BEOFRE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION No. 38 of 2022

IN THE MATTER OF:-

Dr. Bina Basnett .... Applicant

Versus

State of Sikkim & Ors. ... Respondents

INDEX

Sr. No.	PARTICULAR	Pg No.
1.	COMMON COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1 (THE STATE OF SIKKIM); RESPONDENT NO. 3 (DEPARTMENT OF MINES & GEOLOGY, GOVERNMENT OF SIKKIM); RESPONDENT NO. 4 (URBAN DEVELOPMENT DEPARTMENT, GOVERNMENT OF SIKKIM); RESPONDENT NO. 7 (DISTRICT MAGISTRATE/ COLLECTOR, EAST DISTRICT, SIKKIM) AND RESPONDENT NO. 9 (FOREST & ENVIRONMENT DEPARTMENT, GOVERNMENT OF SIKKIM)	1-30
2.	**Annexure – R1** True copies of the Counter Affidavits filed by the Respondents No. 1, 3, 4, 7 and 9 before this Hon'ble Tribunal (without annexures)	31-67
3.	**Annexure – R2** True copy of the Order dated 10.05.2022	68-71
4.	**Annexure – R3** True copy of C. A. No. 6168/ 2023 filed by the Applicant before the Hon'ble Supreme Court, along with its index (without annexures)	72-136
5.	**Annexure – R4** True copy of the Order dated 17.07.2023 of the Hon'ble Supreme Court	137-283
6.	**Annexure – R5** True copies of the Application for Condonation of Delay in filing the Appeal and the Application for Condonation of Delay in Re-Filing the Appea	284-292
7.	**Annexure – R6** True copy of the Order dated 25.09.2023 passed by the Hon'ble Supreme Court in C. A. No. 6168/ 2023	293-296

8.	**Annexure – R7** True copy of Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the Urban Development & Housing Department, Government of Sikkim	297
9.	**Annexure – R8** True copies of the photographs of the old taxi stand	298-299
10.	**Annexure – R9** True copy of the Geological and Geo-Technical Appraisal of Tashiling Secretariat Complex Post 9/18 Sikkim Earthquake – 2011	300-327
11.	**Annexure – R10(Colly)** True copies of such Notices issued previously on 01.05.2019 and 26.05.2020 by the Urban Development & Housing Department, Government of Sikkim	328-329
12.	**Annexure – R11** True copy of the Letter bearing Memo No. 84/SPV/GSCDL/2018-19 dated 23.11.2019 from the Office of Gangtok Smart City Development Ltd	330
13.	**Annexure – R12** True copy of the detailed Geological and Geo-Technical Investigation Report dated March, 2020 of the land on which the construction of multi-level car parking cum commercial development project has been undertaken, conducted by the Department of Mines & Geology, Government of Sikkim	331-349
14.	**Annexure – R13** True copy of Notification No. 17/DMG/20-21 dated 19.03.2021 issued by the Department of Mines & Geology, Government of Sikkim	350-354
15.	**Annexure – R14** True copy of the Cabinet Memorandum dated 27.05.2021	355-359
16.	**Annexure – R15** True copy of the Cabinet decision dated 11.06.2021	360-361
17.	**Annexure – R16** True copy of the Letter dated 21.09.2021 of the Urban Development & Housing Department, Government of Sikkim	362
18.	**Annexure – R17** True copy of the Letter bearing Ref. No. MIPL/HO/18/2021-22 dated 21.09.2021 sent by MESASO Infrastructure Pvt. Ltd	363
19.	**Annexure – R18** True copy of the Site Stability Report dated 29.12.2021 of the Department of Mines & Geology, Govt. of Sikkim	364
20.	**Annexure – R19** True copy of the Letter bearing Ref. No.	365-366

	MIPL/12/2021-22 dated 31.12.2021 from MESASO Infrastructures Pvt. Ltd	
21.	**Annexure – R20** True copy of the Construction Order dated 31.12.2021 issued by the Gangtok Municipal Corporation	367-368
22.	**Annexure – R21** True copy of the Permission dated 10.01.2022	369
23.	**Annexure – R22** True copy of the Letter bearing Ref. No. MPL/SITE/09/2021-22 dated 15.02.2022 of MESASO Infrastructures Pvt. Ltd	370-372
24.	**Annexure – R23** True copy of the Letter dated 17.02.2022 issued by the Department of Mines & Geology, Government of Sikkim	373
25.	**Annexure – R24** True copy of the Letter bearing Ref. No. 789/DMG/21-22 dated 28.02.2022 of the Department of Mines & Geology, Government of Sikkim	374
26.	**Annexure – R25(Colly)** True copy of the Cabinet Memo and Cabinet Approval	375-379
27.	**Annexure – R26** True copy of the Environmental Clearance dated 23.08.2023 issued by the Ministry of Environment, Forest & Climate Change, Government of India	380-395
28.	**Annexure – R27** True copy of the Letter bearing Ref. No. 47/E&SC/Circle dated 23.11.2022 from the Chief Conservator of Forests, Department of Forest & Environment, Government of Sikkim to MESASO Infrastructure Pvt. Ltd	396
29.	Vakalatnama	397
30.	Proof of service	398

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PLACE: NEW DELHI
Dated:31.01.2024

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 38/2022/EZ

IN THE MATTER OF:-

DR. BINA BASNETT .... APPLICANT

Versus

STATE OF SIKKIM & ORS. .... RESPONDENTS

COMMON COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1 (THE STATE OF SIKKIM); RESPONDENT NO. 3 (DEPARTMENT OF MINES & GEOLOGY, GOVERNMENT OF SIKKIM); RESPONDENT NO. 4 (URBAN DEVELOPMENT DEPARTMENT, GOVERNMENT OF SIKKIM); RESPONDENT NO. 7 (DISTRICT MAGISTRATE/ COLLECTOR, EAST DISTRICT, SIKKIM) AND RESPONDENT NO. 9 (FOREST & ENVIRONMENT DEPARTMENT, GOVERNMENT OF SIKKIM)

I, Hemant Rai, SCS, Additional Secretary, Urban Development Department, Government of Sikkim, Gangtok, Sikkim do hereby solemnly affirm that:

1. I am the Additional Secretary of the State Government of Sikkim, and as such am competent to depose to the contents of this Affidavit. I have gone through the contents of the Application and have understood its contents. The contents of the petition are denied in entirety, except to the extent specifically admitted hereinafter.

2. I am authorized to swear the present Affidavit based on the instructions received from the Department of Mines & Geology, Government of Sikkim, the Urban Development Department, Government of Sikkim, the District Magistrate/ Collector, East District, Sikkim and the Forest & Environment Department, Government of Sikkim.

OATH COMMISSIONER ★ HIGH COURT OF SIKKIM ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

PRELIMINARY SUBMISSIONS ON MAINTAINABILITY OF THE ORIGINAL APPLICATION:

3. That the Applicant herein had previously filed O. A. No. 05/2022 titled "*Dr. Bina Basnett* v. *State of Sikkim & Ors.*" ("**previous O. A.**") before this Hon'ble Tribunal on 31.12.2021. At that stage, the Answering Respondents had filed their affidavits in opposition to the previous O. A. before this Hon'ble Tribunal. Vide the said affidavits, the Answering Respondents had made out a case of suppression of material facts on the part of the Applicant and also placed on record the true and correct facts as to all the necessary permissions and clearances (including the Environmental Clearance ("**EC**") dated 25.02.2022) being in place for the project in question, before this Hon'ble Tribunal.
   True copies of the Counter Affidavits filed by the Respondents No. 1, 3, 4, 7 and 9 before this Hon'ble Tribunal (without annexures) are annexed herewith as **Annexure – R1.**

4. Thereafter, on a finding arrived at by this Hon'ble Tribunal that the Applicant had filed the previous O. A. on a misrepresentation of fact (and also obtained an interim order on the basis of such misrepresentation), vide its Order dated 02.03.2022, this Hon'ble Tribunal had permitted the Applicant to withdraw the previous O. A. with a cost of Rs. 5,000/- to be paid by the Applicant and the interim Order of stay was also vacated.

5. The present Application was then preferred by the Applicant before this Hon'ble Tribunal on 07.03.2022. As stated above, the Answering Respondents had already filed their affidavits in opposition in the previous O.A., thereby placing on record the true and correct facts as to all the necessary permissions and clearances (including the EC dated

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

25.02.2022) being in place for the project in question. This Hon'ble Tribunal was pleased to dismiss the present Application vide its Order dated 10.05.2022, with the following observation:

> *"8. This Environmental Clearance has not been filed along with the Original Application. We are of the view that if Environmental Clearance has been granted for this project, the Applicant has a remedy by way of appeal challenging the said Environmental Clearance.*
> *9. The Original Application No. 38/2022/EZ is accordingly dismissed on ground of alternative remedy."*

True copy of the Order dated 10.05.2022 is marked and annexed as **Annexure – R2.**

6. As is evident from the above Order dated 10.05.2022, this Hon'ble Tribunal had been pleased to dismiss the present Application solely on the grounds of alternative remedy, thereby permitting the Applicant to prefer an appeal against the EC which had already been placed on record by, *inter alia*, the Answering Respondents. Notwithstanding the liberty granted by this Hon'ble Tribunal, the Applicant has not challenged the EC dated 25.02.2022 till date, before any forum whatsoever. The lack of seriousness on the part of the Applicant in properly agitating the cause which she claims to espouse is self-evident.

7. The Applicant herein thereafter preferred an Appeal i.e. C. A. No. 6168/ 2023 titled *"Bina Basnett* v. *the State of Sikkim & Ors."* (**"Appeal"**) against the Order dated 10.05.2022 passed by the Hon'ble Tribunal under Section 22 of the National Green Tribunal Act, 2010 (**"2010 Act"**) before the Hon'ble Supreme Court of India on 11.10.2022, after a delay of 64 days. The Appeal preferred was replete with misrepresentations and suppression of material facts, similar to the previous O. A. and the

OATH COMMISSIONER * HIGH COURT OF SIKKIM * Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

present Application before this Hon'ble Tribunal. Further, notwithstanding the liberty granted by this Hon'ble Tribunal to challenge the EC for the project, no such challenge was preferred by the Applicant, nor has it so been preferred till date. Furthermore, the Applicant deliberately concealed the Affidavits filed by the Answering Respondents before this Hon'ble Tribunal in the previous O. A., by not annexing them to the Appeal Paperbook before the Hon'ble Supreme Court, so as to falsely convey to the Hon'ble Supreme Court that this Hon'ble Tribunal had dismissed the application *in limine* and without calling for any responses. It was only much later and by way of an Additional Documents Application that the said Affidavits were filed before the Hon'ble Supreme Court.

A true copy of C. A. No. 6168/ 2023 filed by the Applicant before the Hon'ble Supreme Court, along with its index (without annexures) is annexed herewith as **Annexure – R3**.

8. In addition to having preferred the Appeal before the Hon'ble Supreme Court with an inordinate, unexplained delay, the Applicant did not take any steps whatsoever for the listing and hearing of the Appeal before the Hon'ble Supreme Court. As a matter of fact, the Applicant chose to keep the Appeal pending in the Registry until such time as the Appeal was directed to be dismissed in default for non-curing of the defects in the Appeal within time. A last opportunity of six-weeks' time was granted to the Applicant to cure the defects on 17.07.2023 by the Hon'ble Supreme Court. It was only thereafter that the Applicant cured the defects and took steps for listing of the Appeal before the Hon'ble Court. It is submitted that such conduct on the part of the Applicant is demonstrative of the ulterior motive of the Applicant in preferring the present challenge, which

Additional Secretary
Urban Dev. Depart
Govt. of Sikkim, Gang

is directed at gaining political advantage by the Applicant who is a politician in the State of Sikkim. In the very least, given her conduct of not acting with urgency to agitate her grievance against the project, the Applicant certainly cannot claim to be an individual interested in the protection of the environment in the State of Sikkim.

A true copy of the Order dated 17.07.2023 of the Hon'ble Supreme Court is annexed herewith as **Annexure – R4.**

9. This Hon'ble National Green Tribunal in a catena of cases (i.e. *Vijay Singh* v. *Balaji Grit Udyog (Unit-I and Unit-II) & Ors., MANU/GT/0036/2014)* has held that a vexatious petition under the color of a Public Interest Litigation brought before the court for vindicating any personal grievance, deserves rejection at the threshold. That it is well settled that Courts cannot approve of approaches that would encourage petitions filed for achieving oblique motives on the basis of wild and reckless allegations made by individuals i.e. busybodies, having little or no interest in the proceedings. That the credentials, the motive and the objective of the petitioner have to be apparently and patently aboveboard, otherwise the petition is liable to be dismissed at the threshold, and in appropriate cases, with exemplary costs. That the person approaching the Courts must be acting bonafide and not for personal gain or private motive or political motivation or other oblique consideration. All this certainly proves that there is something more than meets the eye and the Applicant cannot be conceived as a 'person aggrieved' within the meaning of Section 18 of the 2010 Act.

10. That this Hon'ble Tribunal in the cases of *Anand Kumar Jha* v. *Union of India & Ors., Appeal No. 05/ 2021* and *Satyabrata Sanjeeb Kumar*

OATH COMMISSIONER ★ SIKKIM ★ HIGH COURT ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

Mohanta v. *MoEF&CC & Ors., O. A. No. 53/ 2023*, while placing reliance on the Hon'ble Supreme Court's Judgment in the *State of Uttar Pradesh and Ors.* v. *Uday Education and Welfare Trust and Ors., MANU/SC/1376/2022*, had dismissed the Appeal due to the Appellant's failure in clarifying his credentials and bona fides. Similarly, in the present case, the Applicant has failed to submit a single document, verifying her credentials or how she is impacted by the Project. This is ground alone to dismiss the case *in limine* and impose huge costs on the Applicant for approaching this Hon'ble Tribunal at a belated stage, for reasons which are clearly political.

11. While the defects in the Appeal before the Hon'ble Supreme Court were required to be corrected within 90 days, the Applicant took an inordinately long time of 315 days to cure the defects and seek listing of the Appeal. The explanation for the delay in re-filing of the Appeal (after curing the defects) and that in filing the Appeal before the Hon'ble Supreme Court in the first place, are near identical and therefore clearly indicative of the falsity of the claims made therein.

    True copies of the Application for Condonation of Delay in filing the Appeal and the Application for Condonation of Delay in Re-Filing the Appeal are annexed herewith as **Annexure – R5**.

12. It is pertinent to mention that during the entire period where the Applicant chose not to take urgent measures for listing of the Appeal before the Hon'ble Supreme Court, the project in question had substantially advanced and had reached 14 stories. It is important to note that the construction of the project was in terms of the all the permissions and clearances granted by the various authorities including the Answering

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

Respondents. When all the aforesaid facts, including the above conduct of the Applicant, were brought to the notice of the Hon'ble Supreme Court, the Hon'ble Supreme Court was pleased to dispose off the Appeal in terms of the following Order dated 25.09.2023:

> *"Delay condoned.*
> *This appeal impugns the order dated 10.05.2022 passed by the National Green Tribunal (NGT), Eastern Zone Bench, Kolkata. Paragraph 5 of the impugned order states that the proceedings initiated before the NGT were premature, as the construction, subject matter of the proceedings, had not yet reached 5½ storeys. We do not agree with the said finding and reason to dismiss the petition, as the construction post the permissions had admittedly commenced. It is informed at the bar that the construction is now complete.*
> *Without expressing any opinion on the merits of the case, we set aside the impugned order and restore O.A. no. 38/2022/EZ to its original position, to be decided afresh without being influenced by the impugned order.*
> ***Learned counsel for the respondents have submitted that there has been a considerable delay in listing of the present appeal on account of lapses on the part of the appellant – Bina Basnett. This is disputed by the appellant - Bina Basnett, who also submits that the plea is contradictory. We express no opinion in this regard. As an order of remand, hearing and decision is being passed, all pleas and contentions of the parties are left open.***
> *The appeal is allowed and disposed of in the above terms. No costs. Parties will appear before the NGT on 18.10.2023, when a date of hearing will be fixed.*
> *Pending application(s), if any, shall stand disposed of."*

A true copy of the Order dated 25.09.2023 passed by the Hon'ble Supreme Court in C. A. No. 6168/ 2023 is annexed herewith as **Annexure – R6.**

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

OATH COMMISSIONER ★ SIKKIM ★ HIGH COURT OF SIKKIM ★ Gangtok-District

13. It is submitted that two things are evident from the Order of the Hon'ble Supreme Court:

    (i) From the submission of the Applicant recorded in the Hon'ble Supreme Court's order, it is clear that the Applicant deliberately misrepresented the cause of dismissal of the present Application by this Hon'ble Tribunal before the Hon'ble Supreme Court;

    (ii) That the Hon'ble Supreme Court has left all contentions of all parties as to the conduct of the Applicant (highlighted in the preceding paragraphs) open for consideration by this Hon'ble Tribunal.

14. Further in this regard, it is submitted that the Applicant herein has not come with clean hands before this Hon'ble Tribunal. As on the previous occasions, the Applicant has approached this Hon'ble Tribunal by suppressing vital information and documents and therefore, the present Application deserves dismissal at the very threshold. It is submitted that all the material allegations made in the instant Application against the Answering Respondents are false and fabricated and the instant Application is not maintainable either on facts or in law, against the Answering Respondents.

15. Save and except what has been specifically admitted herein, the rest of the statements made in the instant Application are denied by the Answering Respondents. The Answering Respondents further crave the leave of this Hon'ble Tribunal to file an additional affidavit in reply if necessary.

THE ANSWERING RESPONDENTS:

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

16. The Respondent No. 1 is the State of Sikkim represented through its Chief Secretary.

17. The Respondent No. 3 i.e. the Department of Mines & Geology, Government of Sikkim, aims to establish exploitable reserves minerals of the State, carry out geo-technical investigations, study and mapping of major towns of the State of Sikkim, monitor water resources for public consumption and cater to the geological input need of the Central and State Governmental agencies in the State. The Respondent No. 3 also carries out geological and geo-technical investigations of sites and provides site stability reports at the request of individuals in the State of Sikkim, in accordance with the Respondent No. 4 i.e. Urban Development & Housing Department, Government of Sikkim's Notification No. GOS/UD&HD/6(294)2001/A i.e. the Sikkim Building Construction (Amendment) Regulations, 2001 ("**2001 Amendment Regulations**") dated 16.10.2001 ("**Notification dated 16.10.2001**"). The Respondent No. 3 also discharges the following functions:

A. Establishment of rock and soil mechanics laboratories with computers for data processing;
B. Establishment of geological muscum;
C. Development of Dikchu Mine;
D. Physio-chemical & bacteriological study of perennial sources of water all over the State;
E. Establishment and promotion of dolomite/ limestone calcinations plants;
F. Promotion of locally available rocks as dimension stones; and

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

OATH COMMISSIONER ★ SIKKIM ★ Gangtok-District ★ HIGH COURT OF SIKKIM

G. Carry out mineral exploration and develop local mineral resources into viable income/ employment generating schemes (dolomite/ limestone calcinations).

18. The Respondent No. 4 i.e. the Urban Development & Housing Department, Government of Sikkim, as per the Government of Sikkim (Allocation of Business) Rules, 2004, has been entrusted with the construction, alteration and repairs of buildings in the notified areas in Sikkim, in accordance with the Sikkim Building Construction Regulations, 1991 ("**1991 Regulations**") framed under the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985. The Respondent No. 4 is also the nodal department which undertakes the planning and development in the notified areas in the State of Sikkim, without disturbing the heritage of the place.

19. The Respondent No. 7 i.e. the District Magistrate/ Collector, East District, Sikkim is the chief executive and chief administrative and revenue officer of East District (now Gangtok District), and undertakes necessary co-ordination of official agencies functioning with the District. The Respondent No. 7 is also the overall in-charge of the District and is the Head of Administration. The duties and responsibilities of the Respondent No. 7 includes land assessment, acquisition, collection of land revenue, maintenance of land records, conduction of land reforms and consolidation of buildings etc. The Respondent No. 7 also deals with disaster management during natural calamities and heads the District Development Committees.

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

20. The Respondent No. 9 i.e. the Forest & Environment Department, Government of Sikkim is mandated to control and manage forests, environment and wildlife; create, control and manage national parks and wildlife sanctuaries, gardens, forest works; construct and maintain check posts, forest rest houses, saw mills, machinery and equipment; enforce and implement laws related to forest, wildlife and environment etc. in the State of Sikkim. The Respondent No. 9 has also been implementing various Centrally Sponsored/ Sector and State Funded Schemes for protection and conservation of forests, restoration of biodiversity and environment amelioration. The Respondent No. 9 has also initiated climate change mitigation measures in the State of Sikkim.

REPLY TO THE CONTENTIONS MADE BY THE APPLICANT AGAINST THE ANSWERING RESPONDENTS:

21. The Respondent No. 4 issued the Notification dated 16.10.2001, amending the 1991 Regulations to the effect that, as per Clause 2(a)(i), the maximum height of buildings constructed in allotted sites or private holdings within a notified area to be in accordance with the suitability and profile of the locations based on the stability map of the areas as prepared by Respondent No. 3 from time to time which is to be as follows:

"Stability Zone	*Admissible No. of floors*
1.	*5 ½ storeys*
2.	*4 ½ storeys*
3.	*3 ½ storeys*
4.	*2 ½ storeys*
5.	*1 ½ storeys*
6.	*No construction is allowed"*

OATH COMMISSIONER ★ HIGH COURT OF ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

22. Vide the Notification dated 16.10.2001, the 1991 Regulations were also amended to introduce Regulation 39, which provides the power to relax the applicability of the 1991 Regulations, in the event of genuine difficulties arising out of the their implementation in regard to proposed buildings or structures. The said Regulation reads as follows:

> *"39 Power to relax*
> *In case of genuine difficulties arises out of the implementation of any of the regulations in regard to building or structures proposed to be constructed by the Government of Sikkim or Government of India or any registered organization of the state Government reserves right to relax from application any of the provisions which it considered justifiable on the merit of each case".*

It is submitted that neither the aforesaid Regulation, nor the exercise of power thereunder has been challenged by the Applicant till date.

A true copy of Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the Urban Development & Housing Department, Government of Sikkim is annexed herewith as **Annexure – R7.**

23. Previously, at the present site of Multi-Level Car Parking cum Commercial Development at Old West Point School Area ("**project/ project site**"), there existed a two-storeyed structure with three levels of parking facility for inter-district taxis. The said structure was in a dilapidated condition and had outlived its utility and therefore had to be demolished/ dismantled for the optimum utilization of the urban land. In view of the challenges faced by the previous structure, including pollution caused due to parking space constraints, it was decided to create a state-of-the-art multi-level car parking facility to cater to the increasing demand for adequate parking space in the city. It is pertinent to state that there has been no change in the profile of the land and therefore, there is

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

no cause of environmental concerns. The project being a mere upgradation of the previous facility, a brown field project,

True copies of the photographs of the old taxi stand are annexed herewith as **Annexure – R8.**

24. It is also pertinent to note that the Respondent No. 3, Mines and Geology Department, has been periodically carrying out detailed Geological and Geo-Technical investigations of the surrounding areas within Gangtok, East Sikkim in the past. That one such study was carried out in 2011 wherein a Multi-Storeyed Secretariat Building had been constructed in the area falling under Zone 1 of the Area Stability Zonation Mapping System adopted by the Respondent No. 3 (after taking into consideration the physical features, geological setup and underlying strata, rock orientations, soil bearing capacity, strength of rock, surrounding built-up area and the slope of the site), and till date, no settlement or any damages have been reported. It is stated that the said area has geological conditions and rock type similar to the proposed area at Old West Point School area.

A true copy of the Geological and Geo-Technical Appraisal of Tashiling Secretariat Complex Post 9/18 Sikkim Earthquake – 2011 is annexed herewith as **Annexure – R9.**

25. The Respondent No. 4 issues Notices from time to time disallowing any construction involving earth excavation works during the monsoon season, which starts around the month of May or June and continues till September, and construction orders from being issued during such specified period. Anyone found carrying out constructions in contravention of the aforesaid is penalized under the Sikkim Allotment of

OATH COMMISSIONER ★ HIGH COURT OF ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

House Sites and Construction of Building (Regulation and Control) Act, 1985 and the 1991 Regulations (as amended).

True copies of such Notices issued previously on 01.05.2019 and 26.05.2020 by the Urban Development & Housing Department, Government of Sikkim is annexed herewith as **Annexure – R10 (Colly).**

26. That in view of the requirement for upgradation of the previous parking lot, Respondent No. 2 issued a requisition Letter bearing Memo No. 84/SPV/GSCDL/2018-19 dated 23.11.2019 requesting for a geotechnical and feasibility report of the project area to the Respondent No. 3. The Respondent No. 3 along with the expertise of Department's Technical Team, carried out a comprehensive geological and geotechnical investigation of the site at Old West Point School area vide the methodology of Diamond Core Drilling in February, 2020 to March, 2020 and prepared its detailed Geological and Geo-Technical Investigation Report.

A true copy of the Letter bearing Memo No. 84/SPV/GSCDL/2018-19 dated 23.11.2019 from the Office of Gangtok Smart City Development Ltd. is annexed herewith as **Annexure – R11.**

27. The Respondent No. 3's Geological and Geo-Technical Report stated that geologically, the area comprises of medium to high grade metamorphic rock sequence represented by garnetiferrous mica schist and mica schist with quartzite intercalations underlain by Lingtse Granitic Gneiss. That the foliation of rocks strike NW-SE and dip gently towards North East with westerly-facing slope aspect which makes the area geologically favorable for proposed construction of structures at Old West Point School area. The Report also stated that two boreholes were

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

drilled i.e. borehole No. 1 was drilled in front of Old West Point School building up to 15m depth and light brown clayey/ silty soil was encountered from 3m to 9m depth; moderately weathered garnetiferrous mica schist was found between 9m to 13m depth; & highly weathered ganetiferrous mica schist found between 13m to 15m depth. Borehole No. 2 was drilled behind Old West Point School building up to 15m depth & micaceous silty soil overburden encountered up to 3m depth; highly weathered garnetiferrous mica schist found between 3m to 6m depth; ganetiferrous mica schist with quartz veins found between 6m to 9m depth; fresh garnetiferrous mica schist with quartz veins found between 9m to 10.50m depth; moderately weathered ganetiferrous mica schist encountered between 10.50m to 13.50m depth; & moderately weathered ganetiferrous mica schist and fresh garnetiferrous mica schist found between 13.50m to 15m depth.

A true copy of the detailed Geological and Geo-Technical Investigation Report dated March, 2020 of the land on which the construction of multi-level car parking cum commercial development project has been undertaken, conducted by the Department of Mines & Geology, Government of Sikkim is annexed herewith as **Annexure – R12.**

28. In continuance of the above-mentioned Notification dated 16.10.2001, the Respondent No. 3 issued Notification No. 17/DMG/20-21 dated 19.03.2021 ("**Notification dated 19.03.2021**"), duly notifying the site stability zonation parameters and for the same parameters to be strictly followed during categorization of zones. It is to be noted that the opening line of the Notification dated 19.03.2021 reads as:

> *"In continuation with notification no. GOS/UD&HD/6(294)2001/A dated 15.10.2001 and gazette no. 387 dated 15/10/2001 which notified that the maximum height of buildings constructed in*

OATH COMMISSIONER ★ HIGH COURT OF ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows:"

The objective of the Notification dated 19.03.2021 is to develop stability zones and ensure that the buildings conform to the stability profile developed by Respondent No. 3, thus ensuring any concerns with respect to the safety of the buildings is duly addressed prior to their construction. It is also imperative to bring to the knowledge of this Hon'ble Tribunal that the Notification dated 19.03.2021 is only meant to notify and create awareness among the mass on the stability condition of the land. It is humbly submitted that the Notification dated 19.03.2021 has to be seen in the totality of the Act under which such Notifications/ Rules/ Orders are issued. Further, it is stated that the main objective of the said Notification is to set out parameters for determination of stability zones of each zone.

A true copy of Notification No. 17/DMG/20-21 dated 19.03.2021 issued by the Department of Mines & Geology, Government of Sikkim is annexed herewith as **Annexure – R13.**

29. It is further stated that as per the Notification dated 19.03.2021, the land stability zonation for a particular site can be upgraded, if the pre-requisite condition is fulfilled. This part of the Notification dated 19.03.2021 reads as:

"Further, the department will be reviewing the zonation rations on the following conditions.

Conditions and pre-requisite for review of site stability report/up-gradation of Land Stability Zonation for particular site.

1. Recommendation suggested in site stability report should be adopted during construction of structures.

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

2. Training of untrained Jhora and maintenance at regular intervals which is located adjacent to the plot.

3. Construction of structure below the building which was barren before which also aide in improving the stability of the upslope area. Further, construction of building in the downslope area also acts a retaining/protective wall for the houses located in the upslope area.

4. Minimum of three (03) years after the completion of house construction so as to observe the incidences of differential settlement as per the IS Code of Practice for calculation of settlements of foundations (IS Code:- 8009(Part 1)-1978(Reaffirmed 2003)). The review of the rating on zonation can be done.

5. Proper channelization of surface runoff by providing catchment drains especially during the rainy seasons and connect it to natural drains especially during the rainy seasons and connect it to natural waterways/Jhora which also improves the stability of the area due to reduced erosions and percolation of water in the slope concerned.

6. Any site improvement activities/works like grouting.micro-pilling/retaining works/rock bolting/anchoring/shot creting works as per site requirement has been done in the area which will re-strengthen the stability condition shall be entertained for review of stability zonation rating."

30. That in compliance with the abovementioned Notifications, the project proponent submitted the proposal for the multi-level car parking cum commercial development project along with the requisite stability assessment undertaken by Respondent No. 3, to the highest office of the State and thereafter, the same was approved by the Cabinet on 11.06.2021 in compliance with Regulation 39 of the 1991 Regulations in the interest of planned development of the State and in tune with the smart city development, as envisaged by the Government of India. It is submitted that as per the Cabinet Memorandum dated 27.05.2021, the

OATH COMMISSIONER HIGH COURT OF SIKKIM Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

original plan of the project is for fourteen storeys, however permission was initially granted for only eleven floors. The Cabinet noted that any additions would be considered based on a further geotechnical investigation and report.

A true copy of the Cabinet Memorandum dated 27.05.2021 is annexed herewith as **Annexure – R14.**

A true copy of the Cabinet decision dated 11.06.2021 is annexed herewith as **Annexure – R15.**

31. The above-mentioned old two-storeyed parking facility structure was demolished in accordance with law after obtaining the No Objection Certificate ("**NOC**") on 17.09.2021 from the Respondent No. 6, subject to conditions that any such dismantling/ demolition was to ensure foundational security of the area in question, among others.

32. Thereafter, the Respondent No. 4, vide its Letter dated 21.09.2021 had given its approval to the Respondent No. 2 to start dismantling the old structure/ facility at Old West Point School, Gangtok for the new project, subject to no objections from private estates for the commencement of dismantling work, as the said land was yet to be transferred to the Respondent No. 4. The no objections from the private estates were subsequently received on 23.11.2021.

A true copy of the Letter dated 21.09.2021 of the Urban Development & Housing Department, Government of Sikkim has been annexed herewith as **Annexure – R16.**

33. On 06.12.2021, Respondent No. 3 received a Letter bearing Ref. No. MIPL/HO/18/2021-22 dated 21.09.2021 from Respondent No. 12

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

requesting Respondent No. 3 for conducting a Site Stability investigation of Old West Point School area for the implementation of the Multi-Level Car Parking cum Commercial Development project.

A true copy of the Letter bearing Ref. No. MIPL/HO/18/2021-22 dated 21.09.2021 sent by MESASO Infrastructure Pvt. Ltd. is annexed herewith as **Annexure – R17.**

34. After due verification of the documents submitted by Respondent No. 12, Respondent No. 3 conducted a detailed investigation of the site and subsequently provided a Site Stability Report dated 29.12.2021 of the same stating that the site falls within Zone 1 of the area Stability Zonation Mapping System adopted by the Respondent No. 3. Vide the same Report, the Respondent No. 3 further recommended for the foundation of the structure to be footed at considerable depth with uniform condition and for Respondent No. 12 to consult a competent structural engineer for appropriate foundation design of the structure, including earthquake resilience. It was also noted that *"the proposed area falls under zone 1 (one) as per the parameter notified by the Department of Mines and Geology vide Gazette no. 86 dated 06th April 2021".*

A true copy of the Site Stability Report dated 29.12.2021 of the Department of Mines & Geology, Govt. of Sikkim is annexed herewith as **Annexure – R18.**

35. It is pertinent to state that the soil in the area at Old West Point School, Gangtok has a soil bearing capacity of 46.50 T/m2 at 4.5 meter depth, as estimated according to the IS Code 6403-1981. The soil bearing capacity of the site area is greater than 35 T/m2, notified and recommended for

OATH COMMISSIONER ★ SIKKIM ★ Gangtok-District ★ HIGH COURT OF

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

Zone 1. It is further pertinent to state that the orientation of the country rock is towards the North East direction, however the slope facing towards the West direction makes the area geologically favorable for the construction of the project.

36. In pursuance to the recommendations of the Respondent No. 3 in the Site Stability Report dated 29.12.2021, Respondent No. 12 had also hired a structure Consultant i.e. S. P. A. Consultants to prepare the Structural Design Report. Thereafter, the Respondent No. 12, vide a Letter bearing Ref. No. MIPL/12/2021-22 dated 31.12.2021, shared a Certificate issued on 30.12.2021 by their Structural Consultant i.e. S. P. A. Consultants, to the Respondent No. 3, which stated that site-specific micro seismic studies is not required as per the Soil Test Report dated March, 2021 of M/s Geo-Informatic Consultancy & Services, Tadong. It also stated that in Gangtok, the average 'N' value is 22 and as per the IS-1893, if the soil corrected 'N' value is more than 15, then specific seismic studies are not required.

A true copy of the Letter bearing Ref. No. MIPL/12/2021-22 dated 31.12.2021 from MESASO Infrastructures Pvt. Ltd. is annexed herewith as **Annexure – R19.**

37. It is stated that the responsibility of the Building Plan Approval was transferred from the Respondent No. 4 to Respondent No. 10 in 2017. It is submitted that the Respondent No. 10, after duly considering all the requisite documents submitted by the Respondent No. 12, including the approved Blue Print Plan, issued the Construction Order vide Letter No. 3839/MISC/TPC/GMC/2021/979 dated 31.12.2021 for the construction of

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

the 11-storeyed Gold Rated Green Building at Old West Point School, Gangtok with certain following conditions:

> *"1. Prior permission for commencement of the building should be sought for on **Form V** obtainable from Gangtok Municipal Corporation or GSCDL.*
> *2. In case, the ownership is found to be defective at any stage of time the approval accorded and this order shall stand automatically revoked and the structure/work building thus constructed shall be considered as without proper approval and shall be dealt accordingly.*
> *3. The construction of the building should be completed no later than three years from the date of issue of construction order. Failure to do so the B.P. Plan automatically shall stand cancelled and the B.P. Plan should be submitted for renewal.*
> *.....*
> *5. The construction should be as per approved BPP and no deviation is permissible without the prior permission of the Government.*
> *6. The construction should be as per the order and supervision of Gangtok Municipal Corporation Town Planner/ Engineer.*
> *7. The Engineer/Town planner of Gangtok Municipal Corporation must be informed before the foundation is laid. Only after the foundation is passed by Divisional Engineer/Town planner, the construction shall be allowed to continue.*
> *....."*

In compliance of the conditions laid down in the Construction Order in regard to obtaining prior permission from Respondent No. 10 under Form V before commencement of construction of the structure, the same prior permission has been obtained on 10.01.2022 from the Respondent No. 10.

A true copy of the Construction Order dated 31.12.2021 issued by the Gangtok Municipal Corporation has been annexed herewith as **Annexure – R20.**

OATH COMMISSIONER ★ HIGH COURT OF SIKKIM ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

A true copy of the Permission dated 10.01.2022 is annexed herewith as **Annexure – R21.**

38. It is also pertinent to state that the Respondent No. 12, vide a Letter bearing Ref. No. MPL/SITE/09/2021-22 dated 15.02.2022, submitted to the Respondent No. 3, a Certificate issued by Jadavpur University certifying the designed load on foundation being 21 T/m2 and since mica schist rock encountered below the foundation level, there is no load impact in the surrounding area of the project site. The Certificate also stated that the soil bearing capacity estimated as 46.5 T/m2 (as per IS Code: 6403-1981) and since the load of the proposed structure is less than 50% of the soil bearing capacity, so the Load Impact Assessment of the surrounding area not required. To the same, the Respondent No. 3, vide a Letter dated 17.02.2022, accepted the Certificate issued by the Jadavpur University and communicated to Respondent No. 12 that the suggestion in Respondent No. 3's Site Stability Report dated 29.12.2021 regarding the conduction of the load impact assessment of the surrounding areas, was not required since the load of the structure is confined within the construction area.

A true copy of the Letter bearing Ref. No. MPL/SITE/09/2021-22 dated 15.02.2022 of MESASO Infrastructures Pvt. Ltd. is annexed herewith as **Annexure – R22.**

A true copy of the Letter dated 17.02.2022 issued by the Department of Mines & Geology, Government of Sikkim is annexed herewith as **Annexure – R23.**

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

39. That thereafter the Project Proponent obtained the Consent to Establish on 24.02.2022 and the EC on 25.02.2022 and commenced construction for the eleven floors.

40. It is pertinent to mention here that vide a Letter bearing Ref. No. 789/DMG/21-22 dated 28.02.2022 to the Respondent No. 12, the Respondent No. 3 acknowledged Respondent No. 12's Letter dated 31.12.2021 containing the S. P. A. Consultant's Certificate dated 30.12.2021, and stated that therefore the suggestions in their Site Stability Report dated 29.12.2021 was not necessary. However, it was directed for the Respondent No. 12 to design the proposed structure as per the earthquake inventory history of Sikkim.

A true copy of the Letter bearing Ref. No. 789/DMG/21-22 dated 28.02.2022 of the Department of Mines & Geology, Government of Sikkim is annexed herewith as **Annexure – R24.**

41. That subsequently, the Cabinet on 29.07.2022, considered the Geotechnical Investigation Reports of Respondent No. 3 dated 29.12.2021, M/s Geo-Informatic Consultancy & Services, Tadong's Soil Test Report dated March, 2021 and the JP Geo Consultants Plate Load Study Report of September, 2021. Therefore, the Cabinet, on 09.08.2022, approved the construction of the additional 3 floors under Regulation 39 of the 1991 Regulations and the 2001 Amendment Regulations.

A true copy of the Cabinet Memo and Cabinet Approval is annexed herewith as **Annexure – R25 (Colly).**

OATH COMMISSIONER ★ HIGH COURT OF ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

42. Thereafter, on 23.08.2023, the MoEF&CC, vide File No.: 21/1/2023-IA.III, granted EC under the EIA Notification, 2006 for the proposed vertical expansion by 3 floors of the project submitted by the project proponent on 25.04.2023. The EC was granted subject to specific and standard EC Conditions for Building/ Construction.

    A true copy of the Environmental Clearance dated 23.08.2023 issued by the Ministry of Environment, Forest & Climate Change, Government of India is annexed herewith as **Annexure – R26.**

43. It is pertinent to mention here that although the project activity under consideration is covered under "Category B" of Item 8(a) of the Schedule to the EIA Notification, 2006 and vide subsequent amendments to the EIA Notification, 2006, the same is required to be appraised by the Respondent No. 8 in normal circumstances, the project activity was appraised at the Central level by the Expert Appraisal Committee, MoEF&CC ("**EAC**").

44. It is stated that this was due to the fact that at that period of time, the tenure of the then Respondent No. 8 was over. In regard to the same, vide a Letter bearing Ref. No. 47/E&SC/Circle dated 23.11.2022 of the Chief Conservator of Forests, Respondent No. 9 had informed Respondent No. 12 to apply directly to the Central EAC at 'Parivesh Portal' until such a date that the SEAC and Respondent No. 8 were reconstituted for a fresh term in the State of Sikkim. It is stated that the Respondent No. 8 was reconstituted again in the State of Sikkim vide the Gazette of India Notification No. S. O. 3804(E) dated 25.08.2023 issued by the MoEF&CC.

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

A true copy of the Letter bearing Ref. No. 47/E&SC/Circle dated 23.11.2022 from the Chief Conservator of Forests, Department of Forest & Environment, Government of Sikkim to MESASO Infrastructure Pvt. Ltd. is annexed herewith as **Annexure – R27.**

45. It is humbly submitted that during a high-intensity earthquake, the intensity of damage is based upon the characteristic of the slope-forming materials. The slope consisting of rock strata are less amplified than the slope having soil thickness, which is more amplified during high intensity earthquake. Hence, damage will be more in the soil-thickness area than the area having rock strata. The project site consists of mica schist rock at the foundation level and has had no record of any landslides till date. It is reiterated that during the geological investigation, it was found that the area falls under the metamorphic rock sequence represented in the area by mica schist with alternate bends granetiferous mica schist with quartz veins having direction of foliation of rock towards North-East direction, whereas the slope facing towards the western direction makes the area geologically favorable.

46. The contention of the Applicant that Arithang ward consisting of gneissic rock and schistose rocks, are highly weathered and eroded due to high rainfall, causing frequent landslides is concerned, it is submitted that the weathering of rock due to rainfall is restricted only to the rock surface as rain water will immediately run-off after rainfall. Therefore, deep weathering in the rock by high intensity rainfall in the hilly areas are negligible. Further, as per a 2018 Report titled "Multi-Hazard Risks and Vulnerability Assessment of Gangtok Municipal Corporation, East Sikkim" published by the Sikkim Disaster Management Authority, Land

OATH COMMISSIONER ★ HIGH COURT ★ Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

Revenue & Disaster Management Department, Government of Sikkim, the site is comparatively less susceptible to earthquake hazards in the entire Arithang ward. The site in Arithang is characterized by gentle slope gradient with sandy soil up to 3m depth, followed by parent soil/ weathered rock having soil bearing capacity of 45.50 T/m2 as per IS Code 6403-1981, which has comparatively high soil-bearing capacity. The down slope of Arithang is characterized by medium to high-grade metamorphic rock sequence represented in the area by lingtse granitic gneiss inter band with mica schist. The lingtse granitic gneiss is comparatively the most competent and bears high compressive rock strength within the State of Sikkim. Therefore, the majority of the Arithang area is free from the landslide zone, except few locations where surficial erosion has been occurring during high-intensity rainfall due to dumping of muck materials at the time of individual house construction and along the jhora sections.

47. The location of the project site is within the urban limits and commercial business hub of Gangtok, adjacent to National Highway 10. The said location is already a high-vehicular flow zone with limited parking facility and noise pollution due to off-street parking. It is submitted that the project is a brown field project and that the Respondent No. 4 is well aware of the risks posed by the seismic hazard to the buildings of the city. However, owing to the scarcity of land available for constructing buildings in the heart of the capital city of Gangtok and the advent of technology, the State Government has already relaxed the height restrictions for public infrastructure projects such as:

    - The Central Referral Hospital (Manipal) at Tadong, Gangtok: 9 storeys;

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

- Sir Thuthob Namgyal Memorial Hospital, Socheygang, Gangtok: 11 storeys; and
- The State Secretariat Building, Tashiling, Gangtok: 8 storeys.

It is submitted that the abovementioned relaxations were undertaken in accordance with the law and only after ensuring the requisite studies have been undertaken affirming to the safety of the structures from the perspective of seismicity.

48. Few cases of private construction i.e. hotels to promote tourism infrastructure in the State of Sikkim and apartment housing to enhance housing supply, the restrictions on height have been relaxed. In general, the relaxation on height restrictions is applied on the merit of each case of engineered structures against non-engineered constructions, irrespective of whether they are public infrastructure projects or private constructions. It is submitted that the present project is being executed under a Public Private Partnership ("**PPP**") on Design, Build, Finance, Operate and Transfer ("**DBFOT**") basis by the Respondent No. 2, to resolve the issues of traffic congestions and inadequate parking space within the capital city of Gangtok.

49. The present project is located in the central business district of Gangtok where planned and designed projects with similar typologies are being constructed for supply for vehicular parking, shops and public space in the central business district of the capital city of Gangtok such as:

A. Star Mall in M. G. Marg, Gangtok to provide a multi-level parking and shopping facilities under the PPP mode, after demolition of the non-functional old Star Cinema Hall; and

OATH COMMISSIONER ★ WB ★ Gangtok-District ★ HIGH COURT

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

B. STNM – Kanchenzonga Square below the National Highway 10 to provide multi-level parking, shops and a roof-level community space under the Design, Build and Transfer ("**DBT**") mode, after demolition of the non-functional blocks of the old STNM Hospital.

