

**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

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DATE: 25.02.2022

PLACE: KOLKATA

DRAWN AND FILED BY:

Sudesh Joshi

Addl. Advocate General

Govt. of Sikkim.

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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 submissions and 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 Department 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 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 parking facility 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

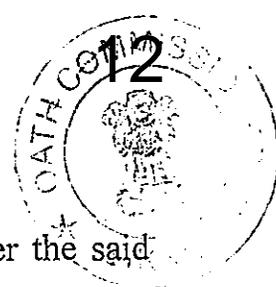


Wildlife Sanctuaries; gardens; forest works; construction and maintenance including check posts, forest rest houses, saw mills, machinery and equipments; enforcement and implementation of laws related to forest, wildlife, and environment and a host of such other activities of the State of Sikkim.

- 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. 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

- 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

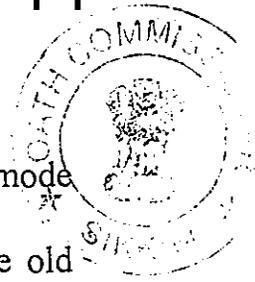


Chogyal. This heritage complex is being redeveloped under the said project which aims to, conserve the old buildings and also bring in new infrastructure and duly maintain the heritage and sanctity of the place along with undertaking the retrofitting and redevelopment activities in consultation with 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/m² 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/m²

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/m² 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,

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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.**

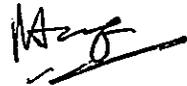
3.25. That upon receiving a letter from Gangtok Smart City Development Limited requesting for removal/relocation of trees from the project site, the Office of the Conservator of Forests (Territorial), Forest and Environment Department issued Letter having Ref. No. GOS/F&ED/FTC/5.36/528 dated 12.10.2021 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

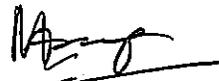
VERIFICATION

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.

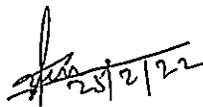
Identified by:

Yashu Sharma
(Yashu Sharma)
Court Advocate
Gangtok, E-Sikkim



DEPONENT

Solemnly affirmed before me on this... 25th ...
day of... Feb 2022 ... by Shri/Ms/Miss... M. I. ...
Sharma ... Gangtok ... who
is known to me & is a ... / Court / Miss ...
Yashu Sharma of Gangtok.



Mr Sujan Sunwar
Oath Commissioner (East)
High Court of Sikkim
Vide Notification No. 38/1CS /30.02.21

**GOVERNMENT OF SIKKIM
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 to as the said regulations), in regulation 17, -
 - (a) for sub-regulation (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 of 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 of the provisions which it considers justifiable on the merit of each case.”

Commissioner –cum- Secretary
Urban Development & Housing Department.

-TRUE COPY-

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/surficial 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/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.

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.

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.

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 zonation rating.

-Sd/
(B.P Pradhan, IFS)
Secretary

File No. 17/DMG/20-21. n.s.p - 10



GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT DEPARTMENT
GANGTOK, SIKKIM

Memo No: 215/Secy/UDD/2021

Dated: 27-05-2021

CABINET MEMORANDUM

Minister in Charge
Secretary in Charge

-
-

Mr. Arun Kumar Upreti
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-principle 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 land area in the old West Point complex is 5707.80 square metre.
 - b. Proposal envisages construction of 11 storeyed 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 2 nd 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 / rehabilitation 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. Mungipa 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. Mungipa 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 (L1). 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: -

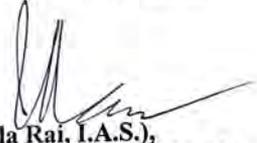
Sl No	Project Milestone	% of the Project Grant	Project Grant (Crore)	State share (50%) crore	Central Share (50%) in crore
1	Signing of Concession Agreement	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
2	Project Mile stone-I	Rs 294.98 X 35.25% X 15%	15.60	7.80	7.80
3	Project Mile stone-II	Rs 294.98 X 35.25% 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 SI (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 its approval by the authority. Rest of the floors will be for commercial development with a maximum carpet area of 13,680 sqm with permissible deviation 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 & 716 which 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

**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

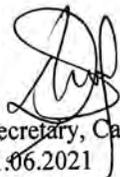
Cabinet Extract No. CON/CAB/283/2021/6655

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-

**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

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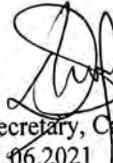
Cabinet Extract No. CON/CAB/283/2021/6655

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



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/CS/MA
AWJ
21/5/19

Direct
may upload it in
the SSDMA website,
H.
21/5/19

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



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



**GOVERNMENT OF SIKKIM
URBAN DEVELOPMENT DEPARTMENT
GANGTOK**

No: 255/UDD/Seqy.

