

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ),  
CHENNAI**

**O.A.NO.149 of 2016 (SZ)**

**IN THE MATTER OF:**

**V. Ramasubbu**

**..... Applicant**

**Versus**

**Union of India & Ors**

**..... Respondents**

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**Joint Committee Report in compliance with the Order dated 18.02.2021 of Hon'ble NGT (SZ), Chennai in the O.A. No.149 of 2016 & M.A.No 46/2017(SZ) in the matter of Shri. V. Ramasubbu Vs Union of India & others.**

**Date : 16.04.2021**

**Joint Committee Report in compliance with the Order of Hon'ble NGT (SZ) Chennai dated 18.02.2021 on O.A. No.149 of 2016 & M.A.No 46/2017(SZ) in the matter of Shri. V. Ramasubbu Vs Union of India & Ors.**

In compliance with the orders dated 25.08.2020 & 13.10.2020 of the Hon'ble National Green Tribunal, (Southern Zone) in the O.A. No.149 of 2016 in the matter of V. Ramasubbu Vs Union of India & Ors., the Joint Committee has already filed the detailed report Dt. 25.11.2020 before the Hon'ble National Green Tribunal.

Subsequently, Hon'ble National Green Tribunal (Southern Zone) vide Order dated 18.02.2021 has issued the following directions in the above O.A. filed by Shri. V. Ramasubbu, alleged development of township by M/s. Bahri Estates Pvt. Ltd. at S.F.No 179/B, 290/2B etc., in Genguvarpatty Revenue village, G. Kallupatti Panchayat, Periyakulam Taluk, Theni District:

- *“The committee is directed to consider the objections filed by the 9<sup>th</sup> respondent to the report submitted by them and file a further report giving their opinion regarding the same as well, so as to enable this Tribunal to consider the objections and submit the report in a comprehensive manner to take an appropriate decision in this matter.”*
- *The 9<sup>th</sup> Respondent is directed to submit the copy of the objections to the Members of the committee within a week so as to enable them to consider the same and file a further report.*
- The committee is directed to submit a further report to this Tribunal by e-filing.

In pursuance to the above directions of Hon'ble Tribunal, the objections made by the 9<sup>th</sup> respondent on the Joint Committee Report Dt. 25.11.2020 were furnished to all the members of the Joint Committee. The objections raised by the 9<sup>th</sup> respondent have been examined by the members of the Joint Committee and the opinion/remarks of the Committee to the objections of 9<sup>th</sup> respondent is furnished under:

Sl. no.	OBJECTIONS RAISED BY THE M/s. Bahri Estates Pvt. Ltd. (9 <sup>th</sup> Respondent) BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL ON THE JOINT COMMITTEE REPORT	COMMENTS / REMARKS OF THE JOINT COMMITTEE
1	I am the managing director of 9 <sup>th</sup> Respondent and as such I am authorized to file the present affidavit. I am aware of the facts and circumstances of the case and I have read and understood the records and pleadings filed in the present case. I am filing the present affidavit in the nature of "objections" to the second report of the Joint Committee dated 19.12.2020. (hereinafter THE SECOND REPORT).	No comments are offered by the Committee, since this para is matter of record.
2	It is submitted that initially, as per order dated 08.01.2020, this Hon'ble Tribunal was pleased to appoint a joint committee to inspect the area in question and consider the question regarding environmental impact and whether the project developer started construction without getting Environmental clearance and also the applicability of EIA notification 2006 and other such matters.	No comments are offered by the Committee, since this para is matter of record.
3	<p>In compliance to the order, a Joint Commissioner was constituted by the Nodal agency i.e., the Tamil Nadu State Pollution Control Board comprising of 9 members as stated below;</p> <p>i. Er. S. Pandiyarajan, DEE, TNPCB, Theni</p> <p>ii. Dr. R. Chandrasekaran, DEE, TNPCB Dindugul</p> <p>iii. Dr. M. Madhusudanan, Regional Director, CPCB, Chennai</p> <p>iv. Dr.M.T. Karuppaiah, Scientist- D, MoEF&amp;CC, Regional office, Chennai</p> <p>v. Shri. S. Karthikeyan, Scientist- C, Regional Directorate of CPCB, Bengaluru</p> <p>vi. Shri. Thejasvi, DFO&amp;Wildlife Warden, Kodaikanal Wildlife Division</p> <p>vii. Shri. L. Eugene, Tahsildar, Nilakottai for and on behalf of District Collector, Dindugul</p> <p>viii. Shri. Mathimaran, Dy. Director, DTCP, Madurai Region</p> <p>(ix). Shri. B. Rameshkumar, Member Secretary, Dindugal Local Planning Authority, Dindugul.</p>	No comments are offered by the Committee, since this para is matter of record.

4	The Committee had submitted a report before this Hon'ble Tribunal dated 25.08.2020 (hereinafter THE FIRST REPORT) Pursuant to the same, this Hon'ble Tribunal permitted this Respondent to also file objections to the first report and accordingly detailed objections were filed by this respondent dated 08.10.2020.	No comments are offered by the Committee, since this para is matter of record.
5	In the next hearing on 03.10.2020, this Hon'ble Tribunal directed the Joint Committee to offer its remarks on the objections filed by this respondent and along with other directions. Thereafter, another inspection was conducted and the Second Report had been filed.	No comments are offered by the Committee, since this para is matter of record.
6.	It is submitted that the Second Report has largely not denied the objections of this Respondent and has either dropped or unanswered several points of contention. In that aspect, the Second Report is largely in favour of the case of this respondent. However, by total non-consideration of the effect of the same, the Second Report had concluded against this Respondent and has also assessed and calculated Environmental Compensation as if the Project was in violation of the laws.	No comments are offered by the Committee, since this para is matter of record.
7	It is submitted that the Second Report had also raised some fresh averments and allegations apart from producing new additional documents such as a recent proceeding of the District Forest Officer dated 25.11.2020. Therefore, in order to point out the procedural and material illegality in the conduct of the committee and also to submit a reply to all new points of contentions introduced by the Second Report, this Respondent is constrained to file the present affidavit.	No comments are offered by the Committee, since this para is matter of record.
8	Therefore, it is prayed that this Hon'ble Tribunal may be pleased to accept and take on file the present affidavit filed by this Respondent and thus render justice.	No comments are offered by the Committee, since this para is matter of record.
<b>PRELIMINARY OBJECTIONS TO THE SECOND COMMITTEE REPORT</b>		
9	At the outset, it is submitted that the impugned report is not maintainable either on law or on facts of the case. The committee has exceeded its jurisdiction and all known procedures of law and has gone even beyond the scope of the main litigation and as such is liable to be dismissed.	Completely denied the averments. The Joint Committee neither exceeded its jurisdiction / procedures of law nor gone beyond the scope of the litigation rather examined the issues in accordance with the Rules to ascertain the alleged violation

		of environmental law and the consequences to be followed against violator as directed by the Hon'ble Tribunal.
10	The committee has placed erroneous and wrong facts, materials which would only result in misleading and misguiding this Hon'ble Tribunal. The committee has not responded to a number of contentions which were raised by this Respondent, to justify the project, but on the other hand has introduced new materials to only confuse the issue further.	Completely denied the averments. The Joint Committee constituted by the Hon'ble National Green Tribunal has clearly examined the issues in accordance with the terms of reference issued to the Committee by the Hon'ble Tribunal.
11	Thus, the conduct of the committee itself is not fair and it has acted with the purpose of finding some guilt or the other with this Respondent when none exists. Thus, the proceedings of the committee are contrary to principles of natural justice and fair treatment of law and thus liable to be set aside.	Completely denied the averments made by the Respondent. Respondent made false allegations against the Committee. Further, it is submitted that the proceedings of the Committee is neither contrary to principles of natural justice nor against the fair treatment of law.
<b>No opportunity of being heard by the full committee</b>		
12	The purpose of the constitution of committee was to inspect the site and answer this Tribunal on specific terms of reference issued by this Hon'ble Tribunal. However, the same was not complied by the Joint Committee. In fact, at the time of filling the second report, the committee has failed to even conduct a site inspection with all its members. It was only the District Environmental Engineer of TNPCB who had inspected the site whereas the other members had not inspected the site itself. Therefore, the present Respondent was deprived of an opportunity to present its case on the objections earlier filed to the earlier report to all members of the committee, when a second inspection was deemed necessary. Further, in total contradiction to fair procedure, only the nodal agency had inspected and furnished reply for deliberation by the committee.	The allegations of the 9 <sup>th</sup> Respondent is completely denied. It is submitted that, as part of the principle of Natural Justice, sufficient opportunity was given to the project authority to submit their views / documents before the Joint Committee on the day of first meeting held and the Committee thoroughly inspected the project area in presence of the project authority. District Environmental Engineer, TNPCB, Theni is also a member of the Joint Committee. There was a transfer postings of the Officers of TNPCB. Accordingly, the newly joined District Environmental Engineer of TNPCB, Theni was inspected the site in order to acquaint the status of the project in respect of the issues referred therein the O.A. Further, in pursuant to the Order dated 13.10.2020 of

		Hon'ble NGT(SZ), a meeting was convened on 24.11.2020 at O/o District Environmental Engineer, Tamilnadu Pollution Control Board, Dindugul, with the Members of the Joint Committee. The Joint Committee deliberated the objections filed by the 9 <sup>th</sup> Respondent in the said meeting. As directed by the Hon'ble NGT, the environmental compensation has been arrived based on the guidelines issued by the CPCB.
<b>Modification of the members of the Committee without prior permission</b>		
13	That apart, it is crucial to point out that there is a gross violation of procedure, whereby the constitution of the committee itself was modified without obtaining prior permission from this Hon'ble Tribunal. The impugned project of this 9 <sup>th</sup> Respondent falls within the jurisdiction of DTCP, Madurai region. Therefore, it was the Deputy Director of DTCP, Madurai region who was initially constituted as a member of the committee. However, at the time filing the 2 <sup>nd</sup> Report, the committee had submitted the said member with the official from DTCP-Theni region. Even though the bifurcation of Madurai region into Theni region had happened recently, in any event, in so far as the report of the committee is concerned, it had to be appraised by the same members as per the orders of this Hon'ble Tribunal.	It is submitted that the Hon'ble NGT(SZ) in its Order dated 08.01.2020 constituted a joint committee comprising of Regional Office, MoEF, representative of Chief Wildlife Warden of Tamil Nadu, Central Pollution Control Board (CPCB) and Tamil Nadu State Pollution Control Board (TNPCB), the District Collector, Dindigul and the Commissioner of Directorate of Town and Country Planning (DTCP), Tamil Nadu. The member of the respective Department attended the Joint Committee meeting held on 24.11.2020 at O/o District Environmental Engineer, Tamilnadu Pollution Control Board, Dindugul.
14	It is pertinent to point out that, the matter was placed before the Committee for the second time only to offer its remarks on the objections and in such a situation <b>to modify and incorporate a new member is highly irregular and in any event without informing or obtaining permission from this Hon'ble Tribunal.</b>	It is submitted that the Hon'ble NGT(SZ) in its Order dated 08.01.2020 constituted a joint committee comprising of Regional Office, MoEF, representative of Chief Wildlife Warden of Tamil Nadu, Central Pollution Control Board (CPCB) and

15	Thus, the entire conduct of the committee is irregular, not fair, biased and causes much prejudice to the 9 <sup>th</sup> Respondent. That apart, the committee has raised fresh allegations even beyond the scope of the main litigation over which an adjudication has to be done only by a statutory process and thus the committee's report is liable to be dismissed <i>in limine</i> .	Tamil Nadu State Pollution Control Board (TNPCCB), the District Collector, Dindigul and the Commissioner of Directorate of Town and Country Planning (DTCP), Tamil Nadu.  The member of the Joint Committee of the respective departments constituted as per the direction of the Hon'ble National Green Tribunal attended the Joint Committee meeting held on 24.11.2020 at O/o District Environmental Engineer, Tamilnadu Pollution Control Board, Dindugul and submitted their views during the meeting.
16	The present Respondent denies every statement and allegation made by the committee report as erroneous and incorrect either on facts or on law. Without prejudice to the aforesaid contentions, the present Respondent submits the following to sustain and establish its case before this Tribunal and also by way of objections to the second report filed by the Joint Committee.	No comments are offered as the contents are matter of record and matter of law.
<b>OVERVIEW OF THE PROJECT</b>		
17	The project of the 9 <sup>th</sup> Respondent is a " <b>plotted layout development</b> ". The project and the layout are intended for purchase and utilization as a senior citizen welfare plotted housing community. The plotted layout development of the project is for a total extent of 49.3 Hectares or 121.84 acres. Each and every inch of land that was utilized for the project after due approval is tabulated as below:	Completely denied the averments made by the Respondent and the Committee relied upon the following facts:  The Ministry of Environment, Forest & Climate Change, Government of India has directed that the construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the schedule of the Environment Impact Assessment Notification 2006 including Townships and Area Development projects covering an area ≥ 50 hectares, entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Ministry of Environment
18	<b>It is submitted and undertaken by the Respondent that not a single inch of land beyond what is stated above has been utilized or forms part of the project. This simple and basic fact is the entire case itself whereas bald allegations are made, contending that some other areas are also used for the project.</b>	