It is submitted that the present project is not the first structure where construction of more than 5 and a ½ stories has been permitted. The Notification dated 16.10.2001 laying down the general restriction of 5 and a ½ stories also provides for the power to relax the height restrictions under Regulation 39, which makes the construction of a multi-storeyed building permissible within the ambit of the 1991 Regulations. It is stated that the present project is also in accordance with the National Building Code, 2016. High-rise buildings which have been built by effectively incorporating seismic designs and which are earthquake resilient can be found throughout Gangtok.

50. There are no historical monuments within the vicinity of the project. The project is located in the core of the central business district and not in M. G. Marg. It is stated that there is no single point in M. G. Marg from where one can view Mt. Kanchenjunga, as the said stretch has always serves as the commercial hub of the city. It is stated that the viewing of Mt. Kanchenjunga is seasonal and the present construction site located on the flank of the National Highway 10 was never a view point for tourists to relish the mountain view.

51. The Respondent No. 4 promotes evidence-based planning and the requirement of vehicular parking in the core of the central business district area of Gangtok was envisaged when the whole of M. G. Marg was pedestrianized to make it a vehicle-free zone in 2008. It is also

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

submitted that in recent years, the citizens of Gangtok have not been building traditional houses made out of ekra (bamboo frame) due to the requirements of modern urban facilities and access to resilient construction technology. Further, due to the constraint of space, the citizens of Gangtok have adopted the multi-storeyed design in order to make the best possible use of the limited space available.

52. All Blue Print Plans of buildings in the notified Gangtok area are prepared by qualified empanelled architects, in accordance with the 1991 Regulations and also checked and approved by the Engineering & Town Planning Cell of the Respondent No. 4 and Respondent No. 10. It is stated that no sites have been allotted on lands having a gradient of 70 degrees and above, in accordance with the Sikkim State Site Allotment Rules, 2012. Further, in case of private holdings, the Blue Print Plans are approved after maintaining proper setbacks in accordance with the 1991 Regulations.

53. It is submitted that the main water source for the city of Gangtok is a glacier-fed source at Rayetchu, located 18 km's away from the water reservoir at Selep i.e. located at the highest point in the city and from where the water is distributed to the city through gravity flow network. It is submitted that the construction is nowhere near the water source of the city, negating any possibility of causing water scarcity/ pollution as alleged.

54. I say that the present affidavit is true to the best of my knowledge and information received from the Answering Respondent and nothing

OATH COMMISSIONER ★ IN ★ HIGH COURT Gangtok-District

Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

material has been concealed therefrom. The annexures are true copies of their respective originals.

DEPONENT
Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

VERIFICATION:

Verified at Urban Development Department, Government of Sikkim on the 15th day of March, 2024 that the contents of the above said affidavit are true and correct to the best of my knowledge and belief. Nothing material has been concealed therefrom.

DEPONENT
Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

Solemnly affirmed before me on this the 15 day of 3 2024 by Shri/Smt/Kri Hemant Rai of U.D.D.

Identified by Shri/Smt/Kri Dipendra Goley of U.D.D.

OATH COMMISSIONER ★ HIGH COURT OF SIKKIM ★ Gangtok-District

15/03/2024

Bikash Subba
Oath Commissioner
Vide Notification No. 17/HCS/21/10/22
High Court of Sikkim
Gangtok-District

ANNEXURE R-1

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONAL BENCH AT KOLKATA

ORIGINAL APPLICATION NO. 05 OF 2022 (EZ)

IN THE MATTER OF:

Dr. Bina Basnett — Applicant

Versus

State of Sikkim & Ors — Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1, STATE OF SIKKIM, RESPONDENT NO. 4, URBAN DEVELOPMENT AND HOUSING DEPARTMENT, RESPONDENT NO. 7, DEPUTY COMMISSIONER, AND RESPONDENT NO. 9, FOREST AND ENVIRONMENT DEPARTMENT

TO

THE HON'BLE CHAIRPERSON AND HIS

COMPANION MEMBER OF THE

HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH KOLKATA

The Humble Counter Affidavit of the Respondent Nos. 1, 4, 7 & 9

MOST RESPECTFULLY SHEWETH:-

I, Mingma T. Sherpa, son of Passang Dorjee Sherpa, aged about 55 years, serving as the Secretary to the Govt. of Sikkim, Urban Development Department. I am Respondent No. 4 and I have been duly authorised by the Respondent No.1, 7 and 9 to affirm this affidavit on their behalf. I am well acquainted with the facts and circumstances of the present matter and as such I

am competent to swear and file this Counter Affidavit before this Hon'ble Tribunal, I do hereby solemnly affirm and state as follows:-

1. **STATEMENT OF FACTS:**

1.1. That the deponent has personally perused a copy of the Original Application No. 05/2022/EZ filed by the Original Applicant and sent by an e-mail dated 21.01.2022 and has understood the intent and purport thereof.

1.2. That at the very outset it is submitted that the Original Applicant has not come with clean hands before this Hon'ble Tribunal as the Original Applicant has suppressed vital information and documents and as such the application deserves dismissal at the very threshold on the count of suppression of material facts and for misleading this Hon'ble Tribunal.

1.3. That it is submitted that all the material allegations made in the application against the answering Respondents are false and fabricated and the application is not maintainable either on facts or in law against the answering Respondents.

1.4. That save and except what has been specifically admitted herein, the rest of the statements made in the Application may be deemed to have been denied and repudiated by the answering Respondents. The deponent humbly begs to state further that the answering Respondents do not admit anything which is contrary to the record. The answering Respondents further crave leave of this Hon'ble Tribunal to file an additional affidavit in reply if necessary.

2. PRELIMINARY SUBMISSIONS:

That before traversing the reply on merits, the answering Respondents beg to make the following submissionsand place on record the following materials for correct appreciation of the facts and proper adjudication of the instant Application:-

STATE OF SIKKIM THROUGH THE CHIEF SECRETARY

2.1. That the Respondent No. 1, the Chief Secretary, State of Sikkim is the highest ranked civil servant in the State. He heads the permanent executive as the head of the State Administration. He acts as the Principal Advisor to the Chief Minister on administrative matters. Further, he coordinates the activities of all the Departments including the Urban Development and Housing Department and the Forest and Environment Department.

2.2. That the Chief Secretary, State of Sikkim acts as an ex-officio Secretary to the State Cabinet (Council of Ministers). In this role, he is also called the "Secretary to the Cabinet", and the status of such post is equivalent to that of a Secretary to the Government of India.

URBAN DEVELOPMENT & HOUSING DEPARTMENT

2.3. That the Respondent No. 4, Urban Development and Housing Departmentas per the Government of Sikkim (Allocation of Business) Rules, 2004 has been entrusted with the construction, alteration and repairs of buildings in the notified areas of Sikkim in accordance with the Sikkim Building Construction Regulations, 1991 framed under the

Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

2.4. That the Respondent No. 4 issued a Notification dated 16.10.2001 for amending the Sikkim Building Construction Regulations, 1991 to the effect that the maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the areas as prepared by the Respondent No. 3, Department of Mines & Geology from time to time. However, it is pertinent to note that vide the said amendment Notification, the Respondent No. 4 has inserted Regulation 39 which provides the power to relax the applicability of the Sikkim Building Construction Regulations, 1991 in the event of genuine difficulties arising out of their implementation in regard to the proposed buildings or structures. A true copy of the Notification dated 16.10.2001 issued by the UD&HD Department, Government of Sikkim is marked and appended as **ANNEXURE R/1.**

2.5. That it is in continuation of the abovementioned Notification dated 16.10.2001 issued by the Respondent No. 4 that the Respondent No. 3 has issued the Notification dated 19.03.2021 for notifying the site stability zonation parameters. It is to be noted that the opening line of the Notification dated 19.03.2021 reads as:

"*In continuation with notification no. GOS/UD&HD/6(294)2001/A dated 15.10.2001 and gazette no. 387 dated 15.10.2001 which notified that the maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the*

suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows".

A true copy of the Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the Urban Housing and Development Department is already annexed as Annexure R/1 above and a true copy of the Notification No. 17/DMG/20-21 dated 19.03.2021 issued by Respondent No. 3 is marked and appended as **ANNEXURE R/2.**

2.6. It is pertinent to mention that the proposed project of a Multi-level Car Parking cum Commercial Development at Old West Point School Area, Gangtok was submitted to the highest office of the State and thereafter the same has been approved by the Cabinet on 11.06.2021, which shows that Regulation 39 of the Sikkim Building Construction Regulations, 1991 has been adhered to, while granting such relaxation and in the interest of planned development of the State and in tune with the smart city development as envisaged by the Government of India. A true copy of the Cabinet Memorandum dated 27.05.2021 is marked and appended as **ANNEXURE R/3.** A true copy of the Cabinet decision dated 11.06.2021 is marked and appended as **ANNEXURE R/4.**

2.7. That the Respondent No. 4 issues Notices from time to time disallowing any construction involving earth excavation works during the monsoon season which starts around the month of May or June and continues till September, and also disallowing construction orders from being issued during such specified period. Anyone found

carrying out construction in contravention of the aforesaid shall be penalized under the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 and the Sikkim Building Construction Regulations, 1991 (as amended). True copies of such Notices issued previously by the Respondent No. 4 on 01.05.2019 and 26.05.2020 are marked and appended as **ANNEXURE R/5 (Colly).**

2.8. That at the present proposed site of Multi-level Car Parking cum Commercial Development at Old West Point School Area there existed a two storeyed structure with three levels of parkingfacility which had outlived its utility and therefore had to be demolished. The said old structure was demolished in accordance with law and more particularly, the Respondent No. 6, Sikkim State Pollution Control Board, in consideration of the Letter dated 08.09.2021 of the Urban Development & Housing Department, has issued a No Objection Certificate dated 17.09.2021 for dismantling/demolition of the existing facility located at Old West Point School, Gangtok, Sikkim subject to conditions that any such dismantling/demolition shall ensure foundational security of the area in question among others.

2.9. That, further, the Urban Development & Housing Department vide Letter dated 21.09.2021 has given its approval to the Respondent No. 2, Gangtok Smart City Development Limited to start dismantling the existing structure of Old West Point School for the proposed Multi-level Car Parking cum Commercial Development project subject to no objection from Private Estate for commencement of the dismantling

work, as the said land was yet to be transferred to the Urban Development & Housing Department. The no objection was subsequently received from the Private Estate on 23.11.2021. A true copy of the Letter dated 21.09.2021 has been marked and appended as **ANNEXURE R/6.**

DISTRICT MAGISTRATE/COLLECTOR

2.10. That it is not the Respondent No. 7, Deputy Commissioner but it is the District Magistrate/Collector of East District, Sikkim who is the chief executive and chief administrative and revenue officer of East District (now Gangtok District), who makes necessary co-ordination of the official agencies functioning within the District and is the overall in-charge of the District and Head of Administration.

2.11. That the duties and responsibilities of a District Collector include land assessment, land acquisition, collection of land revenue, maintenance of land records, land reforms, consolidation of buildings, among others.

2.12. That in addition to the above duties and responsibilities, the District Collector also deals with disaster management during natural calamities. Furthermore, the District Collector also heads the District Development Committees.

FOREST AND ENVIRONMENT DEPARTMENT

2.13. That the Respondent No. 9, Forest and Environment Department is mandated with, the control and management of forests, environment and wildlife; creation, control and management of National Parks and

Wildlife Sanctuaries; gardens; forest works; construction and maintenance including check posts, forest rest houses, saw mills, machinery and equipments; enforcement and implementation of laws related to forest, wildlife, and environment and a host of such other activities of the State of Sikkim.

2.14. That the Respondent No. 9 has been implementing various schemes and programmes both Centrally Sponsored Schemes/Central Sector Schemes and State Funded Schemes for protection and conservation of forests, restoration of biodiversity and environment amelioration. Respondent No. 9 has also initiated climate change mitigation measures in the State of Sikkim.

3. <u>REPLY OF THE RESPONDENT NO. 1, STATE OF SIKKIM, RESPONDENT NO. 4, URBAN DEVELOPMENT AND HOUSING DEPARTMENT, RESPONDENT NO. 7, DEPUTY COMMISSIONER, AND RESPONDENT NO. 9, FOREST AND ENVIRONMENT DEPARTMENT TO THE CONTENTIONS MADE BY THE APPLICANT AGAINST THE ANSWERING RESPONDENTS</u>

3.1. That the Urban Development & Housing Department is the nodal department which undertakes planning and development in the notified areas in the State without disturbing the heritage of the place. The said Department through the Respondent No. 2 is undertaking the "Palace Rejuvenation Project" to protect and promote the heritage of Gangtok. The Tsuklakhang Complex in the city is the royal seat of the erstwhile king (Chogyal) of Sikkim. The palace complex, as it is commonly known, also houses the royal chapel and residence of the then

Chogyal. This heritage complex is being redeveloped under the said project which aims to, conserve the old buildings and also bring in new infrastructure and duly maintain the heritage and sanctity of the place along with undertaking the retrofitting and redevelopment activities in consultation with the Trust. Furthermore, the Applicant has failed to precisely identify any historical monuments within the vicinity of the project area as none exist.

3.2. That it is humbly submitted that the location for the proposed project is within the urban limits and commercial business hub of Gangtok. This is a brown field project whereby the existing two storeyed structure with three levels of parking facility for inter district taxis which was in adilapidated condition and therefore was dismantled for optimum utilization of the urban land in order to create a state of the art public infrastructure. There has been no change in the profile of the land and therefore there is no cause for environmental concerns. A true copy of the Completion Certificate dated 08.05.2002 issued by the Urban Development & Housing Department of the old taxi stand has been marked and appended as **ANNEXURE R/7.** True copies of the photographs of the old taxi stand have been marked and appended as **ANNEXURE R/8.**

3.3. That the Urban Development & Housing Department is well aware of the risks posed by the seismic hazard to the buildings of the city. However, owing to the scarcity of land available for constructing buildings in the heart of Gangtok and the advent of technology, the State Government has already relaxed the height restrictions for public infrastructure projects like:

i. Central Referral Hospital (Manipal) at Tadong, Gangtok: 9 storeys

ii. Sir Thuthob Namgyal Memorial Hospital, Socheygang, Gangtok: 11 storeys

iii. State Secretariat Building, Tashiling, Gangtok: 8 storeys

3.4. That there are also cases of private construction as in the case of hotels to promote tourism infrastructure in the State as well as apartment housing to enhance housing supply, where the restrictions on height have been relaxed. In general, the relaxation on height restrictions is applied on the merit of the case to engineered structures irrespective of whether they are public infrastructure projects or private constructions against the general norm for height restrictions for buildings which are non-engineered constructions. Be that as it may be, the present project is being executed under a Public Private Partnership (PPP) on Design, Build, Finance, Operate and Transfer (DBFOT) basis by Respondent No. 2, Gangtok Smart City Development Ltd for resolving the issues of traffic congestion and inadequate parking space within Gangtok.

3.5. That the present project is located in the central business district of the city where projects with a similar typology are being constructed namely:

i. Star Mall to provide multi-level parking and shopping facilities on 8 floors under Public Private Partnership (PPP Mode) on M.G. Marg after demolition of the non-functional old Star Cinema Hall, and

ii. STNM-Kanchenzonga Square to provide multi-level parking, shops and a roof level community space on 6

floors under Design, Build and Transfer (DBT) mode after demolition of the non-functional blocks of the old STNM Hospital below the National Highway 10.

These projects are planned and designed for supply of vehicular parking, shops and public space in the central business district of the city.

3.6. That it is humbly submitted that the present project is not the first structure where construction of more than 5 ½ storeys has been permitted. The unfounded assumption of the Applicant that only 5 ½ storeys can be permitted in a seismic zone is not based on any scientific data. It is in the same abovementioned Notification dated 16.10.2001 which lays down the general restriction of 5 ½ storeys, that the power for relaxing the general height restrictions has also been prescribed under Regulation 39 which makes the construction of a multi-storeyed building permissible within the ambit of the Sikkim Building Construction Regulations, 1991. Such construction is also in accordance with the National Building Code, 2016. High-rise buildings which have been built by effectively incorporating seismic design can be found throughout Gangtok which are earthquake resilient.

3.7. That it is reiterated that there are no historical monuments within the vicinity of the project. The project is located in the old core of the central business district and not in M.G. Marg. In any case, not a single point exists in M.G. Marg from where one can view Mt. Kanchenjunga as the said stretch has always served as the commercial hub of the city.

The viewing of Mt. Kanchenjunga is seasonal and the present construction site located on the flank of the National Highway 10 was never a view point for tourists to relish the mountain view.

3.8. That the project is located in the central business district of the city adjacent to the National Highway 10. The said location is already a high vehicular flow zone with limited parking facility and the Multi-level Car Parking cum Commercial Development project has been envisioned to cater to the persistent problem of inadequate parking in Gangtok as well as for resolving the problem of traffic congestion and noise pollution due to off street parking.

3.9. That the Urban Development & Housing Department promotes evidence based planning and the requirement of vehicular parking in the old core of the central business district area of Gangtok was envisaged when the whole of M.G. Marg was pedestrianized to make it a vehicle free zone way back in 2008.

3.10. That it is humbly submitted that in recent years, the people of Gangtok have hardly built traditional houses out of ekra (bamboo frame) due to the requirements for modern urban facilities and access to resilient construction technology. Moreover, because of the constraint of space, the people of Gangtok have adopted the multi-storeyed design for making the best possible use of the limited space available.

3.11. That all Blue Print Plans of the buildings in the notified Gangtok area are prepared by qualified empanelled architects in accordance with the Sikkim Building Construction Regulations, 1991 and finally checked and approved by the Engineering and Town Planning Cell of the Gangtok Municipal Corporation and Urban Development & Housing

Department.No sites have been allotted on land having a gradient of 70 degree and above in accordance with the Sikkim State Site Allotment Rules, 2012. In case of private holdings, the Blue Print Plans are approved after maintaining proper setbacks as per the Sikkim Building Construction Regulations, 1991.

3.12. That the Respondent No. 10, Gangtok Municipal Corporation after duly considering all the requisite documents, including the approved Blue Print Plan, has issued the Construction Order vide Letter no. 3839/MISC/TPC/GMC/2021/979 dated 31.12.2021 for construction of proposed eleven storeyed Gold Rated Green Building at Old West Point. In compliance of the conditions laid down in the said Construction Order regarding obtaining of prior permission from the GMC under Form V before commencement of the building, the said prior permission has been obtained on 10.01.2022 from the Respondent No. 10. A true copy of the Construction Order dated 31.12.2021 has been marked and appended as **ANNEXURE R/9.** A true copy of the Permission dated 10.01.2022 has been marked and appended as **ANNEXURE R/10.** It is also submitted that as per the Cabinet Memo dated 27.05.2021 (annexed above as ANNEXURE R/3)the original plan of the said Project is for fourteen storeys which has been currently approved for eleven floors by the Cabinet and the any additionality may be considered based on further Geotechnical Investigation and Report.

3.13. That the responsibility of the Building Plan Approval was transferred from the Urban Development & Housing Department to the Gangtok

Municipal Corporation in the year 2017. The Assistant Town Planner-I, Gangtok Municipal Corporation in the Undertaking dated 12.01.2022 of the Site Visit of the Multi-level Car Parking cum Commercial Development project of M/s MESASO Infrastructure Limited for demolition, has stated that the setback has been maintained as per the approved Blue Print. Further, the Site Map of the said proposed project has been signed by the Town Planner-I, Gangtok Municipal Corporation on 12.01.2022 to affirm that the setback has been maintained as per the approved Blue Print.

3.14. That it is also pertinent to mention that the main water source for the city of Gangtok is a glacier fed source at Rayetchu which is located 18 km away from the water reservoir at Selep located near the highest point of the city, from where the water is distributed to the city through gravity flow network. The construction in question is one of the three brownfield multi-level car parking and commercial development in the central business district of the city and is nowhere near the water source of the city which negates any possibility of causing water scarcity/pollution as alleged.

3.15. That the Respondent No. 3, Department of Mines & Geology pursuant to the requisition letter dated 23.11.2019, bearing Memo No. 84/SPV/GSCDL/2018-19 from the Gangtok Smart City Development Limited, during the month of February 2020 to March 2020 has carried out a comprehensive Geological and Geo-Technical Investigation of the site at Old West Point School area near M.G. Marg, Gangtok, East

Sikkim by the methodology of Diamond Core Drilling and prepared a detailed Geological and Geo-Technical Investigation Report.

3.16. That on 06.12.2021 the Department of Mines & Geology received a letter bearing Ref. no. MIPL/HO/18/2021-22 dated 21.09.2021 from M/s MESASO Infrastructure Private Limited submitted along with the letter for Appointment of Concessionaire for implementation of the Multi-Level Car Parking cum Commercial Development at Old West Point School Area, Gangtok issued from the Office of Gangtok Smart City Development Limited bearing Memo No. 197/GSCDL/2021-22 dated 30.06.2021, requesting for issuance of a Stability Report of Old West Point School area near M.G. Marg, Gangtok, East Sikkim for implementation of Multi-Level Car Parking cum Commercial Development.

3.17. That after due verification of the documents submitted by M/s MESASO Infrastructure Private Limited, the Department of Mines & Geology conducted a detailed investigation of the site at Old West Point School, Gangtok East Sikkim and has subsequently provided Site Stability Report of the same which states that the said site falls within Zone 1 (one) of areal Stability Zonation Mapping System adopted by the Department of Mines and Geology considering the physical features, geological setup and underlying strata, orientations of rocks, soil bearing capacity, strength of rock, surrounding built up area and the slope of the site at Old West Point School, Gangtok East Sikkim under the present conditions.

3.18. That it is important to submit that the soil in the area at Old West Point School, Gangtok, East Sikkim has a soil bearing capacity of 46.50

T/m^2 at 4.5-meter depth as estimated according to the IS Code 6403-1981. The soil bearing capacity in the said area is greater than 35 T/m^2 which is notified and recommended for zone 1 (one). Further, the orientation of the country rock is towards the North East direction whereas slope facing towards west direction makes the area geologically favourable for the proposed construction.

3.19. That the Department of Mines & Geology has also further recommended vide the abovementioned Site Stability Report dated 29.12.2021 that the foundation of the structure should be footed at considerable depth with uniform condition and has also recommended to consult a competent structural engineer for appropriate foundation design of the structures including earthquake resilience. It has also been suggested with a noting that *"the proposed area falls under zone 1 (one) as per the parameter notified by the Department of Mines and Geology vide Gazette no. 86 dated 06th April 2021"*.

3.20. That the Project Proponent, M/s MESASO Infrastructure Private Ltd, has submitted a certificate issued by Jadavpur University certifying that the load of the proposed structure is 21 T/m^2 which is less than the soil bearing capacity in the area and the load of the structure is confined within the construction area. In light of the aforesaid, the Department of Mines & Geology has communicated to the Project Proponent vide Letter dated 17.02.2022 that the suggestion in the Site Stability Report regarding the load impact assessment of the surrounding area is not required.

3.21. That it is humbly submitted that the site where the proposed construction is to take place is not a reserved forest or protected forest,

...ATH COMMISSION...

biodiversity area, protected area, or conservation area. Instead, the proposed site falls within Gangtok town municipal area.

3.22. That requisite permissions for tree felling for the proposed project have been granted by the Respondent No. 9, Forest and Environment Department in accordance with the Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2006 issued under the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988 as elaborated below.

3.23. That a Letter dated 04.10.2021 was sent by Respondent No. 2, Gangtok Smart City Development Limited to the Divisional Forest Officer, Forest, Environment & Wildlife Management Department, Government of Sikkim informing that Respondent No. 2 is undertaking the work "Construction of Multi-Level Car Parking cum Commercial Development" at Old West Point School Complex wherein there are 2-3 trees that need to be relocated. Hence, a joint visit was requested regarding the same. A true copy of the Letter dated 04.10.2021 is marked and appended as **ANNEXURE R/11.**

3.24. That a Letter dated 07.10.2021 was sent by the Range Officer to the Assistant Conservator of Forest in reference to the abovementioned Letter dated 04.10.2021 communicating that, (a) the applicant Nodal Officer, Gangtok Smart City Development Ltd had requested for removal order of nine trees falling within the construction site of Multilevel Car Parking-cum-Commercial Development at Old West Point School Complex, Gangtok; (b) the applied tree is falling within the construction site of the said project and permission has been sought for its removal; and (c) details of the trees. Status of the land as per the

memo dated 22.02.2021 issued by the Deputy Director, District Collectorate falling within plot no. 715 & 716 as per old records of 1951-52 is a 'private estate' under Gangtok Station Block. It was noted in the letter that Gangtok Smart City Development Limited wanted to remove/fell the said trees which are causing obstruction at the project site. The trees had been verified as per Rule 17 of the Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2006.A true copy of the Letter dated 07.10.2021 has been marked and appended as **ANNEXURE R/12.**

3.25. That upon receiving a letter from Gangtok Smart City Development Limited requesting for removal/relocation of trees from the project site, the Office of the Conservator of Forests (Territorial), Forest and Environment Department issued Letter having Ref. No. GOS/F&ED/FTC/5.36/528 dated 12.10.2021 for according approval for removal of 2 nos. of trees and 7 nos. of poles at the project site at Old West Point as per the Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2006.A true copy of the Letter dated 12.10.2021 is marked and appended as **ANNEXURE R/13.**

3.26. That the remaining contentions made out against the answering Respondents in the Original Application are false and misconceived and hence are not tenable in law as well as facts and the same have not been responded to individually for the sake of brevity.

PRAYER

In view of the position of facts and law and the submissions made herein above, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the Application in the facts and circumstances stated

above. Further, the answering Respondents No. 1, 4, 7 & 9 crave the leave of this Hon'ble Tribunal to add, amend or alter this Reply, if found necessary, at any stage of the proceedings. The answering Respondents also crave leave of this Hon'ble Tribunal to make further submissions at the appropriate stage, if so advised

DEPONENT

VERIFICATION

I, the above-named deponent do hereby verify and say that the statements made in the aforementioned paragraphs of the Counter affidavit are true to my knowledge and the rest are my respectful submissions before this Hon'ble Tribunal. The documents filed herewith as annexures are true copies of respective originals.

Affirmed on this the 25th day of February 2022 at Gangtok, East Sikkim.

Identified by:

(Yadu Sharma)
Govt. Advocate
Gangtok, E-Sikkim

DEPONENT

Solemnly affirmed before me on this 25th day of Feb, 2022 by Shri/Smt./Miss. M. I. Sharma of Gangtok who is known to me & identified by Shri/Smt./Miss. Yadu Sharma of Gangtok.

25/2/22

Mr Sujan Sunwar
Oath Commissioner (East)
High Court of Sikkim
Vide Notification No. 38/HCS/30.09.21

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH KOLKATA

Original Application No. 05/2022/EZ

IN THE MATTER OF:

Dr. Bina Basnett ... Applicant

-Versus-

State of Sikkim and Ors. ...Respondents

COUNTER AFFIDAVIT OF THE RESPONDENT NO. 3DEPARTMENT OF MINES AND GEOLOGY, GOVERNMENT OF SIKKIM

TO

THE HONOURABLE CHAIRPERSON AND HIS

COMPANION MEMBER OF THE

HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH KOLKATA

The Humble Counter Affidavit of the Respondent No. 3

MOST RESPECTFULLY SHEWETH:-

I, Sonam Ongden Lepcha aged about 57 years, serving as Addl. Director at Department of Mines and Geology, Government of Sikkim. I am Respondent No. 3 and I am well acquainted with the facts and circumstances of the present matter as such I am competent to swear and file this application before this Hon'ble Tribunal, I do hereby solemnly affirm and state as follows:-

1. PRELIMINARY SUBMISSIONS:-

i. At the very outset it is submitted that the original applicant has not come with clean hands before this Hon'ble Tribunal as the Original Applicant has

suppressed vital information and documents and as such the application deserves dismissal at the very threshold on the count of suppression of material facts and for misleading this Hon'ble Tribunal.

ii. That it is submitted that all the material allegations made in the Application against this answering Respondent are false and fabricated and the Application is not maintainable either on facts or in law against the answering Respondent.

iii. That save and except what has been specifically admitted herein, the rest of the statements made in the Application may be deemed to have been denied and repudiated by the answering Respondent. The deponent humbly begs to state further that the answering Respondent does not admit anything which is contrary to the record. Further, crave leave of this Hon'ble Tribunal to file an additional affidavit in reply if necessary.

2. STATEMENT OF FACTS:-

That before traversing the reply on merits, the answering Respondent begs to submit the following submissions materials for correct appreciation and proper adjudication of instant Application:-

2.1. That the aim and objectives of the Respondent No. 3, Department of Mines& Geology are to, establish exploitable reserves minerals of the state, carry out geo-technical investigations, monitor water resources for public consumption and cater to the geological input need of the Central & State Government agencies in the State.

2.2. That the answering Respondent, among other things, engages and carries out Geological and Geo-technical investigations of sites and provides site stability report in accordance with the Notification no.GOS/UD&HD/6(294)2001/A dated 16.10.2001 of UD & HD, Department Government of Sikkim at the request of the individual or several applicant / applicant(s) in the State of Sikkim. True copy of the Notification dated 16.10.2001 of UD & HD, Department Government of Sikkim is marked and appended as **ANNEXURE R/1.**

2.3. It is pertinent to mention that the answering Respondent received a requisition letter dated 23.11.2019, bearing Memo No.

84/SPV/GSCDL/2018-19, from the Office of Gangtok, Smart City Development Limited, Sokaythang, Gangtok, East Sikkim under the signature of its Nodal Officer requesting for a Geo technical and feasibility report of various projects proposed around Gangtok including the Geo technical and feasibility report of Old West Point School area where the project in question is proposed to be constructed.

A True copy of Letter bearing Memo No. 84/SPV/GSCDL/2018-19dated 23.11.2019 from Office of the Gangtok, Smart City development Limited, Sokaythang, Gangtok, East Sikkim marked and appended as **ANNEXURE R/2**.

2.4. That thereafter, the answering Respondent accordingly, during the month of February 2020 to March 2020,with the expertise of the technical team of the Department, has carried out a comprehensive Geological and Geo-technical investigation of the site at Old West Point School area near M.G. Marg, Gangtok, East Sikkim bythe methodology of Diamond Core Drilling and prepared a detailedGeological and Geo-Technical Investigation Report of the same with a conclusion and recommendation as under:-

1. *"Geologically, the area comprises of medium to high grade metamorphic rock sequence represented by Garnetiferrous Mica schist and Mica schist with quartzite intercalations underlain by Lingtse Granitic Gneiss. The foliation of rocks strike NW-SE and dip gently towards North east with Westerly facing slope aspect which makes the area geologically favourable for proposed construction of structures at Old West Point School area.*

2. *Based on the drilling data of Borehole no. 01 light brown clayey /silty soil is encountered from 3.00m depth, Garnetiferrous Mica Schist with quartz veins is found from 3.00m to 9.00m depth followed by Moderately weathered Garnetiferrous Mica Schist between 9.00m to 13.00m depth underlain by highly weathered Garnetiferrous Mica Schist between 13.00m to 15.00m depth.*

3. *For Borehole no. 02 micaceous silty soil overburden can be encountered upto depth of 3.00m followed by highly weathered Garnetiferrous Mica Schist between 3.00m to 6.00m depth.Further,Garnetiferrous Mica Schist with quartz veins between 6.00m depth to 9.00m depth followed by fresh Garnetiferrous Mica Schist with quartz veins between 9.00m to 10.50m depth.Moderately weathered Garnetiferrous Mica Schist can be encountered between 10.50m to 13.50 m depth followed by moderately weathered Garnetiferrous Mica Schist and fresh Garnetiferrous Mica Schist.*

4. *The tensile strength of rock core for Borehole no. 01 of depth 10.50 m is 70.10 T/m^2 and 12 m depth is 115.20 T/m^2 and compressive strength is 121.00 T/m^2 & 96.00 T/m^2 whereas tensile strength of rock core for Borehole no.02 of depth 9 m is 331.20 T/m^2 and compressive strength is 345.60 T/m^2.The low value of strength of the rock is due to high degrees of weathering and nature of flaky micaceous rock. However, strength of the strata greater than 35 T/m^2 in hilly terrain is recommended for construction as per IS CODE.*

5. *As Garnetiferrous Mica Schist is a foliated and becomes non-competent metamorphic rock when contacted continuously with water activity in which incidences of differential settlement is a natural phenomenon under such condition. Therefore, suitable foundation design to be designed by a competent structural engineer based on the sub-surface geological condition of rock strata.The Safe bearing capacity for Bh. 01 at depth of 1.50 m is 13.84 T/M^2 and 3..0m depth is 20.15 T/M^2 and SBC for Bh. 02 at depth of 1.50m is 6.92 T/m^2,3.00m depth is 11.51T/m^2 and 4.50m depth is 46.50T/m^2."*

True copy of the detailed Geological and Geo-Technical Investigation Report dated March 2020of the land proposed for the construction of various structures at Old West Point School, Gangtok East Sikkim marked and appended as **ANNEXURE R/3.**

2.5. That on 06.12.2021 the answering Respondent received a letter bearing Ref. no. MIPL/HO/18/2021-22 dated 21.09.2021 from MESASO Infrastructure Private Limited submitted along with the letter for Appointment of Concessionaire for implementation of the Multi-level car parking cum Commercial development at Old West Point School Area, Gangtok issued from the Office of Gangtok Smart City Development Limited bearing Memo No. 197/GSCDL/2021-22 dated 30.06.2021, requesting for issuance of a Stability Report of Old West Point School area near M.G. Marg, Gangtok, East Sikkim for implementation of Multi-Level Car Parking cum Commercial Development. True copy of the Letter bearing Ref. no. MIPL/HO/18/2021-22 dated 21.09.2021 from MESASO Infrastructure Private Limitedis marked and appended as **ANNEXURE R/4** and a True copy of the Letter for Appointment of Concessionaire for implementation of the Multi-level car parking cum Commercial development at Old West Point School Area, Gangtok issued from the Office of Gangtok Smart City Development Limited bearing Memo No. 197/GSCDL/2021-22 dated 30.06.2021is marked and appended as **ANNEXURE R/5.**

2.6. That after due verification of the documents submitted by the MESASO Infrastructure Private Limited, the answering Respondent conducted a detailed investigation of the site at Old West Point School, Gangtok East Sikkim and has subsequently provided a Site Stability report of the same which states that the said site falls within Zone 1 (one) of areal Stability Zonation Mapping System adopted by the Department of Mines and Geology, Government of Sikkim considering the physical features, geological setup and underlying strata, orientations of rocks, soil bearing capacity, strength of rock, surrounding built up area and the slope of the site at Old West Point School, Gangtok East Sikkim under the present conditions.

2.7. That it is important to submit that the soil in the area at Old West Point School, Gangtok, East Sikkim has a soil bearing capacity of 46.50 T/m^2 at 4.5-meter depth as estimated according to the IS Code 6403- 1981. The soil bearing capacity in the said area is greater than 35 T/m^2 which is

notified and recommended for zone 1 (one). Further, the orientation of the country rock is towards the North East direction whereas slope facing towards west direction makes the area geologically favorable for the proposed construction.

2.8. That the answering Respondent has also further recommended vide the abovementioned Site Stability Report dated 29.12.2021 that the foundation of the structure should be footed at considerable depth with uniform condition and has also recommended to consult a competent structural engineer for appropriate foundation design of the structures including earthquake resilience. It has also been suggested with a noting that *"the proposed area falls under zone 1 (one) as per the parameter notified by the Department of Mines and Geology vide Gazette no. 86 dated 06th April 2021.*True copy of the Site Stability Report dated 29.12.2021 is marked and appended as **ANNEXURE R/6.**

2.9. That it is also important to submit that the answering Respondent has also carried out a detailed Geological and Geo-Technical investigation of the surrounding areas within Gangtok, East Sikkim in the past. One such study has been carried out in the year 2011 wherein a Multi-Storied Secretariat Building has been constructed in the area that falls under zone one, and till date no settlement or any damages have been reported. The said area has geological conditions and rock type which are similar to the proposed area at Old West Point School complex. True copy of the 2011 detailed report of the Geological and Geo-Technical investigation of the surrounding areas within Gangtok, East Sikkim is marked and appended as **ANNEXURE R/7.**

3. **REPLY OF THE RESPONDENT NO. 3, DEPARTMENT OF MINES AND GEOLOGY, GOVERNMENT OF SIKKIM TO THE CONTENTIONS MADE BY THE APPLICANT AGAINST THE RESPONDENT NO. 3**

3.1. That it is alleged by the Original Applicant that the answering Respondent has given permission for construction of 14 storeys building without taking into account the Notification dated 19.03.2021 issued by the Department of Mines and Geology, Government of Sikkim. That

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such an allegation is false, misleading and wrong and is explained in detail in the subsequent paragraphs.

3.2. That it is pertinent to mention herein that the answering Respondent discharges its functions as illustrated below:-

a) Geological & Geo-technical study and Mapping of major towns of Sikkim.
b) Establishment of rock and soil mechanics Laboratory with computers for data processing.
c) Establishment of Geological Museum.
d) Development of Dikchu Mine.
e) Physico-chemical and bacteriological study of perennial sources of water all over the State.
f) Establishment and promotion of dolomite / limestone calcinations plant.
g) Promotion of locally available rocks as dimension stones.
h) Carry out mineral exploration and develop local mineral resources into viable income / employment generating schemes (dolomite / Limestone calcinations).

3.3. That it is humbly submitted that during high intensity earthquake, the intensity of damage is based upon the characteristic of the slope forming materials. The slope consisting of rock strata are less amplified than the slope having soil thickness which is more amplified during high intensity earthquake. Hence, damage will be more in the soil thickness area than the area having rock strata. The proposed area consists of mica schist rock at the foundation level.

3.4. That the proposed area in question has had no record of any landslides till date. It is reiterated that during the geological investigation it was found that the area falls under the metamorphic rock sequence represented in the area by mica schist with alternate bends Granetiferous mica schist with quartz veins having direction of foliation of rock towards Northeast direction whereas slope facing towards western direction makes the area geologically favorable.

3.5. That as far as the contention of the Applicant that Arithang ward consisting of Gneissic rock and Schistose rocks are highly weathered and eroded due to high rainfall causing frequent landslides is concerned, it is humbly submitted that the weathering of rock due to rainfall is restricted only to the rock surface because rain water will immediately run off after rainfall. Therefore, deep weathering in the rock by high intensity rainfall in hilly areas are negligible. Further, as per the 2018Report published by the Sikkim Disaster Management Authority, Land Revenue and Disaster Management Department, Government of Sikkim titled "Multi Hazard Risks and Vulnerability Assessment of Gangtok, Municipal Corporation, East Sikkim" the proposed area is comparatively less susceptible to earthquake hazards in the entire Arithang ward. The said area in Arithang is characterized by gentle slope gradient with sandy soil upto 3 m depth followed by parent soil/weathered rock having soil bearing capacity of 45.50 T/m^2as per IS Code 6403-1981 which has comparatively high soil bearing capacity. The down slope of the Arithang is characterized by medium to high grade metamorphic rock sequence represented in the area by Lingtse granitic gneiss inter band with mica schist. The Lingtse granitic gneiss is the comparatively the most competent and bears a high compressive rock strength within the State of Sikkim. Therefore, the majority of the Arithang area is free from landslide zone except few locations where surfacial erosion has been occurring during high intensity rainfall due to dumping of muck materials at the time of individual house construction and along jhora section.

3.6. That it is humbly submitted that the monitoring and construction work is not within the ambit of the answering Respondent. Moreover, the photographs appended in the Original Application are not of the site of the proposed construction of the Multi-level car parking cum Commercial development at Old West Point School Area, Gangtok and as such the Original Application deserves to be dismissed for suppression of material and misleading this Hon'ble Tribunal.

3.7. That the Notification dated 19.03.2021 has been issued by the Department of Mines and Geology, Government of Sikkim is issued in continuation of the prior Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the UD&HD Department, Government of Sikkim.

3.8. That the opening word of the Notification dated 19.03.2021 issued by the Department of Mines and Geology, Government of Sikkim runs as:-

"In continuation with Notification no. GOS/UD&HD/6(294)2001/A dated16.10.2001) and gazette no. 387 dated 16/10/2001 which notified that the maximum height of building constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows:"

3.9. That Clause 2(a) sub clause (i) of Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the UD&HD Department, Government of Sikkim runs as:-

"(i) The maximum height of building constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows:

Stability Zone	*Admissible no. of floors*
1.	*5 1/2 storeys*
2.	*4 1/2 storeys*
3.	*3 1/2 storeys*
4.	*2 1/2 storeys*
5.	*1 1/2 storeys*
6.	*No construction is allowed"*

3.10. That now addressing the pointas stated by the original Applicant that the answering Respondent has granted permission for construction of a 14 storey building without taking into account its Notification dated 19.03.2021 issued by Department of Mines and Geology, Government of Sikkim, it is imperative to bring to the knowledge of the Hon'ble Tribunal that the said Notification dated 19.03.2021 issued by the answering Respondent is only meant to notify and create awareness among the mass on the stability condition of land. The said Notification has to be seen in its totality of the Act under which such Notifications/Rules/Orders are issued.

3.11. That it is submitted that the main objective of the said Notification dated 19.03.2021 issued by Department of Mines and Geology, Government of Sikkim is to set out parameters for determination of stability zones of each zone. In other words, it means that as to what are the parameters that are required for zonation of each land. The said Notification also provides that the said parameters are known as site stability zonation parameters and have to be strictly followed during categorization of zones.

3.12. That the answering Respondent has notified vide Notification dated 19.03.2021, the parameters required for the purpose of categorization of zones of each land which may be noted as below:-

Zone I

Rock Properties:	Bed rock/parent soil is expected at foundation depth. Unweathered/surfacial weathering, compact with no joint spacing, moderate to high compressive strength, high frictional resistance.
Built up area:	Training of jhoras/drains have been completed and done properly (with safe distance)
Overburden:	Thin to medium thick having good bearing capacity of soil.
Bearing Capacity:	> 35 T/m^2

Ground Water Activity:	Low
Relation Between Natural Slope And Rock Bed/Foliation:	Favourable, >30°
Adverse Geo-Environment:	Nil
Upslope pressure:	Nil
Vibration Impact:	Minimum
Slope:	Gentle to moderate. <15°
Depth of soil:	<3m
Relative relief:	<100m
Hydrological conditions:	Dry/nil
Category:	Suitable after taking appropriate measures to slope/precautionary and preventive measures at the time of foundation leveling.
Zone 2	
Rock Properties:	Bed rock/parent soil is not expected at foundation level. weathering on surface of contact zone is suspected, medium to high compressive strength, jointed rocks with minimum spacing, joint plane undulating with high frictional resistance.
Built up area:	Training jhora/drain was done but not properly maintained.
Overburden:	Medium thick (rock expected at considerable depth)
Bearing Capacity:	15-35 T/m^2
Ground Water Activity:	Low to medium
Relation Between Natural Slope And Rock Bed/Foliation:	Favourable,20-30°
Adverse Geo-Environment:	Nil.

Upslope pressure:	Suspected

Slope:	Gentle to moderate, 16-25°
Upslope pressure:	Nil
Vibration Impact:	Minimum
Depth of soil:	3-8 metres
Relative relief:	101-300 metres
Hydrological conditions:	Damp
Category:	Suitable after taking proper surface/sub-surface drainage system.

Zone 3

Rock Properties:	Bed rock/parent soil is not expected at foundation level. Weathering on surface of contact zone is suspected, low to medium compressive strength, jointed rocks with minimum spacing, and joint plane smooth with low frictional resistance.
Built-up area:	Jhora training is required/annual maintenance of drain is necessary.
Overburden:	Thick soil overburden, having moderate to low soil bearing capacity.
Bearing capacity:	<15 T/m^2
Ground Water Activity:	Medium to high
Relation Between Natural Slope And Rock Bed/Foliation:	Rock dips at some angle to direction of slope, <20°
Adverse Geo-Environment:	Rocks are subjected to folding, fracturing & weathering.
Slope:	Moderate to high. slope which reflects the competency of slope forming materials 26-35°

Upslope pressure:	Suspected.
Vibration Impact:	Low to medium
Depth of soil:	>8m
Relative relief:	>300m
Hydrological conditions:	Wet
Category:	Suitable after taking various geotechnical corrective measures.

