

**BEFORE THE HON'BLE GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE,
ORIGINAL APPLICATION NO.40 OF 2025**

IN THE MATTER OF :

GO GREEN FOUNDATION TRUST & ANR. ...APPLICANTS

VERSUS

UNION OF INDIA THROUGH SECRETARY,
MoEFCC & ORS.RESPONDENTS

BRIEF NOTE

**NITIN LONKAR
SONALI SURYAWANSHI
PRADNYA BHEKE
ADVOCATE FOR APPLICANTS**

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BRIEF NOTE

1. The present matter of gross intentional violations of environments norms by the Project Proponent i.e. **Respondent No. 6-M/s. Hilton Infrastructure-Project Proponent (PP)** in its Residential and Commercial project "**Fuego**", situated at **CTS No.207, 1/207 & 208, at 122-138, Tardeo Division, D-Ward, 4042-46 & 4039, Shuklaji Street, Mumbai-400008 (MH)** within the limit and jurisdiction of Greater Mumbai Municipal Corporation (MCGM). **(property description in Pleading Page No.3 Para 3 and of O.A.)**
2. The said construction is carried out by PP by infringing various environmental norms by not complying conditions imposed by SEAC-II in its 23rd meeting dated 13.02.2014, conditions imposed by SEIAA in its 82nd meeting dated 25.02.2015, the terms and conditions of CTE dated 19.08.2014, EC dated 30.03.2015, EC dated 22.09.2021, CTO- I dated 27.12.2021 and the same is evident from the Refusal of Consent to Operate issued by MPCB on 28.03.2023. **(pleadings at Pg No. 11-21, Para 6 &7 of O.A.)**
3. The Hon'ble Tribunal vide Order dated 24.06.2025 directed to file brief note indicating specific conditions of EC, which have been violated/are being violated by Respondent No.6.

4. FOLLOWINGS ARE THE GROUNDS OF OA AND FINDINGS/COMMENTS BY THE VARIOUS AUTHORITIES IN PARA 6 OF OA:

A) Para 6.1 & 6.2- (@ pg. 11) No CTE for after expiry of CTE dated 19.08.2014 and for expansion after EC Dated 22.09.2021

That the CTE dated 19.08.2014 was granted for TBUA - 34196.36 Sq.Mt.(@ pg 50) which was valid for 5 years or period upto commissioning of the project whichever is earlier and the CTE has expired on 18.08.2019. Though the construction of project is still going on without revalidating the CTE.

The PP have committed violation of the condition no. viii (@ pg.73) of the EC dated 30.03.2015 and **condition No. II (@ pg. 186)** of EC dated 22.09.2021

stating that the PP shall obtain CTE if applicable and submit the copy to Environment Department before start of any construction work at the site.

The MPCB while issuing Refusal to CTO dated 28.02.2023 (@ pg 218) in **Point No.2** “You have not obtained re-validation of consent to establish from 19.08.2019 onwards..”

B) Para 6.7 (@ pg. 13) no RG area on mother earth, encroachments in marginal space and obstacle for fire tender movement:

That as per the minutes of 23rd SEAC-II Meeting held on 13.02.2014 @ pg.42), minutes of 71st SEIAA Meeting held on 15.07.2014 (@ pg.49), EC dated 30.03.2014 (@ pg. 69), EC dated 22.09.2021(@ 180), PP have to provide the mandatory RG Area on Ground Floor without no overlapping of Marginal Space and not above basement. Distance between RG Area and Marginal space shall be of 6 Mtrs. from boundary wall. However, PP have not provided RG area in Mandatory marginal space as well as fire tender movement and on above basement. Distance between RG Area and Marginal space shall be of 6 Mtrs. from boundary wall. However, PP have provided RG area in Mandatory marginal space as well as fire tender movement and on above basement.

It is evident from the minutes of 23rd SEAC-II Meeting held on 13.02.2014 @ pg.42) that the PP to leave clear cut side margin of 6 m. from the boundary of the plot and open space and RG area should be on ground as per the orders of Hon'ble Supreme Court. The Hon'ble Supreme Court in Municipal Corporation of Greater Mumbai and Ors. vs. Kohinoor CTNL Infrastructure Company Private Limited and another, (2014) 4 SCC 538 (Kohinoor case) issued direction for minimum side margin distance requirement and Recreational area.

