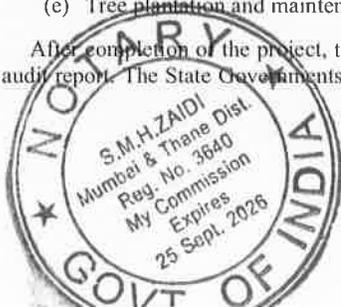
OTHER BUILDINGS CATEGORIES (\geq 20,000 Square meters)

The project proponent may submit online application in Form I A alongwith specified fee for environmental appraisal and additional fee for building permission. The fee for environmental appraisal will be deposited in a separate account. The Environment Cell will process the application and present it in the meeting of the Committee headed by the authority competent to give building permission in that local authority. The Committee will appraise the project and stipulate the environmental conditions to be integrated in the building permission. After recommendations of the Committee, the building permission and environmental clearance will be issued in an integrated format by the local authority.

The project proponent shall submit Performance Data and Certificate of Continued Compliance of the project for the environmental conditions parameters applicable after completion of construction from Qualified Building Environment Auditors every five years to the Environment Cell with special focus on the following parameters:-

- (a) Energy Use (including all energy sources).
- (b) Energy generated on site from onsite Renewable energy sources.
- (c) Water use and waste water generated, treated and reused on site.
- (d) Waste Segregated and Treated on site.
- (e) Tree plantation and maintenance.

After completion of the project, the Cell shall randomly check the projects compliance status including the five years audit report. The State Governments may enact the suitable law for imposing penalties for non-compliances of the



environmental conditions and parameters. The Cell shall recommend financial penalty, as applicable under relevant State laws for non-compliance of conditions or parameters to the local authority. On the basis of the recommendation of the Cell, the local authority may impose the penalty under relevant State laws. The cases of false declaration or certification shall be reported to the accreditation body and to the local body for blacklisting of Qualified Building Environment Auditors and financial penalty on the owner and Qualified Building Environment Auditors.

No Consent to Establish and Operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 will be required from the State Pollution Control Boards for residential buildings up to 1,50,000 square meters.”;

(II) In the Schedule, for item 8 and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“8		Building / Construction projects / Area Development projects and Townships		
8 (a)	Building and Construction projects		≥ 20,000 sq. mtrs and < 1,50,000 sq. mtrs of built up area	The term “built up area” for the purpose of this notification is the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the buildings and construction projects. Note 1. The projects or activities shall not include industrial shed, universities, college, hostel for educational institutions, but such buildings shall ensure sustainable environmental management, solid and liquid and implement environmental conditions given at Appendix-XIV. Note 2.-General Condition shall not apply. Note 3.-The exemptions granted at Note 1 will be available only for industrial shed after integration of environmental norms with building permissions at the level of local authority.
8 (b)	Townships and Area Development projects	≥ 3,00,000 sq. mtrs of built up area or Covering an area ≥ 150 ha	≥1,50,000 sq. mtrs and < 3,00,000 sq. mtrs built up area or covering an area ≥ 50 ha and < 150 ha	Note.- General Condition shall not apply”.

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

MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(ii) vide number S.O. 1533(E), dated the 14th September, 2006 and subsequently amended vide numbers S.O.1737(E) dated the 11th October, 2007, S.O. 3067(E), dated the 1st December, 2009, S.O.695(E), dated the 4th April, 2011, S.O.2896(E), dated the 13th December, 2012, S.O.674(E), dated the 13th March, 2013, S.O.2559(E), dated the 22nd August, 2013, S.O. 2731(E), dated the 9th September, 2013, S.O. 562(E), dated the 26th February, 2014, S.O.637(E), dated the 28th February, 2014, S.O.1599(E), dated the 25th June, 2014, S.O. 2601 (E), dated 7th October, 2014, S.O. 2600(E) dated 9th October, 2014, S.O. 3252(E) dated 22nd December, 2014, S.O. 382 (E), dated 3rd February, 2015, and S.O. 811(E), dated 23rd March, 2015, S.O. 996 (E) dated 10th April, 2015, S.O. 1142 (E) dated 17th April, 2015, S.O. 1141 (E) dated 29th April, 2015, S.O. 1834(E) dated 6th July, 2015 and S.O. 2572(E) dated 14th September, 2015, S.O. 141(E) dated 15th January, 2016, S.O. 190(E) dated 20th January, 2016, S.O. 648(E) dated 3rd March, 2016 and S.O. 2269(E) dated 1st July, 2016.

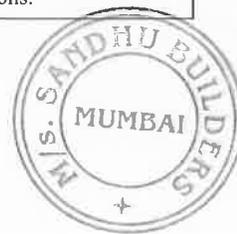


APPENDIX –XIV

ENVIRONMENTAL CONDITIONS FOR BUILDINGS AND CONSTRUCTIONS

(CATEGORY 'I': 5,000 to less than 20,000 Square meters)

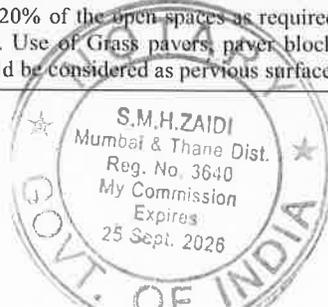
MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water.
Water Conservation, Rain Water Harvesting, Ground Water Recharge	2	Use of water efficient appliances shall be promoted. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-Laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores (minimum one recharge bore per 5,000 square meters of built up area) is recommended. Storage and reuse of the rain water harvested should be promoted. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.
Waste Management	3	Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. Sewage: In areas where there is no municipal sewage network, onsite treatment systems should be installed. Natural treatment systems which integrate with the landscape shall be promoted. As far as possible treated effluent should be reused. The excess treated effluent shall be discharged following the CPCB norms. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.
Energy	4	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be Light Emitting Diode (LED). Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher. Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.



Air Quality and Noise	5	<p>Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murrum and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site.</p> <p>Sand, murrum, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution.</p> <p>Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust.</p> <p>All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask.</p> <p>For indoor air quality the ventilation provisions as per National Building Code of India shall be made.</p>
	5 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 square meters of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.