		<p>Forest, or as the case may be, by the State Level Environment Impact Assessment Authority vide Notification issued by the Ministry dated 14.09.2006.</p> <p>Project Authority obtained NOC from Tamilnadu State Forest Department vide letter No. 10772/07 dated 24/01/2008, wherein NOC was accorded for 128 Acres (51.82 Ha.) for the purpose of agricultural farming only. Subsequently, Project developer has obtained Certificate from Tahsildar, Periyakulam Taluk vide letter dated 22/2/2008, for the development of layout in an area of 49.765 Ha. In the year 2011, a communication dated 12/07/2011 was issued to the Project Authority by the Tamilnadu State Forest Department with the stipulation that Project developer shall maintain Buffer Zone between the project site and southern reserve forest and follow other conditions in the earlier NOC dated 24/01/2008 while carrying out new activities (Layout development). All the above documents are already placed as Annexures in the Joint Committee Report filed.</p> <p>From the above NOC / communications obtained from the Tamilnadu Forest Department, undisputedly it has been observed that project developer has more than 50 Ha. of area in their possession from 2008 to 2011. It is pertinent to mention here that in the absence of the ownership one cannot get the NOC. Further, the NOCs obtained for 128 Acres (51.82 Ha.) from the Forest Department has not been amended till date. During the visit, it has been observed that few project related activities viz. Nursery, composting yard etc., are being undertaken in the adjoining area of the project, which is not part of the project area. But considered to be activity area.</p> <p>The developer in a calculated approach has excluded part of the land from the total area of</p>
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		<p>layout in order to avoid the process of EC. Based on the NOCs obtained and actual utilization of adjoining area, the area of project activity is more than 50 Ha. and thus it attracts the provisions of schedule 8(b) (B1 category) of the EIA Notification, 2006, which needs to be appraised by the SEIAA-Tamilnadu.</p> <p>Further, Project authority has already submitted their application to the SEIAA-Tamilnadu seeking Environmental Clearance.</p> <p>It appears that, SEIAA-TN vide Office Memorandum dated 12.12.2012 delisted the application of M/s. Bahri Estates Pvt. Ltd. from the list of proposals under process in SEIAA-TN, since it falls under the violation category and action have been taken against the Project Proponent by SEIAA-TN.</p> <p>The Member Secretary, SEIAA vide letter dated 02.04.2014 instructed the Project developer not to commence any activity other than cleaning of the site, fencing the site and putting up temporary structure for accommodation of labour, along with basic facilities like toilets and water supply, made as a temporary arrangement.</p> <p>Further it was observed that the entire project premises are still under the responsibility of the 9<sup>th</sup> respondent and constructions are being under taken only by the 9<sup>th</sup> respondent for the plans predefined for the township project.</p>
19	<p>Further, it is submitted that after the development of the layout was complete in the year 2011, in the total approved 298 plots, about 172 plots have been sold. All the bonafide third parties who have purchased the plots are holding valid legal title and possession over the lands. They have also been assessed and regularly paying municipal and other taxes for the aforementioned lands.</p>	<p>It is submitted that the entire project premises are still under the responsibility of the 9<sup>th</sup> respondent and constructions are being under taken only by the 9<sup>th</sup> respondent for the plans predefined for the township project.</p>

<b>Location of the Project</b>		
20	<p>The present project is situated at the foot hills of Kodaikanal and falls within the village panchayat limits of G-Kallupatty. The entire extent of the lands in the project is classified as “<b>patta lands</b>”. The lands have not been utilized for any sort of agricultural activity for many decades. In fact, the entire village of G.Kallupatty has undergone massive urbanization and houses a population of more than 5000 to 10,000 people. It was a combination of the urbanization of the village coupled with isolation from the hustles of a city that prompted the selection of the site for the project. It is both a developed area and at the same time a peaceful location which is ideal for the present project.</p>	<p>No comments are offered by the Committee.</p>
21	<p>Most importantly, it is submitted that there are no notified eco-sensitive areas or eco-sensitive zones within the entire village of G.Kallupatty and a lot of residential activity has been happening in the entire locality. In particular, it is submitted that the present project is situated within Ward No.1 of the G.Kallupatty village panchayat having a total of 12 wards. The plot owners of the project whoever has made any housing development on their plot are also assessed and have been paying property tax to the aforesaid local body as stated above.</p>	<p>Completely denied the averments of the Respondent that there is no notified eco-sensitive areas or eco-sensitive zones within the project area.</p> <p>The project site is 35 m away from the boundary of the Kodaikanal Wildlife Sanctuary. Since the project activity falls within 10 km of eco-sensitive zone (in the absence of delineation of Eco-sensitive Zone of Kodaikanal Wildlife Sanctuary prior to the Gazette notification dated 23/01/2020, it is mandatory requirement of getting Clearance from the Standing Committee of National Board for Wildlife (NBWL). Further, Govt. of India vide S.O. 412(E) dated 23/01/2020 has notified the Kodaikanal Wildlife Sanctuary, wherein notified an area to an extent of 0 km to 1.0 km around the boundary of the Kodaikanal Wildlife Sanctuary as Eco sensitive zone.</p> <p>In compliance with the Hon’ble Supreme Court Order dated 04.12.2006 in W.P.No. 40 of 2006, MoEF&amp;CC issued a public notice dated 01.01.2009 that “<i>those projects/ activities which are located within ten kilometers of the boundaries of Sanctuary and National parks shall seek clearance under the</i></p>

		<p><i>Wildlife (Protection) Act, 1972</i>". As the 9<sup>th</sup> respondent has obtained approval only after the said public notice, It is evident that the project needs to obtain approval from the NBWL.</p> <p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>It is evident from the above that the project development is still under progress and the 9<sup>th</sup> respondent cannot claim that the project activities are not covered under the Eco-Sensitive Zone regulations.</p>
<b>Senior Citizens Lifestyle Plots</b>		
22	Initially, the project was envisaged from the year 2007 itself. The project which is a plotted layout development was proposed and styled as suitable for purchase senior citizen retirement community. The idea was provide layout plots at the outskirts so that retired people and senior citizens can settle there for a peaceful life. This project is novel and has attracted accolades and awards from the real estate community. It is in those circumstances that the project has attracted many wrongful eyes who have continued to cause one problem or the other to the project.	No comments are offered by the Committee.
23	<b>It is submitted that being a plotted layout development, the approval for the project has to be given by the DTCP as per the Town and Country Planning Act, 1990.</b> The present Respondent has undertaken the project on the basis of business understanding with land owners, agents, legal entities and other associated investors. There are independent agreements being entered into with such legal entities for the purpose of executing the project. However, as a part and parcel of business, the entire extents of lands	No comments are offered by the Committee.

	<p>were not purchased or vested with this Respondent in a single transaction. Simultaneously with the project proposal in hand, the Respondent had been approaching the authorities of DTCP to find out and comply on a step-by-step basis, the procedure to get the layout approval.</p>	
<b>Grant of Clearances</b>		
24	<p>It is submitted that it was at the advice of the DTCP and their insistence, that the project was required to obtain a NOC from the Forest department. <b>It is a matter of fact and record that the entire extends of land are private patta lands and as such there is no role for the forest department on these extents of lands.</b> However, due to the insistence of the DTCP, this Respondent did not find much harm in informing and obtaining a NOC from the forest department.</p>	<p>The 9<sup>th</sup> respondent has obtained NOC from the Tamil Nadu Forest Department on 24/01/2008 over an extent of 51.82 Hacters (128 Acres) of land. Subsequently, a communication dated 12.07.2011 was issued to the Project Authority by the Tamilnadu State Forest Department with the stipulations referred therein interalia including to follow other conditions in the earlier NOC dated 24/01/2008 while carrying out new activities (Layout development). However, 9<sup>th</sup> respondent made a claim that the project does not require Environmental Clearance under EIA Notification, 2006 as they have obtained DTCP approval only over an extent of 49.31 Hacters.</p> <p>The 9<sup>th</sup> respondent cannot claim for the exemption of environmental clearance as the proponent failed to include the lands in the S.F. Nos. 426, 428 and 429 with respect to the clearance obtained from the Forest Department and the above said lands still under possessions of 9<sup>th</sup> respondent. The Committee relied upon the above submissions.</p>
25	<p>The Project proponent is advised to state that there is no concept of NOC under any of the forest laws and the jurisdiction of the forest department only arises when any portion of the land is a forest land. It is not in dispute from any of the parties to the case or the members of the committee that there is no involvement of any forest land in the present project. In such a scenario, the jurisdiction and competence of forest department starts and ends with directives to maintain a buffer from the boundary of the forest for their purpose. It is not in dispute that the project proponent has left out the buffer area adequately as required by the authorities and thus in this scenario there was no role for the forest department.</p>	
26	<p>However, at the planning stage of the project, as early as on 17.01.2008, this Respondent submitted a letter to the DFO of forest department informing of the project and disclosing that proper applications were being filed with the DTCP for a proposed plotted layout development project.</p>	
27	<p>Interestingly, in the said letter, while attaching a list of lands covering the project, by oversight and by state of thins as it stood then the Respondent had indicated the lands in Survey</p>	

	No.426, 428, 429 & 441 as part of the project. It is a matter of record that while submitting the ownership records for the entire extends of lands, the records for the afore stated four survey numbers were not produced for the simple reason that the ownership was not with this Respondent and the lands were only a business proposal which was in the stage of negotiation with the actual third-party land owners.	
28	Accordingly, the forest department issued a letter dated 24.01.2008 which was styled as a NOC which consequently comprised of the said for survey numbers in 426, 428, 429 & 441.	
29	However, at the time of finalizing the project and approaching the DTCP for statutory clearance, the business deal could not be worked out with the owners of the aforesaid survey numbers and as such the lands had to be abandoned for the purpose of the project. This is evidenced from the statutory application the four survey numbers are not included and they are not part of the development. Thereafter, the Respondent was also necessitated to obtain statutory certificate from the Tahsildar which was also received on 22.02.2008 which also did not include the aforesaid four survey numbers.	
30	Thereafter, in the year 2009, the DTCP had granted statutory approval for the plotted layout development by proceedings dated 09.03.2009. In the said approval also, the contested for survey numbers 426, 428, 429 & 441 are not included and accordingly they never formed a part of the project.	
31	This obvious fact is overlooked by the Joint Committee and had the project is alleged to be inclusive of the lands in the said four survey numbers only because they were initially a part of the forest NOC. The proceedings by the forest department do not have any statutory or legal competence and in any event all the subsequent approvals have left out the four survey numbers. In fact, even on ground realities the lands are totally vacant even as on date with no access and the issue is further dealt with in a detailed manner herein below.	
<b>Bonafides of the Project &amp; CSR Activities</b>		
32	The implementation of the project has brought out much good to the entire locality. This Respondent is an honest and sincere citizen of this nation and	No comments are offered

	has undertaken the project with socio-centric responsibility and total compliance to the law. As a part of implementing the project, this Respondent has in fact developed and improved the entire locality and has contributed to the overall upliftment of the entire village.	
33	This Respondent has, as a part of the CSR activities, sponsored and dedicated check post facilities to the local police department and the forest department. The same was done to assist and cooperate with the government to bolster the surveillance and security which will benefit the larger public also. In the same spirit, this Respondent submits with humility that the present project has been instrumental in meeting a major substantial portion of the water requirement for the village of G.Kallupatty. For the said purpose, as a CSR activity, on the request by the District Collector and the local panchayat officials and on the approval and supervision of the authorities, this Respondent completed a pipeline connection project from Manjalur Dam to the village at the expense of the Respondent. It is pertinent to mention that there was no proper source of drinking water earlier and all the activities were done as a part of social responsibility by this Respondent.	No comments are offered
34	Even in the present project, apart from the business of plotted layout development, the Respondent has, as per law and out of responsibility installed several infrastructural facilities for maintaining clean environment and for processing all waste generated therein.	No comments are offered
<b>Waste Disposal</b>		
35	It is submitted that, each plot is designed to have independent inspection chambers for any constructions, as and when, put up by the purchasers. The project also has centralized sewage chamber connecting each and every single plot whereby the sewage is collected and discharged into the central network. Thereafter the central network chamber flows into the collection tanks adequately installed for the purpose. From the collection tank, the sewage is disposed through authorized disposal agencies of the local body through tanker lorries.	The 9 <sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.  It is evident from the above and from the statements

36	<p>Similarly, a coordinated and wholesome disposal system is installed for the solid waste as well. The waste collection is segregated at the source into wet waste, dry waste and sanitary waste. The dry waste is further segregated into plastic, metal, glass etc as recyclable and non-recyclable waste. The recyclable waste is then collected by a regular scrap dealer. The non-recyclable and sanitary waste are sent to municipal body for disposal with proper sanctions.</p>	<p>submitted by the 9<sup>th</sup> Respondent that the project development is still under progress.</p> <p>All the facilities are being maintained by the 9<sup>th</sup> respondent and which are not common to the general public.</p>
37	<p>That apart, a community compost yard has also been set up within the project for utilizing the wet waste produced to maintain the greenery belt in the project. The said activity is also utilised as a leisure and hobby activity by the senior citizen residents.</p>	
38	<p>All of the aforesaid facilities have been provided, installed and completed in the year 2011 itself. This fact is evidenced from the proceedings of the District Collector who has certified the project as complete in terms of provision of all infrastructural facilities as per the approved layout conditions of the DTCP vide his proceedings dated 15.09.2011.</p>	
39	<p>Thereafter, the Respondent continues to aid, assist and engage with the purchasers for the maintenance of all such facilities. It is pertinent to mention here, that as a part of the project, public roads and OSR were also gifted to the authorities which are also continuously maintained till date. The Respondent also engages with a lot of leisure activities for the senior citizens who are permanent residents in the project.</p>	
40	<p>It is submitted that within the residence, there are people who have retired from high- ranking post both from private as well as governments sectors including retired officers of the defence forces. In fact, most of the residents are celebrated officers during their service and as such they are all knowledgeable persons contributing to the various activities as mentioned above.</p>	
41	<p>That apart, this Respondent has also tied up with nearby hospitals to provide for ambulance and first aid facilities on the site. This also includes general health and leisure activities such as yoga, meditation and other health and spiritual activities. The Respondent also provides for social get together activities at the time of festivals and functions.</p>	

42	All these activities which do not require any permissions or sanctions are carried on by the Respondent through its subsidiaries as a service provider and offers solutions for a wholesome experience from the purchase of the plot to construction of houses on their behalf as contractor up to, day to day housekeeping needs etc.	The 9 <sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020. It is evident from the above and from the statements submitted by the 9 <sup>th</sup> Respondent that the project development is still under progress.  All the facilities are being maintained by the 9 <sup>th</sup> respondent and which are not common to the general public  The Committee has already confirmed the possession of land area more than 50 Ha. with the project authority based on the documental evidence.
43	Thus, it is in the above indicated manner in which the Respondent has completed the project and maintained project but on the other hand by assumptions and presumptions, twisting of actual facts several allegations are made against the proponent from utilizing land beyond 49.31 hectares and continuation project beyond the year 2011.	
44	<b>The Respondent submits and states that it has not utilised an inch of land beyond 49.31 hectares and the entire project as per DTCP approval was completed in the year 2011 as certified by the District collector. All other confusions and allegations are explained in a more detailed manner hereunder.</b>	
<b>FOREST NOC</b>		
45	It is submitted that, the core allegation in the entire case against this Respondent has its basis on a letter styled as a NOC issued by the forest department dated 24.01.2008. More particularly, the issue narrows down to the inclusion of four survey numbers that is S.No's. 426 (3.42 acre), 428 (1.41 acre) 429 (1.41 acre), & 441(1.90 acre) totaling an extent of 8.14 acres or 3.22 hectares.	It is submitted that the NOC was issued by the Forest department based on the application submitted by the Project Authority. Project authority twisting the facts for their own convenience. Further, the entire project area is located well within 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O. 412(E) dated 23/01/2020.  The 9 <sup>th</sup> respondent is executing the project even without obtaining clearance as mandated under the Environment Impact Assessment Notification, 2006 and also the clearance from Standing Committee of NBWL under Wildlife Protection Act.
46	Since, it was advised and understood by the project that the jurisdiction and competence of the forest department begins and ends with laying down conditions for maintenance of forest area and buffer, this Respondent did not further have anything to do with the forest department because the project is admittedly following the buffer norms and never caused any encroachment or violation of forest conditions. In that view of the matter, it was felt unnecessary to seek modification of the NOC dated 24.01.2008 since within the boundaries of the project, the forest department has no jurisdiction or competence to either approve, certify or grant sanction as per law.	