EC	RG area on Ground	RF area on upper Floor/podium
30.03.2015	318.96Sq. Mt.	106.25 Sq.Mt.
22.09.2021	391.72Sq. Mt.	0
Compensation for Deficient RG Area	=Deficient Area X Circle Rates for Open land =391.72M2 X Rs.81720/M2 = Rs.3,20,11,358.4/- (Three Crore Twenty Lakh Eleven Thousands Three Hundred & Fifty Eight Rupees Only)	

Hon'ble Supreme Court in Municipal Corporation of Greater Mumbai and Ors. vs. Kohinoor CTNL Infrastructure Company Private Limited and another, (2014) 4 SCC 538 (Kohinoor case) held as follow -

“32. Therefore, after reflecting upon the legal position, we are clearly of the opinion that having 15%, 20% or 25% of the area (depending upon the size of the layout)

as the recreational/amenity area at the ground level is a minimum requirement, and it will have to be read as such. We therefore, answer Issue (i) by holding that it is not permissible to reduce the minimum recreational area provided under DCR 23 by relying upon DCR 38(34). However, if the developers wish to provide recreational area on the podium, over and above the minimum area mandated by DCR 23 at the ground level, they can certainly provide such additional recreational area."

Further this Hon'ble Tribunal while passing the Order dated 13.09.2022 in Appeal No. 22 of 2016 has held that the RG area shall be provided on ground level which should not only open to sky but must also enable plantation of tree as follow

"In the light of above, we hold that RG has to be provided on ground to enable plantation. SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA, Maharashtra may verify facts on the ground and take its decision within one month from today."

The abovementioned Order dated 13.09.2022 was challenged before the Hon'ble Bombay High court in WP (L) No. 35671 of 2022 and vide order dt. 27.01.2023 directed SEIAA to decide EC proposals by applying provisions of DCPR 2034 or UDCPR.

The abovementioned Order dated 27.01.2023 passed by the Hon'ble High Court was challenged in Civil Appeal No. 343 of 2025 (then SLP (C) Diary No. 11843 of 2023 and the Order of the Hon'ble High Court has been stayed by the Hon'ble Apex Court vide Order dt. 08.05.2023.

The SEIAA while granting EC dated 30.03.2015 imposed **Condition no. vi of General Conditions for pre-construction phase** (@ pg. 73) that *"PP has to abide by the conditions stipulated by SEAC & SEIAA."*

C) Para 6.8 (@ pg. 14) no prior NOC from CGWA is obtained by PP:

PP has not obtained prior Permission of CGWA for ground water extraction form **one bore well** and also carried out illegal construction of **two basements** for Residential & Commercial buildings which is in violation of **Condition No. xxiii (@ pg. 74)** of the EC dated 30.03.2015 that *"the Permission to draw ground water and construction of basement if any shall be obtained from competent authority prior to construction/operation of the project"*

Also it is in violation of the **Condition no. VIII (@ pg. 183)** of the EC dated 22.09.2021 that *"Permission to draw ground water and construction of*

basement if any shall be obtained from competent authority prior to construction/operation of the project"

D) Para 6.9 (@ Pg. 14) No preservation of top layer of fertile soil and no soil test for contamination:

PP failed to preserve the top layer of soil and also not carried out any test for its contamination and its amounts to the violation of **Condition No. vi, vii, ix (@pg. 73)** of EC dated 30.03.2015.

"(vi) All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.

(vii) Additional soil for leveling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.

(ix) Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants."

and further the **Condition No. XI, XII, XII (@pg. 183 & 184)** of EC dated 22.09.2021.

"XI. All the topsoil excavated during construction activities should be stored for use in horticulture I landscape development within the project site.

XII. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.

XIII. Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants."

Six-monthly compliance report:

The PP failed to submit the six-monthly compliance report as well as Yearly/ Half-yearly returns & compliance Reports to the MoEF & CC, SEIAA, MPCB and its amounts to the violation of **Condition No. xxxvi (@pg. 75)** of EC dated 30.03.2015 that *"The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB."*

And the **Condition No. XII (@pg. 185)** of EC dated 22.09.2021 that *"Project management should submit half yearly compliance reports in respect of the stipulated prior environment clearance terms and conditions in hard & soft copies to the MPCB & this department, on 1st June & 1st December of each calendar year."*

E) Para 6.10 & para 6.11 (@ Pg. 15 & 16): No installation of scientific STP on demarcated location and PP directly discharging untreated waste water to the MGMC sewer line and there is no treatment, no use of excess treated water for gardening:

PP has not installed Sewage Water Treatment Plant as per the EC dated 30.03.2015 and 22.09.2021 which is as per follow