(Category '2': 20,000 to less than 50,000 Square meters)

MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	<p>The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water.</p> <p>Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.</p>
Water Conservation, Rain Water Harvesting, and Ground Water Recharge	2	<p>A complete plan for rain water harvesting, water efficiency and conservation should be prepared.</p> <p>Use of water efficient appliances should be promoted with low flow fixtures or sensors.</p> <p>The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-laws, 2016.</p> <p>A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority.</p> <p>All recharge should be limited to shallow aquifer</p>
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.




Waste Management	3	<p>Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste.</p> <p>Sewage: Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted.</p> <p>Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.</p> <p>The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.</p>
	3 (a)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(b)	Organic waste compost/ Vermiculture pit with a minimum capacity of 0.3 kg /person/day must be installed.
Energy	4	<p>Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC.</p> <p>Outdoor and common area lighting shall be LED.</p> <p>Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design.</p> <p>Wall, window, and roof u-values shall be as per ECBC specifications.</p>
	4 (a)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
	4 (b)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	4 (c)	<p>Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials.</p> <p>Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.</p>
Air Quality and Noise	5	<p>Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murrum and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site.</p> <p>Sand, murrum, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution.</p> <p>Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust.</p> <p>All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016.</p> <p>All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with</p>



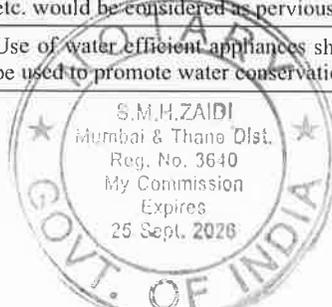
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		dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.
	5 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil preservation and reuse	7	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	8	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. <ol style="list-style-type: none"> 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.

(Category '3': 50000 to 150000 m²)

MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
Water conservation - Rain Water Harvesting, and Ground Water Recharge	2	A complete plan for rain water harvesting, water efficiency and conservation should be prepared. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provisions are not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.
	2 (b)	Use of water efficient appliances should be promoted. Low flow fixtures or sensors be used to promote water conservation.




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[PART II—SEC. 3(ii)]

	2 (c)	Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate recirculation lines for flushing by giving dual plumbing system be done.
Solid Waste Management	3	Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.
	3 (a)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(b)	Organic waste composter/Vermiculture pit with a minimum capacity of 0.3 kg /person/day must be installed.
Sewage Treatment Plant	4	Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.
Energy	5	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
	5 (a)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
	5 (b)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	5 (c)	Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.
Air Quality and Noise	6	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murrum and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Wheel washing for the vehicles used be done. Sand; murrum, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction




		and Demolition Waste Rules 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.
	6 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	7	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	7 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil Preservation and Reuse	8	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	9	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. <ol style="list-style-type: none"> 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.
Environment Management Plan	10	An environmental management plan (EMP) shall be prepared and implemented to ensure compliance with the environmental conditions specified in item number 1 to 9 above. A dedicated Environment Monitoring Cell with defined functions and responsibility shall be put in place to implement the EMP. The environmental cell shall ensure that the environment infrastructure like Sewage Treatment Plant, Landscaping, Rain Water Harvesting, Energy efficiency and conservation, water efficiency and conservation, solid waste management, renewable energy etc. are kept operational and meet the required standards. The environmental cell shall also keep the record of environment monitoring and those related to the environment infrastructure.

APPENDIX-XV

Accreditation of Environmental Auditors (Qualified Building Auditors)

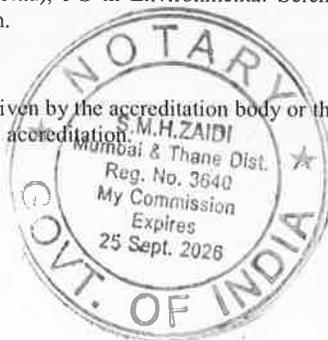
The Ministry of Environment, Forest and Climate Change (MoEFCC), through qualified agencies shall accredit the Qualified Building Environment Auditors (QBEAs). The Qualified Building Environment Auditors could be a firm / organization or an individual expert, who fulfils the requirements. The Ministry will implement this process of accreditation through Quality Council of India (QCI), National Productivity Council or any other organization identified by the Government. The organizations like Indian Green Building Council, Bureau of Energy Efficiency etc. can also be associated in the process of accreditation, training, and renewal. The environmental consultants accredited by the QCI for building sector will be qualified as QBEAs. The QBEAs will meet the following criteria. The accrediting agency can improvise on these criteria.

Qualifications of the Auditor:

- a. Education: Architect (Degree or Diploma), Town Planners (Degree), Civil Engineer / Mechanical Engineer (Degree or Diploma), PG in Environmental Science or any other qualification as per the scheme of the accreditation.

Training:

- b. Mandatory training to be given by the accreditation body or their approved training providers. This will be as per the scheme of the accreditation.




Experience:

- c. At least 3 years of work experience in the related field or building sector Environment Impact Assessment consultants accredited by QCI or any other experience criteria as per the scheme of the accreditation.

Infrastructure and equipment:

- d. As per the scheme of the accreditation

Renewal:

- e. The accreditation will be valid for 5 years and will be renewed as per the process developed under the accreditation scheme.

Accountability/Complaint redressal mechanism: Any complaints regarding the quality of the work of QBEAs shall be made to the accreditation body. The accreditation body shall evaluate the complaint and take appropriate action including black listing or cancellation of the accreditation with wide public notice. This will be in addition to the action at the level of local authority for penalty and blacklisting. The Ministry can also take such action in case of specific complaint or feedback.

APPENDIX-XVI**Environmental Cell at the level of Local Authority:**

An Environmental Cell shall be setup at the local authority level to support compliance and monitoring of environmental conditions in buildings. The Cell shall also provide assistance in environmental planning and capacity building within their jurisdiction. The responsibility of this cell would be monitoring the implementation of this notification and providing an oversight to the Third-Party Auditing process. The cell will operate under the local authority.