47	<p>Thereafter, it is a matter of fact and record that the four survey numbers were left out from the project as the business in incorporating them was not successful. The statutory application made with the DTCP and the statutory approval granted by the DTCP would bear evidence to the fact that the four survey numbers were not included in the project. This clearance by the DTCP is alone to be considered as the legal and binding document since it is only the DTCP that can approve the project as per law. Further, the project has been completed only as per DTCP approved boundaries.</p>	<p>As per Hon'ble Supreme Court Order dated 04.12.2006 in W.P.No. 40 of 2006, MoEF&amp;CC issued a public notice dated 01.01.2009 that <i>“those projects/ activities which are located within ten kilometers of the boundaries of Sanctuary and National parks shall seek clearance under the Wildlife (Protection) Act, 1972”</i>.</p>
48	<p>Thus, it is the submission of this Respondent, that the project is only 49.3 hectares as per the DTCP approved plan and on the ground. All reliance upon the forest NOC is without any legal standing and contrary to the facts as narrated above and only to mislead this Hon'ble Tribunal.</p>	<p>As the 9<sup>th</sup> respondent has obtained approval only after the said public notice and it is evident that the project needs to obtain approval from Standing Committee of National Board for Wildlife.</p>
49	<p>Notwithstanding all of the above, the 9<sup>th</sup> Respondent for its part, made an application with the forest department to amend its proceedings to exclude the four survey numbers and submitted the approved DTCP plan for the reference and understanding of the forest department. However, it seems that the forest department had not corrected its records and the proponent did not pursue further since its duty to inform the department was duly done and since the forest department had no jurisdiction within the boundaries of the project, no further application was made by the project.</p>	<p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>It is evident from the above that the project development is still under progress and the 9<sup>th</sup> respondent cannot claim that the project activities are not covered under the Eco-Sensitive Zone regulations.</p>
50	<p>However, to the shock and surprise, after the completion of the project in the year 2011, the forest department issued a show cause notice dated 28.03.2011 alleging primarily that the land was not utilised for agricultural farm and there were construction of compound wall and formation of road etc. The Forest Department erroneously continued to include the four disputed survey numbers also, in their records, despite the representation of this respondent.</p>	
51	<p>The 9<sup>th</sup> Respondent issued a detailed reply to the notice and submitted the DTCP approved plan to evidence its compliances. Thereafter, the forest range officer inspected the site and based on the inspection and the reply of the project, the show cause proceedings were dropped by only imposing a condition upon this Respondent to</p>	

	<p>maintain the buffer zone as per the 2008 NOC. It is pertinent to state that while clearing the project, the forest department observed that the project had been completed as per law and there were no violations and made the following five specific observations.</p> <p><b>i. No land encroachment of forest area.</b></p> <p><b>ii.No barrier for wild animal corridor was done and there is no man-animal conflict.</b></p> <p><b>iii. The entrance made in Kodaikanal to Batalagundu road beyond 300 feet from area there is no wild animal passing through this area and there is no damage to eco system of the natural forest, environment and wildlife.</b></p> <p><b>iv. The layout area is dry waste land. It is like “Clay Canker soil” having strength of concrete and no agricultural operation is possible.</b></p> <p><b>v. Roads formed are by gravel stoned and it was not hindrance to forest and environment eco system.</b></p>	
52	<p>Therefore, it is obvious and clear that the role of the forest department was only to the extent of maintenance of forest regulations. It is also clear from the records of the forest department as stated above that the project is in total compliance to all the forest laws and regulations. <b>The mistake of the forest department in not updating and modifying its records as to the extent of the project despite the representation and production of the statutory DTCP approval cannot be put against the 9<sup>th</sup> Respondent.</b> As stated above, it is submitted that the reliance placed on the forest NOC to determine the extent of land is contrary to Section 2 of Forest Conservation Act, 1980 and unsustainable in law. It is only the statutory competent approval by the DTCP vide Approval Number 13/2009 that will prevail over and above everything else and the same is clear that the extent of the project is 49.3 hectares only.</p>	
<b>SURVEY NUMBER 441- now subdivided as 441/1 and 441/2</b>		
53	<p><b>The next allegation is that physically the project has utilised the disputed survey number 441 (now 441/1 and 441/2) and thus it must be deemed as a part of the total extent of the project. The Respondent denies the averment as a mere fantasy and contrary to reality. It</b></p>	<p>It is submitted that, even though the DTCP approval obtained for 49.31 Ha for their project, the 9<sup>th</sup> respondent has obtained NOC on 24.01.2008 from Forest Department, Government of Tamil Nadu for</p>

	is submitted that the ownership of land in survey number 441 vests with third parties. The patta and land records would evidence that the title and possession belong to two different third parties and nowhere is the Respondent utilizing the land. This Respondent is neither the owner nor in possession of the said lands nor it is the part of the project at any point in time.	the development of farming over an extent of land of 128 Acres (51.82 Hacters) inclusive of SF No 441 village of G.Kallupatty which exceeds 50 Hectares.  The 9 <sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.  The 9 <sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.
54	Further, on ground reality, it can be seen that the survey number 441 is a vacant barren land even as on date and one look at the said land would make it obvious that it is untouched and not used for any purpose. The photograph of the land is annexed and the very sight of the land would show that it is neither a part nor being utilised for the project.	
55	In so far as the alleged activities such as brick manufacturing etc., this Respondent has responded in detail in its previous reply and the committee has not specifically denied any of the contentions. However, it is reiterated that the Respondent has nothing to do with these activities and by no stretch of imagination can these be called a part of the project and all averments are denied.	
56	That apart, even otherwise the allegations were only for temporary usage of lands and that cannot contribute to the permanent affiliation as a project activity or project lands. Above all, the lands are not owned by the Respondent, not in possession, the activities were never taken part as a project activity and thus all allegations are denied.	However the 9 <sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020.
<b><u>SURVEY NUMBER 426,428 &amp;429</u></b>		
57	It is submitted that the above three survey numbers were not a part of the project and included by the applicant only in an attempt to confuse and mislead because they found part in the original forest NOC. It is repeated that the DTCP approval does not contain the aforesaid three survey numbers. On that ground alone these are not liable to be considered as project lands.	It is submitted that, even though the DTCP approval obtained for 49.31 Ha for their project, the 9 <sup>th</sup> respondent has obtained NOC on 24.01.2008 from Forest Department, Government of Tamil Nadu for the development of farming over an extent of land of 128 Acres (51.82 Hacters) inclusive of SF No 426, 428, and 429 village of G.Kallupatty which exceeds 50 Hectares.  The 9 <sup>th</sup> respondent is carrying out activities such as
58	It is submitted that the lands were dropped from the project since the purchase from its owners was not successful. It was much latter that is, after the approval/completion of the project that the Respondent was forced	

	<p>by circumstances to purchase the land. More elaborately, it is submitted that after the approval of the project, during executing the project up to completion in the year 2011, disputes arose with the owners of those lands to create a trouble. Ultimately, it was resolved through talks and from a pure business perspective of purchasing peace, the 9<sup>th</sup> Respondent had purchased the lands. This was stated in the earlier reply also and since the committee has not considered, the elaborate business reason is stated hereby.</p>	<p>construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020.</p>
59	<p>In any event, till date, the said lands in S. No. 426, 428, and 429 are untouched and remain in an “as is where is” condition and not utilised for the project. It is shocking that the committee has alleged some activities as going on in the lands as on today and the same is nothing but false. The photograph of the lands would clearly show that there is no activity whatsoever going on in the said lands.</p>	
60	<p>Further, since the lands were never utilised and are never going to be utilised, this Respondent hereby states and undertakes as follows: The Respondent undertakes that the lands in Survey Number 426,428 &amp;429 has never been and will never be utilised for the project or any alleged allied activity. The Respondent further undertakes to make more developments in the lands as a green belt cover and also undertakes to abide by any other condition that may be imposed by this Hon’ble Tribunal.</p>	
61	<p>Therefore, in light of the above, it is submitted that neither the forest NOC nor the alleged activities are correct and true allegations and accordingly deserves to be rejected. Further, the lands in their physical state and mere observation would evidence that no activity whatsoever has been carried on as a part of the project. The entire extent of the project is thus only 49.3 hectares and does not attract the EIA, 2006.</p>	
<b>WILDLIFE ISSUE</b>		
62	<p>At the outset, it is submitted that once the project is not coming under the ambit of the EIA Notification, 2006, no other allegations or clearances from NBWL are necessary, without prejudice to the above, the following explanation is submitted.</p>	<p>The averments of the 9<sup>th</sup> respondent is denied.</p> <p>It is submitted that the said project activity falls well within the ambit of EIA Notification on account of the facts mentioned in the preceding sections. Also,</p>

		it is worthy mention here that the Project authority itself had applied for the EC under violation category before the SEIAA-Tamilnadu.
63	It is submitted that the project is situated on private patta lands and within the village panchayat of G.Kallupatty and as such the wildlife laws and regulations are not attracted to the project. The project is situated on the southern boundary of the Palani hills and the hills near to the project has a natural steep slope and dry terrain. It is important to state that there are no notified or known animal corridor in this part of the hills or in the entire village of G.Kallupatty within which the project is situated in Ward1.	It is submitted that any projects lies within the eco-sensitive zone requires clearance from National Board of Wildlife irrespective of applicability of EIA Notification, 2006.
64	In fact, the Manjalaru Dam waterfalls are situated on diagonally opposite slope of the hills which is on the far side from the village and the project, whereby the animal movement can only be attracted to that part which is within the forest area. Thus, the project is situated within village limits where it is free from wildlife issues. In fact, in all these years since the project was completed in 2011 or for many decades in the village of G.Kallupatty, there is not a single reported incident of any wildlife issue and thus there is no applicability of wildlife regulations to the project.	No comments are offered.
65	It is submitted that the project is a plotted layout development. Thus, there is no statutory certificate of completion as in the case of buildings under the existing legal system. The project is thus completed in the eye of law when the development is complete with all infrastructure such as road, sewage, water supply, electricity etc., and as per the statutory conditions laid down in the approved DTCP plan including gifting of OSR and Public Roads to the local bodies.	The project authority failed to comply with the provisions of the EIA Notification and Wildlife Protection Act. Mere approval from the DTCP does not absolve the purpose of getting clearance from other mandatory clearance from the authorities concerned.
66	In the instant case, it is the contention of this Respondent that the project was completed as per the stipulated conditions of the approved DTCP plan in the year 2011 itself. In order to evidence this, It is submitted that the proceedings of the District Collector and that of the forest department would certify on physical inspection that the project was complete.	

67	<p>It is submitted that pursuant to a show cause proceeding earlier, by way of a final order, the District Collector in his proceeding dated 15.09.2011 has stated on record that all facilities for housing layout has been completed and that on the said layouts the village panchayat can be permitted to grant building permissions. The District Collector has further stated that all compliances as required have been made and that the project has complied with and completed all the conditions of the approved DTCP plan. The District Collector has made the above order by comparing and referencing the compliance in accordance with the DTCP letter dated 09.03.2009 which is for an overall extent of 49.3 hectare and thus all of the above would clearly demonstrate that the project was completed only for 49.3 hectares and that the project was completed in the year 2011 itself, In fact, the sale of the plots had also commenced post these events, from the year 2011 onwards.</p>	<p>The project authority failed to comply with the provisions of the EIA Notification and Wildlife Protection Act. Mere approval from the DTCP does not absolve the purpose of getting clearance from other mandatory clearance from the authorities concerned.</p>
68	<p>It is submitted that it is an admitted fact that the Kodaikanal forest range was notified as a Wildlife Sanctuary only in the year 2013 that is on 20.09.2013 as per G.O.(Ms.) No. 143. Therefore, all the regulations applicable with a wildlife sanctuary such as the eco sensitive zone restriction can apply to the Kodaikanal sanctuary only from the year 2013. The notification of the boundary and prohibition distance of the Sanctuary was done only in January,2020.</p>	
69	<p>It is submitted that as demonstrated above, the project was completed in the year 2011 and thus the project is not attracted under the eco sensitive zone regulation. On the contrary what is alleged is that the construction of independent villas by individual plot owners has to be taken as a continuation of project activity and thus the project should be deemed to continue beyond the year 2013.</p>	
70	<p>The above allegation is erroneous and unsustainable in law. It is undoubtedly a clear fact that the project is only a plotted layout development. Once the plots are purchased by individual land owners, they can choose to construct or not to construct any building. Even seen from the report of the committee, out of about 170 odd plots sold, only about 100 have been developed with buildings and the remaining are not. Therefore, the constructions made by them either by</p>	