EC	Sewage Generation	STP	STP Location	Actual Installation
30.03.2015	44/77 (@ pg.68)	50/90 (@ pg. 68)	1 st Basement of Redevelopment Building And 2 nd Basement of the Sale Building	No
22.09.2021	178 (Point no. 9 @pg.180)	50/160 (Point no. 10 @pg.180)	Under Ground of the Redevelopment building and 1 st floor of the Sale Building	No

As per the condition no. xxii (@ pg. 74) of EC dated 30.03.2015 directed the PP that *“the installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Discharge of this unused treated effluent, if any should be discharge in the sewer line. Treated effluent emanating from STP shall be recycled/refused to the maximum extent possible. Discharge of this unused treated effluent, if any should be discharge in the sewer line. Treatment of 100% gray water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP.”* And the same condition no. III of EC dated 22.09.2021 (@ pg. 184) Though the PP has failed to comply with the condition by not installing the STP as mandated by both ECs.

The SEIAA in its 82nd meeting held on 25.02.2015 imposed condition on PP for excess treated water utilization by PP for gardening purpose and PP undertaking for use of treated excess water (@pg. 64). However, PP is not treating sewage water nor using it for gardening and this waste water generated from the project is directly discharged to the MCGM sewer line and it is in violation of **Condition no. vi of General Conditions for pre-construction phase** (@ pg. 73) that *“PP has to abide by the conditions stipulated by SEAC & SEIAA.”*

F) Para 6.12 (@ Pg. 16 & 17): No installation of scientific organic waste converter (OWC) for solid waste treatment on demarcated location :

The PP is directed to install the OWC plant as follow, though PP has failed to install OWC plant:

EC/CTE/ CTO-I	Wet Waste	Dry Waste	STP Sludge	OWC	Location	Actual Installation
CTE dt. 19.08.2014 (@ pg. 51)	303	143	18	Not Disclosed	Basement	No
EC dt. 30.03.2015 (@ pg. 68)	303	143	18			No
EC dt. 22.09.2021 (@ pg. 180)	397	265				No
CTO-I dt. 27.12.2021 (@ pg. 189, Point no. 6)	66	99	6			No

G) Para 6.13 (@ Pg. 17): No tree plantation:

PP has been directed to plant the following no. of trees though PP has not undertaken the plantation of trees as per EC dated 30.03.2015 as no RG area is provided on the ground to enable the plantation of trees.

EC	No. of trees to be planted
30.03.2015	29 (@ pg.69)
22.09.2021	Not disclosed

H) Para 6.14 (@ Pg. 17): No installation of rain water harvesting (RWH) system: the PP shall erect tank of 152 KL (52KL for redevelopment building at underground level and 100 KL for Sale Building at 1st Basement level)) for Rain Water Harvesting (RWH) as per EC dated 30.03.2015 (2pg.67), and tank of 110 KL as per the EC dated 22.09.2021 though no building is mentioned. However, PP have not installed RWH System in redevelopment building and insufficient RWH tank in Sale building and the same is evident from the sanctioned plan @ pg. 91 &92) Therefore, PP have committed violation of terms & condition of all the ECs.

I) Para 6.15 (@ pg.18) No installation of solar water heaters & solar energy system:

The PP have under taken the energy saving to the extent of 19% of the total energy consumption from the project as per the EC dated 30.03.2015 (@ pg. 70) and 21% total energy saving in EC dated 22.09.2021 and with help of Solar is 5% (@ pg. 180) by installation of Solar Water Heaters, Solar Energy Generation for Common lighting etc.. However, PP is failed to install the energy saving system and committed violations of terms and condition No. xxviii of EC dated 30.03.2015 (@ pg.75) and condition no. 2 of SEIAA Condition (@ pg.183) and

J) Para 6.16 (@ pg.18) No turning radius of 6 mtrs. for easy access of fire tender movement from all around the building excluding the width for the plantation:

That as per the 23rd meeting of the SEAC (@ pg. 42), 71st meeting of SEIAA (@ pg.49) and per EC dated 30.03.2015 (@ pg.67) and its condition no. vi (@ pg.73), the PP ought to provide the 6 Mtrs of turning radius for easy access for fire tender movement, however, actual development , as per the sanction plan @ pg. 89, itself shows that the marginal space is less than 6 Mtrs and also, side margin spaces are affected by the building line/ basement line, RG are of the projects etc. and therefore, fire tender movement is adversely affected and not possible. Its violation of EC r/w SEAC & SEIAA conditions.

Considering the above facts, clearly establish that the PP have committed various serious environmental violations by not complying the conditions of EC dated 30.03.2015 and 22.09.2021. Therefore, this Hon'ble Tribunal may be pleased to allow the Original Application.

Date: 07.08.2025

Place: Delhi



Advocate for Applicants