

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

APPEAL NO.5 OF 2022

IN THE MATTER OF:

Shaji A.K., Kerala.

...Appellant

v.

Ministry of Environment, Forest and Climate Change and Ors.

...Respondents

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Dated at Chennai on this 11th day of June, 2024



COUNSEL FOR RESPONDENT NOS.2 TO 4

DR. PRABHU GONDRI
Standing Counsel for SEIAA, Kerala.
Mob. No. 9444398701 - Prabhu.ijs@gmail.com

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

APPEAL NO.5 OF 2022

IN THE MATTER OF:

Shaji A.K., Kerala.

...Appellant

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Ministry of Environment, Forest and Climate Change and Ors.

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STATEMENT FILED BY THE 2 TO 4 RESPONDENTS

I, Ajitha Kumari.V.P., D/o P.Rajeswari Amma, aged 49 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby solemnly affirm and sincerely state as follows:-

I am well acquainted with the facts of the case from the available records and I am authorized to file this statement on behalf of the Respondent Nos.2 to 4. I crave leave of the Hon'ble Tribunal to file statement as and when additional facts are available to the Respondents.

1. It is submitted that the Environmental Clearance issued to the Mixed-Use Township Development Project 'Landmark Trade Centre' at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayat, Kozhikode vide proceedings No.1193/EC2/2018/SEIAA dated 12.03.2020 for a total built-up area of 81,589 Sq.m. in a land area of 3.309 ha. This EC was set aside by the Hon'ble Tribunal, vide Judgment dated 11.09.2023 in Appeal No.05 of 2022 and I.A.Nos.194 to 196 of 2022 (SZ). The stop memo was also issued to the proposed project, vide Order dated 08.11.2023, as per the decision of the 133th SEIAA meeting. Also, the project proponent had submitted an application for EC via Parivesh for the Expansion of Mixed Use Township development project to be developed by M/s. Calicut Landmark Builders & Developers (India) Pvt. Ltd., at Re-Sy.No.27/3, 32/1, 32/4, 32/5,



Ajitha

**State Environment Impact
Assessment Authority
4th Floor, KSRTC Bus Terminal***

31/4, 31/7, 31/8, 31/9, 35/1B (Part), 30/4C, 31/5, 31/6 in Pantheerankavu Village, Olavanna Panchayat, Kozhikode Taluk & District, which is under consideration by SEAC.

2. It is submitted that in the meantime, M/s. Calicut Landmark Builders & Developers (India) Pvt. Ltd filed WP (C) No.30399/2023 before the Hon'ble High Court with a prayer to quash Exhibit P15 Order, Judgement dated 11.09.2023 of Hon'ble Tribunal in Appeal No.05 of 2022 and I.A.Nos.194 to 196 of 2022. The SEIAA also filed a WP (C) No.32797 of 2023 before the Hon'ble High Court with an interim relief to stay Clause VI-VIII in para 53 of the Exhibit P7. Dr. Vineeth. K. Adiyodi & Others had filed WP (C) No.35871/2023 before the Hon'ble High Court with a prayer to stay the operation of Ext. P24 Judgment dated 11/09/2023 of Hon'ble Tribunal in Appeal No.5 of 2022. The Hon'ble High Court had pronounced the judgment in the above WP (C)s on 08.02.2024.

3. The Authority in its 140th meeting noted the directions in the judgment dated 08.02.2024 in WP (C) No.30399/2023, WP (C) No.35871/2023 & WP (C) No.32797/2023, the letter of the MoEF & CC dated 02.02.2024 and the request of the Project Proponent dated 23.03.2024. The Authority decided the following:-

- a) The stop memo issued vide order dated 08.11.2023 shall be revoked. SEIAA Secretariat shall issue necessary orders in this regard and forward copy to all agencies/Departments concerned. (Revocation Order was issued, vide Order dated 23.04.2024)
- b) The Project proponent shall submit the mandatory Half Yearly Compliance Report to SEIAA and the IRO, MoEF & CC, Bangalore with all supporting documents/proofs such as geo-tagged photographs, videographs, etc., regarding the compliance of the EC regularly. **(Intimated the Project Proponent, vide Letter dated 23.04.2024)**



[Handwritten Signature]
 State Environment Impact
 Assessment Authority
 4th Floor, KSRTC Bus Terminal
 Thiruvananthapuram - 1