	<p>themselves or through contractor can bind only themselves and the same cannot be a part of the layout project.</p>	
71	<p>It is submitted that the very purpose of a layout development project is to sell vacant plots along with common and municipal infrastructure facilities. Further, it is obvious that the purchase of vacant plots is for either holding it as an investment or for construction of building. It is submitted that any buildings if constructed by the plot purchasers cannot be called as a part of the original layout project. The statutory permissions are separate and independent of each other for the layout development and any building constructed thereafter. While the promoter such as the 9<sup>th</sup> Respondent obtains DTCP approval etc., to promote the layout with required infrastructure, it is always the individual plot owners who are liable under law to obtain permission and construct buildings if required.</p>	<p>No comments are offered.</p>
72	<p>In the instant case, from a business perspective, the plots were marketed as senior citizen residence homes. Upon purchase of the plots, in some cases the Respondent by itself or through subsidiary also acted as a contractor to some of the plot purchaser to build their houses. It is paramount to point out here that the individual houses, its design and size is all decided by the plot owners subject to statutory regulations. Equally it is only for aesthetics that a common design is suggested and accepted by individual purchasers in terms of having equal ceiling etc. The same is a common business practice in luxury homes and the fact remains that the project is only a layout development project and the buildings are constructed by the individual plot owners which is sometimes contracted by the 9<sup>th</sup> Respondent. Some of the plot owners have constructed and some are in the process of constructing and some may construct in the future. The above fact cannot, as per law, mean and include that the layout development project is continuing only because the plot purchasers build houses at different points of time.</p>	<p>No comments are offered.</p>
73	<p>Therefore, it is submitted that the layout development project was completed in the year 2011 and thus the 2013 notification of Kodaikanal sanctuary has no application to the present project. In</p>	<p>Completely denied the averments and the Committee relied upon the facts mentioned against above serial No. 17, 18 and 21.</p>

	fact, the eco sensitive zone notification for the sanctuary of the year 2020 that is 23.01.2020 does not cover the entire village of G.Kallupatty and thus even as on date, there is no applicability of any restrictions to the project.	
74	In arguendo it is submitted that the primary contentions are that since the project does not attract the EIA, 2006 as being only 49.3 hectares in extent, the ESZ or clearance from National Board for Wild Life does not apply to the project. It is only on false charges that the project is contended as exceeding 50 hectares and continuing beyond 2011 and all of that is denied and unsustainable as elaborated above. Thus, the project neither attracts the ESZ or the need for NBWL clearance.	
<b>CONSENT FROM TNPCB:</b>		
75	It is submitted that the 9 <sup>th</sup> Respondent after the completion of the project in the year 2011 onwards had sold and handed over those plots to individual purchasers. Thereafter, this Respondent proposed to construct a club house to an extent of 4,000 sq. meters. The 9 <sup>th</sup> Respondent also applied and got approval from the DTCP vide order dated 27.05.2013 for the club house. Accordingly, along with taking steps for construction, the 9 <sup>th</sup> Respondent also applied for consent from the TNPCB vide application dated 12.02.2014.	Show cause notices was issued by TNPCB on 18/05/2016 as the unit fails to obtain consent of TNPCB as required under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended for the entire township development project including for all its allied activities.
76	Thereafter, the application was returned by the TNPCB erroneously by relying upon the forest NOC dated 12.07.2011 and concluding that the project is beyond 50 hectares and thus attracts the EIA, 2006.	However, no application is received from the project proponent for the entire township project along with the environmental clearance obtained from the MoEF&CC/SEIAA.
77	Consequently, it is a matter of fact that, at that point of time, the Respondent proposed to have an expansion of the layout project and subsequently dropped the same and the application was withdrawn. Thereafter it became necessary for the Respondent to approach the TNPCB again and explain that the project is only 49.3 hectares and that it does not require EC.	MoEF&CC vide its Notification dated 09.12.2016 stated that "No consent to Establish or Operate" under the Water (Prevention and Control of Pollution) Act, 1974 as amended and the Air (Prevention and Control of Pollution) Act, 1981 as amended will be required from the State Pollution Control Board for residential Buildings up to 1,50,000 square meters.
78	In the meantime, the TNPCB issued show cause notice dated 18.05.2016 for the club house of 4,000 sq. meter for not having obtained consent. It is a matter of fact that the club house is not fully constructed or operated on 18.05.2016 and it remains in the same state till today. In the mean time since the	However, Hon'ble NGT (PB) vide its Order dated 09/12/2017 in O.A.677 of

	present application was filed and the entire matter is before this Hon'ble Tribunal, the 9 <sup>th</sup> Respondent has not acted any further, awaiting the outcome of the present case.	2016 directed MoEF&CC "to re-examine its Notification dated 9 <sup>th</sup> December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification" and the matter still under sub-judice.
79	Therefore, it is submitted that this Respondent has been only issued a show cause notice and that too only for the reason that the project exceeds 50 hectares by erroneously relying upon the forest NOC. It is within the rights of this Respondent to respond and submit explanations clarifying the same to the TNPCB for the said authority to decide and pass statutory order under Section 33A and Section 31A of the Water and Air Act respectively under which the show cause notice has been issued.	
80	Therefore, the above issue has no relevance to the allegations contained in the present case and the reliance placed on the TNPCB proceedings are only to find some fault somehow on the project which only amount to misleading this Hon'ble Tribunal.	
<b>ENVIRONMENTAL IMPACT AND ENVIRONMENTAL COMPENSATION</b>		
81	It is submitted that the present project is only a layout development project. The plot owners whoever has purchased and chosen to, have put up only residential buildings. There is no other industrial or commercial activity in the whole project site.	The Hon'ble NGT(SZ) in its Orders have directed to assess the environmental compensation, if there is any violation. As the Joint Committee confirmed the violation, the environmental compensation was arrived as per the methodology derived by the Central Pollution Control Board.
82	In so far as the layout development is concerned, the 1 <sup>st</sup> report of the joint committee itself is evidence to the fact that there is no environmental disturbance or damage done by the project. More particularly, it is clearly recorded that the project has not disturbed or poses any danger to the existing land pattern, water streams, odai etc., to not disturb the existing ecology of the area.	
83	It is submitted that even thereafter the only waste generation at the project is that of sewage and domestic waste. They are taken care of adequately by proper sewage and waste disposal system. It is not disputed that the waste disposal system is sufficient and efficient and the project maintains highest standards of eco-friendly living with pure air and total hygiene.	

84	<p>Therefore, it is submitted that there is no environmental damage that has been caused by the project and thus there arises no necessity for imposition of any environmental compensation on the project. Without nothing the above and without establishing the manner in which any damage has been caused by the project, the committee has proceeded to assess the compensation. In fact, the committee ought to have filed a report if there were any damages and then proceeded for calculating compensation. However, by understanding the order of this Hon'ble Tribunal to assess damage and calculate compensation, if any, the committee in arbitrary and erroneous manner straight away assessed the compensation which is unsustainable in law.</p>	<p>The Hon'ble NGT(SZ) in its Orders have directed to assess the environmental compensation, if there is any violation. As the Joint Committee confirmed the violation, the environmental compensation was arrived as per the methodology derived by the Central Pollution Control Board.</p>
85	<p>The only other ground on which It is submitted that, even though the DTCP approval obtained for 49.31 Ha for their project, the 9<sup>th</sup> respondent has obtained NOC on 24.01.2008 from Forest Department, Government of Tamil Nadu for the development of farming over an extent of land of 128 Acres (51.82 Hacters), which exceeds 50 Hacters.</p> <p>Though the proponent has obtained DTCP approval over an extent of 49.31 Hacters, it was ascertained from the records vide Tamil Nadu Forest Department letter dated 02/07/2011 that the project proponent retains the same area of 51.82 Hacters land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.the compensation is assessed is that of non-obtainment of EC by supposing that the project is beyond 50 hectares. The same is erroneous as the project does not require EC as it falls below 50 hectares and does not attract the EIA, 2006.</p>	
86	<p><b>Nevertheless, the compensation and calculation were done without an opportunity being provided to this Respondent and as such the Respondent reserves recourse to statutory process before the imposition of environmental compensation.</b></p>	<p>It is submitted that Committee has given an opportunity to the project authority to submit their views. Project authority cannot direct the Committee to give an opportunity prior to each and every decision making process, report preparation etc., which tantamount the interference with the Judicial proceedings. The environmental</p>

		compensation can be levied to any defaulters. Calculation of Environmental compensation was arrived only based on the methodology derived by the Central Pollution Control Board, New Delhi, for levying Environmental Compensation.
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**PARAWISE REPLY**

87	It is submitted that the report of the joint committee is from any angle erroneous and unsustainable in law and is denied on para wise basis hereunder.	
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**Terms of reference(i):**  
*To inspect the area in question and consider the question regarding the environment impact of the project in Eco-Sensitive area in forest wildlife and existing water bodies and whether the project developer had started their construction without getting environment clearance.*

<b>Observations of the committee (in 1<sup>st</sup> Report)</b>	<b>Objections by the 9<sup>th</sup> Respondent for 1<sup>st</sup> report</b>	<b>Remarks of the Committee (2<sup>nd</sup> Report)</b>
<p><b>Regarding the eco-sensitive area:</b>            The project activity falls within 10 km of eco-sensitive zone (in the absence of delineation of Eco-sensitive Zone of Kodaikanal Wildlife Sanctuary prior to the Gazette notification dated 23/01/2020), it is mandatory requirement of getting Clearance from the Standing Committee of National Board for Wildlife (NBWL). Further, Govt. Of India vide S.O. 412(E) dated 23/01/2020 has notified the Kodaikanal Wildlife Sanctuary, wherein notified an area to an extent of 0 km to 1.0 km around the boundary of the Kodaikanal Wildlife Sanctuary as Eco sensitive zone.</p> <p><b>Whether the project developer had started their construction without</b></p>	<p><b>a)</b> It is submitted that the issue regarding to the violation of Eco-Sensitive Zone regulation is unsustainable for the reason that the application of the said regulation applies only to projects that require Environmental Clearance. This proposition of law is established and settled by the orders of the Hon'ble Supreme Court in the landmark judgment in Goa Foundation v.Union of India and the resultant notification by the MoEF dated 02.12.2009. In the instant case, the project does not attract the EIA Notification 2006 and thus does not require EC as per EIA 2006. Therefore, the Eco-Sensitive Zone buffer regulations do not apply to the present project at all.</p> <p><b>b)</b> In arguendo, it is submitted that the approval for the project was granted much prior on 09.03.2009 itself before the ESZ regulations came into force which is on 02.12.2009 by a notification of the MoEF and as such at the time of grant of approval, there was no regulations of eco-sensitive area.</p> <p><b>c)</b> Notwithstanding all of</p>	<p><b>Remarks on (a), (b), (c) and (d) *</b></p> <p>Though the proponent has obtained DTCP approval over an extent of 49.31 Hacters, it was ascertained from the records of Tamil Nadu Forest Department NOC dated 24/01/2008 and subsequent letter dated 02/07/2011 that the project proponent retains the same area of 51.82 Hacters land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.</p> <p>As per Hon'ble Supreme Court Order dated 04.12.2006 in W.P.No. 40 of 2006, MoEF&amp;CC issued a public notice dated 01.01.2009 that "those projects/ activities which are located within ten kilometers of the boundaries of Sanctuary and National parks shall seek clearance under the</p>

<p><b>getting environment clearance:</b></p> <p>As per the affidavits submitted by SEIAA and as per the records of TNPCB, it is observed that, the unit has continued the project related activity without obtaining environmental clearance from SEIAA and consent from the TNPC Board. The unit continues to violate the provisions of Water &amp; Air Acts, as per the report submitted by TNPCB, DEE, Theni vide TNPCB, Theni letter No. F.0001 (N.A)/DEE/TNPCB/2016/ dated 25/05/16 &amp; F.0002/DEE/TNPCB/Theni/2016/ dated 06.10.2016. In this regard, TNPCB vide Proceeding dated 18/05/2016 issued Show cause Notice to the Unit.</p> <p>The Member Secretary, SEIAA vide letter dated 02.04.2014 instructed the Project developer not to commence any activity other than cleaning of the site, fencing the site and putting up temporary structure for accommodation of labour, along with basic facilities like toilets and water supply, made as a temporary arrangement.</p> <p>Though the Project developer has obtained approval from DTCP, requisite Consent &amp; Authorization has not been obtained from the TNPCB.</p>	<p>the above, it is pertinent to state that the Kodaikanal Wildlife Sanctuary itself was notified only on 2013. The buffer Eco-Sensitive Zone of the Sanctuary was fixed up to a distance of 1 km only during the year 2020. Even earlier, when the default buffer of 10 kms were made applicable procedure for such regulations were made by on office Memorandum of the MoEF dated 02.12.2009 only. Thus, looking from any angle, the project is not covered under the ESZ regulations.</p> <p><b>d)</b> It is pertinent to state that the enforcement of ESZ, the notification of the Kodaikanal Sanctuary, the fixing of buffer zone can apply only prospectively and in the instant case, as explained herein above, the regulations cannot be retrospectively applied.</p> <p><b>Environmental Clearance:</b></p>	<p><i>Wildlife (Protection) Act, 1972</i>”.</p> <p>As the 9<sup>th</sup> respondent has obtained approval only after the said public notice, It is evident that the project needs to obtain approval from Standing Committee of National Board for Wildlife.</p> <p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>It is evident from the above that the project development is still under progress and the 9<sup>th</sup> respondent cannot claim that the project activities are not covered under the Eco-Sensitive Zone regulations.</p> <p>The project site is 35 m away from the boundary of the Kodaikanal Wildlife Sanctuary. Since the project activity falls within 10 km of eco-sensitive zone (in the absence of delineation of Eco-sensitive Zone of Kodaikanal Wildlife Sanctuary prior to the Gazette notification dated 23/01/2020), it is mandatory requirement of getting Clearance from the Standing Committee of National Board for Wildlife (NBWL). Further, Govt. of India vide S.O. 412(E) dated 23/01/2020 has notified the Kodaikanal Wildlife Sanctuary, wherein notified an area to an extent of 0 km to 1.0 km around the boundary of the Kodaikanal Wildlife Sanctuary as Eco sensitive zone.</p>
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<p><b>Impact of the project in Eco-Sensitive area in forest wildlife and existing water bodies:</b></p> <p>The Committee has inspected various constructions of villas, Oddai (small seasonal streams) flowing through the project site, treatment system of sewage, solid waste disposal and distance between reserved forest and the project site.</p> <p>Committee has shown the records of Revenue for various oddai in the project site and verified the existence along with revenue officials. There are four oddais in the project site. Widths of the oddais are not altered in the site. However, bridges are</p>	<p><b>a)</b> It is submitted that the entire extent of the project is 49.31 hectares and thus does not require environmental clearance as being less than 50 hectares as per Entry 8 of Schedule to the EIA notification 2006.</p> <p><b>b)</b> The observations of the committee are firstly that an extent of 7 acres of land in Survey Nos. 426, 428, 429 and 441/1 are also project lands over and above 49.31 hectares and as such the total land usage exceeds 50 hectares. The Committee came to the above conclusion based on the reason that the Survey Number Except 441/1 are a part of the NOC given by the Tamil Nadu Forest Department dated 24.01.2008 and 12.07.2011 which are not amended till date. Further certain activities of organic farming were carried on in Survey No.441/1 and some other activities of brick manufacturing in some other land which makes it a part of the project activity.</p> <p><b>c)</b> It is submitted that the above findings of the Committee is erroneous because the committee has failed to compare the approved DTCP layout dated 09.03.2009 which forms the basis and describes the extent of the project. The Committee also failed to consider the proceedings of the District Collector date 2011, which has observed the completion of the project as per the DTCP conditions which also points to only 49.31 hectares. All the activities are confined only to DTCP</p>	<p>* - The remarks of DFO and Wildlife warden, Kodaikanal on the objections filed by 9<sup>th</sup> Respondent was furnished vide his letter dated 25.11.2020 is annexed herewith vide Annexure I.</p> <p><b>Remarks on (a), (b), (c), (d), (e), (f), (g) and (h) of Environmental Clearance:</b></p> <p>The 9<sup>th</sup> respondent has obtained NOC from the Tamil Nadu Forest Department on 24/01/2008 over an extent of 51.82 Hacters (128 Acres) of land. However, the 9<sup>th</sup> respondent made a claim that the project need not require Environmental Clearance under EIA Notification, 2006 as they have obtained DTCP approval only over an extent of 49.31 Hacters.</p> <p>The 9<sup>th</sup> respondent cannot claim for the exemption of environmental clearance as the proponent failed to include the lands in the S.F.Nos. 426, 428 and 429 with respect to the clearance obtained from the Forest Department and the above said lands still under possessions of 9<sup>th</sup> respondent.</p> <p>The 9<sup>th</sup> respondent cannot claim that their project area is reduced just because they handed over the land of 12.51 Ha to local body as per the DTCP guidelines, which is an integral part of the township development project.</p> <p>All allied activities includes vermi composting, organic farming activity, hollow block manufacturing facility, development of roads, street lightings</p>
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<p>constructed along the cross roads within the developed project area for free flow of water during monsoon. The Project Developer has left 35 meter buffer zone from the reserved forest.</p> <p>The sewage from the villas are collected and disposed periodically through tankers authorized by local body. Also the unit is converting the Bio degradable solid waste through vermicomposting</p>	<p>approved area only. Further, out of the 49.31 hectares of land, almost 12.51 hectares is gifted for forming of roads to the local body as per DTCP norms who had taken charge and completed the same. The 9<sup>th</sup> Respondent is thus only having 36.8 hectares of land for the project area. In additions, the application for environmental clearance for Phase II of the project submitted by the Applicant clearly explained the confusion and recorded Phase I of the project to be 49.31 hectares which is the actual project size and the remaining extent of lands including the aforesaid Survey Numbers in 426, 428, 429 and 441/1 as proposed expansion areas. The expansion was also subsequently given up and the application for expansion stands withdrawn.</p> <p><b>d)</b> Therefore, the committee has not considered the various statutory documents and has concluded only on the basis of the forest NOC which was an inadvertent mistake and not binding on the project since the lands are itself are not forest lands. Thus, the above findings of the Committee warrant revision and interference by this Hon'ble Tribunal.</p> <p><b>e)</b> The 2<sup>nd</sup> observations of the Committee in Point No.(i) is that the project related activity such as nursery, composting yard, etc are being undertaken in the aforesaid additional Survey Number and thus amounts to land utilized for the project. It is submitted that the referred activity is organic farming carried on in 1 acre of land in Survey No.</p>	<p>covers the entire township development project/activity and hence, the proponent has to submit application for Consent of the TNPCB under red category.</p>
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441/1. The said land is not owned by the 9<sup>th</sup> Respondent and such is not a part of the project or a part of the DTCP approval.