Constitution of the cell:

The cell will comprise of at least 3 dedicated experts in following fields:

- a. Waste management (solid and liquid)
- b. Water conservation and management
- c. Resource efficiency including Building materials
- d. Energy Efficiency and renewable energy
- e. Environmental planning including air quality management.
- f. Transport planning and management.

The Cell shall induct at least two outside experts as per the requirements and background of dedicated experts. Existing environmental cells at the level of local authority can be co-opted and trained for this Cell.

Financial Support:

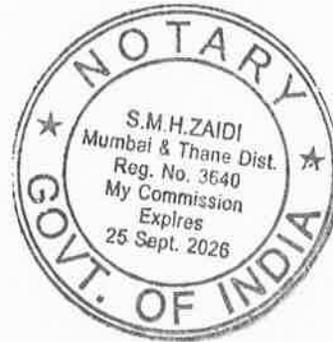
An additional fee may be charged along with processing fee for building permission for integrating environmental conditions and it's monitoring. The local authority can fix and revise this additional fee from time to time. The amount of this fee shall be deposited in a separate bank account, and used for meeting the requirement of salary / emoluments of experts and running the system of online application, verifications and the Environmental Cell.

Functions of the Cell:

1. The cell shall be responsible for assessing and appraising the environmental concerns of the area under their jurisdiction where building activities are proposed. The Cell can evolve and propose additional environmental conditions as per requirements. These conditions may be area specific and shall be notified in advance from time to time. These additional conditions shall be approved following a due consultation process. These environmental conditions will be integrated in building permissions by the sanctioning authority.
2. Develop and maintain an online system for application and payment of fees. The Cell shall maintain an online database of all applications received, projects approved, the compliance audit report, random inspections made. The Cell shall maintain a portal for public disclosure of project details including self certification and compliance audit reports filed by the Qualified Building Environment Auditors for public scrutiny of compliance of environmental conditions by the project.
3. Monitoring the work of Environmental Audit process carried by the Qualified Building Auditors.



4. The Cell shall review the applications; finalize the additional environmental conditions if required within 30 days of the submission of the application to the local authority.
5. The Cell shall adopt risk based random selection of projects for verifying on site for certification of QBA, compliance of environmental conditions and five yearly audit report.
6. The Cell shall recommend to the local authority for financial penalty for non-compliance of environmental conditions by the project proponent.
7. The Cell shall recommend to the accrediting body and the local authority against any Qualified Building Environment Auditor, if any lapse is found in their work.



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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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NEW DELHI, TUESDAY, MARCH 14, 2017/PHALGUNA 23, 1938

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 14 मार्च, 2017

का.आ. 804(अ).—पर्यावरण (संरक्षण) नियम 1986 के नियम 5 के उपनियम (3) की अपेक्षानुसार, पर्यावरण (संरक्षण) अधिनियम 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) के अधीन भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में अधिसूचना सं. का.आ. 1705(अ) तारीख 10 मई, 2016, पर्यावरणीय अनापत्ति के निदेश निबंधनों को अनुदत्त करने के लिए परियोजनाओं के मूल्यांकन की प्रक्रिया को पूरा करने के लिए, जिनमें स्थल पर कार्य आरंभ कर दिया है, पर्यावरणीय अनापत्ति की सीमा से परे उत्पादन का विस्तार किया है या पर्यावरण संघात अधिसूचना 2006 के अधीन पूर्व पर्यावरण अनापत्ति अभिप्राप्त किए बिना उत्पाद मिश्रण में परिवर्तन किया है, द्वारा उन सभी व्यक्तियों से, जिनके उससे प्रभावित होने की संभावना थी, उस तारीख से जिसको उस राजपत्र की प्रतियां, जिसमें यह अधिसूचना अंतर्विष्ट है, उपलब्ध करा दी जाती हैं, साठ दिन की अवधि के भीतर आक्षेप और सुझाव आमंत्रित करते हुए एक प्रारूप अधिसूचना प्रकाशित की गई थी ;

- और उक्त राजपत्र की प्रतियां जनता को 10 मई, 2016 को उपलब्ध करा दी गई थीं ;
- और पूर्वोक्त वर्णित प्रारूप अधिसूचना पर प्राप्त सभी सुझावों या आक्षेपों पर केंद्रीय सरकार द्वारा सम्यक्तः विचार कर लिया गया है ;
- पर्यावरण (संरक्षण) अधिनियम, 1986 के उपबंधों के अध्याधीन, अधिनियम की धारा 3 की उपधारा (1) के अधीन केंद्रीय सरकार को ऐसे सभी उपाय करने की शक्ति है, जो वह पर्यावरण की क्वालिटी के संरक्षण और सुधार तथा पर्यावरण प्रदूषण को रोकने, नियंत्रित करने और समाप्त करने के प्रयोजनों के लिए आवश्यक और समीचीन समझती है ;
- पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 5 केंद्रीय सरकार को निदेश देने के लिए सशक्त करती है, जो इस प्रकार है "केंद्रीय सरकार किसी अन्य विधि में किसी बात के होते हुए भी, किन्तु इस अधिनियम के उपबंधों के अधीन रहते हुए इस अधिनियम के अधीन अपनी शक्तियों के प्रयोग और अपने कृत्यों के निर्वहन में किसी व्यक्ति, अधिकारी या प्राधिकरण को लिखित निदेश दे सकेगी और ऐसा व्यक्ति, अधिकारी या प्राधिकरण ऐसे निदेशों का अनुपालन करने के लिए आबद्ध होगा ;

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6. पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय ने उल्लंघन के मामलों में पर्यावरणीय अनापत्ति अनुदत्त करने के लिए प्रक्रिया स्थापित करने के लिए तारीख 12.12.2012 और तारीख 27.06.2013 को एक कार्यालय ज्ञापन जारी किया है ;