- c) SEIAA Secretariat shall furnish a reply to the letter of the MoEF & CC dated 02.02.2024 of MoEF & CC on the basis of the Judgment dated 08.02.2024 along with the copy of the Judgment. (Letter was sent to MoEF & CC vide Letter dated 23.04.2024)
- d) The SEAC shall assess the HYCR and the assessment report of the mitigation/remediation measures of the EMP as and when the same is received from the Project Proponent. The SEAC shall have the liberty to conduct field verification to assess the compliance status. If the SEAC observes any non-compliance the environmental damage with compensation to mitigate the same shall be assessed.
- e) The SEIAA Secretariat shall take necessary measures to get the file related to the EC issued to M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd from the NGT(SZ).
- f) The Project Proponent shall scrupulously follow all the directions of Hon'ble High Court in WP(C) No. 30399/2023, WP(C) No. 35871/2023 & WP (C) No. 32797/2023 and the directions of MoEF & CC relevant to this case.
(Intimated the Project Proponent, vide Letter dated 23.04.2024)

4. It is submitted that, based on the decision of the 140th SEIAA meeting, order was issued with regard to the revocation of stop memo and also the decision was intimated to the MoEF & Project Proponent.

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to pass such order or orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 11th day of June, 2024.



[Handwritten Signature]
RESPONDENT NOS. 2 TO 4
State Environment Impact
Assessment Authority
4th Floor, KSRTC Bus Terminal
Thiruvananthapuram - 1

VERIFICATION

I, Ajitha Kumari.V.P., D/o P.Rajeswari Amma, aged 49 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 4 are true to the best of my personal knowledge and paras 1 to 4 believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 19th day of July, 2024.



Ajitha

RESPONDENT NOS.2 TO 4

**State Environment Impact
Assessment Authority
4th Floor, KSRTC Bus Terminal
Thiruvananthapuram - 1**

**RESPONDENT NOS.2 TO 4
State Environment Impact
Assessment Authority
4th Floor, KSRTC Bus Terminal
Thiruvananthapuram - 1**

2438

State Level Environment Impact Assessment Authority (SEIAA) Kerala

K.S.R.T.C Bus Terminal Complex, 4th Floor, Thampanoor,
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web: www.seiaakerala.in

DESPATCHED

Date: 25-04-2024

No. 1193/EC2/2018/SEIAA

Date: 23.04.2024

To,

Sri. Anwar Sadath,
Director, M/s Calicut Landmark Builders & Developers (India) Pvt.Ltd,
Landmark world, NH-17 Bypass,
Kozhikode – 673014

Sir,

Sub:- SEIAA – Environmental Clearance issued to the Mixed use Township Development Project ‘Landmark Trade Centre’ of Sri. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayath, Kozhikode Taluk & Kozhikode District – Revocation of Stop Memo – issuing of - Reg:

- Ref:-
1. EC issued vide Proceedings No. 1193/EC2/2018/SEIAA dated 12.03.2020
 2. Judgment dated 11.09.2023 in Appeal No.05/2022 of the Hon'ble NGT
 3. Interim Order dated 06.10.2023 & 27.10.2023 in WP(C)No.32797/2023
 4. Minutes of the 133rd SEIAA meeting held on 26.10.2023
 5. Stop memo issued vide order dated 08.11.2023
 6. Judgment dated 08.02.2024 in WP(C) No.30399/2023, WP(C) No.35871/2023 & WP(C)No. 32797/2023
 7. Request dated 23.03.2024 from M/s Calicut Landmark Builders (India) Pvt.Ltd
 8. Minutes of the 140th SEIAA meeting held on 25th and 26th March 2024

ORDER

1. Environmental Clearance was issued to Sri.Anwar Sadath, Director, M/s Calicut Landmark Builders (India) Pvt.Ltd. for the Mixed use Township Development Project “Landmark Trade Centre” at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Patheerankavu Village, Olavanna Panchayath, Kozhikode Taluk, Kozhikode, Kerala vide reference 1st cited.

2. The Authority vide reference 8th cited, noted the directions in the judgment dated 08.02.2024 in WP(C)No.30399/2023, WP(C)No.35871/2023 & WP(C)No.32797/2023, and the request of the Project Proponent dated 23.03.2024, and **decided to revoke the stop memo issued by SEIAA vide order dated 08.11.2023.** It is also decided that the mandatory Half Yearly Compliance Report shall be submitted to SEIAA and the IRO, MoEF&CC, Bangalore by the project proponent with all supporting documents/ proofs such as geo-tagged photographs, video graphs, etc regarding the compliance of the EC, regularly. Also, the Project Proponent shall scrupulously follow all the directions of Hon'ble High Court in WP(C) No.30399/2023, WP(C) No.35871/2023 & WP(C)No.32797/2023 and the directions of MoEF & CC relevant to this case.

3. In this circumstance, order is hereby issued revoking the stop memo cited 5th above, to the Mixed use Township Development Project 'Landmark Trade Centre' of Sri. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayath, Kozhikode Taluk, Kozhikode District, as per the Judgment dated 08.02.2024 in WP(C)No.30399/2023, WP(C)No.35871/2023 & WP(C)No. 32797/2023 of the Hon'ble High Court.