**f)** In fact, the activity is not a project activity since what has been implemented by the 9<sup>th</sup> respondent is only plotted layout development. The activity of organic farming does not find a part as a project activity in any permissions or clearances.

**g)** it is understood by the respondents that is only upon a request by the residents who are senior citizens, as a leisure activity, that they obtained consent and had an arrangement with the original land owner to carry out such activities which seems to be permitted by the land owner on a temporary basis until the lands are required by him. Therefore, an activity that is purely temporarily carried on by purchasers, not promised as a project activity, in lands that do not form part of the clearance are now portrayed on assumptions and presumptions to be that the project. It is submitted that the Committee had not noticed this fact and the allegation that the activity is a project activity is without verification, perusal and assessment of the activities. Therefore, it is submitted that the above are contrary to true facts and those facts cannot be denied on the basis of suspicions and presumptions.

**h)** It is further submitted that with regard to the issue pertaining to hollow brick manufacturing which was noticed as undertaken in part of the

lands in Survey No.441/1, the same was carried out by 3<sup>rd</sup> party agencies on a contractual basis to supply material for the project. The land on which such units were established were never a part of the project nor owned by the 9<sup>th</sup> Respondent. The units are white category industries as per Type Code No.4016 in BP No.6 dated 2.8.2016 and as such the white category industries do not require consent from the TNPCB as per the guidelines of CPCB. These units are not in operation which were also confirmed by TNPCB in their reply to this Hon'ble Tribunal.

**Environmental Impact:**

a) It is submitted that the report of the committee clearly establishes that there is absolutely no impact of the project in eco-sensitive area in forest wildlife and existing water bodies. The committee has also observed that the sewage and solid waste are properly disposed. The committee has further observed that no water bodies or odai are disturbed by the project. The committee also observed that a 35 metre buffer zone is also left from the forest. Therefore, the committee has given a clean chit to the 9<sup>th</sup> respondent in terms of viability and impact of the project on the environment. Therefore, the entire issues only related to procedural compliances by the 9<sup>th</sup> respondent.

**Remarks on (a) of Environmental Impact :**  
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The 9<sup>th</sup> respondent has not furnished any base line data in respect of water quality, air quality to assess the

		<p>environmental impact due to ongoing project activities and also not furnished any Environmental Impact Assessment carried out as per the Standard Terms of Reference applicable for construction and township projects.</p> <p>* - The remarks of DFO and Wildlife warden, Kodaikanal on the objections filed by 9<sup>th</sup> Respondent was furnished vide his letter dated 25.11.2020 is annexed herewith vide Annexure I.</p>
88	<p><b>Reply to Terms of reference(i)</b></p> <p>It is submitted that the committee has only relied upon the NOC of the forest department dated 24.01.2008 and 02.07.2011 to show that the project retains 51.82 hectares of land. The committee has while noting that the DTCP approval is only for 49.3 hectares has not answered about the prevalence of DTCP approval over and above the forest NOC.</p>	<p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>It is evident from the above that the project development is still under progress and the 9<sup>th</sup> respondent cannot claim that the project activities are not covered under the Eco-Sensitive Zone regulations.</p> <p>The entire project area is located within 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O. 412(E) dated 23/01/2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020</p>
89	<p>It is submitted that the committee has not dealt with the submission of the Respondent in terms of Section 2 of the Forest Conservation Act and how the jurisdiction of the forest department is restricted and it is only the DTCP approval that prevails over and above the forest NOC.</p>	
90	<p>The committee has failed to note that the disputed survey number 426, 428, 429 &amp; 441 has no activity or access even as on today and as such instead of reporting on the factual aspects has made a legal case by interpreting the forest NOC clearance.</p>	
91	<p>It is submitted that the committee has in a shocking manner reported that collection of sewage, solid waste, maintain the common areas like road street light etc., as amounting to project under development. In such a case, if the report of the committee is to be accepted then the 9<sup>th</sup> Respondent has to be stop providing sewage and waste maintenance to the project.</p>	
92	<p>It is submitted that in so far as the</p>	

	<p>construction of residences is concerned, the same is not a project activity as discussed in detail above and without referring to the objections already raised, the committee has brushed aside all the valid objections and merely reiterated the same findings.</p>	
93	<p>In so far as the letter of the DFO dated: 25.11.2020 given as Annexure-1 is concerned, it is submitted that the same is merely an extract of all existing notifications. The DFO has not objected or granted any explanation on the submission of the project with regards to section -2 of the Forest Conservation Act. The DFO has further baldly stated that the project is on-going without responding to the objections that the project is only a layout development and other construction of residence is by individual third party.</p>	<p>Though the proponent has obtained DTCP approval over an extent of 49.31 Hacters, it was ascertained from the records vide Tamil Nadu Forest Department letter dated 02/07/2011 that the project proponent retains the same area of 51.82 Hacters land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.</p> <p>As per Hon'ble Supreme Court Order dated 04.12.2006 in W.P.No. 40 of 2006, MoEF&amp;CC issued a public notice dated 01.01.2009 that <i>"those projects/ activities which are located within ten kilometers of the boundaries of Sanctuary and National parks shall seek clearance under the Wildlife (Protection) Act, 1972"</i>.</p> <p>As the 9<sup>th</sup> respondent has obtained approval only after the said public notice, It is evident that the project needs to obtain approval from Standing Committee of National Board of wildlife.</p>
94	<p>The arbitrariness and unreasonableness of the DFO is explicit from his blatant allegation that there is impact on the behaviour and movement of wildlife worsening the man animal conflict. At the outset, the DFO has not based the above contention on the basis of any record or document. Further, he has not stated which wildlife behaviour or pattern was affected. Further, the altered movement pattern or altered behaviour has not been stated on the basis of any record maintained by the forest department. That apart, the DFO has not even referred to any recorded instance of man animal conflict and any compensation paid there on not only in the project site but in the whole village of G.Kallupatty.</p>	
95	<p>The above statement of the DFO is complete reversal of the clearance given by the same department and the same office to the same project at the same site in the year 2011 while it was cleared that there is no impact on forest and wildlife and that there are no man animal conflicts, while completely taking and opposite stand from his predecessor in office, the DFO in his letter has not relied on any records or documents.</p>	
96	<p>It is submitted that since the project proponent has denied any environmental impact there arises no necessity for calculation of compensation. The committee without establishing any environmental damage has instead alleged that the proponent has not given any baseline data that too, when it was not even asked of the respondent. The</p>	

	committee has failed to establish any environmental damage due to the project.	
<p><b>Terms of reference(ii):</b> Whether the project proponent had started their construction without getting environment clearance and if so, what is the extent of construction made in that area covered for the project and also the applicability of EIA Notification 2006 for the project and if there is any violation.</p>		
<b>Observations of the committee (1<sup>st</sup> Report)</b>	<b>Objections by the 9<sup>th</sup> Respondent for 1<sup>st</sup> Report</b>	<b>Remarks of the Committee (2<sup>nd</sup> Report)</b>
<p>From the NOC and communication obtained from the Tamilnadu Forest Department, it has been observed that project developer has more than 50 Ha. of area in their possession from 2008 to 2011. Though the project developer claims that the total project area is less than 50 Ha., it is pertinent to mention here that in the absence of the ownership one can not get the NOC. Further, the NOC obtained for 128 Acres (51.82 Ha.) from the Forest Department has not been amended till date.</p> <p>During the visit, Committee has observed few project related activities viz. nursery, composting yard etc., are being undertaken in the adjoining area of the project, which is not part of the project area. But, considered to be activity area. Accordingly, it is observed that the area of layout development and allied activities exceeds 50 Ha., therefore obtaining Environmental Clearance under EIA</p>	<p><b>a)</b> It is submitted that the observations in the above point are already discussed and replied to in the previous paragraph itself. It is only reiterated that the forest department's NOC is referred without context to the DTCP approval and ground reality. The alleged activities are not project activities, not carried on by the 9<sup>th</sup> respondent and not within the project site.</p>	<p><b>Remarks on (a)</b> As submitted above, The 9<sup>th</sup> respondent cannot claim for the exemption of environmental clearance as the proponent failed to include the lands in the S.F.Nos. 426, 428 and 429 with respect to the clearance obtained from the Tamilnadu Forest Department and the above said lands still under possessions of 9<sup>th</sup> respondent.</p> <p>Further, all other allied activities are integral part of the township development projects, which is being carried out in the above said survey numbers.</p>

Notification, 2006 is mandatory.		
97	<p><b><i>Reply to Terms of reference(ii)</i></b></p> <p>It is submitted that the committee has stated that the proponent failed to include the lands in survey number 426, 428 &amp; 429 for the purpose of Environmental Clearance.</p>	It is submitted that, even though the DTCP approval obtained for 49.31 Ha for their project, the 9 <sup>th</sup> respondent has obtained NOC on 24.01.2008 from Forest Department, Government of Tamil Nadu for the development of farming over an extent of land of 128 Acres (51.82 Hacters) inclusive of SF No 441,426, 428, and 429 village of G.Kallupatty which exceeds 50 Hectares.
98	<p><b>Firstly, the committee has given up the land in survey Number. 441/1 which was earlier alleged as a part of the project land. Now the committee is only concerned with 426, 428 &amp; 429.</b></p>	
99	<p>It is submitted that the same is not a part of the project and was shown to the committee on the site as isolated barren lands with no activity or no access. Without placing all that on record, the committee has simply alleged that the same was left out. It is indeed true that those lands were left out and intentionally so because those lands as a matter of record were purchased approval/completion of project. That apart, those lands were never a part of the project or connected in any manner with the project as seen from the DTCP approved layout. Therefore the 9<sup>th</sup> Respondent has intentionally and responsibly left out those lands and not utilised an inch of the same for the project till today.</p>	<p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020.</p>
	<p><b><i>Terms of reference(iii)</i></b></p> <p>Area of construction and proximity of the project to the reserve forest and Kodaikanal wildlife Sanctuary.</p>	
<p><b>Observations of the committee (1<sup>st</sup> Report)</b></p>	<p><b>Objections by the 9<sup>th</sup> Respondent for 1<sup>st</sup> Report</b></p>	<p><b>Remarks of the Committee (2<sup>nd</sup> Report)</b></p>
<p>Out of 298 allotted plots, 172 plots</p>	<p><b>a)</b> It is submitted that the reply and</p>	<p><b>Remarks on (a) *</b></p> <p>It is submitted that,</p>