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





URBAN DEVELOPMENT & HOUSING DEPARTMENT
GOVERNMENT OF SIKKIM

Phones: SECRETARY : 22726
JOINT SECRETARY : 23255
Office : 22390
GANGTOK (SIKKIM)

No.....1820...../UD & HD

Dated.....8.5.02.....

TO WHOM THIS MAY CONCERN.

This is to certify that Shri Sonam Topgay Bhutia, Class I/A Govt. Contractor has successfully completed the under mentioned/work under this Department.

1. Name of work:- Construction of multi storeyed car park at old west point, Gangtok, phase I & II.
2. Work value:- Rs. 2,18,95,688.00 (Rupees, two crores eighteen lakhs, ninety five thousand six hundred eighty eight) only.
3. Completion cost:-Rs. 2,25,98,688.00 (Rupees, two crores twenty five lakhs, ninety thousand six hundred eighty eight) only.
4. Date of start:- 22.06.1998.
5. Date of completion:
as per agreement: 21.09.2001.
6. Date of Actual completion: 24.12.2001. (Time extension granted without levy of compensation).



[Signature]
Superintending Engineer (I)
UD & HD, Gangtok, Sikkim
Govt. of Sikkim, Gangtok

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 'Retaining 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.

-TRUE COPY-



ANNEXURE-R/9

GANGTOK MUNICIPAL CORPORATION

DEORALI, SIKKIM

Issue No. 3839/MSC/TPC/Gmet/2021/979

Date. 8/12/2021

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 dated 12/10/2021, 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 Khatiyani No. 686(P), 715 & 716.

Project Mode : PPP under Gangtok Smart City Dev. Ltd.

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.


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 Khatiyani 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

Add:- Old West Point School Complex,

Near M.G. Marg, Gangtok, Sikkim

Phone no:- 6380944250

Shubham
5
Authorised Signatory

10.01.2022

ACTP
9/1
10/01/22

JP
10/01/22

ATP-I

Ph. process.

Receved
10/01/22
Town Planner
Gangtok Municipal Corporation



**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: 499/GSCDL/2021-22

Dated: - 04/10/2021

To,
The Divisional Forest Officer-Territorial,
Forest, Environment & Wildlife Management Department,
Government of Sikkim,
Gangtok, East Sikkim - 737101

**Sub: - Request for removal/relocation of tree from old West Point
School Complex to a suitable location**

Sir/Ma'am,

This is to inform you that Gangtok Smart City Dev. Ltd. 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 needs to be relocated. Hence, in this regard I would like to request that your staff may be deputed for a joint visit so that the same could be worked out.

Thanking you

Yours sincerely

Nodal Officer

**NODAL OFFICER
Gangtok Smart City Dev. Ltd.
GANGTOK SMART CITY DEV. LTD
GANGTOK, EAST SIKKIM**





Government of Sikkim,
Office of the Range Officer,
Gangtok Territorial Range, East Territorial Division,
Forest & Environment Department

ANNEXURE-R/12

Ref No: 499/GSCDL/2021-22
GRT/ETD/F&ED

Date: 07/10/2021

To,
The Assistant Conservator of Forest,
East Territorial Division,
Gangtok, East Sikkim.

Subject: Field report regarding removal of 9 nos of trees form old West Point School complex applied by Nodal Officer, Gangtok Smart City Dev. Ltd.

Sir,

With reference to letter memo no. 499/GSCDL/2021-22 dated: 04/10/2021 regarding the above mention subject the field verification has been done by Shri PK Chettri BO (T) Gangtok Territorial Range along with the officials from Gangtok Smart City Dev. Ltd. and the observation are as under:-

- The applicant Nodal Officer, Gangtok Smart City Dev. Ltd. has requesting for removal order of 9 nos. of trees falling within the construction site of multilevel car parking -cum-commercial development at Old West Point School Complex, Gangtok.
- That the applied tree is falling within the construction site of multilevel car parking -cum-commercial development at old West Point School, Gangtok and as such has applied for the permission for the removal of the same.
- Details of the tree are as under:

Sl. No.	Species	GBH	Qty	Remarks
1	Cherry	4'10" 4'11"	2	Falling within the construction site of multilevel car parking -cum-commercial development at old West Point School, Gangtok.
2	Araucaria	2'0"	1	
3	Malato	1'0" 1'0"	6	
TOTAL			9	

- The status of the land as per the Deputy Director, District Collectorate, East vide memo no. 71/765/G/DD/DC/E dated: 22.2.2021, falls within plot no. 715 & 716 as per old record of 1951-52 which is recorded in the name of 'Private Estate' under Gangtok Station Block. (copy enclosed)
- The applicant wants to remove/ fell the above mentioned tree which is causing obstruction at the construction site.