7. हिन्दुस्तान कापर लिमिटेड बनाम भारत संघ के मामले में 2014 की रिट याचिका (सिविल) सं0 2364 में माननीय झारखंड उच्च न्यायालय के तारीख 28 नवंबर, 2014 के आदेश के अनुसरण में माननीय न्यायालय ने यह अभिनिर्धारित किया कि तारीख 12 दिसंबर, 2012 के कार्यालय ज्ञापन के अधीन पैरा सं0 5(i) और पैरा सं0 5(ii) की शर्तें अवैध और असंवैधानिक थीं और न्यायालय ने यह और अभिनिर्धारित किया कि अभिकथित अतिक्रमण की कार्रवाई स्वतंत्र कार्यवाही और पृथक् कार्यवाही होगी और इसलिए पर्यावरण अनापत्ति के लिए प्रस्ताव पर विचार करने के लिए परियोजना प्रस्तावक के विरुद्ध कार्रवाई आरंभ करने की प्रतीक्षा नहीं की जा सकती। माननीय न्यायालय ने यह व्यवस्था और दी कि पर्यावरण अनापत्ति के प्रस्ताव की परीक्षा इसके गुणागुण, पर्यावरण विधियों के अभिकथित अतिक्रमण के लिए किसी प्रस्तावित कार्रवाई से मुक्त आधार पर की जानी चाहिए ;

8. और राष्ट्रीय हरित अधिकरण की प्रधान न्यायपीठ ने 2015 के मूल आवेदन सं0 37 तथा 2015 के मूल आवेदन सं0 213 में तारीख 7 जुलाई, 2015 के अपने आदेश द्वारा यह अभिनिर्धारित किया कि पर्यावरण (संरक्षण) अधिनियम, 1986 या पर्यावरण समाघात निर्धारण अधिसूचना, 2006 तथा तटीय विनियमन जोन अधिसूचना, 2011 के अतिक्रमणों वाले निर्देश के निबंधनों या पर्यावरण अनापत्ति या तटीय विनियमन जोन अनापत्ति के प्रस्तावों पर विचार के विषय पर तारीख 12 दिसंबर, 2012 और 24 जून, 2013 के कार्यालय ज्ञापन पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के उपबंधों को परिवर्तित या संशोधित नहीं कर सकते थे और अधिकरण ने उसे अपास्त कर दिया था ;

9. और पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय तथा राज्य पर्यावरण समाघात निर्धारण प्राधिकरण को कतिपय प्रस्ताव, निर्देशों के निबंधनों और पर्यावरणीय अनापत्ति के लिए पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन ऐसी परियोजनाओं के लिए प्राप्त हो रहे हैं, जिन्होंने स्थल पर कार्य आरंभ कर दिया है, पर्यावरणीय अनापत्ति की सीमा से परे उत्पादन का विस्तार किया है या पूर्व पर्यावरणीय अनापत्ति को प्राप्त किए बिना उत्पाद मिश्रण में परिवर्तन कर दिया है ;

10. पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय ने पर्यावरण की क्वालिटी के संरक्षण और उसमें सुधार के प्रयोजन के लिए और पर्यावरणीय प्रदूषण का उपशमन करने के लिए यह आवश्यक समझा कि वह सभी निकाय, जो पर्यावरण संघात निर्धारण अधिसूचना, 2006 के अधीन पर्यावरण विनियम का अनुपालन नहीं कर रहे हैं, को समीचीन रीति में पर्यावरणीय विधियों की अनुपालना के लिए उसके अंतर्गत लाया जाए ;

11. और पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय ऐसी परियोजनाओं और क्रियाकलापों को शीघ्रतम पर्यावरणीय विधियों की अनुपालना के अधीन लाना आवश्यक समझता है कि उन्हें अविनियमित और बिना किसी जांच के छोड़ना, जो पर्यावरण के लिए अधिक नुकसानदायक होगा तथा इस उद्देश्य को अग्रसर करने के लिए भारत सरकार ऐसी सत्ताओं को, जो अननुपालक थे, अनुपालक बनाने के लिए समुचित रक्षोपायों के साथ पर्यावरणीय अनापत्ति प्रदान करना आवश्यक समझती है, प्रक्रिया ऐसी होनी चाहिए, जो पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के उपबंधों के उल्लंघन पर रोक लगाए, जिससे अननुपालना और अननुपालना के धनीय लाभ भयोपरित हों तथा पर्यावरण के नुकसान के लिए समुचित रूप से प्रतिकर हो ;

12. और माननीय उच्चतम न्यायालय ने इंडियन काउंसिल फार एन्वायरो-लीगल एक्शन बनाम भारत संघ (बिछड़ी गांव औद्योगिक प्रदूषण का मामला) में 13 फरवरी, 1996 को निर्णय देते समय विधि के सभी सुसंगत उपबंधों का विश्लेषण किया और यह निष्कर्ष दिया कि पर्यावरण (संरक्षण) अधिनियम, 1986 के अधीन नुकसानी की वसूली की जा सकती है (1996(3) एससीसी 212)। माननीय न्यायालय ने यह संप्रेक्षित किया कि पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 केंद्रीय सरकार (या, यथास्थिति, उसके प्रतिनिधि) को "ऐसे सभी उपाय करने, जो वह पर्यावरण की क्वालिटी के संरक्षण और सुधार के प्रयोजन के लिए आवश्यक या समीचीन समझे....." अभिव्यक्त रूप से सशक्त करती है। धारा 5 केंद्रीय सरकार (या उसके प्रतिनिधि) को अधिनियम के उद्देश्यों को प्राप्त करने के लिए निदेश जारी करने की शक्ति प्रदान करती है। धारा 2(क), धारा 3 और धारा 5 में "पर्यावरण" की विस्तृत परिभाषा के अनुसार केंद्रीय सरकार को ऐसी सभी शक्तियां हैं, जो "पर्यावरण की क्वालिटी के संरक्षण और सुधार के प्रयोजन के लिए आवश्यक या समीचीन" हैं। केंद्रीय सरकार, ऐसे सभी उपाय करने और ऐसे सभी निदेश जारी करने के लिए सशक्त है, जो पूर्वोक्त प्रयोजन के लिए आवश्यक हो। इस मामले में उक्त शक्तियों के अंतर्गत गाढ़े कीचड़ को हटाने, उपचारिक उपाय करने और उपचारिक उपाय करने की लागत को उल्लंघन करने वाले उद्योग पर अधिरोपित करने की शक्ति भी है तथा इस प्रकार वसूल की गई रकम का, उपचारिक उपायों को कार्यान्वित करने के लिए उपयोग करना भी है। माननीय न्यायालय ने यह और संप्रेक्षित किया है कि उपचारिक उपायों को कार्यान्वित करने के लिए अपेक्षित लागत का उद्दहन धारा 3 और धारा 5 में अंतर्निहित है, जिसे अत्यधिक विस्तृत और व्यापक भाषा में व्यक्त किया गया है। पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 और धारा 5 जल और वायु अधिनियमों के अन्य उपबंधों के अतिरिक्त सरकार को ऐसे सभी निदेश करने के लिए और ऐसे सभी उपाय करने के लिए सशक्त करते हैं, जो "पर्यावरण" के संरक्षण और संवर्धन के लिए आवश्यक या समीचीन हैं। जिन अभिव्यक्तियों को पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 2(क) में अत्यधिक विस्तृत और व्यापक शब्दों में परिभाषित किया गया है, इस शक्ति के अंतर्गत किसी उद्योग कि निकट किसी क्रियाकलाप को प्रतिषिद्ध करने, उपचारिक उपायों को कार्यान्वित करने का निदेश देने और जहां कहीं आवश्यक हो, उल्लंघन करने वाले उद्योग पर उपचारिक उपायों