<p>including undivided shares are sold out to the private individuals. Presently, 103 villas are constructed. Built up area of each villa is at about 950 Sq. ft. Total built up area of the villas is around 97850 Sq. ft. (9093.86 m<sup>2</sup>). At present 40 villas are occupied by the owners and remaining villas have occasionally occupied.</p> <p>The project site is 35 m away from the boundary of the Kodaikanal Wildlife Sanctuary. Since the project activity falls within 10 km of eco-sensitive zone (in the absence of delineation of Eco-sensitive Zone of Kodaikanal Wildlife Sanctuary prior to the Gazette notification dated 23/01/2020), it is mandatory requirement of getting Clearance from the Standing Committee of National Board for Wildlife (NBWL). Further, Govt. of India vide S.O. 412(E) dated 23/01/2020 has notified the Kodaikanal Wildlife Sanctuary, wherein notified an area to an extent of 0 km to 1.0 km around the boundary of the Kodaikanal Wildlife Sanctuary as Eco sensitive zone.</p>	<p>objections to this paragraph is already discussed under the heading “Eco-sensitive Zone” and thus not repeated for the sake of convenience and brevity.</p>	<p>even though the DTCP approval obtained for 49.31 Ha for their project, the 9<sup>th</sup> respondent has obtained NOC on 24.01.2008 from Forest Department, Government of Tamil Nadu for the development of farming over an extent of land of 128 Acres (51.82 Hacters), which exceeds 50 Hacters, and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.</p> <p>As per Hon’ble Supreme Court Order dated 04.12.2006 in W.P.No. 40 of 2006, MoEF&amp;CC issued a public notice dated 01.01.2009 that <i>“those projects/ activities which are located within ten kilometers of the boundaries of Sanctuary and National parks shall seek clearance under the Wildlife (Protection) Act, 1972”</i>.</p> <p>As the 9<sup>th</sup> respondent has obtained approval only after the said public notice, It is evident that the project needs to obtain approval from Standing Committee of National Board of wildlife.</p> <p>The 9<sup>th</sup> respondent is carrying out activities such as construction of residences, construction of utilities such as club house, provided services like collection of sewage, solid wastes, etc, maintaining the common areas like roads and street lights even during the inspection made by the committee on 19.03.2020.</p> <p>It is evident from the above that the project development is still under progress and the 9<sup>th</sup> respondent cannot claim that the project activities</p>
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		<p>are not covered under the Eco-Sensitive Zone regulations.</p> <p>The entire project area is located 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O. 412(E) dated 23/01/2020</p> <p>* - The remarks of DFO and Wildlife warden, Kodaikanal on the objections filed vide by 9<sup>th</sup> Respondent was furnished vide his letter dated 25.11.2020 is annexed herewith vide Annexure I.</p>
<p><b>100</b></p>	<p><b><u>Reply to Terms of reference(iii)</u></b>  It is submitted that the committee has once again stated that because the forest NOC dated 24.01.2008 is 51.82 hectares, the project requires environmental clearance. The committee has not answered on the DTCP approval which is only for 49.3 hectares and the NOC by the Forest Department is only a mistake of record and in any event has no statutory backing in the project site as per Section 2 of the Forest Conservation Act.</p>	<p>The Ministry of Environment, Forest, Government of India has directed that the construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the schedule of the Environment Impact Assessment Notification 2006 including Townships and Area Development projects covering an area <math>\geq</math> 50 hectares, entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Ministry of Environment Forest, or as the case may be, by the State Level Environment Impact Assessment Authority vide Notification issued by the Ministry dated 14.09.2006.</p>
<p>101</p>	<p><b><u>Reply to Terms of reference(iii)</u></b>  <b>The committee has here given up and has not specifically alleged that any of the activity is carried on in 426, 428 or 429.</b>  The committee only states that the lands are in possession of this Respondent. The committee has conveniently not answered the objection that the project was complete in 2011. It is submitted that the lands are not a part of the project and not used for the project. However, as owners of the lands, the possession is with the Respondent and in the event of them not being utilised for the project the committee has failed to point out the illegality in holding the possession.</p>	<p>The 9<sup>th</sup> respondent obtained NOC from Forest Department, Government of Tamil Nadu on 24.01.2008, for their project over an extent of land of 128 Acres (51.82 Hectares), but not obtained prior Environmental Clearance from the Ministry of Environment Forest, Government of India,</p>

102	The committee has given up and has now admitted that the land in survey number 441/1 is not a part of the project. It is in fact the same state with the other lands in survey number 426, 428 & 429 also.	<p>as required under the Environment Impact Assessment Notification 2006 for their project.</p> <p>Though the proponent has obtained DTCP approval over an extent of 49.31 Hectares, it was ascertained from the records vide Tamil Nadu Forest Department letter addressed to the project authority dated 02.07.2011 that the project proponent retains the same area of 51.82 Hectares of land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.</p> <p>Further it was observed that the entire project premises are still under the responsibility of the 9th respondent and constructions are being under taken only by the 9th respondent for the plans predefined for the township project.</p> <p>The entire project area is located within 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O. 412(E) dated 23/01/2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020.</p>	
103	It is submitted that since the project does not attract the EIA 2006 and was complete in the year 2011 as certified by the District Collector, the ESZ notification of Kodaikanal sanctuary does not apply to the project.	<p>as required under the Environment Impact Assessment Notification 2006 for their project.</p> <p>Though the proponent has obtained DTCP approval over an extent of 49.31 Hectares, it was ascertained from the records vide Tamil Nadu Forest Department letter addressed to the project authority dated 02.07.2011 that the project proponent retains the same area of 51.82 Hectares of land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.</p> <p>Further it was observed that the entire project premises are still under the responsibility of the 9th respondent and constructions are being under taken only by the 9th respondent for the plans predefined for the township project.</p> <p>The entire project area is located within 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O. 412(E) dated 23/01/2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt. of India vide S.O.412(E) dated 23.01.2020.</p>	
		<p><b>Terms of reference (iv)</b>  <i>Whether there is any water body available near and within the project area which requires preservation and protection.</i></p>	
<b>Observations of the committee (1<sup>st</sup> Report)</b>	<b>Objections by the 9<sup>th</sup> Respondent on 1<sup>st</sup> Report</b>	<b>Remarks of the Committee (2<sup>nd</sup> Report)</b>	
During the visit Committee observed that there is no any	<b>a)</b> It is submitted that as stated earlier, the observations of the	<b>Remarks on (a)</b> It is submitted that during the inspection of	

<p>water body available near and within the project area. Further, the natural drains / oddais passing through the project area have been verified with revenue authorities / FMB and observed that the four existing natural seasonal drains / oddais in the project area have not been realigned / obstructed. Widths of the oddais are not altered. Further, M/s. Bahri Estates Pvt. Ltd. has constructed the bridge on the natural drains after obtaining requisite permissions from the Tamilnadu Public Works Department.</p>	<p>committee establish the fact that no environmental hazard or damage has been caused by the 9<sup>th</sup> respondent.</p>	<p>the joint committee on 19.03.2020, it was observed that the drains/oddais available within the project area have not been realigned/obstructed. However, the 9<sup>th</sup> respondent shall not alter/change/modify the prevailing ecological conditions of within the project site including natural drain/oddais at all point of time.</p>
<p>104</p>	<p><b>Reply to Terms of reference(iv):</b> It is submitted that the committee has given a clean chit to the 9<sup>th</sup> Respondent as having not caused any damage to the environment, specifically the drains and oddais. The committee has further directed the 9<sup>th</sup> Respondent to not alter, change or modify the streams and the 9<sup>th</sup> Respondent accepts and undertakes for the same.</p>	<p>It is submitted that during the inspection of the joint committee on 19.03.2020, it was observed that the drains/oddais available within the project area have not been realigned/obstructed. However, the 9<sup>th</sup> respondent shall not alter/change/modify the prevailing ecological conditions of within the project site including natural drain/oddais at all point of time.</p>
<p><b>Terms of reference(v):</b> <i>If there are violations, the committee may also specify the violation aspects and the extent of violation having impact environment and the action taken by the authorities for the said violation and submit a report.</i></p>		
<p><b>Observations of the committee (1<sup>st</sup> Report)</b></p>	<p><b>Objections by the 9<sup>th</sup> Respondent on 1<sup>st</sup> Report</b></p>	<p><b>Remarks of the Committee (2<sup>nd</sup> Report)</b></p>
<p>Based on the records made available during the visit, it has been observed that the unit continuing the construction activity without obtaining environmental clearance and Consent &amp; Authorization from the authorities concerned. The unit violated the provisions</p>	<p>a) With respect to the notices issued by the TNPCB, it is submitted that the 9<sup>th</sup> respondent had approached the authorities only for consent for the constructions of club house in a total built up area of 4000 sq.m. The show cause notice issued by the TNPCB have been complied with and reply along with applications</p>	<p><b>Remarks on (a), (b), (c), (d), (e), (f), (g) and (h)</b> Show cause notices was issued by TNPCB on 18/05/2016 as the unit fails to obtain consent of TNPCB as required under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and under section 21 of the Air (Prevention and Control of</p>

<p>of Air &amp; Water Acts. In this regard, TNPCB, Theni vide Proceeding dated 18/05/2016 issued Showcause Notice to the unit for continuing the project activity without obtaining Consent from the Board.</p> <p>Based on the direction of the Tamilnadu Pollution Control Board, the developer vides their letter dated 02/04/2014 applied for Environment Clearance before the State Level Environment Impact Assessment Authority-Tamilnadu and it appears that the matter is still pending.</p> <p>SEIAA-Tamilnadu vide letter dated 02.04.2014 instructed the developer not to commence any activity other than cleaning of the site, fencing the site and putting-up temporary structure for accommodation of labour, along with basic facilities like toilets and water supply, made as a temporary arrangement.</p> <p>MoEF&amp;CC vide Notification No. S.O. 804 (E) dated 14<sup>th</sup> March 2017 provided a six month window for the entities not complying with environment regulation under Environment</p>	<p>have been made by the 9<sup>th</sup> Respondent. Thus, it is for the TNPCB to conclude the statutory process and pass final orders on the Show Cause notice after considering the reply given and the applications made by the 9<sup>th</sup> Respondent. It is submitted that the same is a statutory process as per Section 25 of the Water Act and Section 21 of the Air Act by exercise of powers granted under section 33-A and Section 31-A of the aforesaid acts respectively, where there are appeal remedies available to the 9<sup>th</sup> Respondent. Thus, without appreciating the above stated, the Committee had drawn conclusions on the notices issued by the TNPCB which is unsustainable.</p> <p><b>b)</b> In so far as the applications and withdrawals for EC are concerned, it is submitted that they were made only for a proposed expansion of about 31.02 Hectares of land as contained in the application dated 02.04.2014. The proposed expansion lands had no activity going on at the time application or even till date. When the expansion was proposed, the total extent of the project including the existing 49.31 hectares became liable for environmental clearance. Accordingly, the existing project was shown as Phase I with an extent of 49.31 hectares and proposed expansion was shown as Phase II with an extent of 31.02 hectares.</p> <p><b>c)</b> It is submitted that as explained above, the lands shown as Phase I had become liable for obtaining EC only due to proposed expansion activity. Therefore, as per the existing regulations and procedure the 9<sup>th</sup></p>	<p>Pollution) Act, 1981 as amended for the entire township development project including for all its allied activities.</p> <p>However, no application is received from the project proponent for the entire township project along with the environmental clearance obtained from the MoEF&amp;CC/SEIAA.</p> <p>MoEF&amp;CC vide its Notification dated 09.12.2016 stated that “No consent to Establish or Operate” under the Water (Prevention and Control of Pollution) Act, 1974 as amended and the Air (Prevention and Control of Pollution) Act, 1981 as amended will be required from the State Pollution Control Board for residential Buildings upto 1,50,000 square meters.</p> <p>However, Hon’ble NGT (PB) vide its Order dated 09/12/2017 in O.A.677 of 2016 directed MoEF&amp;CC “to re-examine its Notification dated 9<sup>th</sup> December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification” and the matter still under sub-judice.</p>
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respondent submitted the application for expansion and also subsequently submitted a letter of apology in so far as the construction in Phase I is concerned. Thereafter, the said application was delisted by the SEIAA.

**d)** However, it is crucial to state that the project proponent thereafter could not pursue the proposed expansion due to failure to secure the land and due to economic situation and business-related reasons. Therefore, the proposed expansion was given up by the 9<sup>th</sup> respondent and the application for EC was also withdrawn vide letter dated 03.09.2015.

**e)** Thereafter, it has been clearly explained to the authorities that with the withdrawal of the proposed expansion, the project is confined only to 49.31 hectares and as such there is no violation as were before the application for expansion. In continuation to the same, the 9<sup>th</sup> respondent has also submitted such explanations to the TNPCB and EC authorities whenever called upon. With respect to the show cause notice received from the TNPCB, the 9<sup>th</sup> respondent complied with the same and applied for consent under Section 25(5) of the Water Act for the establishment of the Club House in a total built up area of 4000 sq.m which is unrelated to the issue of Environmental Clearance.

**f)** Thus, the proceedings of SEIAA and TNPCB directing the 9<sup>th</sup> respondent to not commence the constructions or permitting clearing the area, etc. were all made in the intervening time period starting form

	<p>application for proposed expansion and withdrawal of that application. It is further submitted that the project of “Bahri Beautiful Country” which is plotted layout development was completed in the year 2011 itself as evidenced by the proceedings of the District Collector dated 15.09.2011.</p> <p><b>g)</b> Therefore, these correspondent are replied upon without context by the joint committee and based on observations in those correspondence, has concluded as if the authorities had found the 9<sup>th</sup> respondent to be a violator. Such findings are erroneous, unsustainable and perhaps made out of caution by the joint committee.</p> <p><b>h)</b> Finally, it submitted that it is a matter of fact and a matter of record that the project of the 9<sup>th</sup> respondent is only 49.31 hectares. Only that extent of lands were developed and completed in total compliance to the DTCP regulations. In fact the aforesaid possession was admitted by the DTCP authorities while granting layout approval and Environmental Clearance was also not insisted at the time of approval. Therefore, looking from any angle, the committee report is erroneous and unsustainable and contract to actual facts and circumstances</p>	
105	<p><b>Reply to Terms of reference(v):</b></p> <p>It is submitted that the show cause notice was issued by the TNPCB only against the club house for total for total area of 4,000 sq. meters. In fact, the show cause notice of the TNPCB which is annexed to the committee report would only refer to survey numbers 400/6,401/2 which are the survey numbers for the club house alone.</p>	<p>Show cause notices was issued by TNPCB on 18/05/2016 as the unit fails to obtain consent of TNPCB as required under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended for the entire township</p>

106	<p>The issue relating to the club house has been explained in detail above and the respondent is vested with the right to statutory process as per section 33A and 31A of the Water and Air respectively.</p>	<p>development project including for all its allied activities.</p> <p>However, no application is received from the project proponent for the entire township project along with the environmental clearance obtained from the MoEF&amp;CC/SEIAA.</p> <p>MoEF&amp;CC vide its Notification dated 09.12.2016 stated that “No consent to Establish or Operate” under the Water (Prevention and Control of Pollution) Act, 1974 as amended and the Air (Prevention and Control of Pollution) Act, 1981 as amended will be required from the State Pollution Control Board for residential Buildings upto 1,50,000 square meters.</p> <p>However, Hon’ble NGT (PB) vide its Order dated 09/12/2017 in O.A.677 of 2016 directed MoEF&amp;CC “to re-examine its Notification dated 9<sup>th</sup> December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification” and the matter still under sub-judice.</p>
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**ENVIRONMENTAL COMPENSATION**

107	<p>It is submitted that the issue with regards to the imposition of compensation is more elaborately explained above. It is thus submitted that the project is only 49.3 hectares and not requiring EC, the project was complete in the year 2011 and not attracted to any of ESZ notification and thus there arises no necessity for imposition of any environmental compensation. Further, as clear from the committee report, there is no damage caused to the environment as well and on that ground also the project is not liable for imposition of any environmental compensation.</p>	<p>The Hon’ble NGT(SZ) in its Orders have directed to assess the environmental compensation, if there is any violation. As the Joint Committee confirmed the violation, the environmental compensation was arrived as per the methodology derived by the Central Pollution Control Board. Environmental compensation can be levied to any defaulters. Calculation of Environmental compensation was arrived only based on the methodology derived by the Central Pollution Control Board, New Delhi, for levying Environmental Compensation.</p> <p>The Ministry of Environment, Forest, Government of India has directed that the construction of new projects or activities or</p>
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the expansion or modernization of existing projects or activities listed in the schedule of the Environment Impact Assessment Notification 2006 including Townships and Area Development projects covering an area  $\geq$  50 hectares, entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Ministry of Environment Forest, or as the case may be, by the State Level Environment Impact Assessment Authority vide Notification issued by the Ministry dated 14.09.2006.