Zone 4

Rock Properties:	Bed rock/parent soil is beyond foundation level. high degree of weathering is suspected, low compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Untrained jhora/ erosional potential jhora
Overburden:	Medium thick to thick soil overburden
Bearing capacity:	<10 T/m^2
Ground Water Activity:	Higher water regime.
Relation Between Natural Slope And Rock Bed/Foliation:	Slightly adverse to adverse.
Adverse Geo-Environment:	Gully erosion & collapse of jhora facing slopes at isolated places, formation of cracks or fissures on the ground. Creep movement suspected.
Slope:	Steep, 36-45°
Upslope pressure:	Suspected.
Vibration Impact:	Low to medium
Depth of soil:	>8m
Relative relief:	>300m
Hydrological conditions:	Dripping
Category:	Not suitable for habitation unless immediate protective

measures to safeguard upslope/ minimise further degradation of stability condition of upslope area.

Zone 5

Rock Type:	Bed rock/parent soil is beyond foundation level, high degree of weathering is suspected, low compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Nil
Overburden:	Thick with low soil bearing capacity.
Bearing capacity:	<10 T/m^2
Ground Water Activity:	High.
Relation Between Natural Slope And Rock Bed/Foliation	Slightly adverse to adverse.
Adverse Geo-Environment:	Area subjected to isolated slope failure, creep movement widespread, wide cracks on ground.
Slope:	high to steep slope, >45°
Upslope pressure:	Present.
Vibration Impact:	Medium
Depth of soil:	>10m
Relative relief:	>300m
Hydrological conditions:	Flowing
Category:	Area not suitable needs immediate protective measures to protect upslope area.

Zone 6

Rock Type:	Bed rock/parent soil is beyond foundation level, high degree of weathering is suspected, very low

	compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Nil
Overburden:	Thick with low soil bearing capacity.
Bearing Capacity:	<5 T/m^2
Ground Water Activity:	High.
Relation Between Natural Slope And Rock Bed/Foliation:	Adverse.
Adverse Geo-Environment:	Incidences of slope failure, gully erosion, adverse slope facing towards jhora section etc.
Slope:	High slope >45°
Upslope pressure:	Present.
Vibration Impact:	medium
Depth of soil:	>10m
Relative relief:	>300m
Hydrological conditions:	Flowing
Category:	Area not suitable needs immediate protection for arresting further aggravation of instability problems.

3.13. That vide above said Notification No17/DMG/20-21 dated 19.03.2021, issued by the Department of Mines and Geology, Government of Sikkim, the said Respondentis empowered to upgrade the land stability zonation for a particular site if the pre-requisite condition is fulfilled. The phrase runs as under: -

"Further, the department will be reviewing the zonation ratings on the following conditions.

Conditions and pre-requisite for review of site stability report/up-gradation of Land Stability Zonation for particular site.

1. *Recommendation suggested in site stability report should be adopted during construction of structures.*

2. *Training of untrained Jhora and maintenance at regular intervals which is located adjacent to the plot.*

3. *Construction of structure below the building which was barren before which also aids in improving the stability of the upslope area. Further, construction of building in the downslope area also acts a retaining/protective wall for the houses located in the upslope area.*

4. *Minimum of three (03) years after the completion of house construction so as to observe the incidences of differential settlement as per the IS Code of Practice for calculation of settlements of foundations (IS Code:- 8009(Part 1)-1978(Reaffirmed 2003)). The review of the rating on zonation can be done.*

5. *Proper channelization of surface runoff by providing catchment drains especially during the rainy seasons and connect it to natural waterways/Jhora which also improves the stability of the area due to reduced erosions and percolation of water in the slope concerned.*

6. *Any site improvement activities/works like grouting/micro-pilling/retaining works/rock bolting/anchoring/shot creting works as per site requirement has been done in the area which will re-strengthen the stability condition shall be entertained for review of stability zonation rating."*

3.14. That it is submitted before this Hon'ble Tribunal that the proviso given in the Notification No.GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the UD&HD Department, Government of Sikkim provides the power of the State Government for relaxing the applicability of the provisions contained in the above Notification, which runs as under:-

"39 Power to relax

In case of genuine difficulties arises out of the implementation of any of the regulations in regard to building or structures proposed to be constructed by the Government of Sikkim or Government of India or any registered organization of the state Government reserves right to relax from application any of the provisions which it considered justifiable on the merit of each case".

That it is for the competent authority to respond to the relaxation given in view of the dire need of the parking facility required in the said area. However, it is believed that the said project was submitted to the highest office of the State and thereafter the same has been approved by the Cabinet, which clearly shows that Regulation 39 has been adhered to, while granting such exemption.

True copy of the Notification No. GOS/UD&HD/6(294)2001/A dated 16.10.2001 issued by the UD&HD Department, Government of Sikkim has been annexed as Annexure R/1 above and the True copy of the Notification No.17/DMG/20-21 dated 19.03.2021 issued by the Department of Mines and Geology, Government of Sikkim is marked and appended as **ANNEXURE R/8.**

3.15. That it is humbly submitted before this Hon'ble Tribunal that the answering Respondent has carried out the Geological and Geo-Technical Investigation at the said site and has provided the Geological and Geo-Technical Investigation Report and has also provided a Site Stability Report in view of the letters received from the office of Respondent No. 2, Gangtok Smart City Development Limited, Sokaythang, Gangtok, East Sikkim under the signature of its Nodal Officer and from M/s MESASO Infrastructure Private Limited respectively.

3.16. That the Project Proponent, M/s Mesaso Infrastructure Private Ltd, has submitted a certificate issued by Jadavpur University certifying that the load of the proposed structure is 21 T/m^2 which is less than the soil bearing capacity in the area and the load of the structure is confined within the construction area. In light of the aforesaid, the answering Respondent has communicated to the Project Proponent vide Letter dated 17.02.2022 that the suggestion in the Site Stability Report regarding the load impact assessment of the surrounding area is not required. True copy of the Letter dated 17.02.2022 issued by the Department of Mines & Geology to M/s Mesaso Infrastructure Private Ltd is marked and appended as **ANNEXURE R/9.**

3.17. That the remaining contentions made out against the answering Respondent in the Original Application are false and misconceived and hence are not tenable in law as well as facts and same is not responded individually for sake of brevity.

PRAYER

In view of the position of facts and law and the submissions made herein above, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the Application in the facts and circumstances stated above. Further, the Answering Respondent No. 3 craves the leave of this Hon'ble Tribunal to add, amend or alter this reply, if found necessary, at any stage of the proceedings. The Answering Respondent also craves leave of this Hon'ble Tribunal to make further submissions at the appropriate stage, if so advised.

DEPONENT

VERIFICATION

I, the above-named deponent do hereby verify and say that the statements made at aforementioned paragraphs of the Counter affidavit is true to my knowledge rest are my respectful submissions before this Hon'ble Tribunal. The documents filed herewith as annexures are true copies of respective originals.

Affirmed on this the 25th day of February 2022 at Gangtok, East Sikkim.

DEPONENT

Identified by:

(Yadev Sharma)
Govt. Advocate
Gangtok, E-Sikkim.

25/2/22
Mr. Sujan Sunwar
Oath Commissioner (East)

ANNEXURE R-2

Item No. 2 Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)

Original Application No.38/2022/EZ
(I.A. No.131/2022/EZ)

In the matter of:

Dr. Bina Basnett,
D/o Mr. P.B. Basnett,
Ranipool, East Sikkim,
Pin – 737135,

...**Applicant**(**s**)

Versus

1. State of Sikkim,
Through Chief Secretary,
New Secretariat, Gangtok,
Pin – 737101,

2. Gangtok Smart City Development Limited,
Through its Chief Executive Officer,
Sokaythang, Below-ICAR Office,
Gangtok, Sikkim,
Pin – 737102,

3. Department of Mines & Geology,
Through Secretary,
Secretariat Road, Below Tashiling Secretariat,
Govt. of Sikkim, Gangtok,
Pin – 737101,

4. Urban Development Department,
Through its Secretary,
Govt. of Sikkim,
Paljor Stadium, Gangtok, Sikkim,
Pin – 737101,

5. Sikkim State Disaster Management Authority.
Through Relief Commissioner,
Manan Bhawan, Gangtok,
Sikkim – 737101,

6. Sikkim State Pollution Control Board,
Through Chairman,
Forest Secretariat, C Block,
Deorali, Gangtok, East Sikkim,
Pin – 737102,

7. District Magistrate/Collector,
Upper Sichey Road, Sungava, Gangtok,
Sikkim – 737101,

8. State Environment Impact Assessment Authority (SEIAA),
Through Chairman,
Kazi Road, Gangtok, Sikkim,
Pin – 737101,

9. Forest and Environment Department, Govt. of Sikkim,
Through Addl. Chief Secretary,
Forest Secretariat, Deorali,
Gangtok, East Sikkim,
Pin – 737102,

10. Gangtok Municipal Corporation,
Through Municipal Commissioner,
Near Deorali Stand, Gangtok, Sikkim,
Pin - 737101,

11. Ministry of Environment, Forests and Climate Change,
Through Secretary,
Indira Paryavaran Bhawan, Jor Bagh,
Lodhi Colony, New Delhi,

12. MESASO Infrastructure Private Limited,
Through its Authorised Signatory,
3rd Mile, Sevoke Road, Siliguri,
Pin – 734008,

...**Respondent(s)**

Date of hearing: 10.05.2022

CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s) : Mr. Pratap Shanker, Advocate

For Respondent(s) : Mr. Sanjay Upadhyay, Advocate

ORDER

1. Heard Mr. Pratap Shanker, learned Counsel appearing for the Applicant.

2. This Original Application has been filed by the Applicant, seeking a direction to completely scrap the construction related projects in the State of Sikkim which are against the ecology and environment. It is also prayed that construction of Multi-level Car Parking-cum-Commercial Development at Old West Point of School area, be immediately stopped and a direction be given to revoke the

permission granted for construction of the above mentioned car park of 14 [11+3 (proposed)] storeyed building in Gangtok, Sikkim.

3. The Contention of the Applicant is that the Respondent No.12, MESASO Infrastructure Private Limited, is constructing a 14 storeyed Multi-level Car Park and also creating a Commercial Hub which is in violation of the Government of Sikkim, Department of Mines and Geology, Gangtok, Notification No. 17/DMG/20-21 dated 19.03.2021, copy of which has been filed as Annexure-A-4 (page no. 129 of the paper book) to the Original Application. The learned Counsel for the Applicant submitted that this Notification provides that in Stability Zone-1 the admissible number of floors is 5 ½ whereas the proposed Multi-level Car Paring-cum-Commercial Hub is a 14 storeys building.

4. We put a query to the learned Counsel as to what is the stage of the construction. The learned Counsel submits that it is still at the foundational stage but he added that the Cabinet has taken a decision that the construction should be of 14 storeys, therefore, there would be violation of environmental laws and degradation of environment and, therefore, the Tribunal would be justified in interfering at this stage.

5. We are not satisfied that at the foundational stage of the proposed construction of Multi-level Car Parking-cum-Commercial Hub, it can be said that there is environmental degradation or violation of environmental laws. The construction has not yet reached 5 ½ storeys. We are, therefore, of the view that this Original Application is absolutely premature and that the Applicant has no cause of action to maintain this Original Application on the assumption that

there would be violation of environmental laws or of Government of Sikkim notification at a future date.

6. We also queried from the learned Counsel as to whether any Environmental Clearance had been granted for this construction project. The learned Counsel submitted that he has no knowledge of this fact.

7. Mr. Sanjay Upadhyay, learned Counsel has put in appearance on behalf of the Respondent No.12, MESASO Infrastructure Private Limited, and submits that for this project Environmental Clearance has been granted on 25.02.2022.

8. This Environmental Clearance has not been filed along with the Original Application. We are of the view that if Environmental Clearance has been granted for this project, the Applicant has a remedy by way of appeal challenging the said Environmental Clearance.

9. The Original Application No. 38/2022/EZ is accordingly dismissed on ground of alternative remedy.

10. The I.A. No. 131/2022/EZ is also disposed of.

11. There shall be no order as to cost.

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

May10, 2022,
Original Application No.38/2022/EZ
(I.A. No.131/2022/EZ)
AK

TRUE COPY

ANNEXURE R-3

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022

[Against the impugned final judgment and order dated10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 38/2022/EZ].

IN THE MATTER OF:

DR. BINA BASNETT ..... APPELLANT

VERSUS

STATE OF SIKKIM& ORS. .....RESPONDENTS

WITH

I.A.NO..... OF 2022
Application for Stay

WITH

I.A.NO..... OF 2022
Application for Condonation of Delay

FOR INDEX:
(PL. SEE INSIDE)

INDEX

Sl. No.	Particulars of documents	Page No. of Part of which it belongs		Remarks
		Part I (Contents of Paper Book)	Part I (Contents of file alone)	
I	II	III	IV	V
	Court Fee		A	
1.	O/R on Limitation			
2.	Listing Proforma	A1-A-2	A1-A-2	
3.	Cover Page of Paper Book		A-3	
4.	Index of Record of Proceedings		A-4	
5.	Defect List		A-5	
6.	Note Sheet		NS1 to	
7.	Synopsis and List of Dates	8 - 9		
8.	**Impugned Order** Copy of the judgment and final order dated 10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 38/2022/EZ.	1 - 6		

9.	Civil Appeal with Affidavit.	7-42		
10.	**Annexure-P-1** Copy of the report of engineering geology division, geological survey of India, Eastern region, Kolkata submitted on 18th of September, 2011 Sikkim earthquake.	43-50		
11.	**Annexure-P-2** Copy of the news item dated 24.09.2011 as published in the Indian Express regarding the collapse of two multi-storeyed buildings in the Gangtok.	51-52		
12.	**Annexure-P-3** Copy of the notification dated 20.09.2001 bearing No. 70/home/2001 issued by the government of Sikkim, Home Department, Gangtok.	53-55		
13.	**Annexure-P-4** Copy of the request for proposal dated 16.09.2020 issued by the Respondent No. 2, i.e., Gangtok Smart City Development Limited for the implementation of	56-124		

	multilevel car parking-cum-commercial development at old West point School area.			
14.	**Annexure-P-5** Copy of the Notification dated 19.03.2021 bearing No. 17/DMG/20-21 issued by Government of Sikkim, Department of mines and Geology, Gangtok-737101.	125-129		
15.	**Annexure-P-6** A Copy of OA No. 5 of 2022 filed before Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata dated 31.12.2021	130-167		
16.	**Annexure-P-7** A Copy of the order dated 18.01.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in OA no. 5 of 2022.	168-170		
17	**Annexure-P-8** A Copy of the Order dated 02.03.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench,	171-174		

	Kolkata in OA no. 5 of 2022.			
18.	**Annexure-P-9** A Copy of the O.A. No.38/2022/EZ filed before Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata dated 07.03.2022	175-221		
19	**ANNEXURE P-10** A Copy of the Photographs to show the effect of landslides in the Arithang Area	222-230		
20	**ANNEXURE P-11** A Copy of the Photographs showing view of the Guardian Deity Mount-Kanchenjunga from the alleged construction site	231-239		
21	**ANNEXURE P-12** A Copy of the Photographs showing sinking of Bye-pass road Arithang	240		
22	**I.A. No._____of 2022** Application for Stay on the Impugned Construction	241-243		
23	**I.A. No. ____ of 2022** Application for Condonation of Delay in filing Civil Appeal	244-246		

24	**I.A. No._____of 2022** Application for condonation of delay in refiling	247-252		
25	Filling Memo		253	
26	Vakalatnama		254	

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022

IN THE MATTER OF:

DR. BINA BASNETT ..... APPELLANT

VERSUS

STATE OF SIKKIM& ORS. ..... RESPONDENTS

OFFICE REPORT ON LIMITATION

1. The Petition is/are within time. (NO)

2. The Petition is barred by time and there is delay of 64 days in filing the same against impugned Final judgment and order dated 10.05.2022 passed by the Hon'ble National Green Tribunal Eastern Zone Bench, Kolkata in Original Application No. 38/2022/EZ and petition for condonation of days delay has been filed.

3. There is delay in re-filing the petition and petition for condonation of ..... days delay in re-filing has been filed.

BRANCH OFFICER

New Delhi
Dated:.10.10.2022

SYNOPSIS & LIST OF DATES

That the present statutory Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 is filed against the Impugned Order dated 10.05.2022 passed by the Hon'ble National Green Tribunal Eastern Zone, Kolkata in Original Application No. 38/2022/EZ, whereby the Hon'ble National Green Tribunal was pleased to dismiss the Original Application of the Appellant herein merely for want of cause of action.

That it is submitted that the Original application No. 38/2022 was filed by the Appellant against the construction of a 14 [11 + 3 (proposed)] storey building named as "Multi-level Car Parking cum Commercial Development at Old West Point School area" by the Respondent No. 1 and 2 in an ecologically fragile area of Gangtok which comes under the category of Geologically fragile Seismic Zone-IV, that too near the convergent boundary of the Indian and Eurasian Tectonic Plates and is subject to frequent Earthquakes coupled with incessant high rain fall throughout the year.

That it is respectfully submitted that the act of the Respondents in constructing a 14 [11+3 (proposed)] building in an ecological fragile area is a clear violation of the Environmental Rule of Law as has been held in the recent case of *"Himachal Pradesh Bus Stand Management and Development Authority vs. The Central Empowered Committee and Ors."* bearing Civil Appeal Nos. 5231-32 and 5229-5230 of 2016, wherein, this Hon'ble Court has observed "Whatever else the environmental Rule of law may mean, it surely means that construction of this sort could not receive our endorsement, no matter what its economic benefits may be." The Applicant is filing the copy of the Judgement Additionally.

That the said project does not even conform to the plans prepared by third-party consultants hired by the Respondents.

That it is most respectfully submitted that the Impugned Order dated 10.05.2022 as passed by the Hon'ble NGT raises certain substantial Questions of laws for consideration before this Hon'ble Court:

i. Whether the Hon'ble National Green Tribunal, East has erred in law in not recognizing the fact that the Appellant herein had raised "Substantial Questions" relating to environment, whereby the people at large is likely to be effected by the environmental consequences?

ii. Whether the Hon'ble National Green Tribunal was correct in dismissing the Application of the Appellant for want of cause of action, while there was a flagrant breach of the Notification No.17/DMG/20-21 dated 19.03.2021 issued by Govt. of Sikkim, Department of Mines & Geology, wherein, the construction upto only $5^{1/2}$ floors has been permitted in Gangtok?

iii. Whether the construction of such a huge building in a ecologically fragile area of Gangtok and that too against the settled building laws and guidelines, possess great threat to the life and limb of the people residing in the vicinity of the project in question?

iv. Whether the Hon'ble National Green Tribunal was correct in holding that merely because the impugned

project is at the foundational stage of construction, there cannot be any judicial scrutiny or judicial examination of the merits of the project and chances of the project being a potential threat to environment?

v. Whether a project like the one under question in this appeal can be allowed to be built in an area which comes under Seismic Zone – IV and is prone to high frequency of earthquakes?

vi. Whether the Hon'ble National Green Tribunal erred in not considering the continuous cause of action of the Appellant and in not giving any reasons as to why the cause of action of the Appellant would not suffice for maintainability of the Original Application No.38/2022/EZ?

vii. Whether the Hon'ble NGT has erred by focusing on the issue of Environment Clearance in its dismissal order, while ignoring the fact that when the interim relief of stay was granted earlier on the same project, vide its order dated 18.01.2022 in O.A. No.5/2022, exactly on

the same set of facts, then there was no Environment Clearance to the project?

viii. Whether the construction of such a high rise building in the guise of Sustainable Development/substantial service improvement opposes the very objective of the same?

That the initial document pertaining to the alleged project, i.e., Request for Proposal (hereinafter referred to as RFP) dated 16.09.2020 clearly and manifestly provides for the construction of 14 [11 + 3 (proposed)] building. It is worthwhile to mention herein that the issuance of the very RFP give rise to the Cause of Action. It is settled proposition of law that a cause of action in substance denotes and determines the starting point of limitation.

That it is submitted that the Hon'ble NGT vide Impugned Order dated 10.05.2022 has tried to limit the subject matter to Environmental Clearance only. However, the project itself requires to be holistically examined with respect to other various issues, specially in the light of the

fact that Sikkim is just above Eurasian Tectonic Plates where it has been monitored that regular earthquakes of 3-5 magnitudes on the Richter Scale occurs in the state of Sikkim.

Further, the Application states the following facts:

A. That the issuance of the RFP dated 16.09.2020 by the Respondent No. 2 is in flagrant abuse of the Notification dated 19.03.2021 issued by the Respondent No. 3.

B. That the construction of a 14 [11+3 (proposed)] storey building in an ecologically fragile area of Gangtok is illegal and has grave environmental threats.

That the facts pleaded in the Application and as noted above clearly disclose a cause of action entitling the Applicant to maintain the Original Application before the Hon'ble NGT below.

Whether or not the Applicant is able to sustain the action or not is distinct from the maintainability of the action. Sustainability of the action would depend upon the evidence once led.

That the Appellant had contended before Hon'ble NGT that the impugned construction is against the Notification No. 17/DMG/20-21 dated 19.03.2021 issued by Respondent No.3, Department of Mines and Geology, Govt. of Sikkim which had prescribed the maximum permissible height of any structure in the respective zones. As per the Notification dated 19.03.2021, the admissible number of floors for any structure for the Zone-1 is 5 ½ storeys. Whereas the impugned construction is of a 14[11 + 3(proposed)] storey building.

The Applicant approached the Hon'ble NGT against the sanctions granted by various authorities to this project. The Appellant had highlighted the fact that the clearance to this project has been granted without circumspection and in complete disregard to the public interest related with environment. But the Hon'ble NGT used a flimsy ground to dismiss the Application of the Appellant. Hence, the Appellant has come in Appeal against the dismissal order invoking the power of the Hon'ble Supreme Court under Section 22 of the National Green Tribunal Act, 2010.

GANGTOK

That it is submitted that Gangtok is the capital of the State of Sikkim, which is placed in the lap of the HIMALAYAS. The Himalayas is made up of three parallel ranges often referred to as the Greater Himalayas, the Lesser Himalayas and the Outer Himalayas.

That the Himalayas are young mountains and their environmental degradation is being caused by population growth, unplanned urbanization, polluting industries and allied sectors.

That it is now well recognized that the rich and diverse Himalayan ecosystem is highly fragile. That whole of the State of Sikkim is an earthquake prone area, which comes under Seismic Zone – IV. The city of Gangtok is situated near the convergent boundary of the Indian and Eurasian Tectonic Plates and is subject to frequent earthquakes.

That it is pertinent to mention that the town falls under the Seismic Zone-IV, near the convergent boundary of the Indian and Eurasian tectonic plates. Within the

Gangtok Municipal Corporation, there is the Arithang Ward which is prone to frequent landslides caused due to high seismic activity and other human intervening factors. The quality of soil in Arithang Ward is very poor and has become one of the major reasons for frequent landslides in the area.

That the appellant had filed an Application dated 07.03.2022 before the Hon'ble National Green Tribunal, Kolkata against the illegal construction of a Multi-level Car Parking cum Commercial Development at Old West Point School Area.

That the said project was conceptualized by the Respondent No.2, a Public Company whereas the Respondent No.12 was made the concessionaire which has been given the responsibility to execute the construction of the impugned project.

That the aforesaid project is being constructed by the Respondent No.2 through Respondent No.12 with 14 floors

[11+3(proposed)] which is not at all permissible in a Seismic Zone – IV/earthquake prone area like the State of Sikkim.

LIST OF DATES

18.09.2011 That Engineering Geology Division, Geological Survey of India, Eastern region, Kolkata submitted its report on 18TH of September, 2011 regarding the Sikkim earthquake. Copy of the report of Engineering Geology Division dated 18.09.2011 is annexed herewith and marked as **ANNEXURE P/1**@ pages (43 to 50).

24.09.2011 That the news item dated 24.09.2011 has been published in the Indian Express regarding the collapse of two multi-storeyed buildings in the Gangtok. A Copy of the news item dated 24.09.2011 is annexed

herewith and marked as **ANNEXURE P/2@** page (51 to 52).

20.09.2001 That the notification dated 20.09.2001 bearing No. 70/home/2001 was issued by the Government of Sikkim, Home Department, Gangtok. Copy of the Notification dated 20.09.2001 bearing No. 70/home/2001 is annexed herewith and marked as **Annexure P/-3@** Pages (53 TO 55).

16.09.2020 That Request for Proposal (RFP) for the implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area was issued by Respondent No. 2. Copy of the request for proposal dated 16.09.2020 issued by the Respondent No. 2, i.e., Gangtok Smart City Development Limited for the implementation of multilevel car parking-cum-commercial development at old West

point School area is annexed herewith and marked as **Annexure P/4**- @ Pages(56 TO 124).

19.03.2021 That a Gazette Notification of even date bearing No. 17/DNG/20-21 was issued by the Respondent No. 3, wherein, it was notified that the maximum floors that can be constructed with prior permission with the department is $5^{1/2}$ Floors as per the condition of the Soil and Ground. Copy of Gazette Notification of even date bearing No. 17/DNG/20-21, dated 19/03/2021 is annexed herewith and marked as **Annexure P/-5** @ Pages (125 TO 129).

31.12.2021 That the Appellant filed an Original Application bearing OA no. 5 of 2022 titled as "Dr. Bina Basnett Vs. State of Sikkim & Others" before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata. A

Copy of O.A. no. 05/2022dated 31.12.2021 filed before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata is annexed herewith and marked as **Annexure P/-6**@ Page @ (130 TO 167).

18.01.2022 That an interim order was passed in the aforesaid Original Application bearing OA no. 5 of 2022 titled as "Dr. Bina Basnett Vs. State of Sikkim & Others".A Copy of Order dated 18.01.2022 passed in O.A. no. 05/2022by Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata is annexed herewith and marked as **Annexure P/-7**@ Page (168 TO 170).

02.03.2022 That the Applicant withdrew the OA No. 5 of 2022, which was dismissed as withdrawn by way of Order of the even date. A Copy of Order dated 02.03.2022 in O.A. no. 05/2022, passed by the Hon'ble National Green Tribunal, Eastern Zone

Bench, Kolkata is annexed herewith andmarked as **Annexure P/-8** @ Page (171 TO 174).

07.03.2022 That the O.A no. 38/2022 was filed by Appellant before the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on even date. Copy of O.A. no. 38/2022 is annexed herewith and marked as **Annexure P/-9** @ Page (175 TO 221).

That the Appellant is filing the photographs on record to show the effect of landslides in the Arithang Area, which is situated less than one aerial kilometer from the alleged construction site at Old West Point School Area. The Applicant is also filing on record certain photographs to show as to how the proposed construction of Multi-level Car Parking cum Commercial Development would effect the clear view of Guardian Deity Mount Kanchenjunga, which is

considered very close to the heart of people of Sikkim. The Applicant is further filing photographs to show as to how the bye-pass road is sinking because of the load of Arithang. A Copy of the Photographs to show the effect of landslides in the Arithang Area are annexed herewith and marked as **ANNEXURE P/10** @ Pages (222 to 230). A Copy of the Photographs showing view of the Guardian Deity Mount-Kanchenjunga from the alleged construction site are annexed herewith and marked as **ANNEXURE P/11** @ Pages (231 to 239). Copy of the Photographs showing sinking of Bye-passroadin Arithang are annexed herewith and marked as **ANNEXURE P/12** @ Pages (240 to -)

That it is respectfully submitted that high rise buildings are not at all allowed in hilly areas world-wide due to vulnerability of

landform and tectonic plates at hill stations in as much as hill stations are prone to frequent earthquakes.

10.05.2022 That the Hon'ble National Green Tribunal vide Impugned Order of the even date dismissed the Original Application bearing No. 38/2022 filed by the Appellant.

10.10.2022 Hence the present Civil Appeal.

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

(Through Video Conferencing)

Original Application No.38/2022/EZ

(I.A. No. 131/2022/EZ)

IN THE MATTER OF:

Dr. Bina Basnett,
D/o. Mr. P.B. Basnett,
Ranipool, East Sikkim,
Pin-737135. ..Applicant(s)

Versus

1. State of Sikkim,
Through Chief Secretary,
New Secretariat, Gangtok,
Pin-737101.

2. Gangtok Smart City Development Limited,
Through its Chief Executive Officer,
Sokaythang, Below-ICAR Office,
Pin-737102.

3. Department of Mines & Geology,
Through Secretary,
Secretariat Road, Below Tashiling Secretariat,
Govt. of Sikkim, Gangtok,
Pin-737102.

4. Urban development Department,
Through its Secretary,
Govt. of Sikkim,
Paljor Stadium, Gangtok, Sikkim,
Pin-737101.

5. Sikkim State Disaster Management Authority,
Through Relief Commissioner,
Manan Bhawan, Gangtok,
Sikkim – 737101.

6. Sikkim State Pollution Control Board,
Through Chairman,
Forest Secretariat, C-Block,
Deorali, Gangtok, East Sikkim,
Pin-737102.

7. District Magistrate/Collector,
Upper Sichey Road, Sungava, Gangtok,
Sikkim-737101.

8. State Environment Impact Assessment Authority (SEIAA),
Through Chairman,
Kazi Road, Gangtok, Sikkim,
Pin-737101.

9. Forest and Environment Department, Govt. of Sikkim,
Through Addl. Chief Secretary,
Forest Secretariat, Deorali,
Gangtok, East Sikkim,
Pin-737102.

10. Gangtok Municipal Corporation,
Through Municipal Commissioner,
Near Deorali Stand, Gangtok, Sikkim,
Pin-737101.

11. Ministry of Environment, Forests and Climate Change,
Through Secretary,
Indira Paryavaran Bhawan, Jor Bagh,
Lodhi Colony, New Delhi.

12. MESASO Infrastructure Private Limited,
Through its Authorized Signatory,
3rd Mile, Sevoke Road, Siliguri,
Pin-734008. .Respondent(s)

Date of hearing: 10.05.2022.

CORAM : HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s) : Mr. Pratap Shanker, Advocate

For Respondent(s): Mr. Sanjay Upadhyay, Advocate.

ORDER

1. Heard Mr. Pratap Shanker, Learned Counsel appearing for the applicant.

2. This Original Application has been filed by the Applicant, seeking a direction to completely scrap the construction related project in the State of Sikkim which are against the ecology and environment. It is also prayed that construction of Multi-level Car Parking-cum-Commercial Development at Old West Point of School area, be immediately stopped and a direction be given to revoke the permission granted for construction of the above-mentioned car park of 14 [11+3 (proposed)] storeyed building in Gangtok, Sikkim.

3. The Contention of the Applicant is that the Respondent No.12, MESASO Infrastructure Private Limited, is constructing a 14 storeyed multi-level Car Park and also creating a Commercial Hub of Mines and Geology, Gangtok, Notification No. 17/DMG/20-21 dated 19.03.2021, copy of which has been filed as Annexure A-4 (page no. 129 of the paper book) to the Original Application. The learned Counsel for the Applicant submitted that this Notification provides that in Stability Zone-1 the admissible number of floors is $5^{1/2}$ whereas the proposed Multi-level Car Paring-cum-Commercial Hub is a 14 storeyed building.

4. We put a query to the learned Counsel as to what is the stage of the construction. The learned Counsel submits that it is still at the foundational stage but he added that the Cabinet has taken a decision that the construction should be of 14 storeys, therefore, there would be violation of environmental laws and degradation of environment and, therefore, the Tribunal would be justified in interfering at this stage.

5. We are not satisfied that at the foundational stage of the proposed construction of Multi-level Car Parking-cum-Commercial Hub, it can be said that there is environmental degradation or violation of environmental laws. The construction has not yet reached 5½ storeys. We are, therefore, of the view that this Original Application is absolutely premature and that the Applicant has no cause of action to maintain this Original Application on the assumption that there would be violation of environmental laws or of Government of Sikkim notification at a future date.

6. We also queried from the learned Counsel as to whether any Environmental Clearance had been granted for this construction project. The learned Counsel submitted that he has no knowledge of this fact.

7. Mr. Sanjay Upadhyay, Learned Counsel has put in appearance on behalf of the Respondent No.12, MESASO Infrastructure Private Limited, and submits that for this project Environmental Clearance has been granted on 25.02.2022.

8. This Environmental Clearance has not been filed along with the Original Application. We are of the view that if Environmental Clearance has been granted for this project, the Applicant has a remedy by way of appeal challenging the said Environmental Clearance.

9. The Original Application No. 28/2022/EZ is accordingly dismissed on ground of alternative remedy.

10. The I.A. No. 131/2022/EZ is also disposed of.

11. There shall be no order as to cost.

.....
B. Amit Sthalekar, JM

.....
Saibal Dasgupta, EM

May 10, 2002,
Original Application No. 38/2022/EZ
(I.A. No.131/2022/EZ)
AK

/TRUE COPY/

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022

(Arising out of final judgment &order dated 10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench at Kolkata in OA No/38/2022/EZ)

IN THE MATTER OF:-	**POSITION OF PARTIES**	
	Before NGT	In this Hon'ble Court
Dr. Bina Basnett, D/o. Mr. P.B. Basnett, Ranipool, East Sikkim-737135.	Applicant	Appellant.

-Versus-

1.	State of Sikkim Through Chief Secretary New Secretariat, Gangtok- 737101	Respondent No. 1	Contesting Respondent No. 1
2.	Gangtok Smart City Development Limited Through its Chief Executive Officer Sokaythang, Below ICAR Office, Gangtok, Sikkim-737102	Respondent No. 2	Contesting Respondent No. 2
3.	Department of Mines &	Respondent	Contesting

	Geology Through its Secretary, Secretariat Road, Below Tashiling Secretariat Government of Sikkim, Gangtok-737101	No. 3	Respondent No. 3
4.	Urban Development Department Through its Secretary, Government of Sikkim Paljor Stadium Road, Gangtok, Sikkim-737101	Respondent No. 4	Contesting Respondent No. 4
5.	Sikkim State Disaster Management Authority Through its Chairman, Manan Bhawan, Gangtok Sikkim-737101	Respondent No. 5	Contesting Respondent No. 5
6.	Sikkim State Pollution Control Board, Through its Chairman, Forest Secretariat, C Block, Deorali, Gangtok-737102 East Sikkim, India	Respondent No. 6	Contesting Respondent No. 6

7.	District Magistrate/Collector Upper Sichey Road, Sungava, Gangtok, Sikkim-737101	Respondent No. 7	Contesting Respondent No. 7
8.	State Environment Impact Assessment Authority (SEIAA), Through Chairman, Annexe1, Top Floor, Kazi Road, Gangtok, Sikkim-737101	Respondent No. 8	Contesting Respondent No. 8
9.	Forest and Environment Department, Government of Sikkim Through Secretary Forest Secretariat, Deorali, Gangtok-737102, East Sikkim	Respondent No. 9	Contesting Respondent No. 9
10.	Gangtok Municipal Corporation Through Chairman Near Deorali Stand, Gangtok, Sikkim-737101	Respondent No. 10	Contesting Respondent No. 10
11.	Ministry of Environment, Forest and Climate Change	Respondent No. 11	Contesting Respondent

	Through Secretary, Jor Bagh, Lodhi Colony New Delhi		No.11
12.	MESASO Infrastructure Private Limited, Through its Authorised Signatory 3rdMile, Sevoke Road Siliguri- 734008	Respondent No. 12	Contesting Respondent No. 12

....All are Contesting Respondents

APPEAL UNDER SECTION 22 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

TO,

HON'BLE THE CHIEF JUSTICE OF INDIAAND HIS COMPANION JUSTICES OF THESUPREME COURT OF INDIA, NEW DELHI.

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The present statutory Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 is filed against the Impugned Order dated 10.05.2022 passed by the Hon'ble National Green Tribunal Eastern Zone, Kolkata (hereinafter referred to as "Hon'ble NGT") in Original Application No. 38/2022/EZ, whereby, the Hon'ble

National Green Tribunal was pleased to dismiss the Application filed by the Appellant holding that the Appellant does not have any Cause of Action to maintain her plea and that the Application was a premature one. The Hon'ble NGT also held that since the Impugned project is at the foundational stage, there cannot be said to have occurred any environmental degradation or violation of environmental laws.

2. QUESTIONS OF LAW:

The following substantial questions of law for the consideration of this Hon'ble Court in the present appeal, each of which is raised in the alternative and without prejudice to the others.

i. Whether the Hon'ble National Green Tribunal was correct in dismissing the Application of the Appellant for want of cause of action while there was a flagrant breach of the Notification No.17/DMG/20-21 dated 19.03.2021?

ii. Whether the Hon'ble National Green Tribunal erred in not considering the continuous cause of action of the Appellant and in not giving reasons as to why the cause of action of the appellant would not suffice for maintainability of the Original Application No.38/2022/EZ?

iii. Whether the Hon'ble NGT was correct in taking a different view than it had taken in its interim order dated 18.01.2022 while granting interim relief in O.A. No. 5/2022, on the same set of facts and circumstances?

iv. Whether a project like the one under question in this Appeal can be allowed to be built in an area which comes under Seismic Zone - IV and is prone to high frequency of earthquakes?

v. Whether the Hon'ble National Green Tribunal was correct in holding that merely because the impugned project is at the foundational stage of construction, there cannot be any judicial scrutiny or judicial examination of the merits of the project?

vi. Whether the Hon'ble National Green Tribunal was correct in holding that because the impugned project is at foundational stage, there cannot be environmental degradation or violation of environmental laws?

vii. Whether a project of this scale and magnitude can cause degradation of Environment and violation of Environmental laws at the foundational stage?

viii. Whether the Hon'ble NGT has erred by focusing on the issue of Environment Clearance in its dismissal order, while ignoring the fact that when the interim relief of stay was granted vide its order dated 18.01.2022 in O.A. No.5/2022 on the same set of facts, there was no Environment Clearance to the project?

ix. Whether the Hon'ble National Green Tribunal erred in dismissing the O.A. No. 38/2022 without considering the fact that the construction of the building has been started without having assessment of its environmental impact upon the ecologically fragile area of State of Sikkim?

x. Whether the Appellant had the locus to file a plea against the threat imposed by the impugned project on behalf of such general public praying for preventive remedy?

xi. Whether the Hon'ble NGT has erred in law or in fact that in the similar/same facts and circumstances it is the Hon'ble NGT Principal Bench that has interfered with the haphazard erection/construction in the city of Shimla vide its Judgment/Order in the case of *Yogindra Mohan Sengupta v. Union of India (O.A. No. 121/2014)*?

xii. Whether despite holding that the remedy with the applicant is to challenge the Environment Clearance of the impugned project, the Hon'ble NGT had the inherent powers to examine the veracity of permission granted to the project by various authorities and address the issues raised by the Appellant?

xiii. Whether in the facts and circumstances of the case, the impugned construction of project poses threat to the life, limb and health of the general public?

xiv. Whether the Hon'ble National Green Tribunal erred in not appreciating the fact that the Application filed by the Appellant involved a substantial question relating to environment and safety?

3. BRIEF FACTS:

a) That the Appellant herein is a resident of East District Gangtok and a social worker, working for the protection of heritage and deteriorating environment conditions of Gangtok due to rapid urbanisation. That the Original Application bearing No. 38 of 2022 was filed by the Appellant in the interest of the local people of Sikkim, more specifically Gangtok, with respect to the various environmental problems, grievances, issues raised herein.

b) That the Appellant filed the Original Application bearing No. 38 of 2022 to stop the illegal construction of Multi-level car parking cum commercial development at Old West Point School Area by the Respondent No. 2.

c) That it is submitted that the Respondent No. 2 is hell bound to make rampant changes of the heritage look of the state capital of Sikkim in an arbitrary manner by placing the population under acute apprehension of risking their respective lives by pushing whole of the geographical area under ecological imbalance/threat.

d) That the State of Sikkim falls under the category of Seismic Zone IV and is prone to high frequency of eathquakes.

e) That the Engineering Geology Division, Geological Survey of India, Eastern region, Kolkata submitted its report on 18TH of September, 2011 regarding the Sikkim earthquake. Copy of the report of Engineering Geology Division dated 18.09.2011 is annexed herewith and marked as **ANNEXURE P/1**@ pages (43 to 50).

f) That the fragile condition and high risk of earthquake in the State of Sikkim has also been covered by several news channels and media and experts have also showed their concerns regarding the same. A news item dated 24.09.2011 has also been published in the Indian Express

regarding the collapse of two multi-storeyed buildings in the Gangtok. A Copy of the news item dated 24.09.2011 is annexed herewith and marked as **ANNEXURE P/2**@ page (51 to 52).

g) That it is submitted that the construction of a 14 [11+3(proposed)] storey building will also obstruct the view of Mount Kanchenjunga from the National Highway and a portion of M.G. Marg which is a guardian Diety for the people of Sikkim. Moreover, vide Notification dated 20.09.2001 bearing No. 70/home/2001, issued by the Government of Sikkim, Home Department, Gangtok, Mount Kanchenjunga has been declared as a sacred peak/place of worship for the people of Gangtok. Copy of the Notification dated 20.09.2001 bearing No. 70/home/2001 issued by the Government of Sikkim, Home Department, Gangtok is annexed herewith and marked as **Annexure P/-3**@ Pages (53 TO 55)

h) That the Request for Proposal (RFP) for the implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area

was issued by Respondent No. 2. Copy of the request for proposal dated 16.09.2020 issued by the Respondent No. 2, i.e., Gangtok Smart City Development Limited for the implementation of multilevel car parking-cum-commercial development at Old West Point School area is annexed herewith and marked as **Annexure P/4**- @ Pages (56 TO 124).

i) That, accordingly, in accordance with Clause 2.1.6 of the Request for Proposal, the Respondent No. 12, i.e. MESASO Infrastructure Private Limited was formed by M/s Tirupati Private Limited as a Special Purpose Company for the implementation of Multi-level Car Parking cum Commercial Development at Old West Point School Area on Public-Private Partnership (PPP) and Design, Build Finance, Operate and Transfer (DBFOT) basis.

j) That it is respectfully submitted that the aforesaid building in question is being constructed in flagrant breach of the Gazette Notification No. 17/DMG/20-21 dated 19.03.2021 passed by the Respondent No.3 wherein the construction of any building in the concerned area above

5½ storeys is illegal. As per Building bye-laws/code, no one can bring any construction/structure above the stipulated number of storeys in their corresponding zones as per the Notification dated 19.03.2021. Copy of Gazette Notification dated 19.03.2021 bearing No. 17/DNG/20-21, dated 19/03/2021 marked as **Annexure P/-5** @ Pages (125 TO 129)

k) That vide Notification bearing No. GOS/UD&HD/6(294)2001/A dated 15.10.2001 issued by the Department of Urban & Housing Department, i.e., Respondent No.4, five categories of stability zones were introduced in the State of Sikkim and had simultaneously stipulated the admissible number of floors in any structure sought to be constructed in each of the five zones. The Respondent No.4, vide Gazette No.387 dated 15.10.2001 bestowed upon the Department of Mines & Geology, Respondent No.3 the authority to vary the maximum allotted height in accordance with the suitability and profile of the locations based on the stability map prepared by the Respondent No.3.

l) That it was in pursuance of the notification of Respondent No.4 that the Department of Mines & Geology issued its Gazette Notification No. 17/DMG/20-21 dated 19.03.2021. In the said notification it was stated,

> *"In continuation with notification No. GOS/UDSHD/6 (294)/A dated 15.10.2021 and gazette No 387 dated 15/10/2001 which notified that the maximum height of building constructed in allotted sites of private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time..."*

m) That Respondent No.3 in the notification dated 19.03.2021 mentioned the different parameters for the determination of stability zones of each zone. As per the said Notification, the admissible number of floors in the zone-1 is 5 ½ storeys. It is pertinent to mention herein that the site of the impugned project falls under zone-1. Hence, the maximum number of floors or storeys that the

impugned construction could have are only 5 ½ storeys whereas, in contradiction to the mandate of the Notification dated 19.03.2021, the Respondents No.2 & 12 are building 14 [11+3(proposed)] storeys.

n) The Appellant/Applicant on 31.12.2021 filed an Original Application bearing O.A. No. 05/2022 before the Hon'ble NGT, Kolkata praying, *inter alia*, for revocation of the permission granted to the impugned project and scraping of the project. A Copy of O.A. no. 05/2022 dated 03.12.2021 filed before Hon'ble National Green Tribunal at Kolkata is annexed herewith andmarked as **Annexure P/-6**@ Page @ (130 TO 167).

o) That an interim order was passed in the aforesaid Original Application bearing OA no. 5 of 2022 titled as "Dr. Bina Basnett Vs. State of Sikkim & Others". A Copy of Order dated 18.01.2022 passed by Hon'ble National Green Tribunal at Kolkata in O.A. no. 05/2022 is marked as **Annexure P/-7**@ Page (168 TO 170)

p) That the Appellant/Applicant was constrained to withdraw her application bearing O.A. No. 5/2022 as in the said OA, the name of the alleged illegal construction site was inadvertently mentioned as Multi-level Car Parking Cum Shopping Hub (STNM-Kanchenjunga Square below NH) at Old West Point School Area, Near Hotel Hungry Jack, Gangtok instead of correct name of construction/project as Multi-level Car Parking cum Commercial Development at Old West Point School Area. It is submitted that the OA No. 5 of 2022 was dismissed as withdrawn vide Order dated 02.03.2022. A Copy of Order dated 02.03.2022 in O.A. no. 05/2022 passed by the Hon'ble National Green Tribunal, Eastern Zone at Kolkata is annexed herewith and marked as **Annexure P/-8** @ Page (१७१ TO १७५).

q) That immediately after the withdrawal of the earlier O.A. No. 5/2022, the Appellant/Applicant again filed an Application against the same project bearing Original Application No.38/2022 on 07.03.2022. It is pertinent to mention herein that the challenge in the fresh Application was on the same set of grounds of law and fact as were in

the earlier Application. A Copy of O.A no. 38/2022 filed by Applicant before the Ld. National Green Tribunal, Eastern Zone at Kolkata on 07.03.2022 is annexed herewith and marked as **Annexure P/-9** @ Page (75 TO 122).

r) That it is respectfully submitted that permission to construct the aforesaid building has been wrongly given by the other Respondents under the garb of making Gangtok Smart City without considering and analyzing the risk of the construction of a 14 [11+3(proposed)] storey building in a seismic zone. That the people of Gangtok including Arithang and nearby areas as well the historical buildings/monuments and environment will be at great risk if the construction of the aforesaid building is not stopped immediately.

s) That a 14 [11+3(proposed)] storey building will put a lot of pressure on the land and soil which can cause severe environment disaster in a hill station like Gangtok which will ultimately jeopardise the life and health of the people residing in the local vicinity.

t) That the construction of the aforesaid building will have a severe impact on the environment of the Gangtok/Arithang and will lead to air, land and noise pollution in the area. It is submitted that the same also carries a very high risk of landslides which can lead to complete devastation.

u) That the Appellant is filing the photographs on record to show the effect of landslides in the Arithang Area, which is situated less than one aerial kilometer from the alleged construction site at Old West Point School Area. The Applicant is also filing on record certain photographs to show as to how the proposed construction of Multi-level Car Parking cum Commercial Development would effect the clear view of Guardian Deity Mount Kanchenjunga, which is considered closed to the heart of people of Sikkim. The Applicant is further filing photographs to show as to how the bye-pass road is sinking because of the load of Arithang. Copy of the Photographs to show the effect of landslides in the Arithang Area are annexed herewith and marked as **ANNEXURE A/10** @ Pages (222 to 230). Copy of the Photographs showing view of the Guardian

Deity Mount-Kanchenjunga from the alleged construction site are annexed herewith and marked as **ANNEXURE A/11**@ Pages (231 to239). Copy of the Photographs showing sinking of Bye-pass road Arithang are annexed herewith and marked as **ANNEXURE A/12** @ Pages (240to –)

4. GROUNDS OF APPEAL:

The Appellant is filing the present Appeal inter alia on the following grounds, each of which is raised in the alternative and without prejudice to the others:

A. BECAUSE the Impugned Order passed by the Hon'ble National Green Tribunal is manifestly erroneous and deserves to be set aside.