(Handwritten signature)



की लागत अधिरोपित करने की शक्ति भी है। प्रत्यर्थियों के उपचारिक उपायों की लागत की अदायगी के दायित्व का प्रश्न दूसरे दृष्टिकोण से भी देखा जा सकता है, जिसे अब सार्वभौमिक रूप से ठोस सिद्धांत के रूप में स्वीकार किया गया है, जैसे "प्रदूषणकर्ता संदाय करता है" का सिद्धांत। "प्रदूषणकर्ता संदाय करता है, सिद्धांत की यह मांग है कि प्रदूषण द्वारा कारित नुकसान को रोकने या उसका उपचार करने की वित्तीय लागत इस वचनबंध, कि जो प्रदूषण कारित करता है या ऐसे माल का उत्पादन करता है, जो प्रदूषण कारित करता है, के साथ होती है।"

13. (1) इसलिए अब, केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (i) के उपखंड (क) और खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निदेश देती है कि परियोजना या क्रियाकलाप या विद्यमान परियोजनाओं का विस्तार या आधुनिकीकरण या क्रियाकलाप, जिनके द्वारा पर्यावरण संघात निर्धारण अधिसूचना, 2006 के अधीन पूर्व पर्यावरणीय अनापत्ति अपेक्षित है भारत के किसी भाग में, यथास्थिति, केंद्रीय सरकार द्वारा उक्त अधिनियम की धारा 3 की उपधारा (3) के अधीन गठित केंद्रीय सरकार या राज्य स्तरीय पर्यावरण संघात निर्धारण प्राधिकरण से पूर्व पर्यावरणीय अनापत्ति प्राप्त किए बिना, जिसमें प्रक्रिया या प्रौद्योगिकी में परिवर्तन के साथ क्षमता में वर्धन या दोनों को शामिल किया गया है, को पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उल्लंघन का मामला माना जाएगा और उमसे निम्नलिखित रीति में विनिर्दिष्ट प्रक्रिया के अनुसार व्यवहार किया जाएगा ;

(2) उस दशा में, जब पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन संबंधित विनियामक प्राधिकरण से पूर्व पर्यावरणीय अनापत्ति की अपेक्षा वाली परियोजनाएं या क्रियाकलाप संनिर्माण कार्य आरंभ करने के पश्चात् पर्यावरणीय अनापत्ति के लिए लायी जाती हैं या जिन्होंने पूर्व पर्यावरणीय अनापत्ति के बिना विस्तार, आधुनिकीकरण और उत्पाद मिश्रण में परिवर्तन किया है, उन परियोजनाओं को अतिक्रमण के मामले के रूप में समझा जाएगा और ऐसे मामलों में यहां तक कि प्रवर्ग ख की परियोजनाएं, जिन्हें पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन गठित राज्य पर्यावरण संघात निर्धारण प्राधिकरण द्वारा पर्यावरणीय अनापत्ति अनुदत्त की गई है, का पर्यावरणीय अनापत्ति अनुदत्त करने के लिए विशेषज्ञ मूल्यांकन समिति द्वारा ही मूल्यांकन किया जाएगा और पर्यावरणीय अनापत्ति केंद्रीय स्तर पर अनुदत्त की जाएगी।

(3) उल्लंघन के मामलों में पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 19 के उपबंधों के अधीन संबंधित राज्य या राज्य प्रदूषण नियंत्रण बोर्ड द्वारा परियोजना प्रस्तावक के विरुद्ध कार्रवाई की जाएगी और इसके अतिरिक्त परियोजना को पर्यावरण अनापत्ति अनुदत्त किए जाने तक प्रचालन करने के लिए या अधिभोग प्रमाणपत्र जारी किए जाने के लिए अनुमति नहीं दी जाएगी।

(4) पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन गठित संबंधित क्षेत्र विशेषज्ञ मूल्यांकन समिति द्वारा उल्लंघन के मामलों का यह मूल्यांकन करने के लिए निर्धारण किया जाएगा कि परियोजना का ऐसे स्थल पर संनिर्माण किया गया है जो लागू विधियों के अधीन अनुज्ञेय है और विस्तार किया गया है, जिसको पर्याप्त पर्यावरणीय सुरक्षोपायों के साथ पर्यावरणीय मानकों की अनुपालना के अधीन भरणीय रूप से चलाया जा सकता है ; और उस दशा में जहां विशेषज्ञ मूल्यांकन समिति का निष्कर्ष नकारात्मक है, विधि के अधीन अन्य कार्रवाईयों के साथ परियोजना को बंद करने की सिफारिश की जाएगी।