The 9th respondent obtained NOC from Forest Department, Government of Tamil Nadu on 24.01.2008, for their project over an extent of land of 128 Acres (51.82 Hectares), but not obtained prior Environmental Clearance from the Ministry of Environment Forest, Government of India, as required under the Environment Impact Assessment Notification 2006 for their project.

Though the proponent has obtained DTCP approval over an extent of 49.31 Hectares, it was ascertained from the records vide Tamil Nadu Forest Department letter addressed to the project authority dated 02.07.2011 that the project proponent retains the same area of 51.82 Hectares of land for the township development project and thus the project activity attracts Environmental Impact Assessment Notification, 2006 as amended listed under category 8(b) of the Schedule.

Further it was observed that the entire project premises are still under the responsibility of the 9th respondent and constructions are being under taken only by the 9th respondent for the plans predefined for the township project.

		<p>The entire project area is located within 1 Km from the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt.of India vide S.O. 412(E) dated 23/01/2020.</p> <p>However the 9<sup>th</sup> respondent is executing the project even without obtaining clearance as required under the Environment Impact Assessment Notification 2006 within the boundary of the Kodaikanal Eco-Sensitive Zone declared under Notification issued by Govt.of India vide S.O.412(E) dated 23.01.2020.</p>
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By considering all the above facts, the Hon'ble Tribunal may pass appropriate Orders(s)/Directions(s) as deemed fit in this case.

*(Retired from the services)*

Dr. M. Madhusudhanan  
Regional Director  
Central Pollution  
Control Board, Chennai

  
Dr. M. T. Karuppiah,  
Scientist – E, MoEFCC,  
Regional Office,  
Chennai

  
Thiru S. Karthikeyan,  
Scientist – C, Central  
Pollution Control Board,  
Regional Directorate,  
Bangaluru

  
Thiru P. Subbaih  
Thasildar, Nilakottai  
For and on behalf of  
District Collector,  
Dindugal

  
Thiru P.K.Dileep I.F.S.  
DFO and Wildlife  
Warden,  
Kodaikanal Wildlife  
Division

  
Thiru P. Velmurugan,  
Assistant Director,  
Directorate of Town and  
Country Planning, Theni

  
Thiru S. Selvaraj,  
Member Secretary,  
Dindugal Local  
Planning Authority,  
Dindugal

  
Dr. R. Jayamurugan,  
District Environmental  
Engineer, Tamil Nadu  
Pollution Control Board,  
Theni

  
Dr. R. Chandrasekaran,  
District Environmental  
Engineer, Tamil Nadu  
Pollution Control Board,  
Dindugal

## தமிழ்நாடு வனத்துறை

அனுப்புனர்  
திரு.டி.சம்பத்.இ.வ.ப  
மாவட்ட வன அலுவலர்,  
கொடைக்கானல் வனக்கோட்டம்,  
கொடைக்கானல்

பெறுநர்  
திரு.சரவணராமன்,  
(Authority Signatory)  
Bahiri Estates (P) Ltd,  
No.D16A, Indira Enclave  
Neb Sarai, New Delhi.110060

ஐயா,

பொருள்: வனம் - கொடைக்கானல் வனக்கோட்டம் -  
கெங்குவார்பட்டி கிராமம் M/S பஉற்ரி எஸ்டேட் (பி)  
லிமிடெட் - மணப்பிரிவு செய்தல் - சம்பந்தமாக.

பார்வை: 1).மாவட்ட வனஅலுவலர், கொடைக்கானல் வனக்கோட்டம்,  
கொடைக்கானல் அவர்களின் ந.க.எண். D1 /10772/07  
நாள் 24.1.2008.

2). மாவட்ட வனஅலுவலர், கொடைக்கானல் அவர்களின்  
ந.க.எண்.1492/ 2011/D17 நாள் 28.3.11

3). தங்களது கடித நாள்.11.04.2011.

4). வனச்சரகம், பெரும்பள்ளம் வனச்சரகம், கடித  
நாள்.10.06.2011.

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பார்வை 1ல் கண்ட கடிதத்தில் தேனி மாவட்டம் பெரியகுளம் வட்டம்  
G.கல்லுப்பட்டி கிராமத்தில் உள்ள புல எண்.179.B, 302/2, 379, 382, 383, 384, 385/2,  
385/3 மற்றும் 386 சம்பந்தப்பட்ட 18.28 ஏக்கர், மற்றும் சுஷ்மா சேல்ஸ் பிரைவேட்  
லிமிடெட்டுக்கு சம்பந்தப்பட்ட 55.41 ஏக்கர், M/S, சுப்ரவா அக்ரோ எஸ்டேட்ஸ் பிரைவேட்  
லிமிடெட்டுக்கு சம்பந்தப்பட்ட 38.46 ஏக்கர், M/S, வெங்கடேஜ் அக்ரோ எஸ்டேட்ஸ்  
பிரைவேட் லிமிடெட்டுக்கு சம்பந்தப்பட்ட 10.04 ஏக்கர் மற்றும் M/S, அன்பரா பார்மஸ்  
டெவலப்மென்ட்ஸ் பிரைவேட் லிமிடெட்டுக்கு சம்பந்தப்பட்ட 7.61 ஏக்கர் நிலத்தில் ஆக  
மொத்தம் 128 ஏக்கர் பரப்பில் விவசாயப் பண்ணை அமைக்க அருகில் உள்ள  
தென்சரிவு காப்புக்காட்டிற்கு சுற்றுச்சூழல் வன உயிர்நினைங்கள் இயற்கை வளத்திற்கு  
எவ்வித பாதிப்பும் ஏற்படாமலும் ஆக்கிரமிப்பு ஏற்படாமலும் இருக்க வேண்டும் என்ற  
நிபந்தனைகளுக்கு உட்பட்டும் வனச்சட்டம் மற்றும் வனப்பாதுகாப்பு விதிகளுக்கும்  
உட்பட்டும் வனப்பகுதிக்கும் பட்டா நிலத்திற்கும் இடையே 20 மீட்டர் இடைவெளியில்  
மரம், செடி, கொடிகள் மட்டும், உற்பத்தி செய்யப்படவேண்டும் என்ற நிபந்தனை  
அடிப்படையில் தடையில்லாச்சான்று வழங்கப்பட்டது.

✓

From MOC

பார்வை 2)ல் கண்ட கடிதத்தில் மனுதாரர் கீழ்க்கண்ட நியந்தனைகளை மீறியுள்ளார் என காரணம் காட்டும் நோட்டீஸ் அனுப்பி அதற்கான விளக்கம் கேட்கப்பட்டது.

1. நிலத்தின் வகையை மாற்றி (விவசாய நிலத்திலிருந்து மனைப்பிரிவு நிலமாக) கேடு விளைவித்தது.
2. சுற்றுச்சுவர் எழுப்பியது.
3. வீட்டுமனைப் பிரித்து, வீடு கட்டியது.
4. பாதை அமைத்தது.
5. இயற்கை வளம் மற்றும் சுற்றுச்சூழலுக்கு இடையூறு விளைவித்தது.
6. வன உயிரின நடமாட்டத்திற்கு தடை ஏற்படுத்தி வன உயிரின மனிதன் பிரச்சனைக்கு வழி வகுத்தது.

பார்வை 3)ல் கண்ட கடிதத்தில் மனுதாரர் விதிமீறல்கள் ஏதுமில்லை என்றும், மேற்படி நிலத்தை மனைப்பிரிவு செய்ய தக்க அனுமதி பெறப்பட்டுள்ளது என்றும், இம்மனைப்பிரிவுகளுக்கு இடையே செல்லும் பாதையினை எதிர்கால பராமரிப்பிற்காக சம்பந்தப்பட்ட ஊராட்சியிடம் ஒப்படைக்கப்பட்டுள்ளது என்றும், பட்டா நிலத்திற்கும் வன நிலத்திற்கும் இடையே பார்வை 1)ல் கண்ட கடிதத்தில் அறிவுறுத்தியவாறு இடைதாங்கும் மண்டலம் விடப்பட்டுள்ளது என்றும், இவ்விடைதாங்குமண்டலத்தில் செடி, கொடி, மற்றும் மரங்கள் வளர்ப்பதற்கு தக்க முன்னோடி பணிகள் மேற்கொள்ளப்பட்டுள்ளது என்றும் தெரிவித்துள்ளார்.

பார்வை 4)ல் கண்ட கடிதத்தில் வனச்சரக அலுவலர், பெரும்பள்ளம் வனச்சரகம் இந்நேர்வு தொடர்பாக கீழே கண்டவாறு அறிக்கை பணிந்து சமர்ப்பித்துள்ளார்.

மேற்படி மனைப்பிரிவு நிலத்தினை 10.6.2011 அன்று நானும், கெங்குவார்பட்டி பிரிவு வனச்சிப்பந்திகளும் சென்று களத்தணிக்கை செய்ததில் ஏற்கெனவே மாவட்ட வன அலுவலரின் பார்வை 1ல் கண்டுள்ள உத்தரவில் இடப்பட்டுள்ள நியந்தனைகளை பழனிமலை தென் கசிவு காப்புக் காட்டிற்கும் நியந்தனைகளான பழனிமலை தென்சரிவு காப்புக்காட்டிற்கும், மனைப்பிரிவு அமைய உள்ள இடத்தின் நெடுகிலும் சுமார் 30 மீட்டர் இடைவெளி உள்ளது.

1. காப்புக்காட்டில் நில ஆக்கிரமிப்பு ஏதும் இல்லை.
2. வன உயிரின நடமாட்டத்திற்கு தடை ஏற்படுத்தவில்லை. வன உயிரினம் - மனித இனம் இடையே எவ்வித பிரச்சனையும் ஏற்படுத்தவில்லை.
3. கொடைக்கானல் வடி வத்தலகுண்டு சாலையை ஒட்டி வனப்பகுதியில் இருந்து சுமார் 300 அடி தூரம் தள்ளி வனப்பகுதிக்கு சம்பந்தமே இல்லாமல் தனியே, துண்டாக ஒரு முகப்பு அமைக்கப்பட்டுள்ளது. இப்பகுதிகளில் வன உயிரின நடமாட்டம் ஏதும் இல்லை. இதனால் சுற்றுச்சூழல் துழ்நிலை சீர்கேடு ஏதும் இல்லை.
4. மனைநிலம் ஒரு தரிசு நிலம்தான் அதில் 'Clay Canker Soil' கெட்டித்தன்மை காண்கிரிட் போல் உள்ளதால் இதில் ஒரு விவசாய பயிறும் வராது.

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5. மண் பாதைதான் அமைக்கப்பட்டுள்ளது. இதனால் வனத்திற்கோ கற்றுச்சூழலுக்கோ எவ்வித இடையூறும் இல்லை.

மனுதாரர் தனது பாத்தியத்தில் உள்ள நிலங்களில் அவர் மேற்கொள்ளும் பணிகளுக்கு எவ்வித தடையும் இல்லை என்ற உத்தரவினை பிறப்பிக்கலாம் என பரிந்துரை செய்துள்ளார்.

இப்பொருள் தொடர்பாக மனுதாரரின் பதிலறிக்கை மற்றும் வனச்சரக அலுவலர், பெரும்பள்ளம் வனச்சரகம், அவர்களின் அறிக்கை ஆகியவற்றை பரிசீலனை செய்யப்பட்டது. எனவே, மனுதாரர் மேற்படி பணிஸ்தலத்தில் பார்வை (1) மற்றும் (2)ல் சொல்லப்பட்ட நியந்தனைகளை இனி வருங்காலத்திலும் தவறாது பின்பற்றவேண்டும். மேலும் "Buffer Zone" பகுதியில் ஒரு செயின் அகலத்தில் மரக்கன்றுகள் நடவுசெய்து பராமரிக்குமாறு தெரிவிக்கப்படுகிறது.

ஓம்- டி.சம்பத்,  
மாவட்ட வன அலுவலர்,  
கொடைக்கானல் கோட்டம்,  
கொடைக்கானல்.

/உ.ந.உ.ய்

வரைதெரியில் அலுவலர்

✓

By Registered Post with Acknowledgement Due



**TAMILNADU POLLUTION CONTROL BOARD**

**Proceeding No. DEE/TNPC BD/TEN/F.0001(INV)/W/2016 dated: 18.05.2016**

Sub: TNPC Bd. – Industries – Issue of show cause notice under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 to the unit **M/s. Bahri Beautiful Country, S.F.No.400/6, 401/1, 401/2, Ganguvarpatti Village, Periyakulam Taluk, Theni District** -Reg.

Ref: Inspection of your unit on **17.05.2016**

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TamilNadu Pollution Control Board serves this notice on you as occupier of the unit **M/s. Bahri Beautiful Country, S.F.No.400/6, 401/1, 401/2, Ganguvarpatti Village, Periyakulam Taluk, Theni District** under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Here in after referred to as the Act)

Whereas during inspection of the unit on **17.05.2016** following were observed, that

**1. Operating the unit without consent of the Board.**

Thereby you are violating the Provisions of Section 25 of the Act which are offences punishable under Section 44 read with Section 45A of the Act with imprisonment for a term which shall not be less than one year and six months, but which may extend to six years and with fine.