HB

**Administrator, SEIAA
For Member Secretary, SEIAA**

Copy to

1. MoEF Regional Office, Southern Zone, Kendriya Sadan, 4th Floor, E&F Wing, II Block, Koramangala, Bangalore-560034. (through e-mail: rosz.bng-mefcc@gov.in)
2. The Secretary to Government, Environment Department, Government of Kerala
3. The Director, Directorate of Environment & Climate Change, 4th Floor KSRTC Bus Terminal, Thampanoor, Thiruvananthapuram, Kerala 695001.
4. The District Collector, Kozhikode (for further necessary action)
5. The Member Secretary, Kerala State Pollution Control Board
6. The environmental engineer, KSPCB, Kozhikode
7. The District Town Planner, Kozhikode
8. The Tahsildhar, Kozhikode Taluk
9. The Village Officer, Pantheerankavu Village, Kozhikode
10. The Secretary, Olavanna Grama Panchayath, Kozhikode
11. The Chairman, SEIAA.
12. Website.
13. Stock File/Office copy

State Level Environment Impact Assessment Authority (SEIAA) Kerala

**K.S.R.T.C Bus Terminal Complex, 4th Floor, Thampanoor,
Thiruvananthapuram - 695 001**

Ph: +91471-2334262 (Off) +91471-2334265 (Fax)

e-mail: seacseiaakerala@gmail.com

web: www.seiaakerala.in

No. 1193/EC2/2018/SEIAA

Date: 08.11.2023

To,

Sri. Anwar Sadath,
Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd,
Landmark world, NH-17 Bypass,
Kozhikode – 673014

Sir,

Sub:- SEIAA – Environmental Clearance issued to the Mixed use Township Development Project ‘Landmark Trade Centre’ of Sri. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayath, Kozhikode Taluk & Kozhikode District, Kerala – Stop Memo- Reg:

- Ref:-
1. EC issued vide Proceedings No. 1193/EC2/2018/SEIAA dated 12.03.2020
 2. Judgment dated 11.09.2023 in Appeal No.05/2022 of the Hon’ble NGT
 3. Interim Order dated 06.10.2023 & 27.10.2023 in WP(C)No.32797/2023
 4. Minutes of the 133rd SEIAA meeting held on 26.10.2023.

Memo

1. Environmental Clearance was issued to Sri.Anwar Sadath, Director, M/s Calicut Landmark Builders (India) Pvt.Ltd. for the Mixed use Township Development Project “Landmark Trade Centre” at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Patheerankavu Village, Olavanna Panchayath, Kozhikode Taluk, Kozhikode, Kerala vide reference 1st cited.

2. Sri.Shaji.A.K. has filed an Appeal No. 05/2022 (SZ) before the Hon’ble NGT by challenging the Environmental Clearance granted by SEIAA to M/s Calicut Landmark Developers Pvt Ltd. The relevant directions in the judgment dated 11.09.2023 in Appeal No.05/2022 vide reference 2nd cited are as following:

I. Set aside the Environmental Clearance dated 12.03.2020 granted by the SEIAA Kerala.

II. The SEIAA – Kerala is directed to stop the project with immediate effect and we direct the project proponent to make an application within 2 (Two) months which shall be



examined by the SEIAA or MoEF&CC, as the case may be, on merits and as per rules in force.

III. When the application is considered, it can be considered only after assessing the damage that might have been caused to the environment due to the construction and also assessing the mitigation / remediation measures that will have to be undertaken prior to consideration of the application. The amount required for remediation and mitigation measures shall be recovered from the Project proponent. In view of Para (52), the environmental compensation to be imposed on the Project Proponent will be considered by the Kerala SPCB appropriately within a period of 3 (Three) months which will be subject to the approval of this Tribunal.

IV. The environmental compensation shall be paid to the Kerala SPCB for being deposited in an interest bearing account in a Nationalized Bank and the interest shall be utilized for restoration of wetlands and removal of water hyacinths from the major waterways and water bodies of Kerala State and for utilization of the removed water hyacinth for energy generation/composting or producing a value added product.

V. A Committee comprising of the (i) Additional Chief Secretary – Department of Environment – Directorate of Environment and Climate Change (DoECC), (ii) Additional Chief Secretary – Irrigation Department, (iii) Principal Chief Conservator of Forests (Head of Forest Force)/Chief Conservator (Wetlands), and (iv) Chairman – Kerala State Pollution Control Board headed by the Chief Secretary – State of Kerala shall consider the projects received for sanction of funds from the interest income.