B. BECAUSE that the Hon'ble National Green Tribunal has erred in law by considering and issuing Notice in O.A. No. 5 of 2022 and dismissing O.A. No. 38 of 2022 for want of Cause of Action in as much as both Application were based on identical facts and circumstances and O.A. No. 5 was withdrawn by the Appellant on a smaller issue with respect to wrong address of the project in question.

C. BECAUSE that the Hon'ble National Green Tribunal erred in not appreciating the fact that the Application filed by the Appellant involved a substantial question relating to environment and safety.

D. BECAUSE that the Appellant while standing on behalf of the general public of the State of Sikkim had the right to pray not only for the corrective remedy but also for preventive remedy.

E. BECAUSE that a duty has been casted on the Hon'ble NGT by the parent statute to adjudicate and resolve such glaring and serious environmental issues that apprehend public safety.

F. BECAUSE that the Hon'ble NGT failed to appreciate that the environmental issue involved herein affects the interest of the public at large and the environmental law jurisprudence in India has allowed any public-spirited person to take up the cause of the masses by relaxing the requirement of *locus standi*.

G. BECAUSE that the Hon'ble NGT failed to appreciate that the Construction of a 14 [11+3(proposed)] storey building is against the Notification dated 19.03.2021 issued by the Respondent No. 3 in as much as an exception cannot at all be created for Govt. Buildings, Hospitals, Colleges etc. especially when it poses such great threat to environment/ecology.

H. BECAUSE that the Hon'ble NGT failed to appreciate that the alleged construction of 14 [11+3(proposed)] storey building is allowed to come up in complete contravention of Regulation 17 of the Sikkim Building Construction Regulations, 1991.

I. BECAUSE that the Hon'ble NGT failed to appreciate that the permission for the construction of the aforesaid Building has been awarded wrongly and illegally without taking into account the threat it poses towards environment and people living in the near vicinity. That the Appellant further also apprehends that proper DPR has also not been conducted in accordance with law before sanctioning the permission to the Respondent No. 2 by the Respondent No. 1.

J. BECAUSE that the Hon'ble NGT failed to appreciate that as per the Environmental Impact Assessment (EIA) Notification, 2006 as amended from time to time, restrictions and prohibitions have been imposed on new projects based on the potential environmental impact which has been indicated in the schedule to the notification, unless prior environmental clearance has been granted in accordance with the objectives of the National environment policy.

K. BECAUSE that the Hon'ble NGT failed to appreciate that the alleged construction of a 14 [11+3(proposed)] storey building in an already ecologically fragile area is all against Articles 14, 19 and 21 of the Constitution of India, 1950, because that the construction of a 14 [11+3(proposed)] storey building in a hilly terrain like Gangtok is against the National as well as the State Building Laws/Code.

L. BECAUSE that the Hon'ble NGT failed to appreciate that the construction of a 14 [11+3(proposed)] storey Building in a hilly terrain like Gangtok will lead to

severe environmental disasters which can result in the loss of lives and livelihood of the people living in the near vicinity.

M. BECAUSE that the Hon'ble NGT failed to appreciate that Gangtok comes under Seismic Zone IV area which represent the highest levels of seismicity in India, and can experience earthquake of intensity VIII on the Modified Mercalli (MM) scale. Such an earthquake will cause total collapse of poorly built structures and partial collapse of ordinary buildings, therefore, a building as huge as having 14 [11+3(proposed)] floors cannot at all be permitted in such areas.

N. BECAUSE that the Hon'ble NGT failed to appreciate that the base of Gangtok city is not a stable valley. Hence, all such construction of high-rise buildings is against all the architectural and geological norms, and this makes Gangtok highly unstable and susceptible for natural disasters and leads to soil erosion and landslides.

O. BECAUSE that the Hon'ble NGT failed to appreciate that the Respondents herein have miserably failed to fulfill the legislative duties enshrined upon them and have risked the life of the people as well the heritage of Gangtok by allowing the construction of the aforesaid illegal building.

P. BECAUSE that the Hon'ble NGT failed to appreciate that the inhabitants of Arithang and as well Gangtok will be forced to live under continuous threat to their life and limb in as much as regular frequency of micro and mini tremors is much more, which keep occurring, and this leads to weakening of the structural matrix of the body of Gangtok hill ecosystem, leading to a perceptible increase of its hazards.

Q. BECAUSE that the Hon'ble NGT failed to appreciate that the construction of a 14 [11+3(proposed)] storey building in a seismic zone where only $5^{1/2}$ floors are permitted, is nothing but clear and categorical exploitation of the environment in the name of urbanisation and making Gangtok Smart City.

R. BECAUSE that the Hon'ble NGT failed to appreciate construction of the aforesaid building will have an adverse impact on the whole of the ecology of the town of Gangtok in the form of earthquakes, landslides, air, water and noise pollution etc. It is further submitted that the said construction has been initiated without any proper planning and procedure which will lead to the complete mismanagement of biowaste being extracted from the construction of the said illegal building.

S. BECAUSE, that the Hon'ble NGT failed to appreciate that the construction of a 14 [11+3(proposed)] storey building will obstruct the view of Mount Kanchenjunga, from the National Highway and as well from some part of M.G Marg, which is a Guardian Deity for the people of Sikkim and a centre of attraction for the tourist visiting Sikkim. It is pertinent to submit herein that the M.G Marg in Gangtok is also famous because some portions of it give a clear view of Mount Kanchenjunga, however, the construction of the above Building will lead to obstruction in the same which will lead to loss of

livelihood for the people residing there and doing business.

T. BECAUSE, that the Hon'ble NGT failed to appreciate that Right to View of the people is appended in the Right to Ecology which is getting infringed by the construction of the abovementioned illegal building.

U. BECAUSE,that the Hon'ble NGT failed to appreciate that the construction of such a huge building in such a highly densely populated residential area below the construction site and which has old heritage/historical monuments all around will not only jeopardise the existence of such heritage/historical monuments but also pose a threat of having grave environmental disaster.

V. BECAUSE that the Hon'ble NGT failed to appreciate that the construction of such a huge building will put excessive pressure upon the carrying capacity of the land of Gangtok/Arithang/Indira Bye-pass which is far less when compared to a land situated in a plain area.

W. BECAUSE that the construction of aforesaid Building will be a major cause for pollution in the region and will affect the health of the people living nearby.

X. BECAUSE that the Hon'ble NGT failed to appreciate that the value of biological diversity for subsistence, cultural or commercial purposes should be recognized. For its valuable contribution, the Himalayas need to be prevented and saved from indiscriminate invasion into its natural and biodiversity assets.

Y. BECAUSE that the Hon'ble NGT failed to appreciate that Gangtok/Arithang is vulnerable to different kinds of disasters, natural as well as man made. These areas are especially vulnerable where development over the years has further accentuated the problems by upsetting the natural balance of various physical processes operating in the mountain eco-system.

Z. BECAUSE that the Hon'ble NGT failed to appreciate that the Sustainable development requires that a city is developed keeping in view not only the residential population but also the floating population of tourists

and the consequent pressure exerted on the physical environment & infrastructure and hence protection of forest, biodiversity, water bodies, sky slopes, etc. should be essential ingredients for the planning process.

AA. BECAUSE that the Hon'ble NGT failed to appreciate that the inaction on part of Respondents in failing to ensure compliance with the basic principle of environmental sustainability over such long period of time has led to increment in the losses caused to the Environment of the city already reeling under heavy industrial pollution.

BB. BECAUSE that the Hon'ble NGT failed to appreciate that the soil of the lower area of Gangtok, i.e., Arithang and Indira Bye-Pass is poor in quality and is not in a position to bear/sustain the load of the concrete jungle being created and spread in Gangtok township and are prone to landslides even in the slightest rain.

CC. BECAUSE that the Hon'ble NGT failed to appreciate that due to the incapability of the Soil of the area in question to bear heavy loads of the RC building, the

National Highway had sank earlier and presently continues to sink further.

DD. BECAUSE that the Hon'ble NGT failed to appreciate that the proposed building is nothing but a private commercial building in the disguise of PPP model.

EE. BECAUSE that the Hon'ble NGT failed to appreciate that the Respondents herein have acted as a mute spectator while allowing people to bring multistorey buildings of up to 8 storeys in Gangtok and adjoining area which is highly dangerous and can lead to heavy destructions.

FF. BECAUSE that the Hon'ble NGT failed to appreciate that many ofthe RC buildings in Gangtok are poorly/non engineered and the residential or hotel buildings and are built on steep hill slopes on tight plots abutting each other.

GG. BECAUSE that the Hon'ble NGT failed to appreciate that the RC construction of a 14 [11+3(proposed)] storey building will add chemical contents in the ecologically fragile climate of Gangtok and also will create water scarcity/ pollution in the town.

HH. BECAUSE that the Hon'ble NGT failed to appreciate that the vehicular movements in the area for the construction of the said building will lead to noise pollution and traffic congestion in the area.

II. BECAUSE that the Hon'ble NGT failed to appreciate that the alleged 14 [11+3(proposed)] storey project is located in the heart of a dense residential area, which is starved of open spaces. That, in the humble submissions of the Appellant herein, an open space in a densely populated urban environment is a natural resource viz Air, Light, Sunlight, Greenery, Wellbeing and Quality of life.

JJ. BECAUSE that the Hon'ble NGT failed to appreciate that the proposed project is bound to deprive people of their connections with nature and their natural resources. Furthermore, the dense residential Arithang neighborhood will be forced to live in the shadow of this huge structure, which is going to block permanently their share of sunlight, which is going to have cascading adverse effects on their health and limb in as much as it

is only the Natural Sun Light, which is the main source of light and energy in the harsh climatic conditions of hills. As such blocking natural Sun light is nothing but a deprivation of natural resources of a person.

KK. BECAUSE that the Hon'ble NGT failed to appreciate that in the facts and circumstances of the case, the Hon'ble NGT had the premise to apply and use the much celebrated 'Precautionary Principle' as developed by a series of notable judgment of this Hon'ble Court as well as mandated by the Section 20 of the National Green Tribunal Act, 2010.

LL. BECAUSE that the Hon'ble NGT failed to appreciate that in sanctioning the impugned construction beyond the stipulated 5 ½ storeys as per the Notification dated 19.03.2021, the Respondent No. 1 violated the 'Principle of Non-regression' as developed in the International Environment Jurisprudence and adopted under Indian Law.

MM. BECAUSE that the Hon'ble NGT failed to appreciate that the Respondent No. 1 has misused its power to override and allow the project under question and no case is made to relax the relevant rules and regulations from the facts and circumstances.

5. That the Appellant has not filed any other Appeal in this Hon'ble Court challenging the Impugned Order dated 10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone, Bench, Kolkata in O.A. No. 38/2022/EZ.

6. It is submitted here that no new facts or any new grounds has been raised for the first time in the present Appeal.

PRAYER

In the premises, it is respectfully prayed that this Hon'ble Court may graciously be pleased to:

a) Admit & allow the present Civil Appeal and set aside the impugned final judgment and order dated 10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone, Kolkata in O.A. No. 38/2022/EZ.

b) Pass such other, and further orders as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of the case;

AND FOR WHICH ACT OF KINDNESS THE APPELLANT AS IN DUTYBOUND SHALL EVER PRAY.

DRAWN & FILED BY

(SWETANK SHANTANU)
ADVOCATE FOR THE APPELLANT

DRAWN ON: 17.09.2022
FILED ON: 10.10.2022

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022

IN THE MATTER OF:

DR. BINA BASNETT ..... APPELLANT

VERSUS

STATE OF SIKKIM & ORS. ..... RESPONDENTS

CERTIFICATE

It is hereby certified that the above Civil Appeal is confined only to the pleadings before the Courts whose order is being challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the above Civil Appeal. It is further certified that the copies of the documents/annexures attached to the above Civil Appeal are necessary to answer the question of law raised in the appeal or to make out grounds urged in the above Civil Appeal for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the Appellant whose affidavit is filed in support of this Civil Appeal.

Filed by:

Swetank Shantanu

(SWETANK SHANTANU)
Advocate for the Appellant

Filed on: 10.10.2022

NEW DELHI

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO._____OF 2022

IN THE MATTER OF

Dr. Bina Basnett .....Appellant

Versus

State of Sikkim and Ors. ...Respondents

AFFIDAVIT

I, Dr. Bina Basnett, D/o Mr. P. B. Basnett, aged about 37 years, R/o- Ranipool, East Sikkim, Pin-737135, Sikkim, presently at New Delhi do hereby solemnly affirm and stated as above:-

1. That I am the Appellant in this case and as such am fully acquainted with the facts and circumstances of the case and as such am fully competent to swear this affidavit.

2. That I say that I have read and understood the contents of the accompanying Civil Appeal from page 7 to 40, Synopsis & List of Dates from page no. **B** to B and Applications. I say the facts stated therein are true to the best of my knowledge.

NOTARY NEELAM SHARMA ADVOCATE DELHI REGD. No. EXPIRY DATE 01/04/2025 GOVT. OF INDIA

3. I say that the Annexure A-1 to A-12 annexed along with the Civil Appeal are true copies of their respective originals.

4. I say that the averments of facts stated herein above are true to my knowledge, no part of its false and nothing material has been concealed therein.

I identified the deponent who has signed in my presence

DEPONENT

VERIFICATION:

I, Dr. Bina Basnett, the deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above Affidavit is true to my knowledge and I believe the same to be true. 17 SEP 2022

Verified at ~~on this~~ ____ day of_____, 2022

DEPONENT

NOTARY GOVT. OF INDIA
NEELAM SHARMA
ADVOCATE
DELHI
EXPIRY DATE 07/05/2025

ATTESTED
NOTARY (Govt. of India)
Neelam Sharma
Advocate
Ch. No. 165A, Gate No. No. 11,
Patiala House Courts,
New Delhi-110001
(M.: 9899405301

17 SEP 2022

TRUE COPY

ITEM NOS.1701-1952,1954-1961, COURT NO.14 SECTION XVI-A
1963-2035,2037-2071,2073-2222,
2224-2396,2398-2530,2532-2539,
2541-2607,2609-2671,2673-2752,
2754-2773,2775-2911,2913-3124,
3126-3130,3132-3196,3199-3218,
3220-3258,3260-3269,3271-3290,
3293-3436,3438-3451,3453-3456,
3458-3504,3507-3511,3513-3522,
3524-3526,3528-3556,3558-3595,
3597-3622,3624-3635,3637-3769,
3771-3837,3839-3846,3848-3857,
3859-3861,3863-3958,3960-3987,
3989-4035,4037-4089 & 4091-4107

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

ARBITRATION PETITION Diary No(s). 38757/2019

GLENMARK PHARMACEUTICA LTDA Petitioner(s)

VERSUS

DR. REDDYS LABORATORIES LIMITED & ANR. Respondent(s)

WITH

Diary No. 446-2020; Diary No. 3623-2020; Diary No. 7081-2020; Diary No. 7453-2020; Diary No. 21018-2021; Diary No. 24801-2021; Diary No. 26061-2021; Diary No. 26831-2021; Diary No. 26835-2021; Diary No. 30752-2021; Diary No. 30896-2021; Diary No. 1537-2022; Diary No. 8009-2022; Diary No. 8078-2022; Diary No. 8295-2022; Diary No. 8665-2022; Diary No. 17840-2022; Diary No. 19315-2022; Diary No. 19342-2022; Diary No. 19362-2022; Diary No. 19431-2022; Diary No. 19453-2022; Diary No. 19483-2022; Diary No. 19494-2022; Diary No. 19563-2022; Diary No. 19631-2022; Diary No. 19646-2022; Diary No. 19652-2022; Diary No. 19653-2022; Diary No. 19676-2022; Diary No. 19725-2022; Diary No. 19730-2022; Diary No. 19748-2022; Diary No. 19774-2022; Diary No. 19814-2022; Diary No. 19890-2022; Diary No. 19892-2022; Diary No. 19908-2022; Diary No. 19920-2022; Diary No. 19933-2022; Diary No. 19960-2022; Diary No. 19987-2022; Diary No. 19994-2022; Diary No. 19995-2022; Diary No. 20001-2022; Diary No. 20020-2022; Diary No. 20043-2022; Diary No. 20132-2022; Diary No. 20158-2022; Diary No. 20160-2022; Diary No. 20162-2022; Diary No. 20163-2022; Diary No. 20165-2022; Diary No. 20185-2022; Diary No. 20187-2022; Diary No. 20212-2022; Diary No. 20221-2022; Diary No. 20230-2022; Diary No. 20238-2022; Diary No. 20247-2022; Diary No. 20299-2022; Diary No. 20317-2022; Diary No. 20322-2022; Diary No. 20353-2022; Diary No. 20360-2022; Diary No. 20374-2022; Diary No.

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Reason:

20379-2022; Diary No. 20394-2022; Diary No. 20402-2022; Diary No. 20403-2022; Diary No. 20422-2022; Diary No. 20442-2022; Diary No. 20455-2022; Diary No. 20459-2022; Diary No. 20462-2022; Diary No. 20466-2022; Diary No. 20493-2022; Diary No. 20495-2022; Diary No. 20496-2022; Diary No. 20498-2022; Diary No. 20509-2022; Diary No. 20532-2022; Diary No. 20560-2022; Diary No. 20564-2022; Diary No. 20565-2022; Diary No. 20570-2022; Diary No. 20581-2022; Diary No. 20582-2022; Diary No. 20609-2022; Diary No. 20627-2022; Diary No. 20637-2022; Diary No. 20641-2022; Diary No. 20655-2022; Diary No. 20665-2022; Diary No. 20667-2022; Diary No. 20671-2022; Diary No. 20709-2022; Diary No. 20719-2022; Diary No. 20725-2022; Diary No. 20746-2022; Diary No. 20747-2022; Diary No. 20767-2022; Diary No. 20773-2022; Diary No. 20775-2022; Diary No. 20779-2022; Diary No. 20783-2022; Diary No. 20784-2022; Diary No. 20787-2022; Diary No. 20788-2022; Diary No. 20793-2022; Diary No. 20804-2022; Diary No. 20807-2022; Diary No. 20821-2022; Diary No. 20834-2022; Diary No. 20840-2022; Diary No. 20847-2022; Diary No. 20856-2022; Diary No. 20857-2022; Diary No. 20871-2022; Diary No. 20884-2022; Diary No. 20886-2022; Diary No. 20900-2022; Diary No. 20927-2022; Diary No. 20960-2022; Diary No. 20963-2022; Diary No. 20973-2022; Diary No. 20996-2022; Diary No. 21001-2022; Diary No. 21008-2022; Diary No. 21027-2022; Diary No. 21028-2022; Diary No. 21035-2022; Diary No. 21037-2022; Diary No. 21050-2022; Diary No. 21058-2022; Diary No. 21065-2022; Diary No. 21082-2022; Diary No. 21101-2022; Diary No. 21104-2022; Diary No. 21106-2022; Diary No. 21109-2022; Diary No. 21123-2022; Diary No. 21135-2022; Diary No. 21151-2022; Diary No. 21157-2022; Diary No. 21181-2022; Diary No. 21188-2022; Diary No. 21190-2022; Diary No. 21198-2022; Diary No. 21200-2022; Diary No. 21201-2022; Diary No. 21203-2022; Diary No. 21213-2022; Diary No. 21237-2022; Diary No. 21238-2022; Diary No. 21248-2022; Diary No. 21251-2022; Diary No. 21271-2022; Diary No. 21295-2022; Diary No. 21322-2022; Diary No. 21352-2022; Diary No. 21360-2022; Diary No. 21361-2022; Diary No. 21364-2022; Diary No. 21367-2022; Diary No. 21401-2022; Diary No. 21410-2022; Diary No. 21436-2022; Diary No. 21449-2022; Diary No. 21497-2022; Diary No. 21525-2022; Diary No. 21530-2022; Diary No. 21533-2022; Diary No. 21561-2022; Diary No. 21582-2022; Diary No. 21595-2022; Diary No. 21597-2022; Diary No. 21598-2022; Diary No. 21605-2022; Diary No. 21666-2022; Diary No. 21686-2022; Diary No. 21694-2022; Diary No. 21702-2022; Diary No. 21706-2022; Diary No. 21707-2022; Diary No. 21726-2022; Diary No. 21729-2022; Diary No. 21756-2022; Diary No. 21764-2022; Diary No. 21778-2022; Diary No. 21794-2022; Diary No. 21864-2022; Diary No. 21920-2022; Diary No. 21935-2022; Diary No. 21941-2022; Diary No. 21958-2022; Diary No. 21968-2022; Diary No. 22007-2022; Diary No. 22011-2022; Diary No. 22027-2022; Diary No. 22050-2022; Diary No. 22055-2022; Diary No. 22058-2022; Diary No. 22107-2022; Diary No. 22125-2022; Diary No. 22156-2022; Diary No. 22185-2022; Diary No. 22195-2022; Diary No. 22235-2022; Diary No. 22264-2022; Diary No. 22272-2022; Diary No. 22276-2022; Diary No. 22345-2022; Diary No. 22382-2022; Diary No. 22395-2022; Diary No. 22431-2022; Diary No. 22433-2022; Diary No. 22473-2022; Diary No. 22484-2022; Diary No.

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34929-2022; IX; Diary No. 34936-2022; Diary No. 34963-2022; Diary No. 34974-2022; Diary No. 34984-2022; Diary No. 34998-2022; Diary No. 34999-2022; Diary No. 35001-2022; Diary No. 35013-; 022; Diary No. 35037-2022; Diary No. 35076-2022; Diary No. 35092-2022; Diary No. 35094-2022; Diary No. 35095-2022; Diary No. 35096-2022; Diary No. 35097-2022; Diary No. 35098-; 022; Diary No. 35115-2022; Diary No. 35117-2022; Diary No. 35128-2022; (SCLSC); Diary No.; 35168-2022; Diary No. 35181-2022; Diary No. 35202-2022; Diary No. 35230-2022; Diary No.; 35244-2022; Diary No. 35246-2022; Diary No. 35250-2022; Diary No. 35251-2022; Diary No.; 35253-2022; Diary No. 35255-2022; Diary No. 35268-2022; Diary No. 35271-2022; Diary No.; 35281-2022; Diary No. 35284-2022; Diary No. 35288-2022; Diary No. 35331-2022; Diary No.; 35344-2022; Diary No. 35361-2022; Diary No. 35381-2022; Diary No. 35395-2022; Diary No.; 35406-2022; Diary No. 35419-2022; Diary No. 35422-2022; Diary No. 35511-2022; DiaryNo. 35517-2022; Diary No. 35528-2022; Diary No. 35538-2022; Diary No. 35577-2022; Diary No. 35635-2022; Diary No. 35712-2022; Diary No. 35729-2022; Diary No. 35750-2022; (SCLSC); Diary No. 35766-2022; Diary No. 35774-2022; Diary No. 35810-2022; Diary No.; 35832-2022; Diary No. 35877-2022; Diary No. 35906-2022; Diary No. 35924-2022; Diary No. 35935-2022; Diary No. 35939-2022; Diary No. 35943-2022; Diary No. 35946-2022; Diary No. 35954-2022; Diary No. 35980-2022; Diary No. 35987-2022; Diary No. 36022-2022; Diary No. 36035-2022; Diary No. 36054-2022; Diary No. 36076-2022; Diary No. 36083-2022; Diary No. 36116-2022; Diary No. 36124-2022; Diary No. 36143-2022; Diary No. 36185-2022; Diary No. 36187-2022; Diary No. 36247-2022; Diary No. 36248-2022; Diary No. 36267-2022; Diary No. 36300-2022; Diary No. 36301-2022; Diary No. 36316-2022; Diary No. 36335-2022; Diary No. 36337-2022; Diary No. 36351-2022; Diary No. 36366-2022; Diary No. 36367-2022; Diary No. 36404-2022; Diary No. 36444-2022; Diary No. 36453-2022; Diary No. 36497-2022; Diary No. 36501-2022; Diary No. 36509-2022; Diary No. 36539-2022; Diary No. 36545-2022; Diary No.; 36548-2022; Diary No. 36559-2022; Diary No. 36598-2022; Diary No. 36623-2022; Diary No.; 36653-2022; Diary No. 36665-2022; Diary No. 36676-2022; Diary No. 36706-2022; Diary No.; 36824-2022; Diary No. 36827-2022; Diary No. 36833-2022; Diary No. 36838-2022; Diary No.; 36886-2022; Diary No. 36913-2022; Diary No. 36931-2022; Diary No. 36933-2022; Diary No. 36938-2022; Diary No. 36942-2022; Diary No. 36968-2022; Diary No. 37003-2022; Diary No. 37014-2022; Diary No. 37034-2022; Diary No. 37067-2022; Diary No. 37073-2022; Diary No. 37081-2022; Diary No. 37094-2022; Diary No. 37102-2022; Diary No. 37109-2022; Diary No. 37148-2022; Diary No. 37164-2022; Diary No. 37181-2022; Diary No. 37184-2022; Diary No. 37190-2022; Diary No. 37215-2022; Diary No. 37238-2022; Diary No. 37276-2022; Diary No.37310-2022; Diary No. 37325-2022; Diary No. 37330-2022; Diary No. 37336-2022; Diary No. 37362-2022; Diary No. 37367-2022; Diary No. 37370-2022; Diary No. 37385-2022; Diary No. 37386-2022; Diary No. 37407-2022; Diary No. 37436-2022; Diary No. 37464-2022 ; Diary No. 37483-2022; Diary No. 37492-2022; Diary No. 37494-2022; Diary No. 37496-2022; Diary No. 37497-2022; Diary No. 37526-2022; Diary No. 37542-2022; Diary No. 37569-2022; Diary No. 37570-2022; Diary

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No., 336-2023, Diary No. 342-2023, Diary No. 343-2023, Diary No. 344-2023, Diary No. 361-2023, Diary No. 381-2023, Diary No. 388-2023, Diary No. 418-2023, Diary No. 430-2023, Diary No. 451-2023, Diary No. 453-2023, Diary No. 477-2023, Diary No. 479-2023, Diary No. 480-2023, Diary No. 493-2023, Diary No. 500-2023, Diary No. 502-2023, Diary No. 561-2023, Diary No. 593-2023,Diary No. 603-2023,Diary No. 628-2023 (SCLSC), Diary No. 630-2023, Diary No. 638-2023, Diary No. 641-2023, Diary No. 665-2023, Diary No. 687-2023, Diary No. 705-2023, Diary No. 720-2023, Diary No. 727-2023, Diary No. 728-2023, Diary No. 732-2023, Diary No. 749-2023, Diary No. 806-2023, Diary No. 813-2023, Diary No. 825-2023, Diary No. 851-2023, Diary No. 869-2023, Diary No. 880-2023, Diary No. 948-2023, Diary No. 965-2023, Diary No. 969-2023, Diary No. 1008-2023, Diary No. 1010-2023, Diary No. 1013-2023, Diary No. 1014-2023, Diary No. 1016-2023, Diary No. 1018-2023, Diary No. 1032-2023, Diary No. 1049-2023, Diary No. 1055-2023, Diary No. 1061-2023, Diary No. 1127-2023, Diary No. 1130-2023, Diary No. 1145-2023, Diary No. 1159-2023, Diary No. 1160-2023, Diary No. 1251-2023, Diary No. 1256-2023, Diary No. 1262-2023, Diary No. 1274-2023, Diary No. 1281-2023, Diary No. 1307-2023, Diary No. 1312-2023, Diary No. 1337-2023, Diary No. 1359-2023, Diary No. 1370-2023, Diary No. 1405-2023, Diary No. 1423-2023, Diary No. 1438-2023, Diary No. 1446-2023, Diary No. 1469-2023, Diary No. 1481-2023, Diary No. 1488-2023, Diary No. 1495-2023, Diary No. 1498-2023, Diary No. 1568-2023, Diary No. 1632-2023, Diary No. 1634-2023, Diary No. 1648-2023, Diary No. 1653-2023, Diary No. 1688-2023, Diary No. 1705-2023, Diary No. 1706-2023, Diary No. 1707-2023, Diary No. 1721-2023, Diary No. 1723-2023, Diary No. 1724-2023, Diary No. 1771-2023, Diary No. 1775-2023, Diary No. 1778-2023, Diary No. 1811-2023, Diary No. 1816-2023, Diary No. 1821-2023, Diary No. 1884-2023, Diary No. 1888-2023, Diary No. 1890-2023, Diary No. 1892-2023, Diary No. 1959-2023, Diary No. 1981-2023, Diary No. 2021-2023, Diary No. 2038-2023, Diary No. 2086-2023, Diary No. 2104-2023, Diary No. 2141-2023, Diary No. 2163-2023, Diary No. 2164-2023, Diary No. 2201-2023, Diary No. 2212-2023, Diary No. 2227-2023, Diary No. 2231-2023, Diary No. 2278-2023, Diary No. 2286-2023, Diary No. 2313-2023, Diary No. 2324-2023, Diary No. 2340-2023, Diary No. 2341-2023, Diary No. 2377-2023, Diary No. 2409-2023, Diary No. 2423-2023, Diary No. 2428-2023, Diary No. 2459-2023, Diary No. 2477-2023, Diary No. 2481-2023, Diary No. 2509-2023, Diary No. 2522-2023, Diary No. 2551-2023, Diary No. 2554-2023, Diary No. 2567-2023, Diary No. 2587-2023, Diary No. 2601-2023, Diary No. 2619-2023, Diary No. 2635-2023, Diary No. 2638-2023, Diary No. 2640-2023, Diary No. 2646-2023, Diary No. 2673-2023, Diary No. 2688-2023,Diary No. 2702-2023, Diary No. 2712-2023,Diary No. 2719-2023, Diary No. 2720-2023, Diary No. 2730-2023, Diary No. 2761-2023, Diary No. 2788-2023, Diary No. 2802-2023, Diary No. 2884-2023, Diary No. 2900-2023, Diary No. 2907-2023, Diary No. 2925-2023, Diary No. 2944-2023, Diary No. 2953-2023, Diary No. 2962-2023, Diary No. 2975-2023, Diary No. 2983-2023, Diary No. 2994-2023, Diary No. 3022-2023, Diary No. 3023-2023,

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Diary No. 9310-2023, Diary No. 9332-2023, Diary No. 9333-2023, Diary No. 9337-2023, Diary No. 9342-2023, Diary No. 9363-2023, Diary No. 9382-2023, Diary No. 9400-2023, Diary No. 9411-2023, Diary No. 9418-2023, Diary No. 9431-2023, Diary No. 9434-2023, Diary No. 9446-2023, Diary No. 9457-2023, Diary No. 9461-2023, Diary No. 9476-2023, Diary No. 9478-2023, Diary No. 9484-2023, Diary No. 9486-2023, Diary No. 9497-2023, Diary No. 9539-2023, Diary No. 9550-2023, Diary No. 9551-2023, Diary No. 9554-2023, Diary No. 9555-2023, Diary No. 9567-2023, Diary No. 9595-2023, Diary No. 9634-2023, Diary No. 9641-2023, Diary No. 9645-2023, Diary No. 9648-2023, Diary No. 9683-2023, Diary No. 9687-2023, Diary No. 9690-2023, Diary No. 9705-2023, Diary No. 9719-2023, Diary No. 9724-2023, Diary No. 9731-2023, Diary No. 9743-2023, Diary No. 9775-2023, Diary No. 9781-2023, Diary No. 9782-2023, Diary No. 9789-2023, Diary No. 9794-2023, Diary No. 9817-2023, Diary No. 9826-2023, Diary No. 9828-2023, Diary No. 9839-2023, Diary No. 9840-2023, Diary No. 9842-2023, Diary No. 9862-2023, Diary No. 9881-2023, Diary No. 9904-2023, Diary No. 9909-2023, Diary No. 9911-2023, Diary No. 9927-2023, Diary No. 9930-2023, Diary No. 9936-2023, Diary No. 9937-2023, Diary No. 9950-2023, Diary No. 9954-2023, Diary No. 9960-2023, Diary No. 9966-2023, Diary No. 9971-2023, Diary No. 9972-2023, Diary No. 9986-2023, Diary No. 10020-2023, Diary No. 10021-2023, Diary No. 10080-2023, Diary No. 10088-2023, Diary No. 10099-2023, Diary No. 10106-2023, Diary No. 10148-2023, Diary No. 10174-2023, Diary No. 10207-2023, Diary No. 10221-2023,Diary No. 10228-2023, Diary No. 10276-2023, Diary No. 10301-2023, Diary No. 10307-2023, Diary No. 10317-2023, Diary No. 10340-2023, Diary No. 10344-2023, Diary No. 10359-2023, Diary No. 10362-2023, Diary No. 10377-2023, Diary No. 10400-2023, Diary No. 10409-2023, Diary No. 10413-2023, Diary No. 10414-2023, Diary No. 10420-2023, Diary No. 10424-2023, Diary No. 10426-2023, Diary No. 10428-2023, Diary No. 10437-2023, Diary No. 10454-2023, Diary No. 10464-2023, Diary No. 10467-2023, Diary No. 10474-2023, Diary No. 10495-2023, Diary No. 10499-2023, Diary No. 10524-2023, Diary No. 10529-2023, Diary No. 10532-2023, Diary No. 10547-2023, Diary No. 10555-2023, Diary No. 10562-2023, Diary No. 10572-2023, Diary No. 10591-2023, Diary No. 10593-2023, Diary No. 10605-2023, Diary No. 10629-2023, Diary No. 10636-2023, Diary No. 10638-2023, Diary No. 10650-2023, Diary No. 10659-2023, Diary No. 10660-2023, Diary No. 10668-2023, Diary No. 10681-2023, Diary No. 10701-2023, Diary No. 10719-2023, Diary No. 10722-2023, Diary No. 10735-2023, Diary No. 10736-2023, Diary No. 10801-2023, Diary No. 10831-2023, Diary No. 10925-2023, Diary No. 10959-2023, Diary No. 10965-2023, Diary No. 10972-2023,Diary No. 10983-2023 (SCLSC), Diary No. 10998-2023, Diary No. 11016-2023, Diary No. 11018-2023, Diary No. 11019-2023, Diary No. 11034-2023, Diary No. 11058-2023, Diary No. 11068-2023, Diary No. 11070-2023, Diary No. 11075-2023, Diary No. 11087-2023, Diary No. 11099-2023, Diary No. 11101-2023

Diary No. 11110-2023, Diary No. 11112-2023, Diary No. 11115-2023, Diary No. 11123-2023, Diary No. 11126-2023, Diary No. 11137-2023,

Diary No. 11148-2023, Diary No. 11161-2023, Diary No. 11170-2023, Diary No. 11174-2023, Diary No. 11193-2023, Diary No. 11195-2023, Diary No. 11225-2023, Diary No. 11241-2023, Diary No. 11260-2023, Diary No. 11325-2023, Diary No. 11348-2023, Diary No. 11357-2023, Diary No. 11376-2023, Diary No. 11378-2023, Diary No. 11385-2023, Diary No. 11396-2023, Diary No. 11398-2023, Diary No. 11400-2023, Diary No. 11406-2023, Diary No. 11420-2023, Diary No. 11440-2023, Diary No. 11459-2023, Diary No. 11480-2023, Diary No. 11523-2023, Diary No. 11525-2023, Diary No. 11537-2023, Diary No. 11545-2023, Diary No. 11573-2023, Diary No. 11638-2023, Diary No. 11671-2023, Diary No. 11673-2023, Diary No. 11678-2023, Diary No. 11680-2023, Diary No. 11729-2023, Diary No. 11735-2023, Diary No. 11737-2023, Diary No. 11752-2023, Diary No. 11794-2023, Diary No. 11795-2023, Diary No. 11817-2023, Diary No. 11820-2023, Diary No. 11841-2023, Diary No. 11854-2023, Diary No. 11882-2023, Diary No. 11893-2023, Diary No. 11898-2023, Diary No. 11903-2023, Diary No. 11913-2023, Diary No. 11914-2023, Diary No. 11937-2023, Diary No. 11939-2023, Diary No. 11943-2023, Diary No. 11946-2023, Diary No. 11955-2023, Diary No. 11984-2023, Diary No. 12013-2023, Diary No. 12017-2023, Diary No. 12051-2023, Diary No. 12056-2023, Diary No. 12073-2023, Diary No. 12093-2023, Diary No. 12094-2023, Diary No. 12110-2023, Diary No. 12139-2023, Diary No. 12144-2023, Diary No. 12162-2023, Diary No. 12165-2023, Diary No. 12215-2023, Diary No. 12218-2023, Diary No. 12222-2023, Diary No. 12229-2023, Diary No. 12230-2023, Diary No. 12231-2023, Diary No. 12273-2023, Diary No. 12284-2023, Diary No. 12298-2023, Diary No. 12310-2023, Diary No. 12317-2023, Diary No. 12322-2023, Diary No. 12327-2023, Diary No. 12328-2023, Diary No. 12331-2023, Diary No. 12346-2023, Diary No. 12354-2023, Diary No. 12362-2023, Diary No. 12379-2023, Diary No. 12380-2023, Diary No. 12389-2023, Diary No. 12397-2023, Diary No. 12406-2023 (SCLSC), Diary No. 12433-2023, Diary No. 12445-2023, Diary No. 12451-2023, Diary No. 12475-2023, Diary No. 12480-2023, Diary No. 12483-2023, Diary No. 12499-2023, Diary No. 12502-2023, Diary No. 12517-2023, Diary No. 12532-2023, Diary No. 12556-2023, Diary No. 12560-2023, Diary No. 12570-2023, Diary No. 12573-2023, Diary No. 12574-2023, Diary No. 12584-2023, Diary No. 12593-2023, Diary No. 12612-2023, Diary No. 12617-2023, Diary No. 12621-2023, Diary No. 12622-2023, Diary No. 12636-2023, Diary No. 12646-2023, Diary No. 12661-2023,Diary No. 12714-2023 Diary No. 12741-2023, Diary No. 12766-2023, Diary No. 12806-2023, Diary No. 12809-2023, Diary No. 12836-2023, Diary No. 12840-2023, Diary No. 12862-2023, Diary No. 12885-2023, Diary No. 12886-2023, Diary No. 12896-2023, Diary No. 12919-2023, Diary No. 12921-2023, Diary No. 12934-2023, Diary No. 12935-2023, Diary No. 12942-2023 (SCLSC), Diary No. 12955-2023, Diary No. 12958-2023, Diary No. 12970-2023, Diary No. 13007-2023, Diary No. 13031-2023, Diary No. 13038-2023, Diary No. 13041-2023, Diary No. 13060-2023, Diary No. 13074-2023, Diary No. 13085-2023, Diary No. 13099-2023, Diary No. 13101-2023, Diary No. 13122-2023, Diary No. 13140-2023, Diary No. 13142-2023, Diary No. 13218-2023, Diary No. 13234-2023, Diary No. 13243-2023, Diary No. 13278-2023, Diary No. 13306-2023, Diary No.

13338-2023, Diary No. 13344-2023, Diary No. 13346-2023, Diary No. 13357-2023, Diary No. 13360-2023, Diary No. 13382-2023, Diary No. 13384-2023, Diary No. 13385-2023, Diary No. 13444-2023 AND Diary No. 13516-2023

Date : 17-07-2023 These matters were called on for hearing today.

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Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Petitioner-in-person(2668)

Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Diary No(s). 38757/2019

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Mr. Ajay Awasthi, Adv.
Mr. Vikash Chandra Shukla, AOR
Mr. Akshay Kumar Panda, Adv.

Mr. Pawan Kumar Ray, Adv.
Mr. Ritesh Khara, Adv.
Mr. Deepak Goel, AOR

Mr. Sunil Kumar Sethi, Adv.
Mr. Dnyaneshwar N Telange, Adv.
Ms. Subasini Sethy, Adv.
Mr. Kailas Bajirao Autade, AOR

Mr. Yusuf, AOR
Mr. Mubarak Ahamad, Adv.
Dr. Ram Sankar, Adv.
Mr. T S Nanda Kumar, Adv.
Mr. Anand Kumar V, Adv.
Mr. Aditya Kishore Tyagi, Adv.
Mr. Amit Arora, Adv.
Mr. Amarjeet Singh Girsa, Adv.
Mr. G Jai Singh, Adv.

Mr. Mubarak Ahamad, Adv.
Dr. Ram Sankar, Adv.
Mr. T S Nanda Kumar, Adv.
Mr. Anand Kumar V, Adv.
Mr. Aditya Kishore Tyagi, Adv.
Mr. Yusuf, Adv.
Mr. G Jai Singh, Adv.
Ms. Rv Shaarumathi, Adv.
Ms. Sujatha Bagadh, Adv.
M/S. Ram Sankar & Co, AOR

Mr. Suvidutt M.s., AOR
Ms. Somlagna Biswas, Adv.
Ms. Deepika Singh, Adv.
Ms. Disha Puri, Adv.
Mrs. Renu Yadav, Adv.
Mr. Moirangmayum Chittaranjan Singh, Adv.