(5) उस दशा में जहां पूर्वोक्त उप पैरा (4) के बिन्दु पर विशेषज्ञ मूल्यांकन समिति के निष्कर्ष सकारात्मक हैं, इस प्रवर्ग के अधीन परियोजनाओं को पर्यावरण संघात निर्धारण करने और पर्यावरणीय प्रबंधन योजना तैयार करने के लिए समुचित निदेश निबंधनों के साथ विहित किया जाएगा। इसके अतिरिक्त विशेषज्ञ मूल्यांकन समिति पारिस्थितिकीय नुकसान, सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के निर्धारण पर परियोजना के विशिष्ट निदेश निबंधनों को विहित करेगी और उनको प्रत्यायित परामर्शदाताओं द्वारा पर्यावरण संघात निर्धारण रिपोर्ट में एक स्वतंत्र अध्याय के रूप में तैयार किया जाएगा। पारिस्थितिकीय नुकसान, सुधारकारी योजना तैयार करने और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के निर्धारण के लिए डाटा का संग्रहण और विश्लेषण, पर्यावरण (संरक्षण) अधिनियम, 1986 के अधीन साम्यकता अधिसूचित प्रयोगशाला या राष्ट्रीय जांच और अशांकन प्रत्यायन बोर्ड द्वारा प्रत्यायित प्रयोगशाला या वैज्ञानिक और औद्योगिक अनुसंधान परिषद् की पर्यावरण के क्षेत्र में कार्य कर रही प्रयोगशाला द्वारा किया जाएगा।

(6) 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।

(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 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 तथा विनियामक प्राधिकरण के अनुमोदन के पश्चात् सुधारकारी योजना और प्राकृतिक तथा सामुदायिक संसाधन आवर्धन योजना के सफलतापूर्वक कार्यान्वयन के पश्चात् निर्मुक्त किया जाएगा।

14. ऐसी परियोजनाएं और क्रियाकलाप, जो इस अधिसूचना की तारीख को उल्लंघनकारी हैं, इस अधिसूचना के अधीन पर्यावरणीय अनापत्ति के लिए आवेदन करने के पात्र होंगे और परियोजना प्रस्तावक इस अधिसूचना के अधीन पर्यावरणीय अनापत्ति के लिए केवल इस अधिसूचना की तारीख से छह मास के भीतर ही आवेदन कर सकते हैं।

[फा. सं. 22-116/2015-आईए-III]

मनोज कुमार सिंह, संयुक्त सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION
New Delhi, the 14th March, 2017

S.O. 804(E).—Whereas, a draft notification under sub-section (1), and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), *vide* number S.O. 1705(E), dated the 10th May, 2016, as required by sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for finalising 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 under the Environment Impact Assessment Notification, 2006 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

2. And whereas, copies of the said notification were made available to the public on the 10th May, 2016;

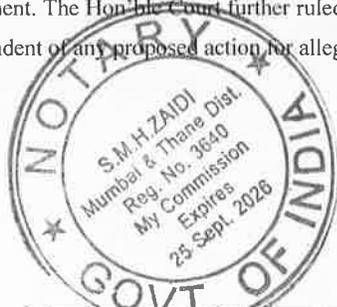
3. And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government.

4. Whereas, subject to the provisions of the Environment (Protection) Act, 1986, under sub-section (1) of section 3 of the Act, the Central Government has the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling, and abating environment pollution;

5. Whereas, section 5 of the Environment (Protection) Act, 1986 empowers the Central Government to give directions which reads as “Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions;

6. Whereas the Ministry of Environment, Forest and Climate Change issued Office Memoranda dated 12.12.2012 and 27.06.2013 to establish a process for grant of environmental clearance to cases of violation.

7. Whereas, the Hon'ble High Court of Jharkhand had passed an order dated the 28th November, 2014 in W.P. (C) No. 2364 of 2014 in the matter of Hindustan Copper Limited *Versus* Union of India in which the High Court held that the conditions laid down under Office Memorandum dated 12th December, 2012 in paragraph No. 5 (i) and 5 (ii) were illegal and unconstitutional and had further held that action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance could not await initiation of action against the project proponent. The Hon'ble Court further ruled that the proposal for environment clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws;



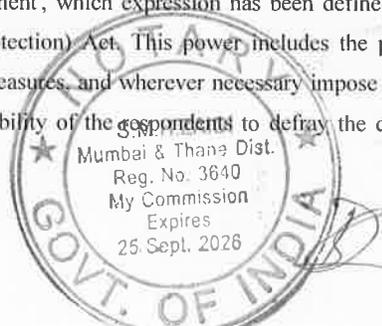
8. And whereas, Hon'ble National Green Tribunal, Principal Bench *vide* its order dated 7th July, 2015 in Original Application No. 37 of 2015 and Original Application No. 213 of 2015 had also held that the Office Memoranda dated 12th December, 2012 and 24th June, 2013 on the subject of consideration of proposals for Terms of Reference or Environment Clearance or Coastal Regulation Zone Clearance involving violations of the Environment (Protection) Act, 1986 or Environment Impact Assessment Notification, 2006 Coastal Regulation Zone Notification, 2011 could not alter or amend the provisions of the Environment Impact Assessment notification, 2006 and had quashed the same;

9. And whereas, the Ministry of Environment, Forest and Climate Change and State Environment Impact Assessment Authorities have been receiving certain proposals under the Environment Impact Assessment Notification, 2006 for grant of Terms of References and Environmental Clearance for projects 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;

10. Whereas, the Ministry of Environment, Forest and Climate Change deems it necessary for the purpose of protecting and improving the quality of the environment and abating environmental pollution that all entities not complying with environmental regulation under Environment Impact Assessment Notification, 2006 be brought under compliance with in the environmental laws in expedient manner;