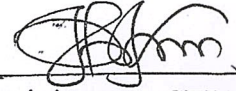
VI. The Additional Chief Secretary – Department of Environment, Directorate of Environment and Climate Change (DoECC), State of Kerala shall report compliance in 6 (Six) months to this Tribunal.

3. The Authority vide reference 4th cited, deliberated the item taking into consideration the judgment dated 11.09.2023 of Hon'ble NGT (SZ) in Appeal No.05 of 2022 and I.A. Nos.194 to 196 of 2022 (SZ) filed by Sri. Shaji A.K., the interim order of dated 06.10.2023 of the Hon'ble High Court in WP(C)No.32797/2023 filed by the SEIAA and the legal opinion of the Standing Counsel, SEIAA in WP(C)No.32797/2023. The Authority noticed that the Hon'ble NGT vide its order dated 11.09.2023 set aside the Environmental Clearance dated 12.03.2020 issued by the SEIAA, Kerala and directed the SEIAA, Kerala to stop the project with immediate effect. The Authority also observed that the Project Proponent, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd. has filed a WP(C)No.30399/2023 and the same is pending for the decision of Hon'ble High Court. The Hon'ble High Court in its interim order dated 06.10.2023 in WP(C)No.32797 of 2023 stayed the directions under Clause VII of Paragraph 53 until 27.10.2023 and interim order is extended by three weeks in the order dated 27.10.2023 read as 3rd paper above.

Under these circumstances, in obedience to the directions of Hon'ble NGT and Hon'ble High Court of Kerala, the Authority decided the following:

- 1) Hon'ble NGT has already set aside the EC issued and the Project Proponent cannot operate without a valid EC. However as per the directions of NGT Authority decided to issue a stop to the Project Proponent to stop all the construction activities with immediate effect.
- 2) A copy of the Stop Memo shall be marked to the District Collector, KSPCB and local authorities for information and necessary further action. District Collector shall ensure the compliance of the directions of Hon'ble NGT.
- 3) The Project Proponent shall scrupulously follow all the directions of Hon'ble NGT till WP(C)No.30399/2023 is finally disposed of.

4. In this circumstance, as per the direction of the Hon'ble NGT vide reference 2nd cited, Stop Memo is issued hereby stopping all the construction activities with immediate effect, to the Mixed use Township Development Project 'Landmark Trade Centre' of Sri. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayath, Kozhikode Taluk, Kozhikode District, Kerala until further orders. The District Collector, Kozhikode shall ensure the compliance of the directions of Hon'ble NGT.



**Administrator, SEIAA
For Member Secretary, SEIAA**

Copy to

1. MoEF Regional Office, Southern Zone, Kendriya Sadan, 4th Floor, E&F Wing, II Block, Koramangala, Bangalore-560034.(through e-mail: ros.z.bng-mefcc@gov.in)
2. The Secretary to Government, Environment Department, Government of Kerala
3. The Director, Directorate of Environment & Climate Change, 4th Floor KSRTC Bus Terminal, Thampanoor, Thiruvananthapuram, Kerala 695001.
4. The District Collector, Kozhikode (for further necessary action)
5. The Member Secretary, Kerala State Pollution Control Board
6. The District Town Planner, Kozhikode
7. The Tahsildhar, Kozhikode Taluk
8. The Village Officer, Pantheerankavu Village, Kozhikode
9. The Secretary, Olavanna Grama Panchayath, Kozhikode
10. The Chairman, SEIAA.
11. Website.
12. Stock File/Office copy



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RECEIVED
DATE: 25-04-2024

State Level Environment Impact Assessment Authority (SEIAA) Kerala

K.S.R.T.C Bus Terminal Complex, 4th Floor, Thampanoor,
Thiruvananthapuram - 695 001

Ph: +91471-2334262 (Off) +91471-2334265 (Fax)

e-mail: seacseiaakerala@gmail.com

web: www.seiaakerala

No. 1193/EC2/2018/SEIAA

Date: 23.04.2024

To,

Sri. Anwar Sadath,
Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd,
Landmark world, NH-17 Bypass,
Kozhikode – 673014

Sir,

Sub:- SEIAA – Environmental Clearance issued to the Mixed use Township Development Project ‘Landmark Trade Centre’ of Sri. Anwar Sadath, Director, M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd at Survey Nos. 27/1, 30/4c, 31/4, 7, 8, 9, 32/4, 351b in Pantheerankavu Village, Olavanna Panchayath, Kozhikode Taluk & Kozhikode - Reg:

- Ref:-
1. Judgment dated 08.02.2024 in WP(C) No.30399/2023, WP(C) No.35871/2023 & WP (C) No. 32797/2023
 2. Request dated 23.03.2024 from M/s Calicut Landmark Builders (India) Pvt.Ltd.
 3. Minutes of the 140th SEIAA meeting held on 25th and 26th March 2024.