Mr. Sanjay Sharma, AOR

Mr. Pratap Shanker, Adv.
Mr. Manoj Bhardwaj, Adv.
Mr. Swetank Shantanu, AOR

Mr. Tarun Gupta, AOR

Mr. Aishwary Mishra, Adv.
Mr. Dhananjai Shekhwat, Adv.
Mr. Abhijeet Singh, Adv.
Mr. Anirudh Singh, Adv.
Mr. Dashrath Singh, Adv.
Mr. Gp. Capt. Karan Singh Bhati, AOR

M/s. VKC Law Offices, AOR

Ms Akriti Manubarwala, Adv.

Mr. Abhing, AOR

Mr. Ashok A., adv.

Diary No(s). 38757/2019

Mr. Manish Kumar Gupta, Adv.

Mr Rajesh P., AOR

Mr Sanjay K. Aggarwal, Adv.

Mr. C.Kannan, Adv.
Mr. Nizamuddin, Adv.
Ms. Simran Ved, Adv.
Mr. Rakesh K Sharma, AOR

Mr. Manoj Kumar Chowdhary, Adv.

Mr. Arjun Garg, AOR

Mr. C Bolomon, Adv.
Mr. Aswathi M.K., AOR

Mr. Vishnu Shankar Jain, AOR

Mr. Vijay Pal, Adv.
Mr. Umang Tripathi, Adv.
Mr. Anil Kumar, Adv.
Ms. Kajal Kumari, Adv.
Ms. Sundri, Adv.
Mr. Pramod Kumar Singh, Adv.
Mr. Kailash P.Pandey, Adv./AOR

Mr. Sunil Kumar Sethi, Adv.
Mr. Yogesh Ahirrao, Adv.

Mr. Devanshu Yadav, Adv.
Mr. Vedant Singh, AOR

M/s. Qua Legal, AOR

Ms. Renuka Sahu, AOR

Mr. Mahfooz Ahsan Nazki, AOR

Ms. Manreet Kaur, Adv.

Mr. Jasbir Singh Malik, Adv.
Mr. Kush Goel, Adv.
Ms. Muskan Agarwal, Adv.

Ms. Pallavi Sharma, Adv.

Mr. Amish Aggarwala, Adv.
Mr. Rajat Bhatia, Adv.

Diary No(s). 38757/2019

Mr. Mahesh Kumar, Adv.
Mr. Sudarshan Rajan, AOR

Mr. Sunil Kumar Sethi
Subasini Sethy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Diary No. 38757-2019, Diary No. 24801-2021, Diary No. 26831-2021, Diary No. 30896-2021, Diary No. 8295-2022, Diary No. 19362-2022, Diary No. 19653-2022, Diary No. 19774-2022, Diary No. 19814-2022, Diary No. 20581-2022, Diary No. 20963-2022, Diary No. 21065-2022, Diary No. 21157-2022, Diary No. 21360-2022, Diary No. 21361-2022, Diary No. 21364-2022, Diary No. 21367-2022, Diary No. 21401-2022, Diary No. 21497-2022, Diary No. 21764-2022, Diary No. 21935-2022, Diary No. 21958-2022, Diary No. 21968-2022 Diary No. 22027-2022, Diary No. 23059-2022, Diary No. 23198-2022, Diary No. 23345-2022, Diary No. 23535-2022, Diary No. 23742-2022, Diary No. 23782-2022, Diary No. 24156-2022, Diary No. 24276-2022, Diary No. 24387-2022, Diary No. 24745-2022, Diary No. 24756-2022, Diary No. 24784-2022, Diary No. 25193-2022, Diary No. 25415-2022, Diary No. 25533-2022, Diary No. 26099-2022, Diary No. 26294-2022, Diary No. 26393-2022, Diary No. 26650-2022, Diary No. 26915-2022, Diary No. 27469-2022, Diary No. 27813-2022, Diary No. 28182-2022, Diary No. 28250-2022, Diary No. 28302-2022, Diary No. 28305-2022, Diary No. 28454-2022, Diary No. 28732-2022, Diary No. 28808-2022, Diary No. 29363-2022, Diary No. 29740-2022, Diary No. 30572-2022, Diary No. 30705-2022, Diary No. 30884-2022 Diary No. 31625-2022, Diary No. 31874-2022, Diary No. 32452-2022, Diary No. 33023-2022, Diary No. 33288-2022 Diary No. 33444-2022, Diary No. 33531-2022, Diary No. 33651-2022, Diary No. 33846-2022, Diary No. 33914-2022, Diary No. 33952-2022, Diary No. 34379-2022, Diary No. 34474-2022, Diary No. 34736-2022 Diary No. 34936-2022, Diary No. 35037-2022, Diary No. 35230-2022, Diary No. 35939-2022, Diary No. 35946-2022, Diary No. 36035-2022, Diary No. 36248-2022, Diary No. 36316-2022, Diary No. 36501-2022,

Diary No. 36598-2022, Diary No. 36665-2022, Diary No. 36833-2022, Diary No. 37094-2022, Diary No. 37109-2022, Diary No. 37336-2022, Diary No. 37618-2022, Diary No. 37921-2022, Diary No. 38601-2022, Diary No. 39137-2022, Diary No. 39328-2022, Diary No. 39352-2022, Diary No. 39430-2022, Diary No. 39455-2022, Diary No. 39571-2022, Diary No. 39792-2022, Diary No. 41088-2022, Diary No. 41771-2022, Diary No. 42254-2022, Diary No. 42352-2022, Diary No. 42564-2022, Diary No. 42690-2022, Diary No. 98-2023, Diary No. 133-2023, Diary No. 361-2023, Diary No. 430-2023, Diary No. 825-2023, Diary No. 1032-2023, Diary No. 1892-2023, Diary No. 3150-2023, Diary No. 3286-2023, Diary No. 3291-2023, Diary No. 3373-2023, Diary No. 3858-2023, Diary No. 3880-2023, Diary No. 4118-2023, Diary No. 4794-2023, Diary No. 4822-2023, Diary No. 4833-2023, Diary No. 4974-2023, Diary No. 5136-2023, Diary No. 5488-2023, Diary No. 5745-2023, Diary No. 5835-2023, Diary No. 5863-2023, Diary No. 5874-2023, Diary No. 5961-2023, Diary No. 6291-2023, Diary No. 6308-2023, Diary No. 6463-2023, Diary No. 7009-2023, Diary No. 7062-2023, Diary No. 7743-2023, Diary No. 8466-2023, Diary No. 8575-2023, Diary No. 9056-2023, Diary No. 9261-2023, Diary No. 10099-2023, Diary No. 10148-2023, Diary No. 10317-2023, Diary No. 10572-2023, Diary No. 11016-2023, Diary No. 11137-2023, Diary No. 11459-2023, Diary No. 12056-2023, Diary No. 12560-2023, Diary No. 13060-2023 (ITEM NOS.1701, 1707, 1709, 1712, 1716, 1721, 1730, 1735, 1736, 1788, 1826, 1837, 1846, 1863, 1864 1865, 1866, 1867,1871, 1890, 1895, 1897, 1898, 1901, 1939, 1946, 1952, 1958, 1967, 1973, 1991, 1996, 2003, 2014, 2018, 2015, 2033, 2038, 2043, 2065, 2079, 2081, 2094, 2105, 2130, 2137, 2163, 2164, 2165, 2166, 2182, 2189, 2192, 2225, 2258, 2298, 2304, 2317, 2354, 2371, 2401, 2421, 2437, 2451, 2456, 2464, 2477, 2484, 2486, 2514, 2519, 2528, 2542, 2550, 2564, 2601, 2603, 2609, 2619, 2623, 2633, 2639, 2642, 2647,, 2662, 2664, 2677, 2698, 2712, 2783, 2805, 2825, 2828, 2833, 2836, 2842, 2852, 2936, 2990, 3076, 3081, 3105, 3123, 3141, 3146, 3163, 3167, 3193, 3208, 3258, 3326, 3337, 3338, 3342, 3376, 3377, 3397, 3441, 3446, 3448 3461, 3473, 3501, 3520, 3526, 3529, 3530,

3533, 3558, 3562, 3571, 3607, 3611, 3660, 3722, 3734, 3765, 3785, 3865, 3867, 3875, 3902, 3927, 3943, 3966, 4004, 4048, 4084)

Learned counsel for the petitioner(s)/ applicant(s)/ appellant(s) submits that he/she does not want to proceed with the matter(s).

Hence, the same may be dismissed as withdrawn.

Ordered accordingly.

Pending application(s), if any, shall stand disposed of.

Diary No. 29569-2022 & Diary No. 29575-2022 (ITEM NOS.2235 & 2236)

Learned counsel for the petitioner(s) / appellant(s) submitted that the parties to the litigation have settled the matters amicably. Therefore, he may be permitted to withdraw the present petitions/matters.

Dismissed as withdrawn.

Diary No. 30682-2022 (ITEM NO.2301)

Learned counsel for the petitioner(s) submitted that the issue raised in the present matter has become infructuous.

Dismissed as infructuous.

Diary No. 33212-2022 (ITEM NO.2429)

Learned counsel for the petitioner(s) submitted that the present petition was filed at the stage when the FIR was registered. Now after the investigation, charge sheet has been filed, hence, he seeks permission to withdraw the petition with liberty to seek appropriate remedy against the charge sheet so filed.

Dismissed as withdrawn with the liberty as prayed for.

Diary No. 6189-2023 (ITEM NO.3552)

Learned counsel for the petitioner(s) submitted that after filing of the present petition in this Court, the client is not responding to enable him to remove the objection raised by the Registry.

In view of the above, the matter is dismissed for non-prosecution.

REST OF THE MATTERS

Six weeks' time is granted to cure the defects in the matter(s) failing which the matter(s) shall be deemed to be dismissed without any further reference to this Court.

(SNEHA DAS)	(NIRMALA NEGI)	(VIDYA NEGI)
SR.PERSONAL ASSISTANT	COURT MASTER (SH)	ASSISTANT REGISTRAR

true copy

ANNEXURE R-5

IN THE SUPREME COURT OF INDIA

I.A. NO. OF 2022

IN

CIVIL APPEAL NO. OF 2022

IN THE MATTER OF

Dr. Bina Basnett .....APPELLANT

VERSUS

State of Sikkim & ORS. ..... RESPONDENTS

AN APPLICATION FOR CONDONATION OF DELAY IN FILING THE CIVIL APPEAL

TO

THE HON'BLE CHIEF JUSTICE
AND HIS COMPANION JUSTICES OF
THE HON'BLE SUPREME COURT OF INDIA.

THE HUMBLE APPLICATION ON
BEHALF OF THE APPELLANT
ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. The present statutory Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 is filed against the order dated 10.05.2022 passed by the Hon'ble National Green Tribunal Eastern Zone, Kolkata in Original Application No. 38/2022/EZ (hereinafter referred to as

"Hon'ble NGT"), whereby the Hon'ble NGT had dismissed the Original Application of the Appellant.

2. That full facts and circumstances have been set out in the accompanying Civil Appeal, which may be treated as part and parcel of this petition and the same are not repeated herein for the sake of brevity.

3. That after the passing of the Impugned Order dated 10.05.2022, the Appellant herein approached the Counsel for filing of the present Civil Appeal and the drafting of the same started accordingly, however, due to some health exigencies in the family of the Counsel for the Appellant, the same could not be finalized on time.

4. That, as a result of the abovementioned reasons, there occurred a delay in filing of the Civil Appeal which was completely unintentional and beyond the control of the Appellant

5. That the present Application is being filed bonafide and in the interest of justice as the delay that has occurred is

unintentional and the same if not condoned would lead the Appellant to grave and irreparable injury.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to:

(a) Condone the delay of ....64.. days in filing the Civil Appeal against the final Impugned judgment and order dated 10.05.2022 passed by the Hon'ble National Green Tribunal Eastern Zone, Kolkata in Original Application No. 38/2022/EZ.

AND/OR;

(b) Pass any other order(s) or directions, as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

Drawn and Filed by

(SWETANK SHANTANU)
Advocate for the Appellant

DRAWN ON: 17.09.2022
FILED ON: 10.10.2022

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO. _____ OF 2023

IN

CIVIL APPEAL NO. _____ OF 2023

IN THE MATTER OF:

DR. BINA BASNETT ....PETITIONER

Vs.

STATE OF SIKKIM & ORS.

..... RESPONDENTS

AN APPLICATION FOR CONDONATION OF DELAY IN RE-FILING THE CIVIL APPEAL

The Hon'ble Chief Justice of India
and His Companion Justices of This
Hon'ble Court.

The Humble Application of
the Petitioner Above named

MOST REPECTFULLY SHOWETH:

1. That the present Civil Appeal has been filed by the Petitioner against the final order and Judgement dated 10.05.2022 passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 38 of 2022.

2. That the facts stated in the Civil Appeal may be read as part and parcel of the present Application and the same is not being repeated herein for the sake of brevity.

3. That the present Special Leave Petition was filed on 10.10.2022, however some defects were raised by the registry which were being cured by the Petitioner, however, the same got delayed due to medical exigencies in the family of the Counsel for the Petitioner which was beyond the control of the Counsel for the Petitioner.

4. That, thereafter, unfortunately in the month of March, 2023, Aunty of the Counsel for the Petitioner was admitted to ICU in LNJP Hospital, Delhi, wherein she was admitted for almost a month and then unfortunately left for heavenly abode.

5. That, further, due to continued medical exigencies which crept up one after another, the present Civil Appeal could not be refiled and is being now refiled

after removing all the defects as raised by the registry.

6. That due to the abovementioned unforeseen events, the Counsel for the Petitioner could not get the refilling done within time and delay occurred which is completely unintentional

7. That the delay caused in re-filing the present petition is bonafide and for the reasons mentioned above and not at all intentional.

8. That it is respectfully submitted that the delay in re-filing the present petition be condoned or else the Petitioner would be put to grave and irreparable loss.

9. That the present Application is being made bonafide and in the interest of Justice.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to:

(a) Condone the delay of ____ days in re-filing the Civil Appeal against the final order and Judgement dated 10.05.2022 passed by the

Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A. No. 38 of 2022.

And/or

(b) Pass any other order(s) or directions, as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

Drawn and Filed by

(SWETANK SHANTANU)
Advocate for the Petitioner

FILED ON: 21.08.2023

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO._____OF 2023

IN THE MATTER OF

Dr. Bina Basnett .....Appellant

Versus

State of Sikkim and Ors. ...Respondents

AFFIDAVIT

I, Dr. Bina Basnett, D/o Mr. P. B. Basnett, aged about 37 years, R/o- Ranipool, East Sikkim, Pin-737135, Sikkim, presently at New Delhi do hereby solemnly affirm and stated as above:-

1. That I am the Appellant in this case and as such am fully acquainted with the facts and circumstances of the case and as such am fully competent to swear this affidavit.

2. That I say that I have read and understood the contents of the accompanying Application. I say the facts stated therein are true to the best of my knowledge.

4. I say that the averments of facts stated herein above are true to my knowledge, no part of its false and nothing material has been concealed therein.

DEPONENT

VERIFICATION:

I, Dr. Bina Basnett, the deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above Affidavit is true to my knowledge and I believe the same to be true.

Identified the Deponent who has signed in my presence

Verified at _____ on this 25 JUL 2023 day of _____, 2023

The Seal of Oath Commissioner Sr. No. 82/2023 GAURAV SHARMA App. By. Delhi High Court Period-15/07/2023 to 14/07/2025 T/s Hazari Court, Delhi-110054

DEPONENT

VERIFIED THAT THE DEPONENT Shri/Smt./Km. Dr. Bina Basnett S/o/W/o/D/o P. S. Basnett identified by ... has signed and ... in my presence on 25 JUL 2023 at Delhi. On ... contents of ... have been read & explained ... are true & correct to his/her/knowledge.

Oath Commissioner

25 JUL 2023

TRUE COPY

ANNEXURE R-6

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ Diary No. 32544/2022)

BINA BASNETT — **APPELLANT(S)**

VERSUS

STATE OF SIKKIM & ORS. — **RESPONDENT(S)**

O R D E R

Delay condoned.

This appeal impugns the order dated 10.05.2022 passed by the National Green Tribunal (NGT), Eastern Zone Bench, Kolkata. Paragraph 5 of the impugned order states that the proceedings initiated before the NGT were premature, as the construction, subject matter of the proceedings, had not yet reached 5½ storeys. We do not agree with the said finding and reason to dismiss the petition, as the construction post the permissions had admittedly commenced. It is informed at the bar that the construction is now complete.

Without expressing any opinion on the merits of the case, we set aside the impugned order and restore O.A. no. 38/2022/EZ to its original position, to be decided afresh without being influenced by impugned order.

Signature Not Verified
Digitally signed by Deepak Gugnani
Date: 2023.09.26 17:53:44 IST
Reason:

Learned counsel for the respondents have submitted that there has been a considerable delay in listing of the present appeal on

account of lapses on the part of the appellant – Bina Basnett. This is disputed by the appellant - Bina Basnett, who also submits that the plea is contradictory. We express no opinion in this regard. As an order of remand, hearing and decision is being passed, all pleas and contentions of the parties are left open.

The appeal is allowed and disposed of in the above terms. No costs. Parties will appear before the NGT on 18.10.2023, when a date of hearing will be fixed.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
SEPTEMBER 25, 2023.

ITEM NO.61 COURT NO.3 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No. 32544/2022

(Arising out of impugned final judgment and order dated 10-05-2022 in OA No. 38/2022 passed by the National Green Tribunal, Eastern Zone Bench, Kolkata)

BINA BASNETT Petitioner(s)

VERSUS

STATE OF SIKKIM & ORS. Respondent(s)

(IA No.171217/2023-CONDONATION OF DELAY IN FILING and IA No.171216/2023-STAY APPLICATION and IA No.171219/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 25-09-2023 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s)
Mr. Sukumar Pattjoshi, Sr. Adv.
Mr. Prakash Kumar, Adv.
Mr. Pratap Shanker, Adv.
Mr. Rahul Ranjan Singh, Adv.
Mr. Ankit Kumar, Adv.
Mr. Manoj Bhardwaj, Adv.
Mr. Swetank Shantanu, AOR

For Respondent(s)
Mr. Basava Prabhu S. Patil, Sr. Adv./AG
Mr. Sameer Abhyankar, Adv./AOR
Ms. Nishi Sangtani, Adv.
Ms. Vani Vandana Chhetri, Adv.
Mr. Naman Jain, Adv.

Mr. Pinaki Misra, Sr. Adv.
Mr. Sanjay Upadhyay, Adv.
Ms. Mayuri Raghuvanshi, AOR
Ms. Mansi Bachani, Adv.
Ms. Sonali Sen Gupta, Adv.
Mr. Kazi Sangay Thupdan, Adv.
Mr. Soumitra Jaswal, Adv.
Mr. Vyom Raghuvanshi, Adv.

Mr. Balbir Singh, ASG

Mr. Shyam Gopal, Adv./AOR

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

The appeal is allowed and disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)

TRUE COPY

ANNEXURE R-7

GOVERNMENT OF S1KIK1M
URBAN DEVELOPMENT AND HOUSING DEPARTMENT
GANGTOK

No.GOS/UD&HD/6 (294)2001 Dated:16/10/2001

NOTIFICATION

In exercise of the powers conferred by Sub-section (2) of section 7 and section 17 of the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 (11 of 1985), the State Government hereby makes the following regulations further to amend the Sikkim Building Construction Regulations, 1991, namely:-

(1) (1)These Regulations may be called the Sikkim Building Construction (Amendment) Regulations, 2001.

(2) They shall extend to all the notified areas in Sikkim.

(3) They shall come into force at once.

(4) They shall apply to both Government allotted sites and private sites.

(2) In the Sikkim Building Construction Regulation, 1991, (hereinafter referred o as the said regulations), in regulation 17, -

(a) for sub-re9ulation (I), the following shall be substituted, namely:-

"(i) The maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map o the area as prepared by the Mines and Geology Department from time to time which shall be as follows: -

Stability zone	Admissible number of floors
1.	5 ½ storeys
2.	1 ½ storeys
3.	3 ½ storeys
4.	2 ½ storeys
5.	1 ½ storeys
6.	No construction is allowed.

Provided that the height of buildings shall be regulated in accordance with the size of the plot allotted or possessed and structural design of the foundation of the proposed building;
(b) after sub-regulation (V) the following sub regulation shall be added, namely: -

"(vi) Any structure beyond the permissible number of floors or allotted area or approved Blue print Plan completed or under construction on or before the date of notification of these regulations, shall be regularized after payment of regularization fee to be prescribed by Notification by the Government.

3. In the said regulation, after regulation 38, the following regulation shall be inserted, namely:-

39 Power to relax — In case of genuine difficulties arising out of the implementation of any of the regulations in regard to buildings or structures proposed to be constructed by the Government of Sikkim or Government of India or any registered organization the State Government reserves the right to relax from application of any o the provisions which it considers justifiable on the merit of each case."

Commissioner –cum- Secretary
Urban Development & Housing Department.

-TRUE COPY-

proposed multi storey building. This shall be also convenient to avoid differential settlement and shall be opt for high seismic zone.

- However, it is strictly suggested that all structural members of the proposed building shall be in compliance with IS-1893 'Criteria for Earthquake Resistant Design of Structures latest revision' and IS 13920:1993 Ductile Detailing of Reinforced Concrete Structures Subjected to Seismic Force.
- Since highly weathered rock is predominant in site, Reinforced Cement Concrete Retaining wall has to be designed all-round the basement suggested with additional seepage pressure calculations as per IS-14458 'Retailing Wall for Hill Area Guidelines' to avoid land slide and accidents.
- Proper shoring of earth during excavation is required considering the earth slope stability calculations for given sections in different seasons. IS 14680-2004 LANDSLIDE CONTROL — GUIDELINES shall be referred for the earth slope stability calculations and IS code 14804:2000 for Siting, Design and Selection of Materials for Residential Buildings in Hilly Areas -Guidelines.

3.4. Site Visit

Consultant has carried out the Reconnaissance survey at the site on 4th of March, 2020. The site experiences peak demand during the day for taxis and private cars during the office hours. The G-1 level of the parking generally sees maximum turn over with short distances taxis along with local Gangtok taxis. Night Parking is allowed for Taxis and Private cars alike. Figures below depict the present parking scenario in the existing MLCP and its vicinity.

Figure 3: Existing MLCP, at Old West Point School Area

Figure 4: Existing MLCP, at Old West Point School Area

Figure 5: Existing MLCP, at Old West Point School Area

3.5. Accessibility to the MLCP

The site's main access is from NH10 from East with optional access from Church Road on the North. The existing MLCP structure is built on the natural land slope with Ground level and G-1 levels accessible from NH10. Level G-2 is accessible from Church road. The exit from Level G-1 is at Church road with linkage to NH10 as well. The Access roads are shown in subsequent figures given below.

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ANNEXURE R-9

300

GEOLOGICAL AND GEO-TECHNICAL APPRAISAL OF TASHILING SECRETARIAT COMPLEX, POST 9/18

SIKKIM EARHTQUAKE – 2011

MINES MINERALS AND GEOLOGY DEPARTMENT
GOVERNMENT OF SIKKIM.

18TH OCTOBER -2011

Contents

301

1. Report
2. Drill log Data Sheets
3. Photographs of sites & core samples
4. Geo-technical laboratory test reports annexure

   Annexure I

   Direct Shear Test, Sieve Analysis Report, Density and Moisture content (SP1, Depth 12'-14')

   Annexure II

   Direct Shear Test, Sieve Analysis Report, Density and Moisture content (SP1, Depth 14'-15')

   Annexure III

   Direct Shear Test, Sieve Analysis Report, Density and Moisture content (SP2, Depth 08'-09')

   Annexure IV

   Brazilian Test Report of Bore hole point 1, core No.6.

   Annexure V

   Brazilian Test Report of Bore hole point 2, core No.1.

   Annexure VI

   Point Load Test Report of Bore hole point 2, core No.2.

   Annexure VII

   Determination of Safe Bearing Capacity of Soil report on Sample point No.1&2

5. Geological Section along N-S direction (Section X-Y).
6. Geological Section along E-W direction (Section A-B).
7. Geological Section along E-W direction (Section P-Q).
8. Geological Map of Tashiling Secretariat area(1:2000 Scale)
9. Slope analysis and Stability Assessment map of Tashiling Secretariat Area (1:1,500 scale).
10. Contour Map of the Tashiling Secretariat Area

The earthquake that rattled the State of Sikkim on the evening of 18th Sept. 2011 was of the magnitude of 6.9 on Richter scale with its epicenter at 27.74° latitude and 88.113° longitude at a depth of 19.7 km (IMD). It had a devastating effect in the State and surrounding areas causing massive loss of lives and property. Many of the private as well as Govt. buildings were damaged irreparably and the heart of administrative centre, the Secretariat and its surrounding buildings at Tashiling Gangtok were also not spared of its wrath. Since these buildings were rendered unsafe, the offices housed in these buildings were shifted elsewhere. With a view to ascertain suitability of the site for the re-construction of the secretariat and other office buildings at Tashiling, the Hon'ble Chief Minister inspected the Tashiling area alongwith a team of Secretaries, HODs and technical experts on 11.10.2011. After a detailed inspection of the area, the HCM desired that a new Secretariat building needs to be constructed to house all the offices. He then directed the Department of Mines, Minerals & Geology to give a report within a week on feasibility of constructing a new Secretariat, building at Tashiling with regard to the stability and utilization aspect of the area for formulation of future plan of action. He desired that the area required for utilization as office space needs to be around 10 lakh sq. ft. to accommodate present as well as future needs of all the State Govt. departments.

As per the direction of the HCM the Department of Mines, Minerals & Geology decided to take up following works:

a. Geological investigation of the area.
b. Core drilling on the Secretariat complex for geotechnical studies.
c. Contour surveying of the area and mapping.
d. Soil sampling

The department started the work on geological studies and contour survey from 12.10.11. The drilling machine which was being used at Sangacholing, Pelling, was shifted to Tashiling on a war footing and the core drilling was started from 14.10.11.

Sikkim Himalayas fall under zone IV of Seismic Zonation rating as per the Indian Seismic Code IS 1893 – 2002. Sikkim Himalayas are a part of tectonic mountain chain formed by collision of Indian Plate with Urasian Plate. As a result rocks are thrusted, folded, faulted and highly fractured. The area has not yet attained the slope stability condition and slope modification processes are active with the triggering factors such as high rainfall, seismic tremors etc. On preliminarily examination, one of the causes of damage is suspected to be the anomalies on geological characteristics of foundation over which Secretariat was built. In such scenario, geological and geo-technical investigation is a basic tool in designing appropriate infrastructural facilities considering all the natural adversaries. Thus the site selection with suitability/stability, availability of required area with feedback/data generation for safe design is the main objective of investigation.

In the prevailing geological condition with all natural adversaries and urgency, detail geo-technical investigation for design propose is time consuming and unachievable in short period of time. The scope of present investigation is limited to identification of suitable/ stable area for formulation of opinion in future course of action by the State Authorities. Present investigation is aimed at identifying the suitability of the area based on :-

Characterization of strength of rocks on general characteristics of rocks.

Testing of major rock samples for arriving at safe assumption of load bearing capacity of area.

Analyses of soil samples collected from depth ranging from 15 – 25 ft from selected places.

Topographic survey for slope analyses and demarcation of suitable area for construction.

Preparation of geological sections for revealing overburden and different rock formation at various depth.

Geological mapping of 65,72,000 sq ft. of areas covering Tashiling Secretariat & Palace gate on the north, Palace guest house ridge on the east, Army water supply pipe line on the south Deorali-Dukipandokan road (Namnam Assambly Complex, Annex Buildings upto Duki Pan Dokan) in south –west, west and north west. The three distinct rock types viz- Lingtse granitic gneiss, micaschist, quartzite and highly sheared/weathered micaceous rocks are the main rock formation of the area overlain by shallow to moderately thick soil overburden. The trend of foliation plane are NNE-SSW dipping North-East. The general characteristics of rocks are as follows:-

i) Lingtse Granitic Gneiss : These rocks form the basal part of area under consideration characterized by joint massive rocks with band of mica schist in the middle part. The mica schist band is clubbed with the lingtse granitic gneiss band. Rocks are hard and brittle and weathering along joint plane is noticed. In rock mass characteristic, these rocks are considered to be grade I & II. Since the rocks are jointed, block failure at places is common. However, these rocks have contributed to the overall stability of Gangtok area.

ii) Micaceous Quartzite : Two bands of micaceas rocks with Lintse Granitic Gneiss in between are mapped within the Tashiling Secretariat Complex. Micaceous Quartzite bands show high compressive strength with surface weathering. They are free from jointing and characterized as grade I & II depending upon the composition and weathering. These rocks are also not adverse to overall stability of area. However, Lingtse granitic gneiss are subjected to jointing and capable joints extend from junction point of Secretariat main block and VIP block to Roro chhu, trending SE. In upper part i.e. between NW part of Press building to Secretariat, a wedge block of rock has dislocated and the void filled by soil. The main cause of distress on VIP block was caused due to in-homogeneity and infirmities of foundation condition. If such surface data was available prior to construction, appropriate technique would have prevented the irreparable damage.

iii) Mica Schist : These rocks are highly sheared, jointed and weathered. The compressive strength is poor than the soil. In between a fault with displacement of approx. 30 cm has been mapped during the investigation with down through towards Palace guest house. However the extension of this fault couldn't be traced on down the slope. These rocks extend upto Nehru point on ridge area on the north and widespread on western flank (Radio station area, Sichey area) and eastern flank towards Tathangchen area. However area is mapped upto Palace Gate only.

_____ :

Three bore holes are drilled in front of Tashiling Secretariat and 8 holes for soil analysis have been carried out between Annexe building and Tashiling Secretariat. The average bearing capacity based on test results of various rocks and soil samples are as under (details provided in annexure 1 to 5).

a)	Rock (depth 8 mts. to 9.5 mts.)	-	i) Brazillian (Tensile strength 356 tons/m2) ii) Point Load (Compressive strength 238 tons/m2)
b)	Soil		i) Depth 2.4 mts. - 159 tons/m2 ii) Depth 4.2 mts. - 173.7 tons/m2

Slope analyses of Approx. 10,61,700 sq. feet has been covered on 1:1000 scale contour map. Based on slope analyses the area has been divided into

a)	Gentle slope	(0^{o} to 10^{o})	- 11.51 %	- 1,22,200 sq. ft.
b)	Moderate sloe	(11^{o} to 20^{o})	- 8.67%	- 92,100 sq. ft.
c)	Moderately gentle slope	(21^{o} to 30^{o})	- 28.71%	- 3,04,800 sq. ft.
d)	Moderately steep slope	(31^{o} to 40^{o})	- 13.69%	- 1,44,900 sq. ft.
e)	Steep slope	(> 40^{o})	- 37.46%	- 3,97,700 sq. ft.

1. Stability zonation: Based on geological & geotechnical parameters test and generalized characteristics of rocks and soil, as well as, slope condition, the stability of area has been categorized. Since, the overall area falls within stable zone, suitability is based on slope condition.

   The percentage distribution of areas are as under :

a. Suitable area for construction of 3 to 4 storied building (inclusive of existing building in the area) < 30° slope - 48% - 5,19,200 sq. ft.

b. Area suitable for other purpose 30° to 40° - 13.69% - 1,44,900 sq. ft.

c. Unsuitable area (mainly based on slope condition) > 40° - 37.46% - 3,97,700 sq. ft.

2. For general planning purpose, average 4 storied buildings are recommended. However detailed geotechnical parameters will govern the individual planning of structures in the area. In areas with sound stability condition, the number of floors may be decided as per the bearing capacity of rock and soil.

3.

4.

5. Geological surprises are common in such geological conditions and remedial measures can be formulated at only. Advice of geologist and experts plays a role.

Drill Log Data Sheet

Mines, Minerals & Geology Department

Government Of Sikkim

Gangtok.

SITE: Tashiling Secretariat, East Sikkim.							JOB NO.: 01		
DRILLING EQUIPMENT: Diamond drilling with Single tube barrel									
DRILLING METHOD: Rotary			**DRILLING DIAMETER**: BX,NX Size				**CASHING DIAMETER**: NX Size		
DRILL HOLE NO.: 01						**SHEET NO.:** 01	R.L. (m): 1720m amsl		
ORIENTATION: Vertical down						**CO-ORDINATE: N27^0 19.48", E 88^0 36'.42"**			
DETAILS OF SAMPLES:						**DETAILS OF DRILL HOLE:**			
RUN (mts.)		**Depth (in mts.)**	**Log**	**Type of sample**	**Core Recov-ery**	**Core Loss**	**Water loss**	**Allowable bearing capacity/ Rock Strength**	**Rock Type**
From	**To**			**in(mts.)**	**(%)**	**(%)**			
0.00	1.50	1.50		Core	7.33%	92.67%	No loss		Filling Materials
1.50	3.00	1.50		slush	00.00%	100.00%	No Loss		Filling Materials
3.00	4.50	1.50		Core	8.66%	91.64%	loss		Filling Materials
4.50	5.00	0.50		Slush	0.00%	100.67%	Loss		Filling Materials
5.00	6.50	1.50		Slush	00.00%	100.00%	loss		Filling Materials
6.50	8.00	1.50		slush	00.00%	100.00%	loss		Lingtse Granetic Gneiss
8.00	9.50	1.50		Core	8.66%	91.67%	loss	254.7T/m^2	Lingtse Granetic Gneiss
9.50	11.00	1.50		Slush	0.00%	100.00%	loss		Casing Block
11.00	12.50	1.50					loss		Casing Block
12.50	14.00	1.50					loss		Casing Block

Drill Log Data Sheet

309

Mines, Minerals & Geology Department

Government Of Sikkim

Gangtok.

SITE: Tashiling Secretariat, East Sikkim.							JOB NO.: 02		
DRILLING EQUIPMENT: Diamond drilling with Single tube barrel									
DRILLING METHOD: Rotary		**DRILLING DIAMETER**: BX,NX Size					**CASHING DIAMETER**: NX Size		
DRILL HOLE NO.: 02						**SHEET NO.:** 01	R.L. (m): 1720m amsl		
ORIENTATION: Vertical down						**CO-ORDINATE: N27^0 19.48", E 88^0 36'.47"**			
DETAILS OF SAMPLES:						**DETAILS OF DRILL HOLE:**			
RUN (mts.)		**Depth (in mts.)**	**Log**	**Type of sample**	**Core Recov-ery**	**Core Loss**	**Water loss**	**Allowable bearing capacity/ Rock Strength**	**Rock Type**
From	**To**			**in(mts.)**	**(%)**	**(%)**			
0.00	1.50	1.50		slush	0.00%	100.00%	loss		Filling Materials
1.50	3.00	1.50		slush	00.00%	100.00%	Loss		Filling Materials
3.00	4.50	1.50		Core	3.66%	96.64%	No loss		Mica Schist
4.50	6.00	1.50		core	24.00%	76.00%	No Loss	356.6T/m^2 238T/m^2	Lingtse Granetic Gneiss

310

Drilling on Progress at Tashiling Secretariat

Soil Sampling on progress at Western slope of Tashiling Secretariat

Facture plane (Wedge Failure in In-situ rock formation) towards South West of Present Secretariat.

Drilling on progress

Recoveries of core at drill point no 2.

Annexure I

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Direct Shear Test Report

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te t 7
epth

IS = 72720

Sl. No.	Strain	Load(kg)	Load(kg)	Load(kg)
		Proving ring reading	Proving ring reading	Proving ring reading
		0.357kg	**0.714kg**	**1.06kg**
		7	7	
7				7
8				
	7			
	8			

A_c = 36cm², Ac_1= 30.60 cm^2, Ac_2= 30.60cm^2,Ac_3= 28.80 cm^2

$Load_1$=0.20 kn, $Load_2$= 0.29 kn, $Load_3$= 0.30 kn

Shear Stress (Ss) = Load/Area

Ss ₁ = 0.65 kg/cm² = 6.50 t/m^2

Ss ₂ = 0.95 kg/cm² = 9.50 t/m^2

Ss ₃ = 1.04 kg/cm² = 10.40 t/m^2

Average Allowable Shear Stress as per direct Shear Test = 8.80 t/m^2

Annexure I

Geo- Technical Laboratory
Mines, Minerals &Geology Department
Government Of Sikkim
Gangtok

Sieve Analysis Report

Location of Sample Below Secretariat building
Sample Point No.
Date of test 17/10/2011
Depth 12' - 14'

8 7

IS sieves sizes (mm)	wt.of retained sample(gms)	Sample retained (%)	Sample passing (%)
7	7	7	78
8			8
	8	8	
	7 7	7 7	
	7	7	
7			

Gravel (%)=21.74 **very coarse sand(%)=14.61** **coarse sand (%)=13.94** **Medium grained sand(%)=15.03**

Fine to very fine sand(%)=25.40 **Silt(%)=6.42** **Clay(%)=2.63**

Moisture content(%) =7.84 **Soil density =1.70g/cm^3.**

Annexure II

315

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Direct Shear Test Report

t e e ret r t
p e
p e t

te te t 7
epth

IS = 72720

Sl. No.	Strain	Load(kg) Proving ring reading 0.357kg	Load(kg) Proving ring reading 0.714kg	Load(kg) Proving ring reading 1.06kg
			8	
			7	7
			8	
		8		
7				
8				
			8	
				7
	7			8
	8			

A_c = 36cm² **Ac_1= 29.88 cm^2** **Ac_2= 28.80cm^2** **Ac_3= 27.72 cm^2**

$Load_1$=0.27 kn **$Load_2$= 0.28 kn** **$Load_3$= 0.32 kn**

Shear Stress (Ss) = Load/Area

Ss_1 = 0.90kg/cm² = 9.00 t/m^2

Ss_2 = 0.97 kg/cm² = 9.70 t/m^2

Ss_3 = 1.15 kg/cm² = 11.50 t/m^2

Average Allowable Shear Stress as per direct Shear Test = 10.07 t/m^2

Beyond this depth bed rock is encountered

Annexure II

Geo- Technical Laboratory
Mines, Minerals &Geology Department
Government Of Sikkim
Gangtok

Sieve Analysis Report

Location of Sample Below Secretariat building
Sample Point No.
Date of test 17/10/2011
Depth 8' - 9'

8 7

IS sieves sizes (mm)	wt.of retained sample(gms)	Sample retained (%)	Sample passing (%)
7	8	8	
	8	8	8
8	7	7	8
			7
			8
	8	8	
7	7	7	7
	7	7	

Gravel (%)=58.93 **very coarse sand(%)=8.53** **coarse sand (%)=7.64** **Medium grained sand(%)=8.08**

Fine to very fine sand(%)=12.32 **Silt(%)=3.17** **Clay(%)=1.27**

Moisture content(%) =7.18 **Soil density =1.30g/cm^3.**

Annexure III

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Direct Shear Test Report

t e e ret r t
p e
p e t

te te t 7
epth 8

IS = 72720

Sl. No.	Strain	Load(kg) Proving ring reading 0.357kg	Load(kg) Proving ring reading 0.714kg	Load(kg) Proving ring reading 1.06kg
			7	
		8		7
			7	
7				
8				
				7
		7		
		8		
	7			
	8			

A_c = 36cm²

Ac_1= 28.80 cm^2 **Ac_2= 29.88cm^2** **Ac_3= 30.60 cm^2**

$Load_1$=0.27 kn **$Load_2$= 0.29kn** **$Load_3$= 0.32 kn**

Shear Stress (Ss) = Load/Area

Ss ₁ = 0.94 kg/cm² = 9.40 t/m^2

Ss ₂ = 0.97 kg/cm² = 9.70 t/m^2

Ss ₃ = 1.05 kg/cm² = 10.50 t/m^2

Average Allowable Shear Stress as per direct Shear Test = 9.87 t/m^2

Beyond this depth bed rock is encountered

Annexure III

Geo- Technical Laboratory
Mines, Minerals &Geology Department
Government Of Sikkim
Gangtok

Sieve Analysis Report

Location of Sample Below Secretariat building
Sample Point No.
Date of test 17/10/2011
Depth 8' - 9'

8 7

IS sieves sizes (mm)	wt.of retained sample(gms)	Sample retained (%)	Sample passing (%)
7	8	8	
	8	8	8
8	7	7	8
			7
			8
	8	8	
7	7	7	7
	7	7	

Gravel (%)=58.93 **very coarse sand(%)=8.53** **coarse sand (%)=7.64** **Medium grained sand(%)=8.08**

Fine to very fine sand(%)=12.32 **Silt(%)=3.17** **Clay(%)=1.27**

Moisture content(%) =7.18 **Soil density =1.30g/cm^3.**

319

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Brazillian Test Report

t r t e ret r t
p e
te Te t 7

Te e tre th $q_t = 2p/\pi DT$

re p e
T Th e re p e
re h e p t

IS:10082- 1981

Core No.	D= Diameter (cm)	T=Thickness(cm)	P=Pressure (Kn)	t/m^2
6	5	5	9.5	254.7 t/m^2

Rock Type Lingtse Granetic Gneiss
Rock Strength 254.7 T/m^2

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Brazillian Test Report

t r t e ret r t
p e
te Te t 7

Te e tre th $q_t = 2p/\pi DT$

re p e
T Th e re p e
re h e p t

IS:10082- 1981

Core No.	D= Diameter (cm)	T=Thickness(cm)	P=Pressure (Kn)	t/m^2
1	5	5	14	356.6 t/m^2

Rock Type Lingtse Granetic Gneiss
Rock Strength 356.6 T/m^2

Geo - Technical Laboratory
Mines, Minerals & Geology Department
Government Of Sikkim
Gangtok.

