

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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Place: New Delhi
 Date: 18.06.2021

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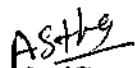
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**NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12 IN COMPLIANCE OF
ORDER DATED 14.06.2021**

MOST RESPECTFULLY SHOWETH:

The impugned issue in the present case pertains to the environmental clearance, granted to the Respondents herein by KSEIAA on 10.01.2018, which has been challenged by the Appellant in Appeal No. 54 of 2018. Thereafter, OA 281 of 2019, was filed by The Mahadevapura Parisara Samrakshane Mattu Abhirudhi Samiti (MPSAMAS) relating to adjoining properties i.e. sy no. 71/1, 72/1, 72/2, 74/5B and 73, in Kaikondrahalli Lake. Meanwhile, the Appellant filed, another case i.e. O. A. No. 602 of 2019 impugning the launch of Tower 2 by the Respondents herein.

An application was filed on 18.06.2019 in OA 281 of 2019, for appointment of Joint Committee, wherein this Tribunal was pleased to appoint BBMP, BDA, KSPCB, SEIAA and CPCB as members of the Joint Committee for its inspection of adjoining lands of the lake. Thereafter, the Appellant herein filed an Application in Appeal 54 of 2018 and OA 602 of 2019 seeking appointment of a joint committee with respect to the land in question. On 19.07.2019, the Tribunal was pleased to appoint MoEFCC, SEIAA, KSPCB and PCB as the members of the said Joint Committee.

The Joint Committee constituted earlier in OA 281 of 2019 filed its report on 23.09.2019, wherein it made a passing reference that Sy No. 62 and 63 (land in question) falls under Lake, buffer area. On 03.02.2020 this Hon'ble Tribunal cancelled the EC of the Respondents herein based on the report filed in OA 281 of 2019, without awaiting the report of the Joint Committee that was constituted by it in OA 602 of 2019. This order was challenged by the Respondents before the Hon'ble Supreme Court, which vide its final order dated 11.08.2020, remanded the matter back to this Hon'ble Tribunal for consideration in light of the report filed by the said Joint Committee in OA 602 of 2019. Pursuant thereto, the matter was taken up by this Tribunal on 20.08.2020, in light of the judgment passed by the Hon'ble Supreme Court and the report filed by the Committee in OA 602 of 2019.

That vide a detailed order dated 08.09.2020, this Hon'ble Tribunal directed constituting of a High-Powered Joint committee comprising of Representatives of BDA, SEIAA,

Minor Irrigation and Flood Control, BBMP, KSPCB, CPCB, Representative of Department of Revenue (Land Records), with MoEF&CC as the Chairman/Coordinator of the said committee.

The said Committee visited the project site on 08.01.2021, as is evident from Annexure 2 appended to the said report. The committee made a detailed study, and prepared and submitted its report before this tribunal on 18.03.2021. However, despite the high-powered committee, giving a detailed analysis based on the information and permissions granted by the respective environmental authorities, the Appellant herein has chosen to challenge the same on completely whimsical grounds and has in fact proceeded to add fresh grounds of challenge to the Project, which is impermissible in law.

The present Note is being filed on behalf of Respondent No. 11 and 12 (hereinafter referred to as Respondents) in terms of the directions passed by this Hon'ble Tribunal on 14.06.2021.

1. Constitution of Committee

Though the onus to answer this issue is on MoEF being the Nodal Agency of the Committee, however, without prejudice to the same, the Respondents herein are making a submission on the ground based on the information available in public domain.

Sl.	Constitution of Committee as per the Order dated 08.09.2020	Joint Committee Report Signed by	Cadre /designation in the Authority
1.	The nominee of the MoEF & CC will be the Coordinator/Chairman of the Committee who, in the circumstances, should be of the level of <u>Joint Secretary</u> or equivalent.	Shri. Kaushlesh Pratap Singh, IFS Regional Officer Chairman of the Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore	Principal Secretary MOEF & CC
2.	Nominees of BDA will be the respective <u>CEOs</u>	Dr. H.R. Mahadev, IAS Commissioner (Represented by Sri. B.A. Shivananda) Superintending Engineer BDA	Commissioner-BDA
3.	The Nominees of State Wetland Authority will be the <u>Member Secretaries</u>	Shri, Brijesh Kumar IFS, Principal Secretary to the Government (Ecology and Environment) Forest,	Principal Secretary-Wetland Authority constituted under