Attention is invited to the references cited. The Authority in its 140th meeting noted the directions in the judgment dated 08.02.2024 in WP(C) No.30399/2023, WP(C) No.35871/2023 & WP (C) No. 32797/2023, and the request of the Project Proponent dated 23.03.2024. As per the decision of the Authority you are directed to comply with the directions below:

1. The Project proponent shall submit the mandatory Half Yearly Compliance Report to SEIAA and the IRO, MoEF&CC, Bangalore with all supporting documents/ proofs such as geo-tagged photographs, video graphs, etc regarding the compliance of the EC regularly.

- 2. The Project Proponent shall scrupulously follow all the directions of Hon'ble High Court in WP(C) No. 30399/2023, WP(C) No. 35871/2023 & WP (C) No. 32797/2023 and the directions of MoEF&CC relevant to this case.

The minutes of the meeting is also enclosed herewith, for your reference.

Yours faithfully,
Sd/-
Harikumar A.S
Administrator, SEIAA

Approved for Issue

[Signature]
For Section Officer

Enclosed: As mentioned above

etc

2441

RECEIVED
Date: 25-04-2024

**State Environment Impact Assessment Authority
(SEIAA) Kerala**

**K.S.R.T.C Bus Terminal Complex, 4th Floor, Thampanur,
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e-mail: seacseiaakerala@gmail.com

web: www.seiaakerala.in

No. 1193/EC2/2018/SEIAA

Date: 23.04.2024

From

The Member Secretary
State Environment Level Impact Assessment Authority

To,

Dr. Bhardwaj Adiraju
Joint Director / Scientist 'D'
Indira Pariyavaram Bhavan, Jor Bagh Road
Aliganj, New Delhi-110003

Sir,

Sub: - SEIAA - Environmental Clearance issued to M/s Calicut Landmark Builders & Developers (India) Pvt. Ltd – Order in Appeal No. 05/2022 (SZ) before the Hon'ble NGT & Judgment in WP(C) No. 32797/2023 – Reply forwarding of - reg

Ref: 1) That office letter No. IA-L-11011/88/2023-IA-I dated 02.02.2024

2) Judgment dated 08.02.2024 in WP(C) No.30399/2023, WP(C) No.35871/2023
& WP (C) No. 32797/2023

3) Minutes of the 140th SEIAA meeting held on 25th and 26th March 2024

Kind attention is invited to the references cited. As per the reference 1st cited it is informed that SEIAA, Kerala had filed the W.P (C) 32797/2023 in the Hon'ble High Court of Kerala, being aggrieved by the direction Nos. VI-VIII in the judgment dated 11.09.2023 by the Hon'ble NGT (SZ) in Appeal No.05 of 2022 & I.A. Nos.194 to 196 of 2022 and the judgment was pronounced on 08.02.2024, vide reference 2nd cited.

As per the Judgment of the Hon'ble High Court dated 08.02.2024, the directions of the Hon'ble NGT in Paragraph No. 53 (VI- 'In view of the gross violations made out, we recommend the Secretary – MoEF&CC to initiate action after due enquiry against all the members of SEIAA who were party to the decision.'), (VII), and (VIII) of the order of the

Appeal No.05/2022 & IA No.194 to 196 of 2022 dated 11.09.2023 have been set aside. However, placing on record the displeasure of the Hon'ble Court on the members of SEIAA for the manner in which they issued the 'EC' dated 12.03.2020, and observed that since it is not proved to have been done deliberately or for questionable reasons, the Court deemed it prudent to leave it there.

Since, the Hon'ble High Court has pronounced the judgment in the matter and set aside the para VI, VII and VIII of the impugned order of the Hon'ble NGT, I kindly request you to not to proceed with the direction contained in the order of the Hon'ble NGT dated 11.09.2023. The relevant judgment of the Hon'ble High Court and the minutes of the 140th SEIAA meeting have been forwarded herewith for your information and necessary action. It is also intimated that the SEIAA has taken appropriate actions to comply with the judgment of the Hon'ble High Court dated 08.02.2024.

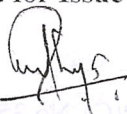
Yours faithfully

Sd/-

Harikumar.A.S.

Administrator, SEIAA

Approved for Issue



For **Section Officer**

Enclosure : Copy of references (2) & (3)

a/c

Guideline for the utilization of Environment Benefit Fund, Kerala State

1. Background

As per the judgment dated 25.01.2022 in O.A. No. 75/2021, the Hon'ble National Green Tribunal has directed that the environmental compensation collected for the environmental damages has to be deposited to the *Environmental Benefit Fund (herein after EBF)*, if any, constituted by the State of Kerala, for the utilization of the amount for the betterment of the environment and restoration of damage caused to the environment due to the unscientific manner in which the mining activities are being carried out. For this purpose, Government, vide G.O. (Rt) No. 5133/2022/Fin. dated 16.07.2022 accorded sanction to open a new Head of Account under Reserve Funds of the Public Account division of the State.