11. And whereas, the Ministry of Environment, Forest and Climate Change deems it necessary to bring such projects and activities in compliance with the environmental laws at the earliest point of time, rather than leaving them unregulated and unchecked, which will be more damaging to the environment and in furtherance of this objective, the Government of India deems it essential to establish a process for appraisal of such cases of violation for prescribing adequate environmental safeguards to entities and the process should be such that it deters violation of provisions of Environment Impact Assessment Notification, 2006 and the pecuniary benefit of violation and damage to environment is adequately compensated for;

12. And whereas, Hon'ble Supreme Court in *Indian Council for Enviro-Legal Action Vs. Union of India* (the Bichhri village industrial pollution case), while delivering its judgment on 13th, February, 1996, analyzed all the relevant provisions of law and concluded that damages may be recovered under the provisions of the Environment (Protection) Act, 1986 (1996 [3] SCC 212). The Hon'ble Court observed that section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government [or its delegate, as the case may be] to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment.....". Section 5 clothes the Central Government [or its delegate] with the power to issue directions for achieving the objects of the Act. Read with the wide definition of "environment" in Section 2 (a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures..... Hon'ble Court has further observed that levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5 which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The question of liability of the respondents to defray the costs of remedial measures can also be



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looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" Principle. "The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution".

13 (1). Now, therefore, in exercise of the powers conferred by sub-section (1) and sub clause (a) of clause (i) 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; the Central Government hereby directs 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 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 Level Environment Impact Assessment Authority, as the case may be, duly constituted by the Central Government under sub-section (3) of Section 3 of the said Act, shall be considered a case of violation of the Environment Impact Assessment Notification, 2006 and will be dealt strictly as per the procedure specified in the following manner:-

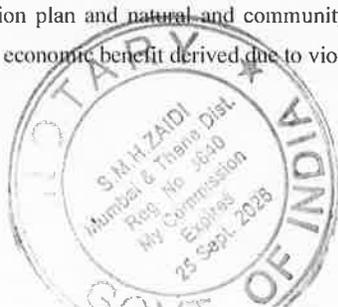
(2) In case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and 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.

(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy 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 constituted under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; and in case, where the finding of the Expert Appraisal Committee is negative, closure of the project will be recommended along with other actions under the law.

(5) In case, where the findings of the Expert Appraisal Committee on point at sub-para (4) above are affirmative, the projects under this category will be prescribed the appropriate Terms of 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 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. 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 Environment (Protection) Act, 1986, or a environmental laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.

(6) The Expert Appraisal Committee 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 violation as a condition of environmental clearance.



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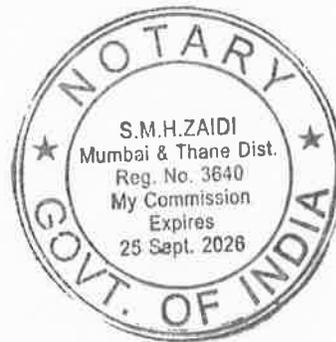


(7) The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority.

14. The projects or activities which are in violation as on date of this notification only will be eligible to apply for environmental clearance under this notification and the project proponents can apply for environmental clearance under this notification only within six months from the date of this notification.

[F. No. 22-116/2015-IA-III]

MANOJ KUMAR SINGH, Jt. Secy.



ग्यानेश भारती
Gyanesh Bharti, I.A.S.



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संयुक्त सचिव
भारत सरकार
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Joint Secretary
Government of India
Ministry of Environment, Forest & Climate Change

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D.O. No. 19-159/2014-IA.III(Pt.)
Dated: 06th October, 2017

Dear Sir,

Please find enclosed herewith a letter from Shri S.S.Hussain, CEO, CREDAI-MCHI addressed to Secretary, MoEF&CC.

2. The Ministry in pursuance of Notification No. S.O. 3999(E) dated 9th December, 2016 has issued an order on 7th July, 2017 that no separate Environment clearance is required for building and construction projects upto 1,50,000 square meter built up area in respect of Municipal Corporations, Municipal Councils and all Special Planning Authorities in Pune and Konkan Divisions. The authority competent to grant the building permission will integrate the Environment Clearance conditions based on the recommendation of Environment Cell following the process as envisaged in the notification.

3. In view of this you are requested to take appropriate action under intimation to the sender of the letter.

Lt. Regent

Yours sincerely,

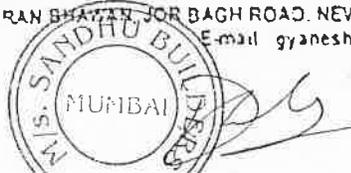
(Gyanesh Bharti)

Shri. Satish Gavai,
Additional Chief Secretary,
Environment Dept.
Government of Maharashtra,
Mumbai 400 032:



इंदिरा पर्यावरण भवन, जंम बाग रोड, नई दिल्ली-110 003. फोन : 011-24595258, फॅक्स - 011-24695238

INDIRA PARYAVARAN BHAVAN, JAM BAGH ROAD, NEW DELHI-110 003, PH 011-24595258, Fax 011-24695238
E-mail gyanesh.bharti@ias.nic.in



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PHD

F. No. 2-38/2017-IA-III
Government of India
Ministry of Environment, Forests and Climate Change
(I.A. Division)

Indira Paryavaran Bhavan
Jor Bagh Road, Aliganj
New Delhi-110 003

Date: 15th November, 2017

Subject: Applicability of MoEF&CC Notification S.O. (E) 695 dated 04.04.2011 etc. - reg.

This has reference to the representations received in the Ministry on applicability of Notification S.O. (E) 695 dated 04.04.2011 regarding the above mentioned subject.

2. In this regard, the undersigned is directed to say that the Ministry has made amendment to the S.O. 1533(E) dated 14th September, 2006 and issued notification S.O. 695(E) dated 4th April, 2011 and further clarified the applicability of notification S.O. 695(E) dated 4th April, 2011 vide its OM No. 22-35/2017-IA-III dated 7th July, 2017. The copy of the notifications and OM are available on the Ministry's website. However the same are enclosed for your reference.