The trees as been verified as per Rule 17 of The Sikkim Private Land Tree Felling Rule 2006.

The field verification report is enclosed for your kind reference.

The report submitted for your kind perusal and necessary action please.

Yours faithfully,



Yours Faithfully,

[Signature]
Range Officer
Gangtok (T) Range
Forest & Env. Department

-TRUE COPY-



GOVERNMENT OF SIKKIM
OFFICE OF THE CONSERVATOR OF FORESTS (TERRITORIAL)
FOREST AND ENVIRONMENT DEPARTMENT
 Forest Secretariat, Deorali, Gangtok

Ref. No. GOS/F & ED/FTC/5.36 1528

Date: 12/10/2021

To,
 The Divisional Forest Officer, (T)East,
 Forest and Environment Department,
 Government of Sikkim,
 P.S. Road, Gangtok.

Sub: **Removal of trees posing danger .**

Reference letter no. 20/ED/T/F&ED/ date 07/10/2021 regarding the subject cited above, the authority has accorded approval for issuing marking order/removal of trees with details as follows;

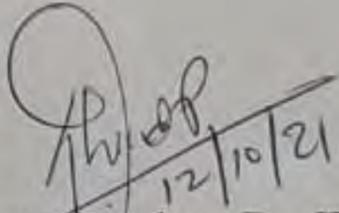
S N	Location	Status of Land	Range	Spp.	Girth	No. of tree	No. of poles
1	Old West Point School plot no 715/716, Gangtok East Sikkim	Private Estate	Gangtok	Cherry	4'10",4'11"	2	07
				Araucaria	2'0"		
				Malato	1,0",1'0"		
Total						02	07

You may take steps to issuing marking order and hand over the marked trees to Utilisation for removal/disposal. Accordingly compliance report is to be submitted.

(Enclosed find herewith letter relevant document).

Copy to:-

1. Addl. Director (Utilisation)


 12/10/21
 (Karma Legshey D., IFS)
 Conservator of Forests (T)

(Karma Legshey D., IFS)
 Conservator of Forests
 (Territorial Circle)
 Forest & Environment Department

VAKALATNAMA
BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN BENCH, KOLKATA
ORIGINAL APPLICATION NO. 05/2022

IN THE MATTER OF:

DR. BINA BASNETT

Applicant

-VERSUS -

STATE OF SIKKIM & ORS.

Respondent(s)

KNOW ALL to whom those present shall come that I, M.T. Skerpa....., **RESPONDENT / OPPOSITE PARTY**, in the above Original Application do hereby appoint and return **Additional Advocate General Mr. Sudesh Joshi and Fizza Zaidi** Advocate of the National Green Tribunal, to act, appear and plead in the above noted case in the Tribunal.

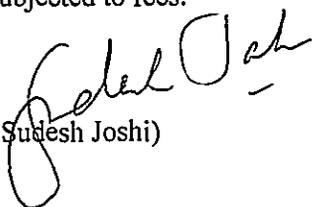
To sign, file, verify, present pleadings, appeals, cross objections or petitions for execution, review, revision, withdrawal, compromise or other petitions or affidavits or other documents and all other proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein on my/our behalf, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my I our own acts, as if done by me justify to all intents and purposes. I/We agree to ratify all act done by the aforesaid advocate, in pursuance of this authority.

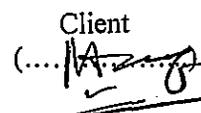
IN WITNESS WHEREOF I/We do hereunto set my/your hand to those present the contents of which have been understood by me/us on this 25th day of Feb.....2022.

Accepted subjected to fees.

Advocate
(AAG Mr. Sudesh Joshi)



Client
(.....)



MEMO OF APPEARANCE

To,

The Registrar,
National Green Tribunal, Eastern Zone Bench
Kolkata – 700156.

Sir,

Kindly enter my appearance in the above matter on behalf of the Respondent/ Opposite Party.

Dated

Advocate for the
Petitioner(s)/Appellant(s)/Respondent(s)