Point Load Test Report

t r t e ret r t
p e
te Te t 7

pre e tre th $q_t = 0.96 \times p / D^2$

re p e
re h e p t

Core No.	D= Diameter (cm)	P=Pressure (Kn)	t/m^2
1	5	6.2	238 t/m^2

Rock Type Lingtse Granetic Gneiss
Rock Strength 238 T/m^2

GOVERNMENT OF SIKKIM
DEPARTMENT OF MINES, MINERALS & GEOLOGY
GANGTOK

IS-6403: 1981

Sample point No.	Sample collection depth	Foundation type used during calculation	Value of Shear strength(C)	Phi(ϕ)	γ	Factor of safety	SBC	SBC
1	14'-15'	Square	1.65 T/M^2	49^0	1.39 g/cm^3	5	17.37 kg/cm^2	173.7 T/M^2
2	08'-09'	Square	1.45 T/M^2	49^0	1.30 g/cm^3	5	15.901kg/cm^2	159.01 T/M^2

SBC=Safe Bearing Capacity

Annexure VII

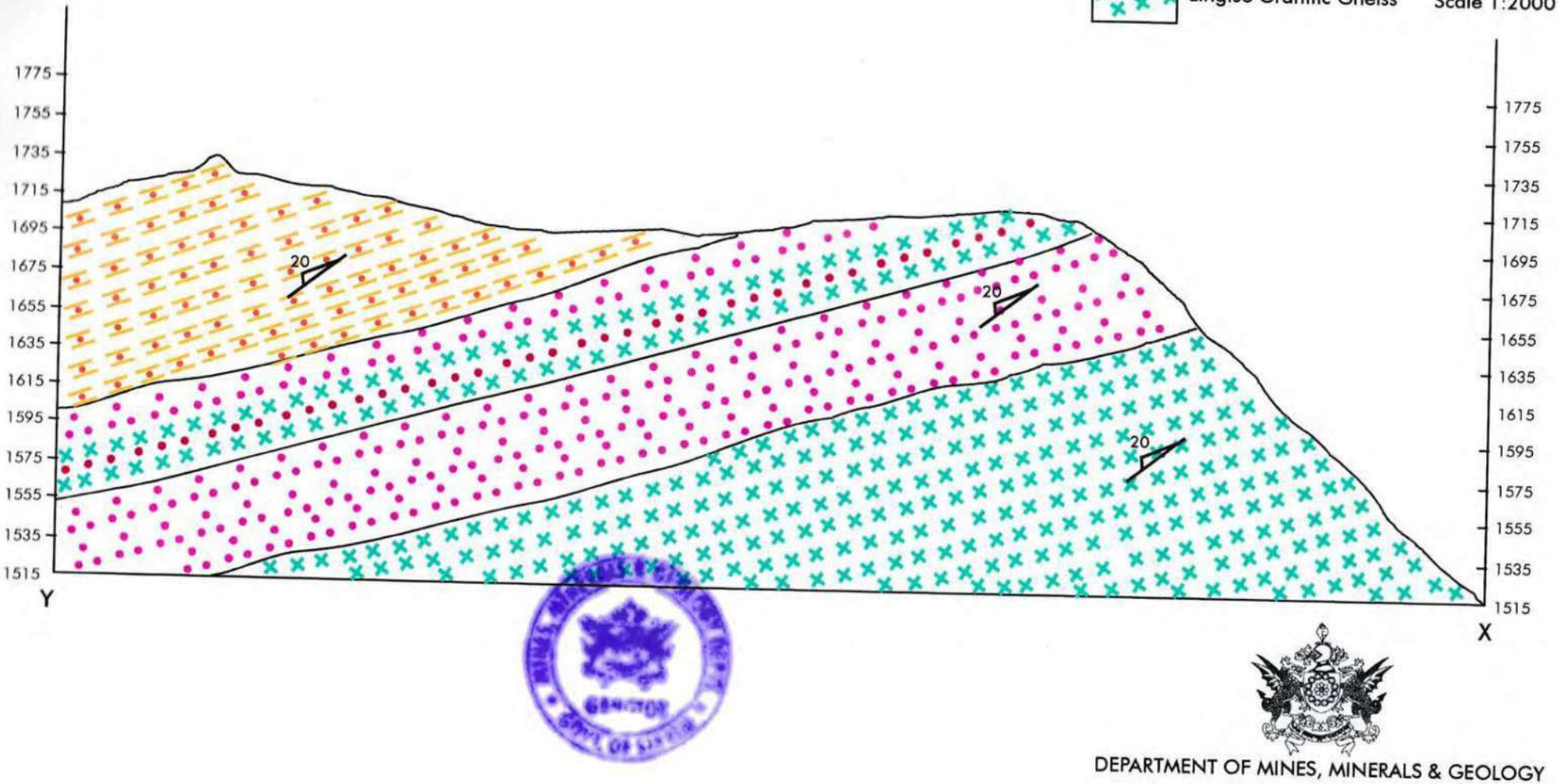
GEOLOGICAL SECTION ALONG NORTH - SOUTH DIRECTION (X- Y)

LEGEND

- Highly Weathered Mica Schist
- Quartizitic Mica Schist
- Thick Soil Cover
- Lingtse Granitic Gneiss

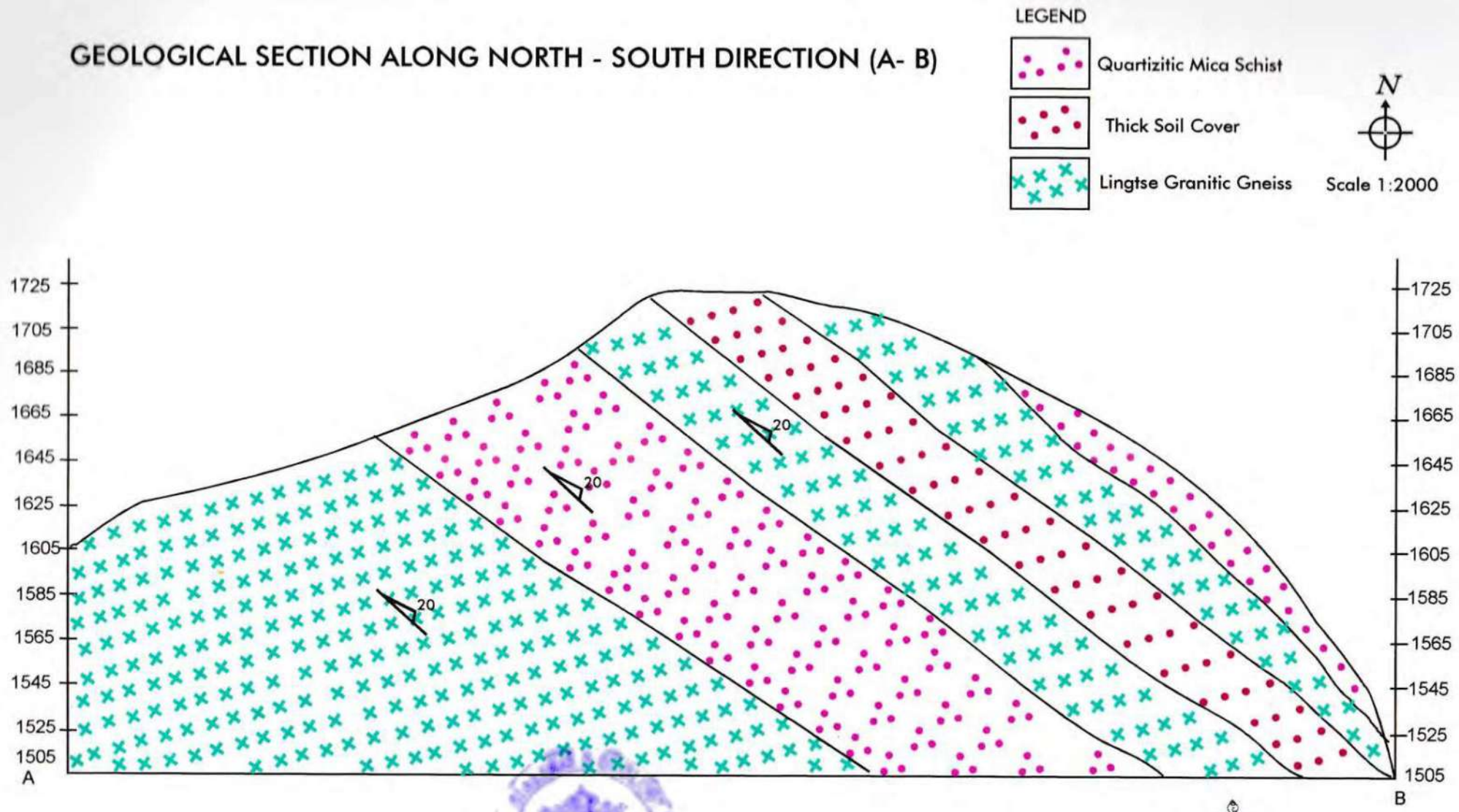
N

Scale 1:2000



DEPARTMENT OF MINES, MINERALS & GEOLOGY

GEOLOGICAL SECTION ALONG NORTH - SOUTH DIRECTION (A- B)



DEPARTMENT OF MINES, MINERALS & GEOLOGY
GOVERNMENT OF SIKKIM

LEGEND

Highly Weathered Mica Schist

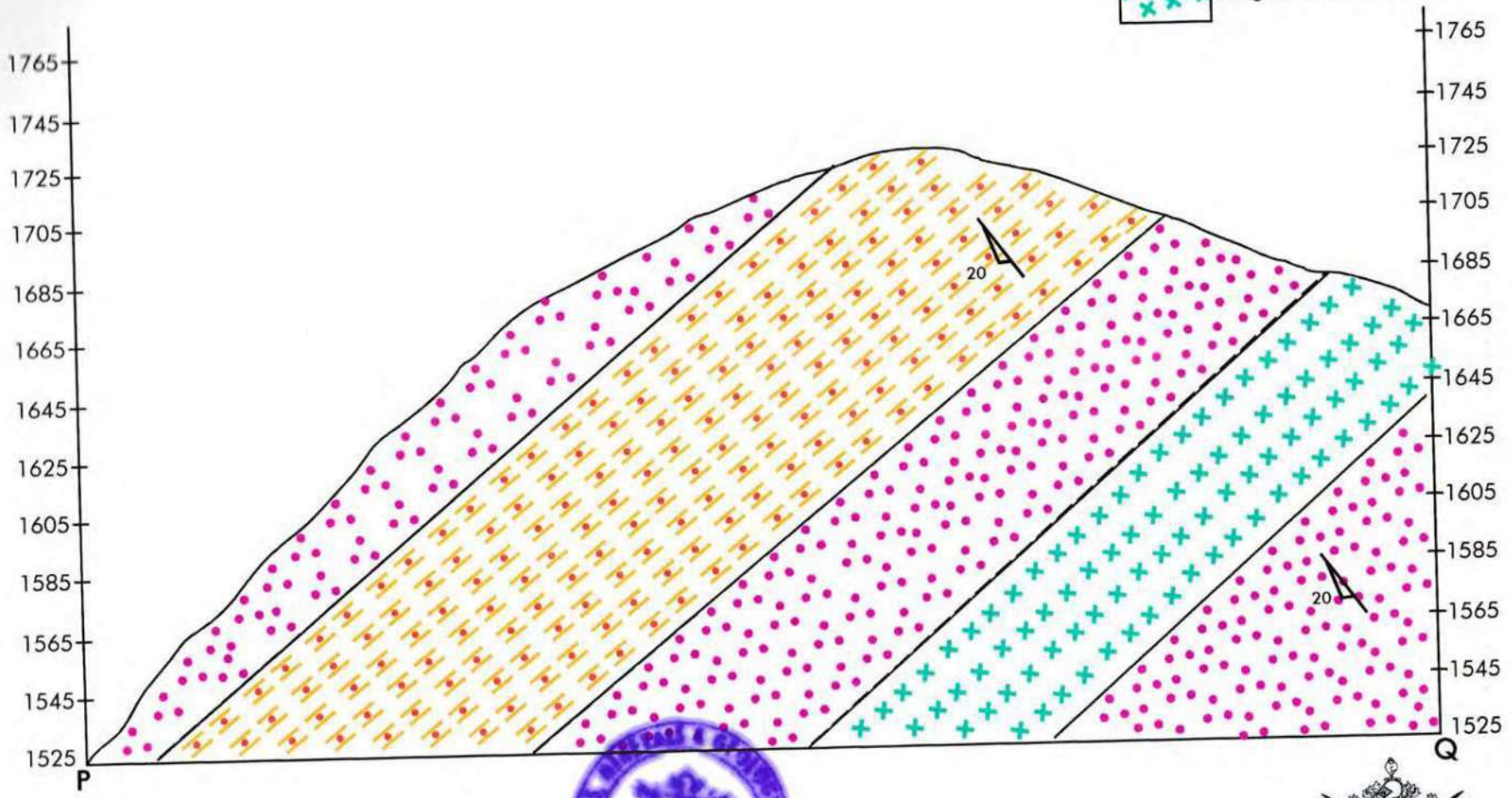
Quartizitic Mica Schist

Lingtse Granitic Gneiss

N

Scale 1:2000

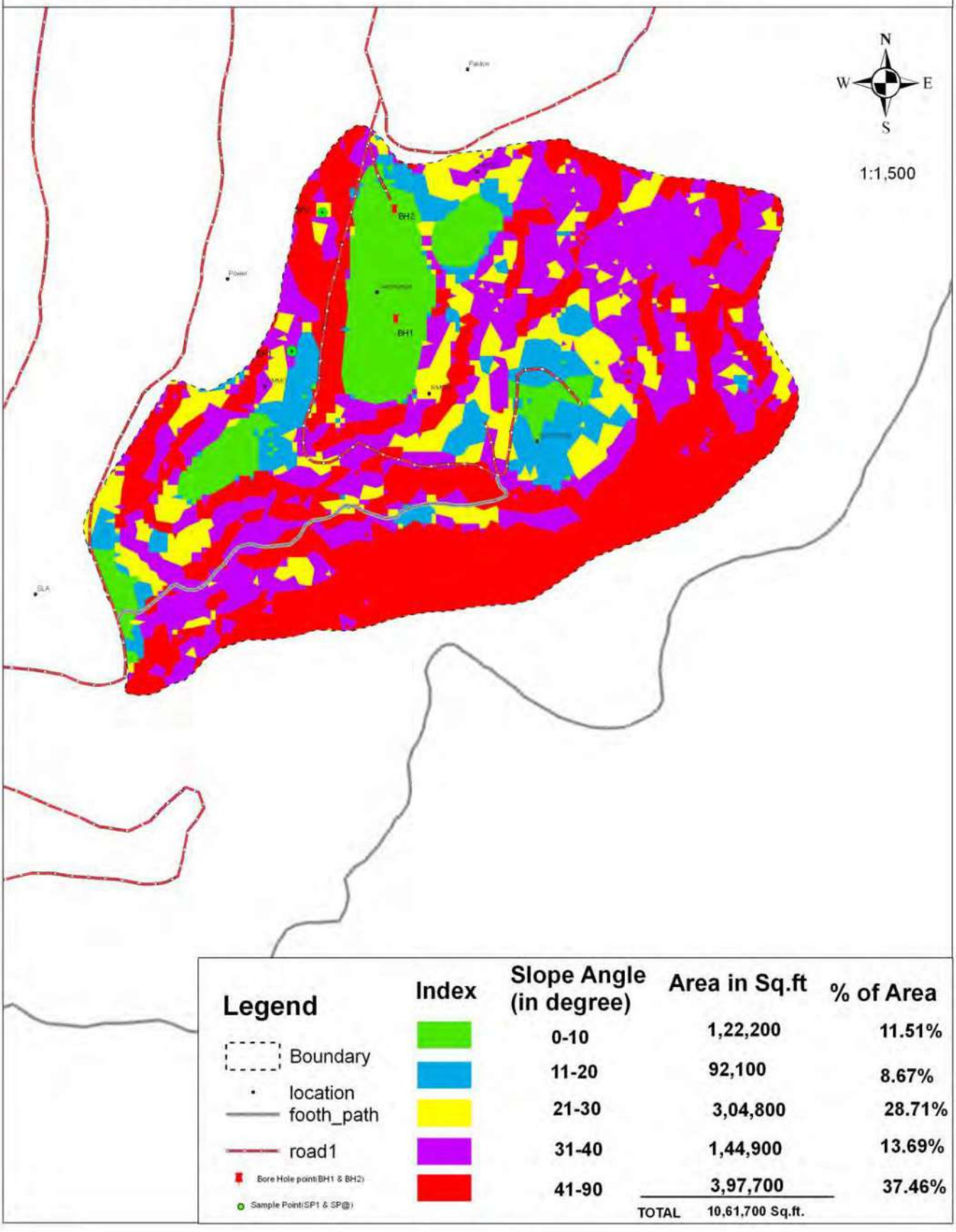
GEOLOGICAL SECTION ALONG EAST - WEST DIRECTION (P- Q)



DEPARTMENT OF MINES, MINERALS & GEOLOGY

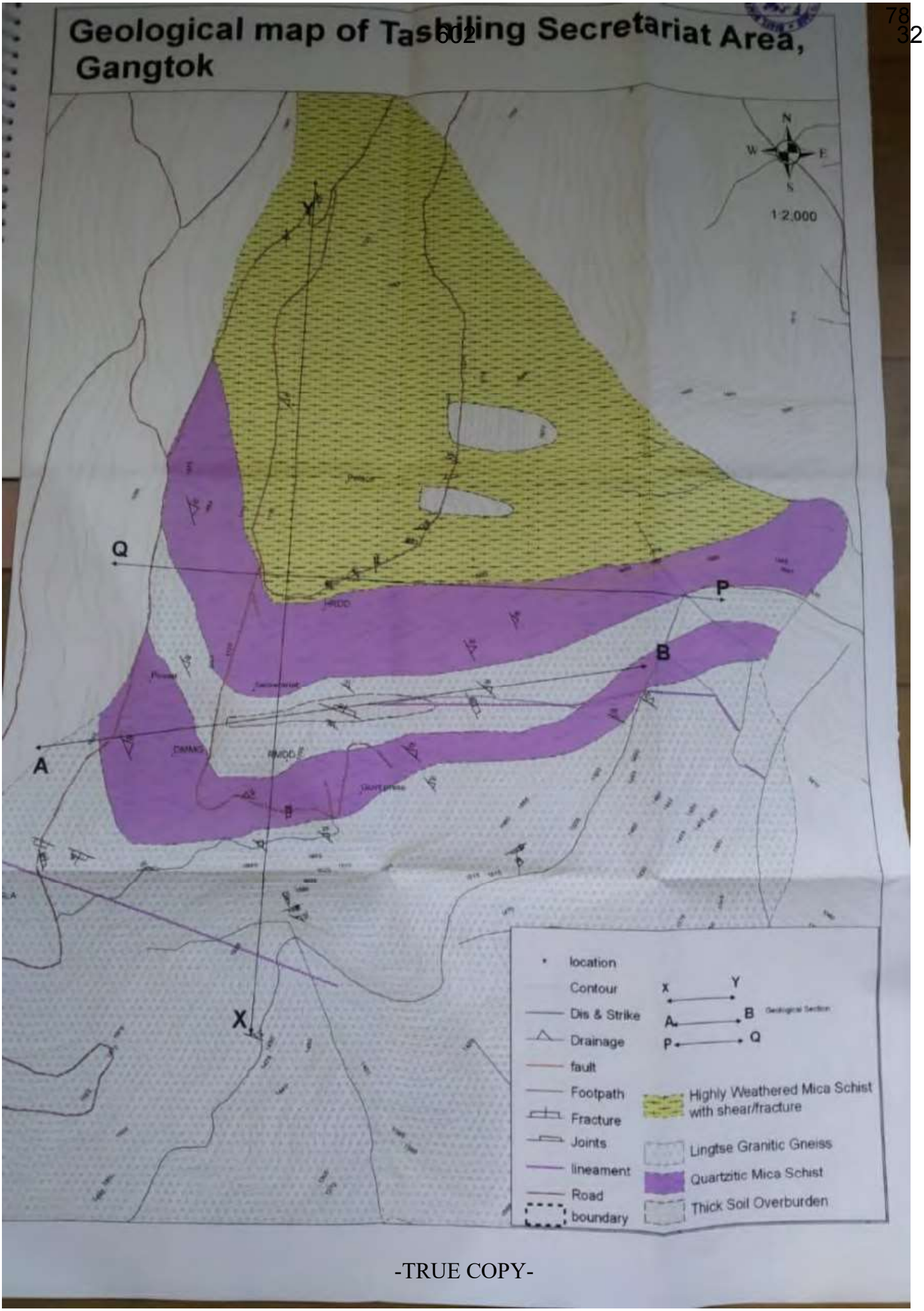
GOVERNMENT OF SIKKIM

SLOPE ASSESSMENT FOR TASHILING SECRETARIAT AREA, GANGTOK



Index	Slope Angle (in degree)	Area in Sq.ft	% of Area
	0-10	1,22,200	11.51%
	11-20	92,100	8.67%
	21-30	3,04,800	28.71%
	31-40	1,44,900	13.69%
	41-90	3,97,700	37.46%
	TOTAL	10,61,700 Sq.ft.	

Geological map of Tashiling Secretariat Area, Gangtok



-TRUE COPY-

3/5/19

GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT AND HOUSING DEPARTMENT
GANGTOK.

No: 613/GOS/JCTP/UD&HD **Dated: 01/05/2019**

NOTICE

This is for information of the general public that no construction involving earth excavation works shall be permitted with effect from 6th May, 2019 till 30th September, 2019 due to the onset of the monsoon. Further, Construction Orders shall not be issued during the aforesaid period.

Anyone found carrying out construction in contravention of the above shall be penalized as per the relevant clause of the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 as and the Sikkim Building Construction Regulation, 1991 as amended in 2000. Such person shall also be held solely responsible for any loss of life and property, as a result of such unauthorized excavation/construction. Further, any building material found lying on the road setback or over drains henceforth, shall be seized and auctioned without any notice whatsoever, and action shall be taken as per the bye-laws against the defaulters.

BY ORDER

Sd/-
Secretary
Urban Development & Housing Department.

Copy for kind information to:

1. Chief Secretary, Government of Sikkim.
2. Additional Chief Secretary/Pr. Secretary, FRED
3. PCE cum Secretary, Irrigation & Flood Control Department.
4. PCE cum Secretary, PHE Department.
5. PCE cum Secretary, Building & Housing Department.
6. Secretary, RMDD.
7. Secretary, Mines, Minerals and Geology Department.
8. Secretary, LR&DM Department
9. Principal Chief Engineer, Roads & Bridges Department.
10. Principal Chief Engineer, UD&HD
11. Pr. Chief Town Planner, UD&HD.
12. Special Secretary, UD&HD.
13. Municipal Commissioner, GMC.
14. All District Collectors (East, West, North, South)
15. Director, IPR Department for publication in the Sikkim Herald.
16. All Superintendents of Police.
17. Jt. Chief Town Planners, UD&HD & GMC (for compliance)
18. PS to Hon'ble Mayor, GMC
19. All Bazaar Officers, UD&HD.
20. All Assistant Town Planners UD&HD & GMC (for compliance)
21. All MEOs
22. File Copy
23. Guard File.

US(CSDMA)
21/5/19

Direct may upload it in the SSDMA website, pl.
20/5/19

JCTP/UD&HD
Jt. Chief Town Planner
U.D. & H.D.
Govt. of Sikkim, Gangtok

-TRUE COPY-

URBAN DEVELOPMENT DEPARTMENT
GOVERNMENT OF SIKKIM

No: T (1689) /397

Dated: 26/05/2020

NOTICE

This is for the information of general public that construction involving earth excavation works shall not be allowed with effect from 1st of June, 2020 till 30th of September, 2020 due to the onset of monsoons. Further, Construction Orders will not be issued in the above period. Anyone found carrying out construction in contravention of the above shall be penalized as per the relevant clause of the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) act, 1985 as amended in 2000. Such person shall also be solely responsible for any loss of life and property, as a result of such unauthorized excavation/construction. Moreover, any building materials found lying on the road reserve or over drains henceforth, shall be seized and auctioned without any notice whatsoever, and action shall be taken as per the bye-laws against the defaulters.

BY ORDER

Secretary
Urban Development Department

SECRETARY
Urban Development Deptt
Govt of Sikkim Gangtok

TRUE COPY

ANNEXURE R-11

GANGTOK SMART CITY DEVELOPMENT LTD

GANGTOK SMART CITY DEVELOPMENT LIMITED
LEVEL 5, KISAN BAZAAR, LAL MARKET ROAD,
GANGTOK – 737101, SIKKIM, INDIA
CIN – U93090WB2017SGC223807

Memo no: - 84/SPV/GSCDL/2018-19 Dated: - 23/11/2019

To,

The Secretary,
Mines & Geology Department,
Government of Sikkim,

Sub: - Geological & Geo-technical Investigation at Old West Point School Area

Sir,

The undersigned has been directed to inform your good office that Gangtok Smart City Dev. Ltd. is implementing the project **"Multi-Level Car Parking cum commercial development at Old West Point School Area".** In this regard, it is requested that geological & geo-technical investigation of the project area may be carried out by your department.

In view of the above, the letter is submitted for further n.a, please.

23/11/2019.

Nodal Officer
Gangtok Smart City Dev. Ltd.

NODAL OFFICER
GANGTOK SMART CITY DEV. LTD.
GANGTOK, EAST SIKKIM

-TRUE COPY-

Geological and Geo-Technical investigation report of the land proposed for the construction of various structures at Old West Point, School, Gangtok, East-Sikkim

DEPARTMENT OF MINES AND GEOLOGY
GOVT. OF SIKKIM
GANGTOK
MARCH\2020

CONTENTS:-

1. INTRODUCTION.
2. GEOLOGY OF THE AREA.
3. SITE GEOLOGY.
4. GEO-TECHNICAL INVESTIGATION.
5. ROCK QUALITY DESIGNATION.
6. CONCLUSIONS AND RECOMMENDATIONS.
7. ANNEXURE I
8. ANNEXURE II
9. ANNEXURE III
10. ANNEXURE IV
11. GEOLOGICAL MAP OF THE AREA
12. LOCATION MAP OF BOREHOLES DRILLED IN THE AREA

INTRODUCTION

Apropos to letter No. 84/SPV/GSCDL/2018-19 dated 23/11/2019 from Nodal Officer, Gangtok Smart City Development Limited, Gangtok requisition for geological and geo-technical investigation of the land at old STNM complex Gangtok, east Sikkim. Accordingly, a team of Geologists along with technical team from the Department of Mines and Geology, Government of Sikkim conducted a detail Geo-technical investigation by means of diamond core drilling of the area proposed for the construction of various structures at Old West Point School, Gangtok, East Sikkim from February 2020 to March 2020.

Geographically the proposed area is located between N27°19.46' latitude and E88°36.59' longitude at an elevation of 1720 m amsl. The proposed area is located adjacent to Pakyong Main line Taxi stand at Gangtok, East Sikkim.

GEOLOGY OF THE AREA

Sikkim-Darjeeling Himalayas are Techno-stratigraphically defined by four domains with characteristic stratigraphic and structural attributes. From south to north they are:

i. Foot hill belt

ii. Inner Belt

iii. Axial Belt and

iv. Trans-Axial Belt.

The state is mostly covered by Precambrian metamorphites of low to medium grade (Daling Group), high grade gneisses (Darjeeling Gneiss and Kanchendzonga Gneiss), Chungthang Formation (quartzite, calc-silicate rocks, marbles, graphite schist's and occasionally amphibolites) with intrusive granites (Lingtse granite gneiss) and Phanerezoic rocks including Gondwana and Tethyan sedimentary. The Paleozoic and Mesozoic (Tethyan) sequence in the northern and north-western part of Sikkim are fossiliferous.

The Gondwana super Group consists of sandstone, shale and carbonaceous shale with occasional thin bands of coal and pebbly shale horizon.
Daling group of rocks can be classified into three formations:
a. Gorubathan Formation: characterized by quartz-chloride-sericiteschists, phyllite and quartzite's.

b. Reyang Formation: characterized by quartzite's (occasionally calcareous), phylliteinterbanded with carbonaceous slate.

c. Buxa Formation: characterized by presence of dolomitic limestone occasionally interbanded with phyllite and development of organo sedimentary structure (stromatolites).

The Kanchendzonga Gneiss comprises mainly high-grade gneiss The Chungthang gneiss is a quartz-biotite gneiss.A streaky sheared granite gneiss known as "Lingtse Gneiss" occur as a NE-SW to N-S trending strip of rocks and forms a general line of separation between the Daling and high grade Kanchendzonga Gneiss.The Tethyansedimentaries, exposed in the northern part of Sikkim represent Everest Phyllite series (shale's/phyllite), Mount Everest Limestone series, Lachi Formation (conglomerate with thick diamictite base) and TsoLhamo Formation (calcareous shale, limestone band, calcareous sandstone).

Site Geology

Geologically, the proposed area falls within medium to high grade metamorphic rock formation represented in the area by Garnetiferrous Mica Schist and mica schist with quartzite intercalations underlain by a streaky sheared Lingtse Granitic Gneiss. The foliation of the rock strikes NW-SE and dip gently towards North East. The area has moderate to gentle slope gradient with westerly facing slope aspect. The area in consideration has medium to thick soil overburden with low groundwater activity.

GEO-TECHNICAL INVESTIGATION

Diamond drilling is a form of core drilling which uses a rotary drill with a diamond drill bit mounted to a core barrel which is then connected to the drill stem with barrels of various lengths.In this method the movement of drilling is vertically down,the drill bit cuts the rock in a rotatory manner and accordingly rock cores are retrieved in the core barrel from various depths.

Accordingly, two number of boreholes were drilled at Old West Point School Complex which is located adjacent to the Pakyong Main Line Taxi stand,Gangtok,East Sikkim. Bore hole no. 01 **(Geographical coordinates-E 27° 19'47.96" latitude N 88° 36'39.77" longitude, elevation 1606m)** was drilled in front of Old West Point School building a upto 15 m depth. Following type of sub-surface strata is present as per the samples recovered during the drilling i.e. light brown clayey /silty soil is encountered from 3.00m depth, Garnetiferrous Mica Schist with quartz veins is found from 3.00m to 9.00m depth followed by Moderately weathered Garnetiferrous Mica Schist between 9.00m to 13.00m depth underlain by highly weathered Garnetiferrous Mica Schist between 13.00m to 15.00m depth.The photo of the core box containing rock samples from various depth in given below in Photo 01.

Photo 01:-core box showing recovered core samples from various depth of Bore hole no.01.

Borehole number 02 (**Geographical coordinates-E 27° 19'48.19" latitude N 88° 36'38.92" longitude, elevation 1604m**) was drilled behind Old West Point School building upto depth of 15 m. micaceous silty soil overburden can be encountered upto depth of 3.00m followed by highly weathered Garnetiferrous Mica Schist between 3.00m to 6.00m depth.Following strata is present as per the drilling data i.e. Garnetiferrous Mica Schist with quartz veins between 6.00m depth to 9.00m depth followed by fresh Garnetiferrous Mica Schist with quartz veins between 9.00m to 10.50m depth.Moderately weathered Garnetiferrous Mica Schist can be encountered between 10.50m to 13.50 m depth followed by moderately weathered Garnetiferrous Mica Schist and fresh Garnetiferrous Mica Schist. The photo of the core box is shown below.The details of logging of the Boreholes are provided in the enclosed Drill Log Data Sheets.(Annexure I & II)

Photo 02:-core box showing recovered core samples from various depth of Bore hole no.02.

Accordingly, Standard Penetration Test (SPT) were also carried out simultaneously along with drilling in the area. Six numbers of SPT were performed

and the Safe bearing pressure of the soil samples are as under (details provided in Annexure I & II)

Borehole no.01 (Front of Old West Point School building)

Rock (depth 10.50m) i) Brazilian (Tensile strength 70.10 T/m²)

ii) Point load (Compressive strength 115.20 T/m²)

(depth 12.00m) iii) Brazilian (Tensile strength 121.00 T/m²)

iv) Point load (Compressive strength 96.00 T/m²)

Soil i) Depth 1.50 m - 13.84 T/m²

ii) Depth 3.00 m - 20.15 T/m²

Borehole no.02 (Behind Old West Point School building)

Rock (depth 9.00 m) i) Brazilian (Tensile strength 331.20 T/m²)

ii) Point load (Compressive strength 345.60 T/m²)

Soil i) Depth 1.50 m - 6.92 T/ m²

ii) Depth 3.00 m - 11.51 T/m²

iii)Depth 4.50 m - 46.50 T/m²

Rock Quality Designation (RQD)

Rock Quality Designation is a measure of quality of rock core taken from a borehole. RQD signifies the degree of jointing or fracture in a rock mass measured in percentage where RQD of 75% or more shows good quality rocks and less than 50% shows low quality weathered rocks.

Bore hole no. 01

Depth - 0.00m to 1.50m

Lithology – Light brown clayey soil.

Weathering – N.A.

RQD- N.A.

Quality of rock – N.A.

Depth - 1.50m to 3.00m

Lithology – Light brown silty soil.

Weathering – N.A.

RQD- N.A.

Quality of rock – N.A

Depth - 3.00m to 9.00m

Lithology – Garnetiferrous Mica schist with quartz viens.

Weathering – highly weathered.

RQD- < 25%

Quality of rock – Very Poor quality.

Depth - 9.00m to 13.00m

Lithology – Garnetiferrous Mica schist.

Weathering – Moderately weathered.

RQD- > 50%

Quality of rock – Good quality

Depth - 13.00m to 15.00m

Lithology – Garnetiferrous Mica schist.

Weathering – Highly weathered.

RQD- < 25%

Quality of rock – Very poor quality

Borehole no. 02

Depth - 0.00m to 3.00m

Lithology – Micaceous silty soil.

Weathering – N.A.

RQD- N.A.

Quality of rock – N.A.

Depth - 3.00m to 6.00m

Lithology – Garnetiferrous Mica Schist.

Weathering – Highly weathered.

RQD- <25%

Quality of rock – Very poor quality.

Depth - 6.00m to 9.00m

Lithology – Garnetiferrous Mica schist with quartz veins.

Weathering – highly weathered.

RQD- <25%.

Quality of rock – Very poor quality.

Depth - 9.00m to 12.00m

Lithology – Garnetiferrous Mica schist.

Weathering – very low weathering.

RQD- >50%

Quality of rock – Good quality.

Depth - 12.00m to 15.00m

Lithology – Garnetiferrous Mica Schist.

Weathering – low weathering.

RQD- >50%

Quality of rock – Good quality.

Conclusions and recommendations.

1. Geologically, the area comprises of medium to high grade metamorphic rock sequence represented by Garnetiferrous Mica schist and Mica schist with quartzite intercalations underlain by Lingtse Granitic Gneiss. The foliation of rocks strike NW-SE and dip gently towards North east with Westerly facing slope aspect which makes the area geologically favourable for proposed construction of structures at Old West Point School area.
2. Based on the drilling data of Borehole no. 01 light brown clayey /silty soil is encountered from 3.00m depth, Garnetiferrous Mica Schist with quartz veins is found from 3.00m to 9.00m depth followed by Moderately weathered Garnetiferrous Mica Schist between 9.00m to 13.00m depth underlain by highly weathered Garnetiferrous Mica Schist between 13.00m to 15.00m depth.
3. For Borehole no. 02 micaceous silty soil overburden can be encountered upto depth of 3.00m followed by highly weathered Garnetiferrous Mica Schist between 3.00m to 6.00m depth.Further Garnetiferrous Mica Schist with quartz veins between 6.00m depth to 9.00m depth followed by fresh Garnetiferrous Mica Schist with quartz veins between 9.00m to 10.50m depth.Moderately weathered Garnetiferrous Mica Schist can be encountered between 10.50m to 13.50 m depth followed by moderately weathered Garnetiferrous Mica Schist and fresh Garnetiferrous Mica Schist.
4. The tensile strength of rock core for Borehole no. 01 of depth 10.50 m is 70.10 T/m^2 and 12 m depth is 115.20 T/m^2 and compressive strength is 121.00 T/m^2 & 96.00 T/m^2 whereas tensile strength of rock core for Borehole no.02 of depth 9 m is 331.20 T/m^2 and compressive strength is 345.60 T/m^2.The low value of strength of the rock is due to high degrees of weathering and nature of flaky micaceous rock. However, strength of the strata greater than 35 T/m^2 in hilly terrain is recommended for construction as per IS CODE.
5. As Garnetiferrous Mica Schist is a foliated and becomes non-competent metamorphic rock when contact continuously with water activity in which incidences of differential settlement is a natural phenomenon under such condition. Therefore, suitable foundation design to be designed by a competent structural engineer based on the sub-surface geological condition of rock strata.

6. The Safe bearing capacity for Bh. 01 at depth of 1.50 m is 13.84 T/M^2 and 3..0m depth is 20.15 T/M^2 and SBC for Bh. 02 at depth of 1.50m is 6.92 T/m^2,3.00m depth is 11.51T/m^2 and 4.50m depth is 46.50T/m^2.

Annexure I

DRILL LOG DATA SHEET

Name of Project : Geo Technical Investigation of the land proposed for construction of various structure at Old West Point School.

SITE : Old West Point School Complex, Gangtok, East Sikkim (Front of the school building)

DRILLING EQUIPMENT: Diamond core drilling with double tube barrel — **Co-ordinates: E 27° 19'47.96" latitude N 88° 36'39.77" longitude**

DRILLING METHOD: Rotary — **DRILLING DIAMETER/ CASING DIAMTER** NX Size BX,NX Size — **R.L.(m): 1606m**

DRILL HOLE NO: 03 — **ORIENTATION: Vertical down**

Date	From (in m)	To (in m)	Total Run	Drilling log	Core recovery length(m)	Core recovery %	Water loss	Core no.(length in cm)	RQD	Strength(T/M²)	SPT N-Value	LITHOLOGY
31/01/2020	0.00	1.50	1.50		0	0%	No loss	-	-	13.84	16	Light brown clayey soil.
1/02/2020	1.50	3.00	1.50		0	0%	No loss	-	-	20.15	18	Light brown silty soil.
1/02/2020	3.00	4.50	1.50		0.10	6%	No loss	1(3)	<25%	-	core	Garnetiferrous Mica Schist with quartz viens.
2/02/2020	4.50	6.00	1.50		0.15	10%	No loss	2(4)	<25%	-	core	Garnetiferrous Mica Schist with quartz viens
2/02/2020	6.00	7.50	1.50		0.10	6%	No loss	3(1.3)	<25%	-	core	Garnetiferrous Mica Schist with quartz viens
3/02/2020	7.50	9.00	1.50		0.40	26%	No loss	4(2.8),5(1.5),6(2),7(1.8), 8(4),9(1.3),10(1.5),11(5)	>50%	-	core	Garnetiferrous Mica Schist with quartz viens
3/02/2020	9.00	10.50	1.50		1.10	73%	100%	12(4.7),13(4.8),14(6),15(6.4), 16(6.2),17(9.8),18(10.5), 19(4.6),20(18.2),21(5.5), 22(17)	>50%	70.10T/m² & 115.20T/m²	core	Moderately weathered Garnetiferrous Mica Schist.
4/02/2020	10.50	12.00	1.50		0.77	51%	100%	23(4.8),24(6),25(5),26(4.3),2 7(7.5),28(21.8),29(3.2)	>50%	121.00T/m² & 96.00 /m²	core	Moderately weathered Garnetiferrous Mica Schist
5/02/2020	12.00	13.00	1.00		0.80	80%	100%	30(3.7),31(11.2),32(1.9),33(3. 5),34(3.9),35(6.3),36(6.5),37(6.4),38(2.4),39(8.6),40(3.3)	<25%	-	core	Moderately weathered Garnetiferrous Mica Schist
7/02/2020	13.00	14.00	1.00		0.50	50%	100%	41(3.7),42(2.4)	<25%	-	core	Highly weathered Garnetiferrous Mica Schist
7/02/2020	14.00	15.00	1.00		0.55	55%	100%	43(2.8)	<25%	-	core	Highly weathered Garnetiferrous Mica Schist

ANNEXURE II

DRILL LOG DATA SHEET

Name of Project : Geo Technical Investigation of the land proposed for construction of various structures at Old West Point School.

SITE : Old West Point School Complex, Gangtok, East Sikkim. (Behind School Building)

DRILLING EQUIPMENT: Diamond core drilling with double tube barrel

Co-ordinates: E 27° 19'48.19" latitude N 88° 36'38.92" longitude,

DRILLING METHOD: Rotary

DRILLING DIAMETER/ CASING DIAMTER NX Size BX,NX Size

R.L.(m): elevation 1604m

DRILL HOLE NO: 04

ORIENTATION: Vertical down

Date	From (in m)	To (in m)	Total Run	Drilling log	Core recovery length(m)	Core recovery %	Water loss	Core no.(length in cm)	RQD	Strength(T/M²)	SPT N-Value	LITHOLOGY
10/02/2020	0.00	1.50	1.50		0	0%	No loss	-	-	6.92	8	Micaceous silty soil.
11/02/2020	1.50	3.00	1.50		0	0%	No loss	-	-	11.51	10	Micaceous silty soil.
11/02/2020	3.00	4.50	1.50		0	0%	No loss	-	<25%	46.50	28	Highly weathered Garnetiferrous Mica Schist.
11/02/2020	4.50	6.00	1.50		0	0%	No loss	-	<25%	-	-	Highly weathered Garnetiferrous Mica Schist.
12/02/2020	6.00	7.50	1.50		0	0%	100%	-	<25%	-	core	Garnetiferrous Mica schist with quarts veins.
13/02/2020	7.50	9.00	1.50		0.60	40%	100%	1(9.4),2(6.2),3(4.4)	<25%	331.20T/m² & 345.60 T /m²	core	Garnetiferrous Mica schist with quarts veins
13/02/2020	9.00	10.50	1.50		0.80	53%	100%	4(9.3),5(6.2),6(3),7(3.6),8 (2.5),9(4.5),10(1.6),11(5.2),12(5.4)	>50%	-	core	Fresh Garnetiferrous Mica Schist with quarts veins.
14/02/2020	10.50	12.00	1.50		0.43	28%	100%	13(7),14(6.9),15(11), 16(4.7)	>50%	-	core	Fresh Garnetiferrous Mica Schist with quarts veins.
15/02/2020	12.00	13.50	1.50		0.50	33%	100%	17(3.8),18(4),19(1.3),20(2 .5),21(3),22(4.3)	<50%	-	core	Moderately weathered Garnetiferrous mica schist.
16/02/2020	13.50	15.00	1.50		0.40	26%	100%	-	>50%	-	core	Moderately weathered Garnetiferrous mica schist underlain by fresh Garnetiferrous mica schist.

(Annexure III)

Point Load Test

Location of sample: Old West Point School, Gangtok, East Sikkim

Date of Test: 13.03.2020

Rock type – Garnetiferrous Mica Schist

Point Load = $q_t = 0.96 \times p/D^2$ IS:8764-1978

Sample No.	Depth (in m)	D, Diameter	Load (KN)	q_t
BH 01	9.00m	5 cm	9 KN	345.60T/m^2
BH 02	10.5m	5 cm	3 KN	115.20T/m^2
BH 02	12.0m	5 cm	2.5KN	96.00T/m^2

Brazilian Test

Location of sample – Old West Point School, Gangtok, East Sikkim
Date of test – 13.03.2020
Rock type - Garnetiferrous Mica Schist

Tensile Strength **$= q_t = 2p/\pi DL$**

P = Load (KN)
D = Diameter of core sample (cm)
L = Length of core sample(cm)

IS:10082- 1981

Sample No.	Depth (in m)	D= Diameter (cm)	L=Length(cm)	P=Pressure (KN)	T/m^2
BH 01	9.00	5	10	26	331.20T/m^2
BH 01	10.5	5	10	5.5	70.10T/m^2
BH 02	13.5	5	10	9.5	121.00 T/m^2

(ANNEXURE IV)

Field Photos

Photos:- Diamond core drilling of Borehole number 01 in progress in front of Old West Point School building at Gangtok,East Sikkim.

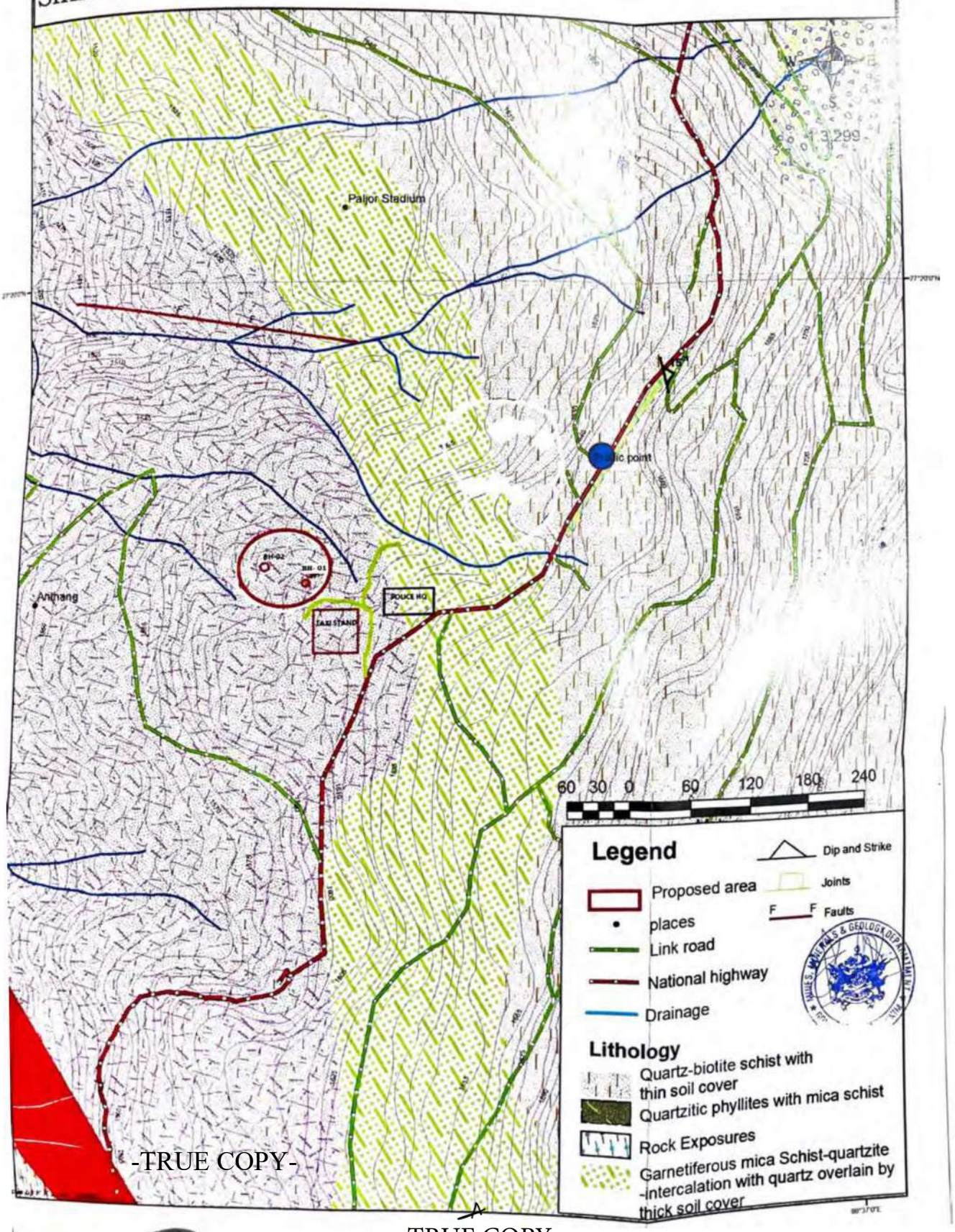
Photos:- Diamond core drilling of Borehole number 02 behind Old West Point School building at Gangtok, East Sikkim

LOCATION MAP OF BOREHOLES AT OLD WEST POINT SCHOOL,EAST SIKKIM
Legend

623

348

GENERAL GEOLOGICAL/LITHOLOGICAL MAP OF OLD WEST POINT SCHOOL(BELOW MAINLINE TAXI STAND),GANGTOK,EAST SIKKIM.