		Ecology and Environment Department. He is also representing the State Wetland Authority as the same comes under KSEIAA	KSEIAA
4.	The Nominee of Irrigation Department will be the <u>Chief Engineer</u>	Shri. H.L. Prasanna (KES) Engineer-in-Chief Represented by Sri. Jagadish B.K. Assistant Engineer Minor Irrigation	Engineer in Chief – Irrigation Department
5.	Nominees of BBMP will be the respective <u>CEOs</u>	Sri. H.L. Raghu, Addl. Director Town Planning BBMP Represented by Sri. Manjesh Joint Director Town Planning BBMP	Additional Director – CEO Town Planning
6.	The Nominees of KSPCB will be the <u>Member Secretaries</u>	Shri. M.K. Prabhudev Chief Environmental Officer KSPCB	Chief Environmental Officer - KSPCB
7.	The Nominee of CPCB will be the <u>Regional Director/Scientist E</u>	Smt. Sowmya. D, Scientist D, Regional Directorate CPCB	Regional Directorate CPCB-
8.	Nominee of Revenue Department, Govt. of Karnataka will be the <u>Collector</u> .	Sri. David Doraswami, Survey Superior Department of Revenue (Land Records)	The Sketch and Letter referred as Annexure 4 of the Committee Report has been along with the officials of BBMP and has been signed by Sri. Santhosh. N- Assistant Director Land Records
9.	The Nominees of SEIAA, will be the <u>Member Secretaries</u>	Dr. Murali Krishna Scientist D, IRO Bengaluru	Joint Director/ Scientist D, MoEFCC, Bangalore

Furthermore, as per the details available online there is no Department for irrigation and Flood Control in Karnataka, whereas there is a Department of Minor irrigation and Ground Water, which is a member of the High-Powered Joint Committee. It is relevant to note here that as per the details available on the website of BBMP (<https://karunadu.karnataka.gov.in/ldakarnataka/Pages/List-of-lakes-in-BBMP-BDA-LDA-KFD-MI.aspx>) the lakes in Bangalore are maintained by four Departments i.e. BBMP, BDA, Lake Development Authority and Minor

Irrigation. The lake in Question i.e. Kaikondanahalli lake, is maintained and under the jurisdiction of BBMP, as can be seen in the link mentioned hereinabove, wherein the aforesaid lake can be seen at serial no. 26. Hence calculation of Mean High Flood Level which was the concern raised by this Hon'ble Tribunal in its order dated 08.09.2020, has been calculated and dealt by Minor Irrigation (Annexure 8) and BBMP, Lakes Department (Annexure 9), Excel Sheet uploaded on <https://karunadu.karnataka.gov.in/ldakarnataka/Pages/List-of-lakes-in-BBMP-BDA-LDA-KFD-MI.aspx> is annexed as ANNEXURE 1 and the Joint Committee report DATED 18.03.2021 is annexed herewith as ANNEXURE 2 (at page 1284-1355).

2. Built up Area (BuA) 1,50,000

The Hon'ble Supreme Court in Ganga Goel Developers India Pvt Ltd. vs. Union of India (2018 (8) SCC 257) as well as in Ganga Goel Developers India Pvt Ltd. vs. Union of India (2019 (9) SCC 288), while interpreting Column 4 and 5 of Item 8(a) of the Environment Impact Assessment (EIA) Notification dated 14.09.2006, observed that "... *all constructed area, which is covered and not open to the sky has to be treated as 'built up area'. There is no exception for non-FSI area...*"

In the present case the EC dated 10.01.2018 granted by SEIAA to Respondents herein shows that the Total BuA of the Project in question is 1,28,193.9 sq. m. The Respondents herein are however constructing only 1,25,663.06 sq. m (including FSI and Non-FSI. Area) which is less than the benchmark of 1,50,000 sq. m. of BoA. In this regard Respondents herein have also filed an Affidavit along with certificate of their Architect, which was annexed as ANNEXURE R-1 along with the Short Note filed on behalf of Respondents on 04.09.2020. The Affidavit along with the certificate of Architect filed with the note of the Respondents herein is annexed as ANNEXURE 3 (at page no. 1193 - 1199). True copy of Ganga Goel Developers India Pvt Ltd. vs. Union of India (2018 (8) SCC 257) as well as in Ganga Goel Developers India Pvt Ltd. vs. Union of India (2019 (9) SCC 288) are annexed as ANNEXURE 4 and ANNEXURE 5 True copy of certificate from the Architect dated 23.04.2021 is annexed as ANNEXURE 6.