Hence, you are directed to show cause within **Seven days** from the date of receipt of this notice as to why penal action for offences punishable under Section 44 read with Section 45A of the Act should not be initiated against you, as occupier for the unit under the Provisions of Section 25 of the Act and also to show cause as to why directions under Section 33A of the Act should not be issued for closure of the unit, stoppage of power supply, water supply etc., to the said unit.

It is informed that non-receipt of any-reply within the prescribed period will be construed that you have no satisfactory explanation to offer for the above said contraventions and action will be taken on merits in accordance with law.

The receipt of this proceeding shall be acknowledged.

G-202507 18/05/16  
District Environmental Engineer,  
TNPCB, Theni.

18/05/16

To:  
**M/s. Bahri Beautiful Country,**  
**Mr. K. V. Saminathan Authorized Signatory,**  
**No. 44, 1<sup>st</sup> Floor I E Jamal Nainar Enclave,**  
**Eldams Road,**  
**Teynampet,**  
**Chennai – 600018.**

Sub: 24/5/16  
அனுப்பியுள்ள பத்திரம்

By Registered Post with Acknowledgement Due



**TAMILNADU POLLUTION CONTROL BOARD**

**Proceeding No. DEE/TNPC BD/TEN/F.0001(INV)/A/2016 dated: 18.05.2016.**

Sub: TNPC Bd. – Industries – Issue of show cause notice under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 to the unit of **M/s. Bahri Beautiful Country, S.F.No.400/6, 401/1, 401/2, Ganguvarpatti Village, Periyakulam Taluk, Theni District -Reg.**

Ref: 1) Inspection of your unit on **17.05.2016**

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TamilNadu Pollution Control Board serves this notice on you as occupier for the unit of **M/s. Bahri Beautiful Country, S.F.No.400/6, 401/1, 401/2, Ganguvarpatti Village, Periyakulam Taluk, Theni District** under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 (Here in after referred to as the Act) in references above cited.

Whereas during inspection of the unit on **17.05.2016** it was observed that,

**1. Operating the unit without consent of the Board.**

Thereby you are violating the Provisions of Section 21 of the Act which are offences punishable under Section 37 of the Act with imprisonment for a term which shall not be less than one year and six months, but which may extend to six years and with fine.

Hence, you are directed to show cause within **Seven days** from the date of receipt of this notice as to why penal action for offences punishable under Section 37 of the Act should not be initiated against you, as occupier for contravening the conditions imposed in the earlier consent orders issued to the unit under the Provisions of Section 21 of the Act and also to show cause as to why directions under Section 31A of the Act should not be issued for closure of the unit, stoppage of power supply, water supply etc., to the said unit.

It is informed that non-receipt of any-reply within the prescribed period will be construed that you have no satisfactory explanation to offer for the above said contraventions and action will be taken on merits in accordance with law.

The receipt of this proceeding shall be acknowledged.

6.2016/07/18/5/16  
District Environmental Engineer,  
TNPCB, Theni.

To:  
**M/s.Bahri Beautiful Country,**  
**Mr.K.V.Saminathan Authorized Signatory,**  
**No.44, 1<sup>st</sup> Floor I E Jamal Nainar Enclave,**  
**Eldams Road,**  
**Teynampet,**  
**Chennai – 600018.**

5.5.2016  
சென்னை டி.ஐ.சி.பி.  
சென்னை டி.ஐ.சி.பி.

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE****NOTIFICATION**

New Delhi, the 9th December, 2016

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

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

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

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

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

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

In the said Notification,-

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

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

(1) The integrated environmental conditions with the building permission being granted by the local authorities and the construction of buildings as per the size shall adhere to the objectives and monitorable environmental conditions as given at Appendix-XIV.

(2) The States adopting the objectives and monitorable environmental conditions referred to in subparagraph (1), in the building bye-laws and relevant State laws and incorporating these conditions in the approvals given for building construction making it legally enforceable shall not require a separate environmental clearance from the Ministry of Environment, Forest and Climate Change for individual buildings.

(3) The States may forward the proposed changes in their bye-laws and rules to the Ministry of Environment, Forest and Climate Change, who in turn will examine the said draft bye-laws and rules and convey the concurrence to the State Governments.

(4) When the State Governments notifies the bye-laws and rules concurred by the Ministry of Environment, Forest and Climate Change, the Central Government may issue an order stating that no separate environmental clearance is required for buildings to be constructed in the States or local authority areas.

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

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

A Self declaration Form to comply with the environmental conditions (Appendix XIV) along with Form 1A and certification by the Qualified Building Environment Auditor to be submitted online by the project proponent besides application for building permission to the local authority along with the specified fee in separate accounts. Thereafter, the local authority may issue the building permission incorporating the environmental conditions in it and allow the project to start based on the self declaration and certification along with the application. After completion of the construction of the building, the project proponent may update Form 1A online based on audit done by the Qualified Building Environment Auditor and shall furnish the revised compliance undertaking to the local authority. Any non-compliance issues in buildings less than 20,000 square meters shall be dealt at the level of local body and the State through existing mechanism.

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

The project proponent may submit online application in Form 1 A alongwith specified fee for environmental appraisal and additional fee for building permission. The fee for environmental appraisal will be deposited in a separate account. The Environment Cell will process the application and present it in the meeting of the Committee headed by the authority competent to give building permission in that local authority. The Committee will appraise the project and stipulate the environmental conditions to be integrated in the building permission. After recommendations of the Committee, the building permission and environmental clearance will be issued in an integrated format by the local authority.

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

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

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

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

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

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

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

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

MANOJ KUMAR SINGH, Jt. Secy.

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

## APPENDIX –XIV

## ENVIRONMENTAL CONDITIONS FOR BUILDINGS AND CONSTRUCTIONS

(CATEGORY '1': 5,000 to less than 20,000 Square meters)

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

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

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

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

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

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

**(Category '3': 50000 to 150000 m<sup>2</sup>)**

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

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

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

#### APPENDIX-XV

##### Accreditation of Environmental Auditors (Qualified Building Auditors)

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

##### Qualifications of the Auditor:

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

##### Training:

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

**Experience:**

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

**Infrastructure and equipment:**

- d. As per the scheme of the accreditation

**Renewal:**

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

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

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

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

**Constitution of the cell:**

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

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

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

**Financial Support:**

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

**Functions of the Cell:**

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

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

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

.....

**ORIGINAL APPLICATION NO. 677 OF 2016  
(M.A. NO. 148/2017)**

**IN THE MATTER OF:**

Society for Protection of Environment  
& Biodiversity  
Through the Convener  
R-7/17, Raj Nagar  
Ghaziabad (UP)-201001

.....Applicant

Versus

1. Union of India  
Through Secretary, Govt. of India  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhavan, Jorbagh Road,  
New Delhi-110003
2. Ministry of Urban Development  
Through Secretary, Govt. of India  
Maulana Azad Road  
Rajpath Area, Central Secretariat  
New Delhi
3. Central Pollution Control Board  
Through Member Secretary  
CBD-Cum-Office Complex  
East Arjun Nagar  
New Delhi

.....Respondents

**AND**

**ORIGINAL APPLICATION NO. 01 OF 2017  
(M.A. NO. 03/2017 & M.A. NO. 445/2017)**

**IN THE MATTER OF:**

Pushp Jain  
S/o Shri Dhanpat Rai Jain  
R/o I A/2C Phase-I  
Ashok Vihar  
New Delhi-110052

.....Applicant

Versus

in relation to building projects. Certain specified building and construction projects of specified area are proposed to be exempted from the rigours of the Notification. But these amendments would have to be in consonance with the law, where certain provisions of the amended Notification dated 9<sup>th</sup> December, 2016 are in consonance with the provisions of the Act of 1986 and do not suffer from the *vires* of illegality. Thus, some other provisions of the same Notification *ex-facie* suffer from legal infirmities and are incapable of being implemented in accordance with the scheme of federal structure under the Constitution of India. Out of them, some provisions are directly opposed to the Principle of Non-regression as they considerably dilute the existing environmental laws and standards to the prejudice of the environment. Thus, in the facts and circumstances of the present case, the Tribunal can safely take recourse to the doctrine of severability to declare some of the provisions of the Notification as *ultra-vires* or ineffective while holding the other part of the Notification as legally sound and sustainable.

33. In view of the above, we pass the following order/directions:

1. We hold and declare that this Tribunal has jurisdiction to examine the legality, validity and correctness of a Notification issued by the competent forum in exercise of its power of subordinate legislation with regard to acts stated in Schedule-I to the National Green Tribunal Act, 2010.
2. We hold and declare that (i) clause 14(8), (ii) the provisions relating to exclusion of Consent to Operate and Consent to Establish under Water (Prevention and Control of Pollution)

Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 in clause 14 of the impugned Notification; (iii) Appendix-XVI relating to constitution and functioning of Environmental Cell, cannot be sustained and are liable to be quashed for the reasons afore-stated. Thus, we direct MoEF&CC to re-examine its Notification dated 9<sup>th</sup> December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification in light of this judgement.

3. As a result of the above, the byelaws amended by the DDA vide its Notification dated 22<sup>nd</sup> March, 2016 can also not be given effect to, unless the Notification dated 9<sup>th</sup> December, 2016 is amended in terms of this judgement.
4. Till the time the Ministry comply with the above directions and notify the amended provisions of Regulations of 2006, it will not implement the impugned Notifications. However, once the amended regulations are notified, MoEF&CC/SEIAA /Local Authorities can give effect to that, without any further reference to the Tribunal.
5. MoEF&CC shall, particularly take care that the laudable social cause of 'providing Housing to the poor' does not get defeated by business, economic profitability with reference to 'ease of doing business', while particularly protecting the environment.

34. With the above order/directions, the Original Applications No. 677 of 2016, 01 of 2017, 07 of 2017, 55 of 2017 and 67 of 2017 stand disposed of, with no order as to costs.

35. All the Miscellaneous Applications No. 148 of 2017, 03 of 2017, 445 of 2017, 879 of 2017 and 620 of 2017 have become infructuous and are accordingly disposed of.

**SWATANTER KUMAR  
CHAIRPERSON**

**DR. JAWAD RAHIM  
JUDICIAL MEMBER**

**BIKRAM SINGH SAJWAN  
EXPERT MEMBER**

New Delhi  
8<sup>th</sup> December, 2017

**NGT**

F. No. 3-150/2017-IA-III  
Government of India  
Ministry of Environment, Forest and Climate Change  
(IA- Division)

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Indira Paryavaran Bhavan  
3<sup>rd</sup> Floor, Vayu Wing,  
New Delhi - 3

Date: 3<sup>rd</sup> April, 2018

**OFFICE MEMORANDUM**

**Sub: Consideration of proposals for grant of ToR/EC to building construction projects – reg.**

The Ministry of Environment, Forest and Climate Change in exercise of powers conferred by sub-section (1) and clause v of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 has published the provisions on "Integration of environmental conditions in building bye-laws" amending the Environment Impact Assessment Notification, 2006 vide Notification No. S. O. 3999 (E) dated 9<sup>th</sup> December, 2016. The Ministry, vide above Notification dated 9<sup>th</sup> December, 2016 has laid down the process and procedures along with the objective and monitorable environmental conditions to be followed at the level of Authority/Local Body for integrating the environmental clearance with building permission for different category of building/construction projects.

2. Hon'ble National Green Tribunal, Principal Bench at New Delhi vide order dated 8<sup>th</sup> December, 2017 in Original Application No.677 of 2016 (M.A. No.148/2017) in the matter of Society for Protection of Environment & Bio-diversity Vs MoEF&CC & others, challenging the Ministry's Notification dated 9<sup>th</sup> December, 2016, has directed this Ministry to re-examine its Notification dated 9<sup>th</sup> December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification in light of this judgement.

Hon'ble Tribunal, vide the same order has also directed that till the time the Ministry comply with the above directions and notify the amended provisions of Regulations of 2006, it will not implement the impugned Notifications. However, once the amended regulations are notified, MoEF&CC/SEIAA/Local Authorities can give effect to that, without any further reference to the Tribunal.

3. This Ministry has filed a Civil Appeal No.2522/2018 in Hon'ble Supreme Court against the order dated 8<sup>th</sup> December, 2017 of Hon'ble Tribunal. Hon'ble Court, while hearing the matter on 23.03.2018, has directed as under:-

*"It is agreed between the parties that there are pending applications before the Environmental Cell which may be forwarded to State Environment Impact Assessment Authority (SEIAA) or the Ministry of Environment, Forest and Climate Change, Indira Parayavaran Bhavan, New Delhi, as the case may be".*

4. In the above context, following has been decided for compliance with immediate effect:-

(i) All pending applications before the Environmental Cell shall be considered by the respective State Environment Impact Assessment Authority (SEIAA) in different States/UTs.

(ii) All proposals relating to category A of item 8(b) of the schedule to the EIA Notification, 2006, received in the Ministry in pursuance of the Notification dated 9<sup>th</sup> December, 2016, but not appraised so far by the sectoral Expert Appraisal Committee (EAC) in the Ministry, shall be considered by the respective SEAC/SEIAA in different States/UTs.

(iii) All building/construction projects/townships and area development projects, covered under item 8(a) &(b) of the schedule to the EIA Notification, 2006, shall continue to be dealt by the respective SEIAA/SEAC in different States/, as per the extant provisions contained in the EIA Notification, 2006.

(iv) For the transferred applications, the SEAC/SEIAA shall consider the remaining process/stages other than those already completed at the MOEF&CC. The process/stages already completed at the MOEF&CC shall not be started de-novo by the SEAC/SEIAA.

(v) The seniority of the applications being transferred to the SEAC/SEIAA shall be considered based on their date of application to the MOEF&CC.

5. This issues with approval of Competent Authority.

  
(Kushal Vashist)  
Director

To,  
The Chairmen/Member Secretaries, SEIAA/SEAC of All States/UTs.

**Copy to:**

PS to Hon'ble Minister EF&CC

PS to Hon'ble MoS, EF&CC

PPS to Secretary, MoEF&CC

PPS to AS (AKJ)/ AS(AKM)

PS to JS(GB)/ JS(JT)

All Concerned Officers of IA Division, MoEF&CC

NIC, MoEF&CC - For uploading on website

Notice Board