The "Guideline for utilization of the Environmental Benefit Fund" provides the framework for the sanction and assessment of projects to be financed from the EBF.

2. Establishment and Administration of EBF at the State Level

The Environmental Benefit Fund is established in the State to remit the penalty amounts fixed by the Hon'ble Courts/ competent authorities towards the environmental damages caused by the violation of various notifications under the Environment Protection Act, 1986 such as EIA Notification, 2006; CRZ Notification, 2011/ 2019; Wetlands (Conservation and Management) Rules, 2017 and its subsequent amendments/orders/circulars, if any. The fund is primarily intended to be used to finance projects/ actions focused on the restoration of natural habitats that have been damaged by such violation of developmental projects/ activities in the State, in ways that may be prescribed by this guideline or the competent authority/ Government, in an effective, transparent, and accountable manner. The establishment of the fund is on the "*Polluter Pays Principle*", which ensures that the promoters of developmental projects will take the necessary precautions to avoid environmental harm in the project area.

2.1. Constitution of State-level Environmental Benefit Fund Managing Committee and District Environmental Restoration Committee

The State Government shall constitute the State-level Environmental Benefit Fund Managing Committee (SEBFMC) and the District Environmental Restoration Committees (DERCs). The SEBFMC and DERCs shall have a Technical Cell for assisting the respective Committees for the implementation of ERPs and its monitoring.

2.1.1 Composition and Functioning of State-level Environmental Benefit Fund Managing Committee

The State-level Environmental Benefit Fund Managing Committee (SEBFMC) shall have the authority to approve the Environmental Restoration Plans (ERPs) submitted by the District Environmental Restoration Committees (DERC) and sanction the expenditure from the EBF.

The composition of the SEBFMC shall be as follows:

- i. Secretary (Environment), Government of Kerala – Chairperson
- ii. Chairman, State Level Expert Appraisal Committee – Member
- iii. Chairman, Kerala State Pollution Control Board or his nominee – Member
- iv. Chairman, Kerala State Biodiversity Board or his nominee – Member
- v. Director, Department of Mining and Geology or his nominee – Member
- vi. Principal Chief Conservator of Forests (Social Forestry) – Member
- vii. Environmental Scientist, Directorate of Environment and Climate Change – Member
- viii. Director, Directorate of Environment and Climate Change – Convener

Expert member(s) in socio-economic, ecology, environmental engineering, and natural resource conservation may be co-opted at the committee's discretion on a case-by-case basis. The co-opted member(s) shall, however, be a non-voting member. They are entitled to Honoraria/sitting fees and field visit fees as determined by the Government from time to time.

The SEBFMC shall meet at least once in every six months. Meeting(s) of the Committee may also be called by the Chairperson / Convener as and when needed.

The SEBFMC may, if it deems it necessary, request that the relevant State Authorities, constituted by the Central Government under subsection (3) of Section 3 of the Environment (Protection) Act, 1986 to review and recommend the proposals from the DERC.

All decisions relating to the approval of the Environmental Restoration Plan (ERP) shall be determined by a simple majority, where the quorum for such a meeting shall be at least 50 percent of the members of the Committee. Such decisions of the SEBFMC shall be final.

2.1.2 Composition and Functioning of District Environmental Restoration Committees

The DERCs shall formulate and submit the Environmental Restoration Plan (ERP) for reversing the damage done to the ecology and environment of the project area/affected area to SEBFMC. The DERCs shall monitor the progress of the restoration activities and also submit the Final Technical or Implementation Report to SEBFMC for completion certification.

The DERCs shall consist of:

- i. District Collector - Chairperson;
- ii. District/Divisional Forest Officer – Member
- iii. District Geologist – Member
- iv. District Soil Conservation Officer – Member
- v. District Officer, Ground Water Department – Member
- vi. District Coordinator, Biodiversity Board – Member
- vii. Representatives from two reputed environmental NGOs working in the district – Members
- viii. District Environmental Engineer/ Environmental Scientist, KSPCB – Convener

The Chairperson shall select the NGO representatives from among those of eminent standing and unwavering integrity. The tenure of the nominated representatives in the Committee shall be three years or terminate when she/he ceases to hold that organization, whichever is earlier.

Expert member(s) in socio-economic, ecology, environmental engineering, and natural resource conservation may be co-opted at the committee's discretion on a case-by-case basis. The co-opted member(s) shall, however, be a non-voting member.