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ANNEXURE R-13

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 06th April, 2021 | No. 86

GOVERNMENT OF SIKKIM
DEPARTMENT OF MINES AND GEOLOGY
GANGTOK – 737101

No. 17/DMG/20-21 **Date:- 19.03.2021**

NOTIFICATION

In continuation with notification no. GOS/UD&HD/6(294)2001/A dated 15.10.2001 and gazette no. 387 dated 15/10/2001 which notified that the maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows:

Stability Zone	Admissible no. of floors
1.	5 ½ storeys
2.	4 ½ storeys
3.	3 ½ storeys
4.	2 ½ storeys
5.	1 ½ storeys
6.	No construction is allowed

The department of Mines and Geology hereby notifies the parameters for determination of stability zones of each zone as follows. These parameters are known as site stability zonation parameters and will be strictly followed during categorization of zones:

Zone 1

Rock Properties:	Bed rock/parent soil is expected at foundation depth. Unweathered/ surfacial weathering, compact with no joint spacing, moderate to high compressive strength, high frictional resistance.
Built up area:	Training of jhoras/drains have been completed and done properly (with safe distance)
Overburden:	Thin to medium thick having good bearing capacity of soil.
Bearing Capacity:	> 35 T/m^2
Ground Water Activity:	Low
Relation Between Natural Slope And	

Rock Bed/Foliation:	Favourable, >30°
Adverse Geo-Environment:	Nil
Upslope pressure:	Nil
Vibration Impact:	Minimum
Slope:	Gentle to moderate, <15°
Depth of soil:	<3m
Relative relief:	<100m
Hydrological conditions:	Dry/nil
Category:	Suitable after taking appropriate measures to slope/precautionary and preventive measures at the time of foundation levelling.

Zone 2

Rock Properties:	Bed rock/parent soil is not expected at foundation level. weathering on surface of contact zone is suspected, medium to high compressive strength, jointed rocks with minimum spacing, joint plane undulating with high frictional resistance.
Built up area:	Training jhora/drain was done but not properly maintained.
Overburden:	Medium thick (rock expected at considerable depth)
Bearing Capacity:	15-35 T/m²
Ground Water Activity:	Low to medium
Relation Between Natural Slope And Rock Bed/Foliation:	Favourable,20-30°
Adverse Geo-Environment:	Nil.
Upslope pressure:	Suspected
Slope:	Gentle to moderate, 16-25°
Upslope pressure:	Nil
Vibration Impact:	Minimum
Depth of soil:	3-8 metres
Relative relief:	101-300 metres
Hydrological conditions:	Damp
Category:	Suitable after taking proper surface/sub-surface drainage system.

Zone 3

Rock Properties:	Bed rock/parent soil is not expected at foundation level. Weathering on surface of contact zone is suspected, low to medium compressive strength, jointed rocks with minimum spacing, and joint plane smooth with low frictional resistance.
Built-up area:	Jhora training is required/annual maintenance of drain is necessary.
Overburden:	Thick soil overburden, having moderate to low soil bearing capacity.
Bearing capacity:	<15 T/m²
Ground Water Activity:	Medium to high
Relation Between Natural Slope And	

Rock Bed/Foliation:	Rock dips at some angle to direction of slope, <20°
Adverse Geo-Environment:	Rocks are subjected to folding, fracturing & weathering.
Slope:	Moderate to high slope which reflects the competency of slope forming materials 26-35°
Upslope pressure:	Suspected.
Vibration Impact:	Low to medium
Depth of soil:	>8m
Relative relief:	>300m
Hydrological conditions:	Wet
Category:	Suitable after taking various geotechnical corrective measures
Zone 4	
Rock Properties:	Bed rock/parent soil is beyond foundation level. high degree of weathering is suspected, low compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Untrained jhora/ erosional potential jhora
Overburden:	Medium thick to thick soil overburden
Bearing capacity:	<10 T/m^2
Ground Water Activity:	Higher water regime.
Relation Between Natural Slope And Rock Bed/Foliation:	Slightly adverse to adverse.
Adverse Geo-Environment:	Gully erosion & collapse of jhora facing slopes at isolated places, formation of cracks or fissures on the ground. Creep movement suspected.
Slope:	Steep, 36-45°
Upslope pressure:	Suspected.
Vibration Impact:	Low to medium
Depth of soil:	>8m
Relative relief:	>300m
Hydrological conditions:	Dripping
Category:	Not suitable for habitation unless immediate protective measures to safeguard upslope/ minimise further degradation of stability condition of upslope area.
Zone 5	
Rock Type:	Bed rock/parent soil is beyond foundation level. high degree of weathering is suspected, low compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Nil
Overburden:	Thick with low soil bearing capacity.
Bearing capacity:	<10 T/m^2
Ground Water Activity:	High.
Relation Between Natural Slope And	

Rock Bed/Foliation	Slightly adverse to adverse.
Adverse Geo-Environment:	Area subjected to isolated slope failure, creep movement widespread, wide cracks on ground.
Slope:	high to steep slope, >45°
Upslope pressure:	Present.
Vibration Impact:	Medium
Depth of soil:	>10m
Relative relief:	>300m
Hydrological conditions:	Flowing
Category:	Area not suitable needs immediate protective measures to protect upslope area.
Zone 6	
Rock Type:	Bed rock/parent soil is beyond foundation level. high degree of weathering is suspected, very low compressive strength, jointed rocks, joint plane smooth with low frictional resistance
Built up area:	Nil
Overburden:	Thick with low soil bearing capacity.
Bearing Capacity:	<5 T/m²
Ground Water Activity:	High.
Relation Between Natural Slope And Rock Bed/Foliation:	Adverse.
Adverse Geo-Environment:	Incidences of slope failure, gully erosion, adverse slope facing towards jhora section etc.
Slope:	High slope >45°
Upslope pressure:	Present.
Vibration Impact:	medium
Depth of soil:	>10m
Relative relief:	>300m
Hydrological conditions:	Flowing
Category:	Area not suitable needs immediate protection for arresting further aggravation of instability problems.

Further, the department will be reviewing the zonation ratings on the following conditions.

Conditions and pre-requisite for review of site stability report/up-gradation of Land Stability Zonnation for particular site.

1. Recommendation suggested in site stability report should be adopted during construction of structures.
2. Training of untrained Jhora and maintenance at regular intervals which is located adjacent to the plot.
3. Construction of structure below the building which was barren before which also aids in improving the stability of the upslope area. Further, construction of building in the downslope area also acts a retaining/protective wall for the houses located in the upslope area.

Minimum of three (03) years after the completion of house construction so as to observe the incidences of differential settlement as per the IS Code of Practice for calculation of settlements of foundations (IS Code:- 8009(Part 1)-1978(Reaffirmed 2003)). The review of the rating on zonnation can be done.

Proper channelization of surface runoff by providing catchment drains especially during the rainy seasons and connect it to natural waterways/Jhora which also improves the stability of the area due to reduced erosions and percolation of water in the slope concerned.

Any site improvement activities/works like grouting/micro-pilling/retaining works/rock bolting/anchoring/shot creting works as per site requirement has been done in the area which will re-strengthen the stability condition shall be entertained for review of stability zonnation rating.

-Sd/-
(B.P Pradhan, IFS)
Secretary

File No. 17/DMG/20-21. n.s.p - 10

-TRUE COPY-

ANNEXURE R-14

GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT DEPARTMENT
GANGTOK, SIKKIM

Memo No: 245/Secy/UDD/2021 Dated: 27-05-2021

CABINET MEMORANDUM

Minister in Charge - **Mr. Arun Kumar Upreti**
Secretary in Charge - **Ms. Sarala Rai, I.A.S.**

Subject: **Multi Level Car Parking cum Shopping Plaza at old West Point School-PPP Project under Gangtok Smart City Development Ltd.**

1. The construction of Multilevel Car Parking cum Commercial Development at Old West Point School having its Project ID as SIK GAN 062 is a part of Smart City Proposal under Gangtok Smart City Development Limited.

2. The approval of the Board of Directors of the company has been obtained for implementation of the Project under Public Private Partnership (PPP Mode) on its 17th Board Meeting held on 23rd October 2020.

3. The 1st call for bids for development of a multi level car park cum commercial plaza, by demolishing the existing Taxi Stand as well as the old school buildings in the Old West Point School Complex area was invited on 9th January 2019. Unfortunately, the 1st call for bid was invited without verification of the status of land. Besides, owing to changed specifications and requirements the entire bidding process was cancelled. The changed criteria/concept of the project, envisages the construction of a structure with Green Building Concept. Moreover, on verification of the title deed of the land, it is found recorded in the name of Private Estate, and a separate file has been processed to acquire the same, in-prinetple approval of the Government has been obtained for its acquisition.

4. The second call for bids was invited on 07.10.2020. The approval of the Board of Directors of the Company has been obtained for the project, however, as the project aspects' requires further administrative considerations, formal approval of the State Government is also being solicited duly highlighting the salient features and aspects related to the project as indicated hereunder.

5. The project is being taken up on PPP mode with an estimated investment of Rs 294.98 crore. As per the requirements for PPP projects, the bid has been evaluated for the lowest viability gap funding (VGF) keeping all other parameters fixed. The financial modelling for the project was done before inviting the bids and the VGF of 37% of the project cost viz., Rs 109 crore approx. was considered reasonable.

6. The other fixed parameters are (a) Development period of 4 years, (b) Lease Rent to be paid by concessionaire @ Rs 1 per sqm per annum of the maximum carpet area, (c) Concession Fee to be paid by Concessionaire @ Rs 1 per accounting year, (d) Operation period of 26 years.

   The other parameters have been fixed so as to ensure that bid evaluation is error free; if the bids are invited on multiple parameters, the evaluation and identification of the preferred bidder becomes cumbersome and generally leads to litigation with different parties having different justifications for selection of the preferred bidder.

7. Briefly, the salient features of the Project as per Request for Proposal (Bidding Document) is indicated as follows:-

   a. As per the preliminary survey, the said area of the old West Point complex is 5707.80 square metre.

   b. Proposal envisages construction of 11storeyed structure. The structure will have four levels of car parking, Level 0 and 1 are ordinary parkings and the upper levels viz.,

level 2 and 3 will be electro-mechanically operated stack/puzzle parking, to accommodate 415 equivalent car spaces, approximately. The structure shall be 11 storeyed building subject to norms of the Government. The details are tabulated as below: -

Sl No.	Particulars	Details
1.	Site Area at Old West Point School	5707.80 sqm
2.	Commercial Floor Coverage	50%
3.	Parking Floor coverage	< 75%
4.	Total Nos of Floors	11 storied
5.	Lower Parking Floors	4 Nos (Levels :0 to 3)
6.	Ground and above(Nos)	7 Nos (Levels :4 to 10)
7.	Commercial Carpet area (sqm)	13,680.00 sqm +/- 10%
8.	Parking levels	4 Levels (0,1,2 &3)

c. The Concessionaire shall be entitled to construct/ develop such components which it deems appropriate from commercial viability point of view provided; however, such component shall not fall in the category of prohibitive item as per Authority or Govt. of Sikkim or Govt. of India, norms or applicable law. Broadly the following components are allowed: -

- Shopping Mall and Multiplex
- Hotel, Food Courts/Restaurants/coffee shop
- Commercial (Retail cum Office) area would include retail shopping, branded showrooms, anchor stores, and entertainment complex/zone and business spaces.
- Banks, Coaching institutes
- Gaming zone/children play home, Gymnasium or Health Centre,
- Any other activity with the approval of the authority.

d. Level 0 and 1 will be handed over to the authority during the operation period and rest of the floors will be with the concessionaire for 26 years of operation after which it is to be handed over to the authority in terms of the agreement. However, the period of operation may be extended by another 26 years subject to approval of the Government., by entering into a separate agreement, the process of which can only be taken up after finalizing the DPR and all aspects of the building known to both the concessionaire and the authority.

e. The documents viz., Volume I- Instruction to Bidders, Volume II- Concession Agreement and Volume III- Project Information Memorandum is appended for perusal.

8. The timelines of the Bid process that has been completed is tabulated below:

Sl No	Event Description	Date
1	Publication of 2nd Call for Bids	07.10.2020
2	Submission of Queries by Bidders	12.11.2020
3	Pre-Bid Meeting	12.11.2020
4	Reply to Pre-Bid Queries	24.12.2020
5	Submission of Bid	11.01.2021
6	Opening of Technical Bid	11.01.2021
7	Opening of Financial Bid	22.01.2021
8	Letter of Award/LOA to the Preferred Bidder*	15.02.2021
9	Signing of Concession Agreement *	27.02.2021
10	Submission of Performance Security, preparation of DPR, and its approval and environmental management plan, employee deployment plan, construction / enablitation plan etc. Opening of Escrow Account, establishment of SPV specifically for the project, obtaining of permits etc.*	26.02.2022
11	Construction and Development period*	After approval
12	Operation period*	26 years

* after accord of Government approval.

9. An Independent Engineer has to be appointed for overseeing the works during the development period plus first 4 (four) years of operation period, as well as one year before the expiry of the concession period. In the event of termination, such independent Engineer will be appointed to perform such roles as required to complete the termination proceedings. The salary of the Independent Engineer will have to be borne equally by the authority and the concessionaire.

10. Within the indicated timelines, six applicants had submitted their Expression of interest, for the project and the bid documents were sold to all six applicants.
    1. Pave Infrastructure Pvt. Ltd., Salugara, Siliguri
    2. Tirupati Plaza Pvt Ltd, Sevoke Rd, Siliguri
    3. Siotia Infratech, HB Road, Guwahati
    4. SIBIN Group, Middle Sichey, Gangtok
    5. SM Infrastructure Pvt Ltd, GS Road, Guwahati
    6. Mungpa Trade Links Pvt Ltd, Singtam.

    However only the following three submitted their bids for the project quoting the VGF as follows:

    1. Pave Infrastructure Pvt. Ltd., Salugara, Siliguri — Rs 106.19 cr
    2. Tirupati Plaza Pvt Ltd, Sevoke Rd, Siliguri — Rs 103.98 cr
    3. Mungpa Trade Links Pvt. Ltd, Singtam. — Rs 107.67 cr

11. The lowest VGF has been quoted by Tirupati Plaza Private Limited and is the preferred bidder (L-1). Accordingly based on the pre-bid estimated cost of Rs 294.98 cr the lowest bid is of 35.25% (Rs 103.98 cr) which is within the estimated VGF. The difference amount of Rs 191 cr has to be invested by the concessionaire. The project development period is of 4 years. The investor (concessionaire) will operate and maintain the asset for 26 years operation period. The VGF will be released as per the terms of the agreement into an Escrow Account created for the purpose. The Bank fees for the Escrow account has to be shared equally by the authority and the Concessionaire. During the operation period, the concessionaire will have complete freedom for O&M including leasing and rental and will remit the prescribed fees to the authority.

12. The VGF has to be released as per the terms of the agreement laid in schedule M: Project Grant to the concessionaire as follows: -

Sl No	Project Milestone	% of the Project Grant	Project Grant (Crore)	State share (50%) crore	Central Share (50%) in crore
1	Signing of Concession Agreement	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
2	Project Milestone-I	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
3	Project Milestone-II	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
4	Project Milestone-III	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
5	Car Parking Facility Completion Date	Rs 294.98 X 35.25% X 20%	20.80	10.40	10.40
6	Project Milestone-IV	Rs 294.98 X 35.25% X 05%	5.20	2.60	2.60
7	Project Milestone-V	Rs 294.98 X 35.25% X 05%	5.20	2.60	2.60
8	Project Milestone-VI	Rs 294.98 X 35.25% X 05%	5.20	2.60	2.60
9	Commercial Development Completion Date	Rs 294.98 X 35.25% X 05%	5.20	2.60	2.60
		Total	103.98	51.99	51.99

13. The above matching fund to the ratio of 50:50: is in line with the revised administrative approval approved by the Cabinet vide Memo No: 002/SPV/GSCDL/2018 (II)/203/SECY Dated 15/02/2021 The funds as required as highlighted above for the construction of the project under Smart City Guidelines has to be made available during the Development period which is targeted to be completed within 4 years. However, during the current financial year Rs 31.20 crore will be required to meet the expenditure against Sl (1) and (2) for this specific project during 2021-22.

14. The Concept drawing submitted by the preferred bidder proposes the construction of 14 number of floors. The bottom 4 floors are to be car parking (MLCP). Level 0 and Level 1 as ordinary parking and Level 2 and 3 as electro mechanically operated stacked puzzle parking. Tentatively the parking is proposed for 415 car parking spaces; the actual capacity, however, will be known after finalization of the DPR and is approved by the authority. Besides there will be one commercial development with a maximum carpet area of 13,680sqm with permissible relaxation of plus or minus 10%

15. For the city, this will be the first ever multi level car park with commercial development (shopping mall + hotel) on the upper floors having modern aesthetics and green concepts. It will change the skyline of the city and will be point of tourist interest as well as a convenient place for the city dwellers for shopping and leisure. The facility will have an atmosphere of modern comfort and convenience, cleanliness and hygiene with top quality ambience, whilst enjoying the panorama of the majestic mountains and underlying valleys in the backdrop of the setting sun. It is expected that the living quality index of the city will improve due to this asset. As per the concept, the elevation of the structure is of a reducing building profile, instead of a solid building mass as is generally seen in other building projects; as the building rises in elevation its commercial area will reduce and will have open plazas and green spaces for the public to enjoy. This further justifies the need to add extra floors to compensate the revenue loss on account of the open spaces being kept at the lower levels. Moreover, the structure will have its own sewage treatment plant with partial solar lighting for green energy.

16. As per the bid requirements, Level 4 to 10 shall be commercial development. To achieve open public plazas and green plantation areas, the building floor plate shall be reduced gradually so that every upper level will have reduced floor area as a result. Accordingly, in the concept plan submitted by the preferred bidder, the bidder has proposed for additional 3 floors (Level 11,12 and 13) on partial horizontal area in order to achieve the required carpet area. This is within the permissible carpet area as mentioned in the tender document. This decreasing or reducing building profile or building mass is also conducive for setting up green spaces on such open areas as well as improved aesthetics and green performance of the building. The proposed commercial development submitted by the preferred bidder comprises of 10 levels; level 4 to 9 shall be shopping plaza / mall and level 10 to 13 shall be hotel.

17. Also, the bidder has conceived for a plaza of about 600 – 650 sqmtr. which will improve the ambience and quality of exposure / experience in the facility. Hence, keeping in view the concept presented by the selected bidder, the extra floors could be considered, subject to the condition that the maximum carpet area of 13680 sqmtr., with a deviation of plus or minus 10% is not exceeded.

18. The actual details with regard to the structure will be availed only after conducting thorough geo-technical investigation, engineering / structural design and architectural drawings by the concessionaire as per the timeline given above- which is the DPR stage. Though the preferred bidder has submitted a concept drawing for 14 levels, in view of the RFP, we may at present consider for 11 floors only. Accordingly, approval of the Government is solicited for relaxation of norms to build the structure having 11 floors. However, keeping in view the reduction in the building mass as the floor level rises, we may consider additional 3 floors once clarity is obtained after completion of geo-technical investigation and design reports, as the DPR will have to be approved by the authority later.

19. Status of land at Old West Point:-The construction of Multilevel car parking cum Commercial Development at Old West Point School is to be constructed on plot no.715 & 716which is found recorded in the name of Private Estate as per the verification report received from the Revenue Authorities vide memo no.71/765/G/DD/DC(E) dated 22/02/2021. However, on the request of the Department, the Estate Manager, Private Estate& Authorized Attorney of Chogyal Wangchuk Namgyal has agreed to transfer the land measuring 61,398.00 sft to the Urban Development Department as per the Circle rate of Gangtok Block vide application Dated 15th March 2021 addressed to the Hon'ble Minister, UDD . The same has been approved by the Government.

20. The Smart City Mission is funded as a 50:50 centrally sponsored scheme and the Government of India has already released Rs 243 crores. Therefore, in terms of the mission guidelines, equal matching share has to be provided by the State Government. Till date only Rs 5 crore State Share has been released, hence to match the GOI release, an amount of Rs 238 crore need to be released for implementing the mission activities.

21. In view of the timely requirement of funds for the project, requirement of land free from encumbrances and high value of the project as well as the need for relaxation of norms for building the structure having 11 floors, proposal is being submitted for consideration by Council of Ministers for the following: -

i) approval for demolition of existing Government structures in the Project Area and removal of debris as a separate contract;
ii) approval for mortgage of land by the Concessionaire to fund the project, subject to entering into a separate agreement with the administrative Department for the purpose;
iii) approval for accepting of the Bid of the L1 Bidder M/S Tirupati Plaza Pvt. Ltd with a VGF of Rs 103.98 crores in terms of Volume- I, II and III of the Bidding documents. The letter of award to the lowest bidder as per the event description was scheduled for 15/02/2021 as per the Request for Proposal;
iv) approval to allow the concessionaire to undertake operation and maintenance including leasing and rental during the operation period.
v) approval for appointment of Independent Engineer as described herein above and for sharing the salary of such independent engineer equally by the authority and the concessionaire.
vi) approval for relaxation of the norms of the proposed building having 11 floors subject to confirmation of the geotechnical investigation and report.
vii) approval for extending the operation period by another 26 years subject to signing of a separate agreement, after finalizing the DPR and all aspects of the building being known to both the concessionaire and the authority and
viii) approval for provisioning the State Share of Rs 238 crore in the Budget 2021-22 equivalent to the amount already released by the Central Government.

(Sarala Rai, I.A.S.),
Secretary to the Government of Sikkim.

File no: J (536) / GOS/UDD/MISC/2021

TRUE COPY

ANNEXURE R-15

EXTRACT OF THE CABINET MEETING HELD ON 11th JUNE, 2021, AT 10 A.M IN THE CABINET HALL OF TASHILING SECRETARIAT, GANGTOK, SIKKIM

URBAN DEVELOPMENT DEPARTMENT

283.5 The proposal seeks of approval to take up various activities for construction of Multi Level Car Parking cum Shopping Plaza at old West Point School under Gangtok Smart City Development Limited, as detailed in the Cabinet Memo.No.215/Secy/UDD/2021 Dated 27.06.2021.

CABINET DECISION: The Cabinet approved the proposals contained in para 21 (i) to 21 (vi) only.

sd/-
(S.C GUPTA)IAS
Cabinet Secretary

Cabinet Extract No. CON/CAB/283/2021/6655 Dated: 11.06.2021

To,

The Secretary
Urban Development Department
Government of Sikkim, Gangtok

Copy forwarded for onward action, please.

Joint Secretary, Cabinet
11.06.2021

14.6.21

EXTRACT OF THE CABINET MEETING HELD ON 11th JUNE, 2021, AT 10 A.M IN THE CABINET HALL OF TASHILING SECRETARIAT, GANGTOK, SIKKIM

URBAN DEVELOPMENT DEPARTMENT

283.5 The proposal seeks of approval to take up various activities for construction of Multi Level Car Parking cum Shopping Plaza at old West Point School under Gangtok Smart City Development Limited, as detailed in the Cabinet Memo.No.215/Secy/UDD/2021 Dated 27.06.2021.

CABINET DECISION: The Cabinet approved the proposals contained in para 21 (i) to 21 (vi) only.

sd/-
(S.C GUPTA)IAS
Cabinet Secretary

Cabinet Extract No. CON/CAB/283/2021/6655 Dated: 11.06.2021

To,

The Secretary
Urban Development Department
Government of Sikkim, Gangtok

Copy forwarded for onward action, please.

Joint Secretary, Cabinet
11.06.2021

14.6.21

-TRUE COPY-

ANNEXURE R-16

GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT DEPARTMENT
GANGTOK

No: 255/UDD/Secy. Dated: 21/09/2021

To,

The Chief Executive Officer
Gangtok Smart City Development Limited
Gangtok.

Sub: - Proposal for construction of Multi level Car Parking cum Commercial Complex at Old West Point School complex Gangtok.

Reference proposal for construction of Multi level Car Parking cum Commercial Complex at Old West Point School complex Gangtok, I am directed to convey the approval to start dismantling of existing structure of Old West Point School for construction of the aforesaid work subject to no objection from Private Estate for commencement of the dismantling work, as the said land is yet to be transferred to Urban Development Department.

Special Secretary
Urban Development Department

SPECIAL SECRETARY
Urban Dev. Department
Government of Sikkim
Gangtok

-TRUE COPY-

ANNEXURE R-17

mesaso

Ref. No. MIPL/HO/18/2021-22 Date: 21.09.2021

To,
The Principal Secretary
Mines & Geology Department,
Gangtok,
East Sikkim, Sikkim 737101

Sub.: Request letter for issue of Stability report for *Implementation of Multi-Level Car Parking* cum Commercial Development at Old West Point School, Near M.G. Marg, Gangtok, East Sikkim

Ref.: Appointment Letter vide Memo No. 197/GSCDL/2020-21; Dated 30/06/2021

Dear Sir,

With reference to the above subject matter, MESASO Infrastructure Private Limited is appointed as concessionaire for "Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School, Near M.G. Marg, Gangtok, East Sikkim".

We hereby request you to kindly issue a stability report.

Thanking You.

Yours Faithfully,

For, MESASO Infrastructure Private Limited

(Authorised Signatory)

MESASO Infrastructure Private Limited Siliguri

Mines & Geology Deptt. Govt. of Sikkim

Received on 06/12/21

TRUE COPY

ANNEXURE R-18

DEPARTMENT OF MINES & GEOLOGY
GOVERNMENT OF SIKKIM

***Ref.No*:F.1/62 (3)DM&G/21-22/478** **Date:** 29.12.21
Challan No:33300/SI. No:138545

Site Stability Report

Reference: - Applicant's Letter. Dated:29.12.2021

1. **(i) Name of Applicant-** M/S Mesaso Infrastructure Pvt. Ltd. (Authorized vide Memo no. 197/GSCDL/2021-22 dated 30.06.2021).

   (ii) Name of Land owner- Secretary, UD & HD, Government of Sikkim.

2. **Location of Site-** Old West point school Complex, Gangtok, East Sikkim

3. **Location (with reference to prominent Structure within area and physical features with appropriate distance & direction)-** 10 meters SW of the Police Headquarter at Gangtok, East Sikkim land bearing plot no.683/P,715,716 under Gangtok Revenue Block, East Sikkim.

4. **Bounded by-** East: Road Leading to Primula lodge.
   West: Footpath
   North: Footpath
   South: Footpath

5. **Physical features**

a) Slope- Gentle.

b) Drainage system – No erosion potential Jhora present nearby plot.

c) Status of structure in the vicinity – No adverse situation presents at the time of inspection.

6. **Geological setup**

a) Type & condition of Lithology – The area comprises of medium grade metamorphic rock sequence represented in the area by mica schist with and without quartz veins overlain by medium thick to thin soil cover.

b) Fractures / Faults / Weathering- Surfacial weathering.

c) Overburden – Medium thick to thin soil cover.

d) Dip of bed rock – Favourably oriented.

e) Ground water activities – Low surface/sub-surface water regime.

f) Nature of contact zone of rock & overburden materials – Undulating surface with high frictional resistance is expected.

g) Other geo-features – No any other adverse geological features were observed at the time of inspection.

7. **Conclusion** – Falls within Zone one (1) of areal Stability Zonation Mapping System adopted by department of Mines & Geology.

8. Recommendation – The foundation of the structures should be footed at considerable depth with uniform condition, also consult a competent structural engineer for appropriate foundation design of the structures including earthquake resilience.

Further,

1. The proposed area falls under zone one (1) as per the parameters notified by the department of Mines and Geology vide Gazette no.86 dated 06th April 2021. However as Sikkim lies over young fold mountains, seismic zone IV and with fragile geological condition micro seismic studies in the area and load impact assessment of the surrounding areas, to be carried out prior to construction of multi-storied structures and provide suitable mitigation measures, if required, to avoid future complications.

Joint Director(Geology)
Mines & Geology Department,
Government of Sikkim,
Gangtok

-TRUE COPY-

Senior Geologist
Deptt of Mines & Geology
Govt of Sikkim
Gangtok

mesaso

P. R. No. 473/DM&G/21-22
dt. 28/02/22

ANNEXURE R-19

Ref. No. MIPL/12/2021-22 Date: 31.12.2021

To,
The Additional Director
Mines & Geology Department,
Gangtok,
East Sikkim, Sikkim 737101

Sub.: With Reference to Site Stability Report Ref. No.1/62(3)DM&G/21-22/478

dated :29-12-2021.

Sir,

With reference to the above subject Matter, we received site stability report from your department in which as per the Recommendation claus no.1 states that the proposed area falls under zone (1) as per the parameters notified by the department of Mines and Geology vide Gazette no 86 dated 6th April 2021. However, as Sikkim lies over young fold mountains, seismic zone IV and with fragile geological conditions micro seismic studies in the area and load impact assessment of the surrounding areas, to be carried out prior to construction of multi storied structure and provide suitable mitigation measures, if required to avoid future complication. In this regard we approached to our Structural Consultant and they issued a certificate as annexed for your reference.

Kindly do the needful.

JD (G)
For required action M

Thanking You.

Yours Faithfully,

For, MESASO Infrastructure Private Limited

28/2

Sr. Geo
Per-N-G. Pls.

Mesaso Infrastructure Private Limited
(Authorised Signatory)
Vice President

Received
1.03.2022

28.2.22
Joint Director (Geology)
Mines & Geology Department
Government of Sikkim,
Gangtok

MESASO Infrastructure Private Limited | Reg. Off. : 3rd Floor, Vega Circle Mall, 3rd Mile, Sevoke Road, Siliguri, West Bengal - 734001 | info@mesaso.in | + 91 9907311645
Project Site : Old West Point School Area, Near M.G. Marg, Gangtok, East Sikkim 737101
CIN: U45309WB2021PTC243031 | PAN: AAOCM2843E | GSTIN: 11AAOCM2843E1ZQ
IGBC Membership No. : IGBCBD210233 | IGBC Project Reg. No. : IGBCNBT210211

S. P. A. CONSULTANTS
CONSULTING STRUCTURAL ENGINEERS

To,

Date : 30.12.2021

The Director
Mesaso Infrastructure Pvt. Ltd.
3rd Floor, Vega Circle Mall,
3rd Mile, Sevoke Road,
Siliguri – 734001

Sub : With Reference to Site Stability Report Ref. No. 1/62(3)DM&G/21-22/478
dated : 29-12-2021

Sir,

With reference to the above subject Matter Site Specific micro Seismic studies is not required as per the soil test report of M/S Geo Informatic Consultancy & Services Tandong. Gangtok average N value is 22 and as per the IS-1893 if the Soil corrected N Value is more than 15 then specific seismic are not required.

Thanking You

For S.P.A. Consultants

SANJIV J. PAREKH
M.E.(STRUCT.), M.E.(CONST. ENG.),
B.C.E., FIE-(F-018202-4)
E. S. E. No. 104 (I) K. M. C.

Sanjiv J. Parekh

TRUE COPY

ANNEXURE R-20

GANGTOK MUNICIPAL CORPORATION

DEORALI, SIKKIM

Issue No. 3839/MISC/TPC/Gmc/2021/979 Date. 31/12/2021

FORM – III

(See regulation 09 of the Sikkim Building Construction Regulation, 1991)

Form of Sanction

To,

(Party -1)
The C.E.O.,
Gangtok Smart City Dev. Ltd.,
Gangtok, Sikkim

(Party – 2)
M/s MESASO Infrastructure Pvt. Ltd.
3rd mile, Siliguri,
West Bengal - 734003

CONSTRUCTION ORDER

(VALIDITY OF THIS ORDER iS FOR THREE YEARS)

With reference to your application dated12/10/2021, approval has been granted (as per Cabinet Approval accorded by the cabinet vide Cabinet Extract no: CON/CAB/283/2021/6655 dated: 11.06.2021) for construction of proposed eleven storied GOLD RATED Green Building measuring 310071.87 sq.ft.to come up at old West Point parking area, Gangtok revenue block. Arithang Ward No. 09

The proposed structure is approved for registered landed property having Private Site Measuring: 60984sq.ft. (1.40 acre) vide Parcha/Sale Deed bearing Khatiyan No. 686(P), 715 & 716.

Project Mode : PPP under Gangtok Smart City Dev. Ltd.

GANGTOK MUNICIPAL CORPORATION * DEORALI, SIKKIM *

Key Consultant's for the Project:

	EXPERTISE	Name of expert
1	Independent Engineer	Mr. Eshwar Shrestha
2	Architecture, Landscape & Interior Design	Mr. Vikram Rathod (SALIENT Consultants)
3	Structural Design	Mr. Sanjiv Parekh (SPA Consultants)
4	MEPF	Pankaj Dharkar Associates, Ahmedabad
5	Green Building Consultant	Pankaj Dharkar Associates, Ahmedabad
6	Hospitality Consultant	ENVEE Engineering Pvt Ltd. New Delhi

This construction order is approved on the following conditions:-

1. Prior permission for commencement of the building should be sought for on **Form V** obtainable from Gangtok Municipal Corporation or GSCDL.
2. In case, the ownership is found to be defective at any stage of time the approval accorded and this order shall stand automatically revoked and the

structure/work building thus constructed shall be considered as without proper approval and shall be dealt accordingly.

3. The construction of the building should be completed no later than three years from the date of issue of construction order. Failure to do so the B.P. Plan automatically shall stand cancelled and the B.P. Plan should be submitted for renewal.
4. No new building or part thereof shall be occupied or allowed to be occupied or used or permitted to be used by any person until permission has granted in that behalf.
5. The construction should be as per approved BPP and no deviation is permissible without the prior permission of the Government.
6. The construction should be as per the order and supervision of Gangtok Municipal Corporation Town Planner/Engineer.
7. The Engineer/Town planner of Gangtok Municipal Corporation must be informed before the foundation is laid. Only after the foundation is passed by Divisional Engineer/Town planner, the construction shall be allowed to continue.
8. Strict quality control to be maintained in the process of construction.
9. There should be enough facilities for good sanitation and drainage system.
10. The door or window panels shall be fixed in such a way that they shall not, when open project on any street.
11. The building shall not be constructed within 10 ft. of the live electric wire running on any public street.
12. The land vacated in consequence of the enforcement of the set back limit shall form part of the public street.
13. The excavated earth obtained from site development & foundation, shall not be dumped on public street, road, gully and jhoras. Moreover any building materials found lying on the road setback or over drains shall be seized and auctioned without ant notice whatsoever, and action shall be taken as per the bye-laws against the defaulters.
14. **No construction involving earth excavation works shall be allowed with effect from 1st of June 2022 to 30th of September 2022**. Anyone found carrying out construction in contravention of the above shall be penalized as per the relevant clause of the Sikkim Allotment and House Sites and Construction of Building (Regulation and Control) Act,1985 as amended in 2000,and the Sikkim Building Construction Regulation, 1991 as amended in 2000. Such person shall also be solely responsible for the loss of life and property, as a result of such unauthorized excavation/construction.

Two copies of the approved B.P. Plans are returned herewith for your record.

31/12/21

Town Planner
Gangtok Municipal Corporation

Town Planner
Gangtok Municipal Corporation.

Note:Contact: Mr. Naresh Pradhan, Assistant Town Planner - I, G.M.C, Mob No: 94344 47827

-TRUE COPY-

GANGTOK MUNICIPAL CORPORATION
DEORALI, SIKKIM

FORM – V

(See regulation 10 of the Sikkim Building Construction Regulation, 1990)

To,

Date: 10/01/2022

The Municipal Commissioner,
Gangtok Municipal Corporation,
Deorali, Sikkim.

Subject: Notice of commencement of the Construction / reconstruction / alteration / repair of building

Dear Sir/Madam,

I/We, hereby certify that the construction / reconstruction / alteration / repair in Khasara No. 683/3114, 715, 716 Khatiyan No. 1440 at Old West Point School Area, Gangtok will be commenced on _____ as per your approval vide construction order no. 3889/misc/TPC/GMC/2021/979 dated 31.12.2022 in accordance with the Blue Print Plan approved.

Yours faithfully,

Signature of Owner:- For, Mesaso Infrastructure Private Limited

Name (in Block letter):- SHUBHAM MALU

Authorised Signatory

Add:- Old West Point School Complex, Near M.G. Marg, Gangtok, Sikkim

10.01.2022

Phone no:- 6380944250

ACTP 10/01.

10/01/22

ATP-I Ph. process. 11/01/22

Recommended 11/01/22

Town Planner
Gangtok Municipal Corporation

-TRUE COPY-

mesaso

ANNEXURE R-22

Ref. No. MIPL/SITE/09/2021-22

Date: 15.02.2022

To,
The Additional Director
Mines & Geology Department.
Gangtok,
East Sikkim, Sikkim 737101

Sub.: With Reference to Site Stability Report Ref. No.1/62(3)DM&G/21-22/478

dated :29-12-2021.

Sir,

With reference to the above subject Matter we received site stability report from your department in which as per the Recommendation claus no.1 states that the proposed area falls under zone (1) as per the parameters notified by the department of Mines and Geology vide Gazette no 86 dated 6th April 2021. However as Sikkim lies over young fold mountains, seismic zone IV and with fragile geological conditions micro seismic studies in the area and load impact assessment of the surrounding areas, to be carried out prior to construction of multi storied structure and provide suitable mitigation measures, if required to avoid future complication. In this regard we approached to the Jadavpur University Department of Construction Engineering and they issued a certificate as annexed for your reference.

Kindly do the needfull.

A.G.I
Pl. put up.
Parker
15/2/22

Thanking You.

Yours Faithfully,

For, MESASO Infrastructure Private Limited

SD(G)

(Authorised Signatory)

MESASO Infrastructure Private Limited Siliguri

Sr. Geo - II
For. n.a. pls.

15/2/22

Joint Director(Geology)
Mines & Geology Department
Government of Sikkim,
Gangtok

যাদবপুর বিশ্ববিদ্যালয়

Faculty of Engineering & Technology
DEPT. OF CONSTRUCTION ENGINEERING

JADAVPUR UNIVERSITY
BLOCK - LB, PLOT - 8, SECTOR - III, SALT LAKE,
KOLKATA - 700 098, INDIA

TO WHOM IT MAY CONCERN

This is to certify that the Proposed Multi Level Car Parking cum Commercial Development at Old West Point School, Near M.G. Marg, Gangtok, East Sikkim is designed as per the relevant IS Code 1893 2016, IS-13920-2016, IS-800-2007, IS-875, IS-456-2000 and designed load on foundation is 21Ton/sqm. As Mica schist rock has been encountered below the foundation level, then there shall be no load impact in the surrounding area of the project site. The Soil Bearing Capacity is estimated as 46.5 Ton/sqm. (As per IS Code:6403-1981) and load of the proposed structure is less than 50% of the Soil Bearing Capacity that's why the Load Impact assessment of the surrounding area is not required.

Thanking you

Dr. Dipesh Majumdar

Department of Construction Engineering

Jadavpur University

Dr. Dipesh Majumdar
Assistant Professor
Department of Construction Engineering
Jadavpur University

mesaso

Date :30/12/2021

To,
Dr. Dipesh Majumdar
Assistant Professor
Jadavpur University
Salt Lake Campus
Kolkata-106

Sub: - Regarding Site Stability Report Provided by Department of Mines & Geology Government Of Sikkim

Dear Sir,

We received Site Stability Report by Department of Mines & Geology Government Of Sikkim for our project INTEGRATED COMMERCIAL CUM MLCP COMPEX at GANGTOK, SIKKIM.

Which States that the Load Impact Assessment of the Surrounding areas to be carried out prior to construction of multi storied structure and provide suitable mitigation measures,in this regard we require the certificate/guideline for the same.

Kindly do the needful.

Enclosure:-

1.Soil Test Report

2. Design Load detail Calculation

Thanking You.

Yours Faithfully

Mesaso Infrastructure Private Limited

Vice Presiden

TRUE COPY

MESASO Infrastructure Private Limited ... Near Vedic Circle Mall, Rd No. 8, Sevoke ... Siliguri ... Phone: ... Project site: ... Tadong, East Sikkim 737102 ... CIN: U45309WB2021PTC... GSTIN: 11AAJCM2947B1ZQ ... IGBC Membership No: ... IGBC Project Reg. No: IGBCNBT2102...

ANNEXURE R-23

आज़ादी का अमृत महोत्सव

Fax No. : 03592 206836
Phone No.: 03592 206192

DEPARTMENT OF MINES & GEOLOGY
GOVERNMENT OF SIKKIM
GANGTOK.

Ref No: 766/DM&G/21-22 *Date:* 17/2/22

To,

The Mesaso Infrastructure Private Ltd.,
3rd floor, Vega Circle Mall,
3rd Mile, Sevoke Road, Siliguri,
West Bengal.

Sub: Reply to the letter no. MIPL/SITE/09/2021-22 dated 15.02.2022.

Sir,

This is in reference to the letter No. MIPL/SITE/09/2021-22 dated 15.02.2022, regarding the site stability report issued by Department of Mines and Geology of the land situated at Old West Point School Complex vide reference No. 1/62(3) DM&G/21-22/478 dated 29. 12.2021, where it was recommended to do "the load impact assessment of the surrounding areas" before the construction of multistoried structure.

The applicant has submitted the certificate provided by Jadavpur university, (Ref. No. nil, dated. Nil) which state that the load of the proposed structure is 21T/M^2 which is less than the soil bearing capacity in the area. Hence, they recommended that the load of the structure is confined within the construction area. Therefore, the suggestions in the site Stability report on above matter is not required.

Yours Faithfully,

Senior Geologist
Deptt. of Mines & Geology
Government of Sikkim
Gangtok

Senior Geologist

Minerals, Mines & Geology Deptt.

A

-TRUE COPY-

ANNEXURE R-24

O/C

Fax No. : 03592 206836
Phone No.: 03592 206192

DEPARTMENT OF MINES & GEOLOGY
GOVERNMENT OF SIKKIM
GANGTOK.

Ref No: 789/DMG/21-22 Date: 28-2-22

To,

The Mesaso Infrastructure Private Ltd.,
3rd floor, Vega Circle Mall,
3rd Mile, Sevoke Road, Siliguri,
West Bengal.

Sub: Reply to the letter no. MIPL/12/2021-22 Dated 31.12.2021 (Letter received dated: 28.02.2022.)

Sir,

This is in reference to the letter No. MIPL/12/2021-22 Dated 31.12.2021 (Letter received dated: 28.02.2022.) regarding the site stability report issued by Department of Mines and Geology of the land situated at Old West Point School Complex vide reference No. 1/62(3)DM&G/21-22/478 dated 29. 12.2021. In addition, structural engineer of the proposed construction mentioned in the letter dated: 30.12.2021 that as per IS Code 1893 where N value above 15 was obtained in the site, micro-seismic study is not required. Therefore, the suggestions in the site stability report are not necessary in the case. However, the proposed structure should be designed as per the earthquake inventory history of Sikkim.