3. This issues with the approval of Competent Authority.

Encls: As above


Kushal Vashist
Director

Tel: 011- 24695382

F Mail: kushal.vashist@gov.in

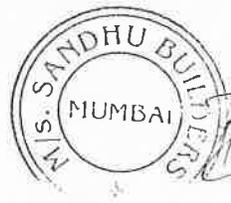
To,

The Municipal Commissioner
Municipal Corporation of Greater Mumbai
Municipal Extension Building,
Mahapalika Marg, Esplande Road, GPO
Mumbai - 400001, Maharashtra.



Copy to,

- (i) The Additional Chief Secretary & Member-Secretary, SEIAA, Maharashtra, Environment Department, Government of Maharashtra, 15th floor, New Administration Building Mantralaya, Mumbai - 400 032.
- (ii) Shri Kanwarjeet Singh Sandhu, M/s Sandhu Builders, Sandhu Palace, 41, Pali Hill Road, Bandra (W), Mumbai- 400050, Maharashtra.





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PND



V.K.

V. K. Chari Consultants

CONSULTING ENGINEERS, ARCHITECTS & SURVEYORS
LIFE MEMBER OF "PEATA"

Office: Ground Floor, Charni Bldg., Dr. Ambedkar Road, Opp. St. Euse School, Khar (W),
Mumbai - 400 052. Tel: (H) 2636 6010; 6557 2216 • Cell: 98200 32118

REF. NO.:

DATE: 05/02/2018

TO,
Deputy Chief Engineer (w.s.)
Building Proposals,
Municipal Corporation of Greater Mumbai,
S.K. Patkar Marg, Bandra (W)
Mumbai - 400 050.

Sub:- Part Occupation of 'A' wing upto top of 18th floor for Proposed Building on Plot bearing CTS No. C-1381, 1382-C, 1378A & 1629A-1/10 of Village Bandra, Pali Hill Bandra (W) Mumbai in "H" west ward

Ref: File No. :- CE/2157/WS/AH
Sir,

On behalf of & under instructions from my client M/s. Sandhu Builders, please refer to our application for occupation, BCC refusal and our reply to BCC refusal dated 9th May 2016. As per the additional condition imposed required by you, we are now complying with and enclosing herewith letter of clarification given to us by MOEF (New Delhi) regarding non-applicability of Environment clearance in our case, as our full "CC" upto top of 19th floor was approved and granted prior to the amended Environment Impact Assessment (EIA) notification dated 04.04.2011 which came into force, and as per the office memorandum of MOEF dated 7th July 2017 issued by Joint DIRECTOR (MOEF) both of which copies are enclosed for your reference.

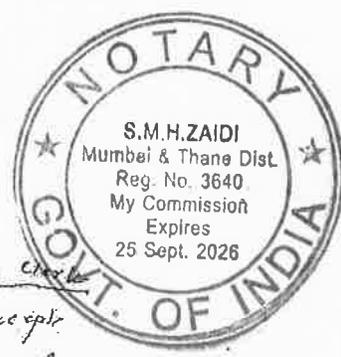
The letter from MOEF to us clarifying the above is enclosed herewith. Further on the subject enclosing the Brief opinion of Expert Shri G.D. Chiplunkar for your perusal which is self explanatory and clearly states that our case does not fall within the ambit of Environment clearance.

In view of the above Submission & compliance we now request you to grant part Occupation of 'A' wing only as we have almost completed all civil works and Restoration work.

Thanking you,

Yours faithfully

V.K. Chari
(Architect)



- Encl:-
1. Copy of our Representation to MOEF
 2. Copy of MOEF reply & clarification
 3. Copy of office memo of MOEF regard prospective date of Applicability
 4. EIA notification dtd 04.04.2011
 5. Expert opinion of Shri G.D. Chiplunkar

CC : M/s Sandhu Builders

चय - प्रमुख अभियंता
(स्मारक प्रस्ताव)
दिनांक 06 FEB 2018
11010
पत्र - ११, १२, १३, १४, १५, १६, १७, १८, १९, २०, २१, २२, २३, २४, २५, २६, २७, २८, २९, ३०, ३१, ३२, ३३, ३४, ३५, ३६, ३७, ३८, ३९, ४०, ४१, ४२, ४३, ४४, ४५, ४६, ४७, ४८, ४९, ५०, ५१, ५२, ५३, ५४, ५५, ५६, ५७, ५८, ५९, ६०, ६१, ६२, ६३, ६४, ६५, ६६, ६७, ६८, ६९, ७०, ७१, ७२, ७३, ७४, ७५, ७६, ७७, ७८, ७९, ८०, ८१, ८२, ८३, ८४, ८५, ८६, ८७, ८८, ८९, ९०, ९१, ९२, ९३, ९४, ९५, ९६, ९७, ९८, ९९, १००

Dispatch check
Plr receipt
05/02/18

☆ Planning ☆ Design ☆ Draw ☆ Co-ordination ☆ Execution ☆ G.O. Follow-up



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PHD

BEFORE THE NATIONAL
GREEN TRIBUNAL SITTING
AT PUNE

APPLICATION NO. 54.OF 2017

BETWEEN :

Pratap Lal Teli ... Applicant

Versus

Member / Secretary
State Level Environment
Impact Assessment
Authority and Ors.
... Respondents

AFFIDAVIT IN REPLY TO
AMENDED ORIGINAL
APPLICATION ON BEHALF
OF RESPONDENT NO. 3
(pursuant to amended
application served on
22.12.2022)

Dated this day of April
2023



Parikshit Desai and Fawia
Misquitta
Advocates for Respondent No. 3
C/o. Himank Desai and Co.,
Chartered Accountants,
Office No. 2, Ground Floor,
Gokul Kunj building, opposite
Bank of India, Chitrakar
Dhurandhar Marg, Danpada,
Danda, Khar (West), Mumbai –
400 052.
Email :- PHDesai.847@gmail.com
Phone :- 98215 46105.