The non-official members (including the co-opted experts) are entitled to Honoraria/ sitting fees and field visit fees as determined by the Government from time to time.

All decisions relating to the recommendation of the Environmental Restoration Plan shall be determined by a simple majority, where the quorum for such a meeting shall be at least 50 percent of the members of the Committee.

2.1.3 Technical Cells

A Technical Cell shall constitute by the Chairpersons of SEBFMC & DERCs for assisting the respective Committees (SEBFMC & DERCs) and shall report directly to the Convener and Chairperson of the respective Committee.

The Environmental Scientist, DoECC shall head the Technical Cell at the State level and shall include the Environmental Officer, DoECC who are involved with environmental impact assessment aspects of the State.

The Directorate of Environment and Climate Change (DoECC) at the State level and the Office of the Kerala State Pollution Control Board at the District level shall function as the Secretariat of the SEBFMC, DERC and Technical Cells.

2.2. Power to incur Expenditure – SEBFMC

The State-level Environmental Benefit Fund Managing Committee (SEBFMC) shall have the authority to approve the Environmental Restoration Plans (ERPs) submitted by the District Environmental Restoration Committees (DERC) and sanction the expenditure from the EBF following the instructions laid out under this guideline and other instructions issued by the Government/Hon'ble Courts from time to time. The SEBFMC may also approve suo moto project proposals received from government departments/ agencies that are aimed at protecting the environment and conserving natural resources if they are in conformity with the provisions in this guideline. However, in cases where the amount remitted to the EBF is meant exclusively for a comprehensive Environmental Restoration Plan that has been prepared and approved as per the decisions of the Hon'ble Courts or Authorities, the amount shall be utilized exclusively for the purpose at a specific site, as per the approved plan. The SEBFMC shall hold the authority to insist on and devise effective mechanisms to track and monitor the implementation progress of various ERPs in the State. It also has the authority to review appeals against DERC decisions and public complaints regarding the implementation of ERPs.

The SEBFMC or DERC shall identify the proposals through normative search including through the three-tier local governments and invite agencies such as government departments, government funded agencies, including academic institutions, non-governmental organizations with relevant experience and expertise. The willing organizations shall prepare the Project Implementation Plan (PIP) along with their demand for fund based on Request for Proposal (RFP) provided by DERC/SEBFMC. The SEBFMC shall provide final approval for the PIP based on the technical and financial feasibility.

2.3. Operation of the EBF at the State level

The amount received by imposing Environmental Compensation to the industries/ organization for the violation of various notifications under the Environment Protection Act, 1986 (as listed in section 2 above) shall be deposited in the EBF. At the State level, the fund shall be operated by the

Director, Directorate of Environment and Climate Change (DoECC), Government of Kerala. He shall act as the Drawing and Disbursing Officer (DDO) of the fund.

The DDO shall maintain a register of the applications/proposals from the District Environmental Restoration Committees (DERCs) and a register of awards and payments made. The DDO shall maintain the books of accounts of this Fund and furnish a consolidated Statement of accounts in respect of all the receipts and payments to the Government by 30th April of every year. The accounts shall be annually audited in such a manner as may be prescribed by the Government in consultation with the Accountant General of the State.

2.3.1 Norms for Funding

The funds for the sanctioned projects shall be released by SEBFMC to DERCs as per the following norms:

- a) 50 % of the total amount shall be released at the project inception stage.
- b) 30% of the total amount shall be released on 80% completion of the project.
- c) 20% of the total amount shall be released on completion of the project and submission of the completion report.
- d) The grant will be payable following funding norms on submission of the Utilization Certificate (UC), Expenditure Statement, and Progress Reports.

2.4. Environmental Restoration Plan (ERP)

The Environmental Restoration Plan (ERP) for reversing the damage done to the ecology and environment of the project area/affected area shall be formulated and recommended by the District Environment Restoring Committees (DERCs) to the State-level Environmental Benefit Fund Managing Committee. The ERP proposal shall be submitted as per the format given in **Annexure I**.

The Environmental Restoration Plan (ERP) should clearly identify the objectives, activities, and methodology as well as project deliverables. The ERP must detail the direct and indirect damages caused to the environmental properties or goods due to the development activities in question, as well as recommendations for the best achievable remediation and restoration techniques and an action plan to patch up the damage caused. In this context, environmental goods comprise natural resources such as air, soil, surface water, groundwater, biodiversity, and other ecosystem services they provide to ecosystems or humans. The evaluation of ecosystem damages and the formulation of the restoration plans are to be done on a case-by-case basis through the collection, compilation, and assessment of data on the biological environment, ecosystem functions, communities, etc. in the damaged area.