Thanking You

Received 1.03.2022

MINES, MINERALS & GEOLOGY DEPARTMENT ★ GOVERNMENT OF SIKKIM ★

Yours Faithfully,

Senior Geologist

Senior Geologist
Deptt. of Mines & Geology
Government of Sikkim
Gangtok

TRUE COPY

(File No. 421/DMG/18-19)

ANNEXURE R-25 (Colly)

GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT DEPARTMENT
GANGTOK, SIKKIM.

No: 386/UDD/Secy **Dated:29/07/2022**

MINISTER -IN -CHARGE : SHRI ARUN KUMAR UPRETI
SECRETARY- IN -CHARGE : SHRI M.T. SHERPA, IAS

CABINET MEMORANDUM

Subject: Multi Level Car Parking cum Shopping Plaza (MLCP) Project at West Point School under Public Private Partnership(PPP) under Gangtok Smart City Development Ltd.

1. The construction of Multi Level Car Parking cum Commercial Development at Old West Point School is a project being executed by Gangtok Smart City Development Ltd. under the Public Private Partnership (PPP) mode.
2. The concept drawing submitted by the preferred bidder proposes the construction of fourteen (14) numbers of floors. The bottom four floors are to be for car parking purposes in which Levels 0 and 1 as ordinary parking and Levels 2 and 3 as mechanically operated stack puzzle parking. The parking is proposed for four hundred and fifteen (415) car parking spaces, the rest of the ten floors will be for commercial development with a maximum carpet area of 13,680 sqm with permissible deviation of plus or minus 10%.
3. Accordingly, the Cabinet in its meeting held on 11/06/2021 had accorded approval for relaxation of norms of the proposed building and had allowed construction of eleven (11) floors duly relaxing the Building Regulation norms.
4. The proposal was also submitted vide sl.no. 18 of the cabinet memorandum submitted vide 215/Secy/UDD/2021 Dated : 27/05/2021 for construction of fourteen (14) floors subject to certain terms and conditions as elaborated in the said cabinet memo.
5. The geotechnical report submitted by the Department of Mines and Geology, Government of Sikkim states that the bearing capacity of soil is 40T/^{m2}.
6. The site stability report as submitted by the Department of Mines & Geology indicates that the area comprises of medium grade metamorphic rock sequence represented in the area by mica schist with a conclusion

that the area falls within Zone one (1) of area stability Zonation Mapping System adopted by the Department of Mines & Geology. Further, the Notification bearing number: 17/DMG/20-21 dated: 19.03.2021 specifies that the safe bearing capacity of Zone 1 (Area Zonation made by Mines & Geology Department) is greater than 35T/m² and since the project site is located in the afore-mentioned Zone-1 region. It may be concluded that the existing soil strata can sustain the expected load of the proposed fourteen (14) floors structure comprising of four (4) floors car parking and ten(10) floors commercial development which shall induce a total load (dead and live load) between 210 to 225 kpa (21 to 22.5 T/m2). Hence, the construction of the building is safe from the geological investigation as conducted by the Department of the Mines & Geology.

7. The concessionaire i.e M/S Mesaso Infrastructure Private Limited, had further engaged following two agencies for carrying out the detailed geo-technical investigation as a confirmation to the geo-technical investigation carried out earlier by Mines and Geology Department:-

   a. M/S Geo-informatics Consultancy and Services, Tadong, Gangtok for conducting Standard Penetration Test and to ascertain the soil characteristic and the safe bearing capacity of the soil. Critical locations were identified and soil investigation was carried out at this location to know the safe bearing capacity of soil. As per the soil sample collected from a depth of 12 m to 15m, geologically the area falls under medium and high-grade metamorphic rock sequence represented in the area by garnet ferous mica schist (with and without quartz veins). Based on core data at various depth the safe bearing capacity of the soil was estimated to 40 ton/m² which was higher than the safe bearing capacity of soil as per IS Code recommended (35 ton per sqm) in hilly terrain.

   b. M/S JP Geo Consultants, Andul Road, Howrah,, Kolkata for conducting Plate Load Test for confirming the safe bearing capacity of the soil. The safe bearing capacity of the soil has been estimated and was found to be more than 40T/m² at 3m depth which is higher than the load of the structure being imposed @ 21ton/m² on the existing soil. Also, the settlement corresponding to the imposed pressure of 125 kpa, 150 kpa,175 kpa, 200kpa, 210 kpa and 225 kpa resulted in a settlement of 33mm, 40mm, 46mm, 53mm, 55mm and 59 mm respectively. As a result, it is understood that the overall settlement of the raft foundation under an applied load of 210 to 225 kpa which shall fall on the foundation is well within the acceptable limit of 75 mm as per IS code1904.

8. The building will be a composite steel structure built up with steel and concrete for better performance and stability against seismic forces on

available land having plain topography. It is designed as being light in weight, more ductile and seismic resistant. The building is designed to resist an earthquake intensity/magnitude of about 8 on Richter scale, the highest ever that is expected to occur in Zone-IV of the Seismic Zonation. The building is designed by SPA Consultant, a leading structural consultant in the country and the same has also been vetted by Indian Institute of Technology, Guwahati. The foundation of the structure is a raft foundation based on geological investigation and on the recommendation of the geo-technical investigation conducted by the Mines & Geology Department, Government of Sikkim, Plate load test/soil test by M/S Jp Geo Consultant & M/S Geo-Informatic Consultancy & Services. Hence, the building has been designed duly keeping in mind the overall safety of the structure as well as the project.

9. Now, the concessionaire vide letter no: MIPL/HO/31/2021-22 dated: 10.01.2022 and letter MIPL/HO/33/2021-22, dated 15/02/2022 has requested for allowing additional three (3) floors over and above eleven (11) floors already approved by the Government. For the same, the concessionaire has submitted the drawings and geotechnical investigation reports as mentioned at sl.no.7 above. On review of the drawings as submitted by M/S Mesaso Infrastructure Private Limited, it was revealed that the project has a provision of open-air spaces in each of the floors pertaining to the commercial development space. These open-air spaces were meant for creating green parks, open air plaza etc to accommodate 3000 people and shall be open to the general public at all times. Further, the concessionaire has proposed to construct a 5 meter wide road on the periphery of the proposed MLCP which shall not only be utilized by the MLCP but also by the public residing in the vicinity of the project site. In order to compensate the reduced commercial area while creating the open air plazas and the peripheral road, the concessionaire has proposed that the structure would rise in a tapered/stepped manner to accommodate the commercial development area of 13,680 sqm with a permissible deviation of plus or minus 10% which has resulted in the number of floors of the proposed structure to increase to fourteen (14) floors.

10. Further, the proposal is also for seeking permission to construct a plaza, from Church Road and a piece of land currently under Sikkim Police utilization for running canteen etc. With respect to permission to construct/ create a plaza, the area measuring 357sqm and 117 sqm an airspace over Church Road and portion of Sikkim Police property respectively falls outside the lease land but it is part and parcel of the project. At present one (1) floor building with GCI Roof of the Sikkim Police exists on the land and this is being used as canteen by the Sikkim

Police. The canteen will be incorporated in the structure which will be below the open air plaza and shall be subsequently handed over to the Sikkim Police. As per the proposal this stage is going to be an integral part which will not only be used as an open multipurpose space but would also alternate as an additional space for pedestrians to access the property. The image of the project shows creation of an open front yard without any super structure over it. The State Government may grant permission for the same without altering the status of the land as recommended by the Town Planning Cell of Gangtok Municipal Corporation and the Town Planning Cell of Urban Development Department.

11. The proposal for addition of three (3) more floors on the already approved eleven (11) floors project was placed in the 28th Board Meeting of Gangtok Smart City Development Ltd held on 11.07.2022. The Board discussed the matter and recommended for onward submission to the Government for approval of the Cabinet. The extracts of the minutes of the meeting is placed at **Annexure -I.**

12. The proposal has been approved by the Hon'ble Minister, Urban Development Department for placing the same in the meeting of the Council of Ministers for consideration.

13. The proposal is now placed before the Council of Ministers for consideration of the following: -

    a) Approval for granting permission to add three (3) more floors in addition to eleven (11) floors over partial horizontal area of the building duly relaxing the Sikkim Building Construction (Amendment) Regulation 2001 as provided under Regulation 39 of the said Regulation within the approved project cost.

    b) Permission to construct an open-air plaza over the Church Road and portion of land under the utilization by Sikkim Police as specified in sl.no. 10 above.

M.T.Sherpa,IAS
Secretary
Urban Development Department.
File no:J(563)/GOS/UDD/MISC/2021

SECRETARY
Urban Dev Department
Government of Sikkim, Gangtok

Annexure - I

EXTRACT OF THE MINUTES OF THE 28th MEETING OF THE BOARD OF DIRECTORS OF GANGTOK SMART CITY DEVELOPMENT LIMITED TO BE HELD ON MONDAY, THE 11th DAY OF JULY, 2022 AT 11 A.M. AT CONFERENCE HALL, GANGTOK SMART CITY DEVELOPMENT LIMITED,5th FLOOR, KISSAN BAZAAR, LAL BAZAAR ROAD, GANGTOK, SIKKIM.

AGENDA No.19: APPROVAL FOR ADDITIONAL THREE FLOORS FOR MULTI LEVEL PARK WITH SHOPPING PLAZA OLD WEST POINT AREA (SIK-GAN-062)

Mr. Bhupendra Kothari, CTO informed the board that the cabinet had approved construction of 11 floor of the work subject to geotechnical investigation. Further the concessionaire has requested for an additional 3 (three) floors for which he has submitted the drawings and geotechnical investigation report. As per the geotechnical investigation, the safe bearing capacity of the soil as found to be 35-40 ton/m2 and as per the design model of the structure provided by the concessionaire, the building is expected to exert a load of 21-22.5 ton/m2. The board approval is sought for submitting the proposal to the Government for cabinet approval of additional three floors of the structure subject to structural design as per geotechnical investigation and vetted by reputed Engineering College. The Board discussed the subject and recommended for submission to Government for consideration.

RESOLVED THAT the process for obtaining cabinet approval of additional three floors of the structure subject to structural design as per geotechnical investigation vetted by reputed Engineering College to be initiated.

RESOLVED FURTHER THAT Mr. Lakpa Sherpa, Chief Executive Officer be and is hereby authorized to do all necessary acts and deeds to give effect to this resolution.

CERTIFIED TO BE TRUE COPY

LAKPA SHERPA
Director cum C.E.O.
Gangtok Smart City Development Limited
DIN 09654003

TRUE COPY

ANNEXURE R-26

सत्यमेव जयते

File No: 21/1/2023-IA.III

Government of India

Ministry of Environment, Forest and Climate Change

IA Division

***

Dated **23/08/2023**

To,

MESASO INFRASTRUCTURE PVT. LTD.
Vega Circle Mall, 3rd Floor, 3rd Mile, Sevoke Road, Siliguri , Siliguri, DARJEELING, WEST BENGAL, , 734008
vpprojects@mesaso.in

Subject: Grant of EC under the provision of the EIA Notification 2006-regarding.

Sir/Madam,

This is in reference to your application for Grant of EC under the provision of the EIA Notification 2006-regarding in respect of project Proposed Vertical Expansion by 3 Floors of "WEST POINT" - Integrated Commercial cum MLCP Complex by Mesaso Infrastructure Pvt. Ltd. submitted to Ministry vide proposal number IA/SK/INFRA2/417703/2023 dated 25/04/2023.

2. The particulars of the proposal are as below :

(i) Ec Identification No.	EC23C3802SK5858756E
(ii) File No.	21/1/2023-IA.III
(iii) Clearance Type	Expansion EC
(iv) Category	B2
(v) Project/Activity Included Schedule No.	8(a) Building / Construction
(vi) Sector	INFRA 2
(vii) Name of Project	Proposed Vertical Expansion by 3 Floors of "WEST POINT" - Integrated Commercial cum MLCP Complex by Mesaso Infrastructure Pvt. Ltd.
(viii) Name of Company/Organization	MESASO INFRASTRUCTURE PVT. LTD.
(ix) Location of Project (District, State)	Gangtok, SIKKIM
(x) Issuing Authority	MoEF&CC
(xi) EC Date	23/08/2023
(xii) Applicability of General Conditions	no
(xiii) Applicability of Specific Conditions	no

This has reference to proposal no. IA/SK/INFRA2/417703/2023 for seeking environmental clearance for Proposed Vertical Expansion by 3 Floors of "WEST POINT" - Integrated Commercial cum MLCP Complex at

Old West Point School Area, Near M.G. Marg, Gangtok, East Sikkim by Mesaso Infrastructure Pvt. Ltd.

2. The project/activity is covered under category 'B' of item 8(a) 'Building and Construction projects' of the Schedule to the EIA Notification, 2006 and its subsequent amendments, and requires appraisal at the State level. However, due to the non-existence of SEIAA in Sikkim, the proposal required appraisal by sectoral EAC at central level.

3. Accordingly, the above-mentioned proposal for Environmental Clearance has been examined by the Expert Appraisal Committee (Infra-2) in its 104th meeting held on 11-12.05.2023 and 106th meeting held on 30.06.2023.

4. The details of the project, as per the application form, documents submitted by the project proponent, and also as informed during the aforesaid meeting of EAC, are provided below for reference:

i. The project is located at 27°19'47.24"N Latitude and 88°36'40.93"E Longitude.

ii. The project is an expansion project.

iii. PP has obtained EC from SEIAA, Sikkim vide EC Identification no. EC22B038SK115854 dated 25.02.2022, for 4G+7 storey after appraisal on 22nd February, 2022. Construction of 25,675 sqm out of 33801.25 sqm has been done as on date as per EC obtained.

iv. The total plot area is 5665.55 sqm, Total construction (Built-up) area of 33801.25 sqm. Maximum height of the building is 62 m. The mixed-use development building of configuration 4G+10, shall comprise of Parking for 448 car parks on the lower 4 floors, Mall with a multiplex (44 retail outlets + 3 anchor stores) & food court, a Boutique hotel having 60 keys (52 deluxe rooms + 8 suites).

v. During construction phase, total water requirement is expected to be 50 KLD which is met by Municipal supply. During the construction phase, soak pits and septic tanks are provided for disposal of waste water. Temporary sanitary toilets are provided during peak labor force.

vi. During operational phase, total water requirement of the project is expected to be 160 KLD and the same will be met by 108 KLD fresh water from Municipal supply and 52 KLD recycled water. Wastewater generated (120 KLD) will be treated in STP of total 120 KLD capacity. 102 KLD of treated wastewater will be recycled and re-used (52 KLD for flushing and rest 50 KLD for gardening, car washing, etc.). 0 KLD will be disposed in to municipal drain.

vii. About 670 kg/day solid wastes will be generated in the project. The biodegradable waste (335 kg/day) will be processed in OWC and the non-biodegradable waste generated (335 kg/day) will be handed over to authorized local vendor.

viii. The total power requirement during construction phase is 100 KVA and will be met from Power & Energy Department, Sikkim and total power requirement during operation phase is 2198 KW and will be met from Power & Energy Department, Sikkim.

ix. Provision for capturing rain water, tank of capacity of 240 KLD with retention time of 30 minutes shall be provided.

x. Parking facility for 448 four wheelers has been provided in the lower 4 floors of the MLCP cum Commercial complex.

xi. Proposed energy saving measures would save about 12.18% of power. The following energy saving measures shall be undertaken:

xii. Materials preferred for construction shall be environment friendly & have a low embodied energy. This will help in keeping the environment cleaner & greener.

xiii. The building made of prefabricated steel members with nominal use of concrete which is only used in wet cores and as deck slabs, reduces the consumption of water during construction. This method of construction also doesn't create air pollution during construction stages.

xiv. Proposed MEP System shall use state of the art technology. The target is to optimize minimum possible resources and optimize the system.

xv. LED & other appliances having higher BEE rating shall be used to reduce power consumption. Likewise, Low flow water sanitary fixtures shall be used to reduce water consumption. The aim is achieving GRIHA Gold rating.

xvi. A building management system has been proposed for resource optimization and efficiency in energy consumption.

xvii. Building services such as the HVAC system, pumping system would be centrally controlled. It is envisaged to provide a state-of-the-art Building Management System for the services of the Mall / Cinema / Hotel areas of Mixed Use Project at Gangtok.

xviii. Comparative analysis of existing / envision pollution load (in case of expansion / modernization)

xix. The current proposal is for vertical expansion of 3 floors above the 4G+7 Integrated Commercial cum MLCP complex. Environmental Clearance vide File No. : 214/E & SC and EC Identification no. EC22B038SK115854 dated 25.02.2022 and Consent to Establish vide Ref. No. 1142/SPCB dated 24.02.2022, has already been obtained for construction of the 4G+7 Integrated Commercial cum MLCP complex.
xx. Impact of proposed project/activity on Air, Water, Noise, Ecology and proposed mitigation measures (**Table – 1 and Table -2**).
xxi. Proposed project is not located in Critically Polluted area.
xxii. No NBWL Clearance is required
xxiii. No Forest Clearance is required for this project
xxiv. No court case is pending against this project
xxv. Green cover plan shall cover 30% of total areas of the proposed MLCP for beautification of the blank areas, creation of hanging garden in all the flyover falling within the Gangtok Municipal Areas (GMC). A total of 15,000 sqft of landscaped area including green terraces have been proposed.
xxvi. It is expected that around 4 years would be required for completion of the project.
xxvii. Total Cost of the project is Rs. 298.2 Crores.
xxviii. 250 construction workers have been employed during the construction phase. About 2500 people will get employment during operation phase of the project.
xxix. Benefits of the project: There will be employment of local people as service population, staff at the mall, auditoriums, restaurants, etc. This area will become one of the most prosperous commercial hub in the vicinity with world-class facilities. This will uplift the entire socio-economic profile of the area. Thus it is envisaged that this project will help the local population immensely.

5. The proposal was earlier appraised by the EAC in its 104th meeting held on 11-12 May, 2023 when it noted that a point of concern in this project was the presence of a swimming pool on the top floor of the expansion now proposed. In view of the fact that this site is located in the high-risk zone 4 of the earthquake vulnerability map of India, the EAC deferred the proposal and asked the PP to get the proposal technically examined by the Central Building Research Institute (CBRI), Roorkee.

6. Thereafter, PP requested through PARIVESH on 20.06.2023, the CBRI authorities have informed them that a minimum of 5-6 months' time would be required for reviewing, vetting the design, and providing their report. The project proponent further informed that the proposed project is being developed under PP mode with the lower 4 floors of the project dedicated to car parking among which 2 floors are dedicated exclusively for taxi parking. There was an existing old taxi stand at the site which has been temporarily shifted to another site. These two floors for taxi parking need to be completed and handed over to the Government of Sikkim / Smart City latest by December 2023, because of the acute shortage of parking space in Gangtok. The temporary site where the taxi parking has been rehabilitated needs to be vacated by December 2023. In view of this urgency, the project proponent requested EC to complete the project ***without the swimming pool*** and the permission to build the swimming pool may be granted later if the CBRI gives positive recommendations.

7. The proposal was appraised by the EAC in its 106th meeting held on 30.06.2023. The EAC, after detailed deliberations, found merit in the request of the PP to go ahead with the project without the roof-top swimming pool the addition of which can be considered at a later date after the issue is examined by the CBRI. The EAC further agreed that if the CBRI is unable to undertake this task early enough then the PP may get the issue of construction of roof-top swimming pool examined by some other institution of national repute having expertise in the construction of buildings in zones of high seismic activity.

8. The EAC, based on the information submitted and clarifications provided by the Project Proponent and detailed discussions held on all the issues, recommended granting environmental clearance to the project **without roof-top swimming pool** and subject to specific conditions stipulated in its 106th meeting and other Standard EC Conditions as specified by the Ministry vide OM dated 4th January, 2019 for the said project/activity, while considering for accord of environmental clearance.

9. Based on recommendations of EAC, the Ministry of Environment, Forest and Climate Change hereby accords Environmental Clearance for the 'Proposed Vertical Expansion by 3 Floors of "WEST POINT" - Integrated Commercial cum MLCP Complex at Old West Point School Area, Near M.G. Marg, Gangtok, East Sikkim by Mesaso Infrastructure Pvt. Ltd.', under the provisions of the EIA Notification, 2006 and amendments/circulars issued thereon, and subject to the specific and standard conditions (Annexure 1):

10. The Environmental Clearance is being granted to M/s Mesaso Infrastructure Pvt. Ltd` for proposed Vertical Expansion by 3 Floors of "WEST POINT" - Integrated Commercial cum MLCP Complex at Old West Point School Area, Near M.G. Marg, Gangtok, East Sikkim.

11. This issue with the approval of the Competent Authority.

Annexure 1

Specific EC Conditions for (Building / Construction)

1. Specific Condition

S. No	EC Conditions
1.1	The PP shall obtain the Fire safety certification from Fire Department and also height clearance from the Airports Authority of India and submit the same to the concerned Integrated Regional Office of the Ministry within six months of the issue of EC letter.
1.2	As proposed, 1 RWH tank with capacity of 240 KLD shall be provided by the PP for rain water harvesting after filtration. The local municipal regulations on rainwater harvesting should be followed. If local provisions are not available then adequate provision for storage and recharge should be made in accordance with the Ministry of Housing and Urban Affairs (erstwhile Ministry of Urban Development), Model Building Bye-laws, 2016.
1.3	The project proponents would commission a third-party study on the implementation of conditions related to quality and quantity of recycle and reuse of treated water, efficiency of treatment systems, quality of treated water being supplied for flushing, comparative bacteriological studies using recycled treated waters and fresh waters for flushing, and quality of water being supplied through spray faucets attached to toilet seats.
1.4	The Environmental Clearance to the project is primarily under provisions of EIA Notification, 2006. The Project Proponent is under obligation to obtain approvals/clearances under any other Acts/Regulations or Statutes as applicable to the project.
1.5	As proposed, waste water shall be treated onsite in STP of 120 KLD capacity.
1.6	Fresh water requirement shall not exceed 160 KLD during the operational phase and the extraction of groundwater shall be subject to permission by the Central Ground Water Authority (CGWA).
1.7	Green cover plan shall cover 30% of total areas of the proposed MLCP for beautification of the blank areas, creation of hanging garden in all the flyover falling within the Gangtok Municipal Areas (GMC). A total of 15,000 sqft of landscaped area including green terraces have been proposed.
1.8	As committed, parking facility for 448 four wheelers is to be provided in the lower 4 floors of the MLCP cum Commercial complex.
1.9	The solid waste shall be duly segregated into biodegradable and non- biodegradable components and handled in separate areas earmarked for segregation of solid waste, as per SWM Rules, 2016.

S. No	EC Conditions
	As committed, biodegradable waste shall be utilized through the OWC to be installed within the site. Inert waste shall be disposed of as per norms at authorized sites. Recyclable waste shall be sold to authorized vendors/recyclers. Construction & Demolition (C&D) waste shall be segregated and managed as per C&D Waste Management Rules, 2016.
1.10	As committed, Proponent shall ensure installation of solar-based lighting and LEDs to meet 10 % of total power requirement.
1.11	Proponent is required to carry out 'compliance audit' of the building through NABL accredited Consultant once every year and an internal security drill as mandated under the Disaster Management Plan.

Standard EC Conditions for (Building / Construction)

1 Statutory compliance

S. No	EC Conditions
1.1	The project proponent shall obtain all necessary clearance/ permission from all relevant agencies including town planning authority before commencement of work. All the construction shall be done in accordance with the local building byelaws.
1.2	The approval of the Competent Authority shall be obtained for structural safety of buildings due to earthquakes, adequacy of firefighting equipment etc. as per National Building Code including protection measures from lightening etc.
1.3	The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1980, in case of the diversion of forest land for non-forest purpose involved in the project.
1.4	The project proponent shall obtain clearance from the National Board for Wildlife, if applicable.
1.5	The project proponent shall obtain Consent to Establish / Operate under the provisions of Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act, 1974 from the concerned State Pollution Control Board/ Committee.
1.6	The project proponent shall obtain the necessary permission for drawl of ground water / surface water required for the project from the competent authority.
1.7	A certificate of adequacy of available power from the agency supplying power to the project along with the load allowed for the project should be obtained.
1.8	All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department shall be obtained, as applicable, by project proponents from the respective competent authorities.
1.9	The provisions of the Solid Waste Management Rules, 2016, e-Waste (Management) Rules, 2016, and the Plastics Waste Management Rules, 2016, shall be followed.

S. No	EC Conditions
1.10	The project proponent shall follow the ECBC/ECBC-R prescribed by Bureau of Energy Efficiency, Ministry of Power strictly.

2 Air quality monitoring and preservation

S. No	EC Conditions
2.1	Notification GSR 94(E) dated 25.01.2018 of MoEF&CC regarding Mandatory Implementation of Dust Mitigation Measures for Construction and Demolition Activities for projects requiring Environmental Clearance shall be complied with.
2.2	A management plan shall be drawn up and implemented to contain the current exceedance in ambient air quality at the site.
2.3	The project proponent shall install system to carryout Ambient Air Quality monitoring for common/criterion parameters relevant to the main pollutants released (e.g. PM10 and PM2.5) covering upwind and downwind directions during the construction period.
2.4	Diesel power generating sets proposed as source of backup power should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use of low sulphur diesel. The location of the DG sets may be decided with in consultation with State Pollution Control Board.
2.5	Construction site shall be adequately barricaded before the construction begins. 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, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site.
2.6	Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution.
2.7	Wet jet shall be provided for grinding and stone cutting.
2.8	Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust.
2.9	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 Management Rules 2016.
2.10	The diesel generator sets to be used during construction phase shall be low sulphur diesel type and shall conform to Environmental (Protection) prescribed for air and noise emission standards.
2.11	The gaseous emissions from DG set shall be dispersed through adequate stack height as per CPCB standards. Acoustic enclosure shall be provided to the DG sets to mitigate the noise pollution. Low sulphur diesel shall be used. The location of the DG set and exhaust pipe height shall be as per the

S. No	EC Conditions
	provisions of the Central Pollution Control Board (CPCB) norms.
2.12	For indoor air quality the ventilation provisions as per National Building Code of India.

3 Water quality monitoring and preservation

S. No	EC Conditions
3.1	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, 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.
3.2	Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
3.3	Total fresh water use shall not exceed the proposed requirement as provided in the project details.
3.4	The quantity of fresh water usage, water recycling and rainwater harvesting shall be measured and recorded to monitor the water balance as projected by the project proponent. The record shall be submitted to the Regional Office, MoEF&CC along with six monthly Monitoring reports.
3.5	A certificate shall be obtained from the local body supplying water, specifying the total annual water availability with the local authority, the quantity of water already committed, the quantity of water allotted to the project under consideration and the balance water available. This should be specified separately for ground water and surface water sources, ensuring that there is no impact on other users.
3.6	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.
3.7	Installation of dual pipe plumbing for supplying fresh water for drinking, cooking and bathing etc and other for supply of recycled water for flushing, landscape irrigation, car washing, thermal cooling, conditioning etc. shall be done.
3.8	Use of water saving devices/fixtures (viz. low flow flushing systems; use of low flow faucets tap aerators etc) for water conservation shall be incorporated in the building plan.
3.9	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.
3.10	Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.
3.11	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 Byelaws, 2016. Rain water harvesting recharge

S. No	EC Conditions
	pits/storage tanks shall be provided for ground water recharging as per the CGWB norms.
3.12	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.
3.13	All recharge should be limited to shallow aquifer.
3.14	No ground water shall be used during construction phase of the project.
3.15	Any ground water dewatering should be properly managed and shall conform to the approvals and the guidelines of the CGWA in the matter. Formal approval shall be taken from the CGWA for any ground water abstraction or dewatering.
3.16	Sewage shall be treated in the STP with tertiary treatment. The treated effluent from STP shall be recycled/re-used for flushing, AC make up water and gardening. As proposed, no treated water shall be disposed in to municipal drain.
3.17	No sewage or untreated effluent water would be discharged through storm water drains.
3.18	Onsite sewage treatment of capacity of treating 100% waste water to be installed. The installation of the Sewage Treatment Plant (STP) shall be certified by an independent expert and a report in this regard shall be submitted to the Ministry before the project is commissioned for operation. 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 statutory norms notified by Ministry of Environment, Forest and Climate Change. Natural treatment systems shall be promoted.
3.19	Periodical monitoring of water quality of treated sewage shall be conducted. Necessary measures should be made to mitigate the odour problem from STP.
3.20	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 Organization (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.

4 Noise monitoring and prevention

S. No	EC Conditions
4.1	Ambient noise levels shall conform to residential area/commercial area/industrial area/silence zone both during day and night as per Noise Pollution (Control and Regulation) Rules, 2000. Incremental pollution loads on the ambient air and noise quality shall be closely monitored during construction phase. Adequate measures shall be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB / SPCB.
4.2	Noise level survey shall be carried as per the prescribed guidelines and report in this regard shall be submitted to Regional Officer of the Ministry as a part of six-monthly compliance report.

S. No	EC Conditions
4.3	Acoustic enclosures for DG sets, noise barriers for ground-run bays, ear plugs for operating personnel shall be implemented as mitigation measures for noise impact due to ground sources.

5 Energy Conservation measures

S. No	EC Conditions
5.1	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.
5.2	Outdoor and common area lighting shall be LED.
5.3	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.
5.4	Energy conservation measures like installation of CFLs/ LED for the lighting the area outside the building should be integral part of the project design and should be in place before project commissioning.
5.5	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.
5.6	Solar power shall be used for lighting in the apartment to reduce the power load on grid. Separate electric meter shall be installed for solar power. 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.

6 Waste Management

S. No	EC Conditions
6.1	A certificate from the competent authority handling municipal solid wastes, indicating the existing civic capacities of handling and their adequacy to cater to the M.S.W. generated from project shall be obtained.
6.2	Disposal of muck during construction phase shall not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
6.3	Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. Solid waste shall be segregated into wet garbage and inert materials.
6.4	Organic waste compost/Vermiculture pit/Organic Waste Converter within the premises with a

S. No	EC Conditions
	minimum capacity of 0.3 kg /person/day must be installed.
6.5	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
6.6	Any hazardous waste generated during construction phase, shall be disposed off as per applicable rules and norms with necessary approvals of the State Pollution Control Board.
6.7	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 Fly Ash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials.
6.8	Fly ash should be used as building material in the construction as per the provision of Fly Ash Notification of September, 1999 and amended as on 27th August, 2003 and 25th January, 2016. Ready mixed concrete must be used in building construction.
6.9	Any wastes from construction and demolition activities related thereto shall be managed so as to strictly conform to the Construction and Demolition Waste Management Rules, 2016.
6.10	Used CFLs and TFLs should be properly collected and disposed off/sent for recycling as per the prevailing guidelines/ rules of the regulatory authority to avoid mercury contamination.

7 Green Cover

S. No	EC Conditions
7.1	No tree can be felled/transplant unless exigencies demand. Where absolutely necessary, tree felling shall be with prior permission from the concerned regulatory authority. Old trees should be retained based on girth and age regulations as may be prescribed by the Forest Department. Plantations to be ensured species (cut) to species (planted).
7.2	Where the trees need to be cut with prior permission from the concerned local Authority, compensatory plantation in the ratio of 1:10 (i.e. planting of 10 trees for every 1 tree that is cut) shall be done and maintained. Plantations to be ensured species (cut) to species (planted). Area for green belt development shall be provided as per the details provided in the project document.
7.3	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.

8 Transport

S. No	EC Conditions
8.1	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

S. No	EC Conditions
	designed with these basic criteria. a. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. b. Traffic calming measures. c. Proper design of entry and exit points. d. Parking norms as per local regulation.
8.2	Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standards be operated only during non-peak hours.

9

S. No	EC Conditions
9.1	A detailed traffic management and traffic decongestion plan shall be drawn up to ensure that the current level of service of the roads within a 05 kms radius of the project is maintained and improved upon after the implementation of the project. This plan should be based on cumulative impact of all development and increased habitation being carried out or proposed to be carried out by the project or other agencies in this 05 Kms radius of the site in different scenarios of space and time and the traffic management plan shall be duly validated and certified by the State Urban Development department and the P.W.D./ competent authority for road augmentation and shall also have their consent to the implementation of components of the plan which involve the participation of these departments.

10 Human health issues

S. No	EC Conditions
10.1	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.
10.2	For indoor air quality the ventilation provisions as per National Building Code of India.
10.3	Emergency preparedness plan based on the Hazard identification and Risk Assessment (HIRA) and Disaster Management Plan shall be implemented.
10.4	Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
10.5	Occupational health surveillance of the workers shall be done on a regular basis.
10.6	A First Aid Room shall be provided in the project both during construction and operations of the project.

11 Miscellaneous

S. No	EC Conditions
11.1	The project proponent shall prominently advertise it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days indicating that the project has been accorded environment clearance and the details of MoEFCC/SEIAA website where it is displayed.
11.2	ii. environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.
11.3	The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.
11.4	The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.
11.5	The company shall have a well laid down environmental policy duly approved by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental/forest/wildlife norms/conditions. The company shall have defined system of reporting infringements/deviation/violation of the environmental/forest/wildlife norms/conditions and/or shareholders/stake holders. The copy of the board resolution in this regard shall be submitted to the MoEF&CC as a part of six-monthly report.
11.6	A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly report to the head of the organization.
11.7	Action plan for implementing EMP and environmental conditions along with responsibility matrix of the company shall be prepared and shall be duly approved by competent authority. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Year wise progress of implementation of action plan shall be reported to the Ministry/Regional Office along with the Six Monthly Compliance Report.
11.8	The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.
11.9	The project proponent shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities, commencing the land development work and start of production operation by the project.
11.10	The project authorities must strictly adhere to the stipulations made by the State Pollution Control Board and the State Government.
11.11	The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP reportand also that during their presentation to the Expert Appraisal Committee.

S. No	EC Conditions
11.12	No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forest and Climate Change (MoEF&CC).
11.13	Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.
11.14	The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
11.15	The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.
11.16	The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/monitoring reports.
11.17	The above conditions shall be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, and the Public Liability Insurance Act, 1991 along with their amendments and Rules and any other orders passed by the Hon'ble Supreme Court of India / High Courts and any other Court of Law relating to the subject matter.
11.18	Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

Annexure 2

Copy To

1. The Secretary, Forest and Environment Department, Government of Sikkim, Forest Secretariat, Deorali – 737102, Gangtok, East Sikkim.
2. The IGF(Central), Ministry of Environment, Forest and Climate Change, Integrated Regional Office, 1st Floor, IB-198, IB Block, Sector III, Bidhannagar, Kolkata, West Bengal 700106.
3. The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110 032.
4. The Member Secretary, State Pollution Control Board Sikkim, Forest Secretariat, C-Block, Deorali, Gangtok – 737102, East Sikkim, India.
5. The Member Secretary, Central Ground Water Authority, A2, W-3 Curzon Road Barracks, K.G. Marg, New Delhi-110 001.
6. Guard File/ Record File / MoEF Website.

Table - 1. Impact and proposed mitigation measures during construction

A	**Work force**	Local labourers shall be employed.
B	**Facilities at site**	Provision of drinking water, waste water disposal and solid waste management has been provided for site office & labour restrooms. Water usage during construction & curing is optimized. Proper sanitation for site office & construction workers have been provided. Health and safety, of the workers has been ensured during construction.
C	**Steps to avoid disturbance**	DG sets have acoustic enclosures and confirm to E (P) Rules. Ambient noise levels conform to local standards during day and night. Only limited necessary construction is done during night time. Excessive energy consumption and fuel usage is avoided.
D	**Selection of material**	Materials preferred for construction are environment friendly & have a low embodied energy. This helps in keeping the environment cleaner & greener. The building is made of prefabricated steel members with nominal use of concrete which is only used in wet cores and as deck slabs, to reduce the consumption of water during construction. This method of construction also doesn't create air pollution during construction stages. Proposed MEP System shall use state of the art technology. The target is to ptimiz minimum possible resources and ptimiza the system. LED & other appliances having higher BEE rating shall be used to reduce power consumption. Likewise, Low flow water sanitary fixtures shall be used to reduce water consumption. The aim is achieve GRIHA Gold rating. A building management system has been proposed for resource ptimization and efficiency in energy consumption. Building services such as the HVAC system, pumping system would be centrally controlled. It is envisaged to provide a state-of-the-art Building Management System for the services of the Mall/Cinema/Hotel areas of Mixed Use Project at Gangtok. Adequate open space, greenery will be provided as per rules.
E	**Concreting work**	Adequate screen wall has been provided to a height to control fugitive emission generated during construction. Using of Ready Mixed Concrete (RMC) further reduces fugitive emission.
F	**Dust**	Water sprinkling is done regularly in the material dumping area, to avoid spreading of dust. Screening wall is placed all around the project site to arrest fugitive dust from spreading out of the site.
G	**Debris**	Construction debris including bricks, gravel, rubbish, waste of plaster, concrete debris, metal tiles, etc. is used within the project site for land filling activities, road work, etc. The construction and

		demolition wastes are utilized as per the Construction and Demolition (C & D) Waste Management Rules, 2016. Other wastes like, pieces of steel, cement bags, waste paper and cardboard packing material are sold off to recyclers.
I	**Dumping of material**	The construction materials are not dumped in public roads around the property.
J	**Construction equipment**	Vehicles / equipment deployed during construction are in good condition, properly maintained and confirm to applicable air / noise emission standards & (PUC) norms. Underneath of the vehicles are regularly washed & cleaned before leaving the site, to avoid spillage outside the site. The contractor will remove all construction equipment and scrap materials from the site on completion of construction activity.
K	**Water Accumulation**	No water accumulation is allowed in the construction site. Proper disposal system is made to prevent stagnation of water.
L	**Others**	Construction conforms to the sanction plan by the concerned authority and requirement of local seismic regulations. All statutory / necessary permission will be obtained prior to & post construction. Fire-fighting systems will be designed in compliance with the local authority. Construction site is disinfected periodically. Walking platforms at height are of sound construction and provided with safety rails or belts.

Table – 2. Impact and proposed mitigation measures during Operation

A	**Water Supply**	Total 108 KLD of fresh water will be required which will be supplied by Tankers / Municipal Authorities. Groundwater will not be abstracted.
B	**Storm water Management**	Adequate in-house drainage network has been designed for the project without disturbing the surrounding areas. Heat island effect has been minimized by use of shading and reducing hard surfaces viz. roads, paving etc.
C	**Rain Water Harvesting**	Rain water Harvesting plan has been formulated. Adequate fire fighting storage tank has been provided as per norms.
D	**Plantation / Landscaping**	Green belt development programme shall be taken up once the construction work is completed.
E	**Waste water Management**	The treated wastewater from STP shall be reused for flushing, landscaping & car washing purposes. A Centralized STP plant of

		120 KL capacity has been proposed. Balance treated wastewater shall be disposed off into the Municipal sewer network.
F	**Solid waste Management**	Solid waste during operational phase in general will be of domestic nature. Garbage will be segregated at source for biodegradable, in-organic recyclables and in-organic inert material during operational phase (670 kg/day). Total MSW will be stored at a place within the site. Organic component will be managed in house by installing mechanical composter, inorganic recyclables will be sold to vendors and inorganic inert material will be stored at a place within the site. From there it be collected, transported, treated and disposed off by local authority as per Rules.
H	**Hazardous Waste Management**	Spent Oil from DG sets will be carefully stored in HDPE drums in isolated covered facility and disposed as per the guidance of competent authority. Suitable care will be taken so that spills/ leaks of spent oil from storage could be avoided.
I	**Emission from Diesel Generator**	DG sets will be provided with acoustic enclosures as per CPCB norms. The stack height and emissions from D.G. sets will conform to CPCB norms.
H	**Energy Efficiency**	The lighting design, heating, ventilation and air conditioning systems will conform to the ECBC recommendations. Use of energy efficient electrical systems will be promoted. High efficiency lamps, etc. will be used. Energy efficient Motors and properly rated Transformers will be installed.

TRUE COPY

TRUE COPY

Validity unknown Validity unknown

Digitally Signed by : Dr Ashish Kumar
Member Secretary, MoEFCC (EC)

Date: 23/08/2023

ANNEXURE R-27

GOVERNMENT OF SIKKIM
OFFCIE OF THE CHIEF CONSERVATOR OF FOREST (HQ)
FOREST AND ENVIRONMENT DEPARTMENT
DEORALI, GANGTOK

Phone No: 03592-281240
Fax No.:03592-281778
Email:nwtamang@gmail.com

Ref. No. ...47...../ E&SC/Circle **Date.....23/11/22.....**

To,

Mrs Meenakshi Mittal Agarwal
Director,
MESASO INFRASTRUCTURE PVT. LTD.

Sub: **Vertical Expansion of West Point Project- reg.**

Madam,

This is to inform you that SEIAA/SEAC of the state of Sikkim is defunct momentarily due to completion of term. Hence, you may apply directly to Central Expert Appraisal Committee (EAC) at the PARIVESH Portal till such a date that SEAC and SEIAA are reconstituted for a fresh term in the state.

(N.W. Tamang, IFS)
Chief Conservator of Forests (HQ/T/Env.)
Forests and Environment Department
Government of Sikkim

Yours faithfully

SD/-
N.W.Tamang, IFS
Chief Conservator of Forest/HQ.

Memo.No.....47.....Env.&SC, **Dated:.....23/11/22.....**

Copy to:
1. Project Proponent
2. Director, Env.&SC,
3. File

N.W.Tamang, IFS
Chief Conservator of Forest/HQ

(N.W. Tamang, IFS)
Chief Conservator of Forests (HQ/T/Env.&SC)
Forests and Environment Department
Government of Sikkim

TRUE COPY

BEOFRE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION No. 38 of 2022

IN THE MATTER OF:-

Dr. Bina Basnett ..Applicant

Versus

State of Sikkim & Ors. .. Respondents

VAKALATNAMA

KNOW ALL to whom these present shall come that I, Hemant Rai, SCS, Additional Secretary, Urban Development Department, Government of Sikkim in the above case do hereby appoint:

Sameer Abhyankar, Amish Tandon, Ayush Beotra, Vani Vandana Chhetri, Nishi Sangtani, Zinnea Mehta, Aakash Thakur, Rahul Kumar, Anushree Kulkarni, Rahul Kumar, Advocates

D-247, LGF, Defence Colony, New Delhi- 110024
Mobile: 9953328394
Email: sameer@innovatuslaw.in

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me.

To sign, file, verify and present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents and to admit and/or deny the documents of opposite party.

To take execution proceedings. To deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I undertake that I or my duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I hereby agree that once the fee is paid. I will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every additional three years or part thereof.

IN WITNESS WHEREOF I do hereunto set my hand to these presents the contents of which have been understood by me on this 31st day of January, 2024.

Accepted subject to the terms of fees.

D/7439/19

D/1759/23

Advocate[s]

SAMEER ABHYANKAR
D/1957/08

D/3805/15

D/3407/2020

D/8035/2023

31/1/24

Client
Additional Secretary
Urban Dev. Department
Govt. of Sikkim, Gangtok

398 673 Proof of Service

Gmail **Office of Sameer Abhyankar <contactadvsa@gmail.com>**

Advance Service in EZ/O.A. No. 38 of 2022- Dr. Bina Basnett v State of Sikkim & Ors

1 message

Office of Sameer Abhyankar <contactadvsa@gmail.com> Fri, Mar 15, 2024 at 8:43 PM
To: Legal Consultus <legalconsultus@gmail.com>, Amrita Pandey <amritalegal@gmail.com>, Office of Sameer Abhyankar <contactadvsa@gmail.com>, Advocate KS Thupden <Thupden2009@gmail.com>, Saumitra Jaiswal <saumitra.jaiswal@gmail.com>, arushi@eldfindia.com, Sonali Sengupta <sonalisengupta.93@gmail.com>, Mansi Bachani <mansi.bachani08@gmail.com>, Gitanjali Sanyal <gitanjalisanyal@gmail.com>

Dear Sir

Please find attached a scanned copy of the Common Counter Affidavit On Behalf of The Respondent No. 1 (The State of Sikkim); Respondent No. 3 (Department of Mines & Geology, Government of Sikkim); Respondent No. 4 (Urban Development Department, Government of Sikkim); Respondent No. 7 (District Magistrate/ Collector, East District, Sikkim) And Respondent No. 9 (Forest & Environment Department, Government of Sikkim) in the captioned Matter.

Thanks
Prince Kumar
For
Mr. Sameer Abhyankar,
Standing Counsel State of Sikkim

Common Counter.pdf

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New Delhi 110024
Ph. +91-11-49402169