The ERP undertaken under the EBF shall not include the remediation plan and natural and community resource augmentation plan approved by the SEIAA as per OM dated 07.07.2021 and OM dated 28.1.2022 regarding the handling of cases involving violation of EIA Notification. Environmental mitigation measures implemented by the respective project proponents as per the directions of statutory authorities will not come under EBF.

The DERCs may, if necessary, seek expertise from renowned R & D institutions/ NABET-accredited agencies/PCB-approved laboratories etc. while formulating the Plan on a case- by-case basis. The proposed actions/works must be chosen in such a manner that they take into account the local requirements and priorities of the impacted areas. If necessary, the Biodiversity Management Committee (BMC) of the Local Self Government(s) may also be involved in the process of developing the ERP. The ERP shall identify the directly and indirectly affected areas of the project and prepare the restoration plan with a detailed budget and milestone for each restorative action. The DERCs shall identify suitable departments/ agencies having domain expertise to undertake the restoration actions and specify site-specific target levels for restoration of specific constituents of concerns along with intermediate target levels vis-à-vis the schedule to monitor the progress of remediation. If time limits or any specific directions prevail due to the instructions of the Hon'ble Courts or so, the same

shall be followed. Every identified action/work shall have a verifiable and time-bound outcome component.

The following programs/ actions may also be considered while developing the ERP.

- a. Investigations of environmental damages, preparation of DPRs
- b. Remediation of contaminated sites
- c. Preparation of Comprehensive Industry Documents on Industrial Sectors
- d. Inspections for compliance verification
- e. Green infrastructure development
- f. Information, Education, and Communication (IEC) activities.

Depending on the requirement, new programs on scientific and technical matters that may arise as contingent matters can be added to the proposed list. In conclusion, ERP shall be formulated in such a way that it enables expenditure in the following manner:

- a) Not less than 60 percent shall be spent on project area and the surrounding directly affected areas.
- b) Not more than 15 percent shall be spent on indirectly affected areas.
- c) A maximum of 25% may be transferred to the State-level Core Fund maintained by the DoECC, which will be used to meet the administrative costs, including field inspection expenses and honoraria of members of SEBFMC, DERC, SEIAA, SEAC, secretariate expenses of SEIAA / SEAC linked to the project and the experts hired by the SEBFMC, NABET, Accredited Organizations, etc., if required.

2.5. Operation of the EBF at District Level

The Convener, DERCs shall maintain a register of the EBF applications and proposals sanctioned by the SEBFMC and a register of accounts on payments made thereunder. The DERC shall furnish a statement of accounts relating to the utilization of amounts under the EBF to the Director, DoECC, once in six months. At the end of each year, the DERC shall prepare an annual report on the

activities it has undertaken and submit it to the SEBFMC. The progress of implementation of the action plan shall also be reported to the SEBFMC at regular intervals as insisted by the Committee or Hon'ble Courts on a case-by-case basis.

The amount under the Fund shall be kept in a dedicated bank account in any commercial nationalized bank in the name of the DERCs and shall be operated under the joint signatures of the Chairperson and Convener. The amount under the EBF shall be used exclusively for the restoration of the affected area, as approved by the SEBFMC. No expenditure that is not covered by a provision in the sanctioned budget estimates or that is likely to be more than the amount provided under any head, shall be incurred by the DERCs without obtaining approval from the SEBFMC. All information concerning the proceedings of the DERCs, including accounts, fund disbursement and use, audit reports, the annual report, and meeting minutes, must be put in the public domain.

2.6. Implementation and Monitoring of Environmental Restoration Plan

The restoration actions shall be executed by the qualified agencies/ stakeholder departments as envisaged in the approved ERP. The SEBFMC shall hold the authority to monitor and review the implementation progress of various ERPs in the State. At the District level, the progress shall be monitored by the concerned DERC as per the time schedules and phase-wise remedial targets thereof, as detailed in the ERP. During such monitoring, some sampling and analysis thereof shall also be carried out by the authorized agencies for validation. The DERC shall furnish the Final Technical or Implementation Report to the SEBFMC on completion of the Project. If necessary, the SEBFMC may order the DERCs to provide interim monitoring reports.

Annexure I**Format for Environmental Restoration Plan Proposal**

1. Title of the Project
2. Name & Address of the Coordinating Department/ Agency
3. Name & Designation of Project Coordinator (if any)
4. Specified Project Area including detailed maps (in reference to the order of Hon'ble Courts/ Authorities)
5. Objective
6. Scope of Work
7. Methodology
8. Duration of the Project/Time Schedule (PERT Chart)
9. Expected outcome/deliverables
10. Monitorable targets (Physical and Financial)
11. Total Amount of Grant Required along with Cost Breakup
12. Details of additional funds (along with sources), if any, sanctioned for the Project