It is reiterated that the BBMP sanctioned the Site plan for construction of Phase I of the Project on 30.08.2018. Subsequently, the BBMP on 28.05.2019 revised the Site Plan by merging both Phase I and II. The fact that total BuA is less than 1,50,000 Sq. mtrs. is evident from the Site plan itself duly approved by the BBMP, which clearly shows that Respondents are constructing the Built-up area of 1,25,663.06 sq. m. only. Upon a perusal of the revised Sanction plan, one can clearly see the net BuA for Phase I is 61,418.72 Sqm. whereas for phase II is

64,244.34 Sqm. which totals to 1,25,663.06 Sqm. The allegation that Built-Up Area is 2,35,076 sq. mtr. is therefore completely baseless. True copy of site plan approved by BBMP is annexed as ANNEXURE 7 (at page no. 1200 - 1203).

3. Clarification with regard to Conceptual Plan relied by Appellant

The Appellant further at pg 1362 of their Objections dated 18.03.2021, are relying on the alleged Conceptual Plan submitted by the Respondents herein to confuse the issue by projecting that the BuA is 1,68,444.91 sq mtr which is actually not the BuA, but the Gross Area of the development. The said Gross area includes FSI area, Non FSI area and deductible area (such as Lifts, shafts, cutouts) as well as the land area relinquished for Park and Open Space and reserved for Civic Amenities. It is submitted that the BuA alone needs to be considered after deducting the deductible areas as mentioned above. The Appellant has conveniently hidden the facts which is reflected in Form 1 submitted to SEIAA at Page 1 point 2, 3 and 5 and also in the minutes of the proceeding of SEIAA wherein it has been mentioned that BuA is 1,28,193.9 Sq. mtrs. Foremost it is submitted that the Conceptual Plan is generally submitted as an initial proposal to the authorities to be considered. However, the final construction is always undertaken as per the final Building Plan approved by the authorities (with or without modifications), in the present case by BBMP. That as per the final approved site plan approved by BBMP the total BuA is only 1,25,663.06 Sqm, which therefore is required to be considered at all times. True copy of conceptual plan is annexed as ANNEXURE 8 (at page no. 753).

Without prejudice to the above even otherwise, the Appellant while relying on the submissions made by the Legal Cell Head of BBMP, which has given a completely wrong area work-out for calculating the area as per the Conceptual Plan, which can be seen from the pointers highlighted below:

- a) The Appellant while considering the Conceptual Plan is relying on Park and Open Spaces as well as Civil Amenities area as BuA, which cannot be considered as per the settled law discussed herein above. Further even otherwise it is pertinent to mention that as per the RMP 2015, 5% of the Civic Amenities area and 10% of the Park and Open Space areas is mandatorily required to be relinquished to BDA by the Developer.
- b) The Appellant has also done double counting of the areas such as Parking, Lifts and Ramps and Shafts as part of total area which is already included in the FAR deductions. The convoluted calculations presented by the Appellant have been done with the sole purpose of confusing the issue.

Reliance is also placed on Annexure 6 of the Joint Committee report which is a letter dated 01.03.2021 from Principal Secretary (Environment) Karnataka

SEIAA, which too records that as per the conceptual plan submitted by the Respondents herein in Form-I the total BoA (including basement but excluding shafts and cutouts) is reported to be 1,28,193.9 sq m. Further as per the submitted plan, even if the area of shafts and cutouts of 12226.4 sq m. are added, the total built up area is $1,28,193.90 + 12226.40 = 1,40,420.30$ sq m, which is still less than 1,50,000 sq m. hence the project comes under B2 category. The attention of this Hon'ble Tribunal is also drawn to **Annexure 5** attached with the said joint Committee Report which is the official communication between the Additional Director, Town Planning, BBMP to the Joint Committee Representative of MoEFCC dated **10.02.2021**, wherein BBMP has categorically noted the total BuA of the project is 1,25,663.06 sq m. which includes FSI (90678.28 sq m), Non-FSI (34984.78 sq m.) and consists of total number of 625 units.

4. RCC box drain:

The aforesaid letter dated 10.02.2021 further captures the permission of RCC box drain, granted to the Respondents and states that the Respondents herein have constructed RCC box drain for easy flow of water in the Secondary Nala with the approval of BBMP accorded vide permission no. CE/SWD/PR/140/2017-18, dated 02.08.2017 by Chief Engineer (Storm Water Drain), BBMP (A-10). A clarification was sought from Chief Engineer (SWD) BBMP to submit report under which Act/Rules the permission is accorded to construct the said RCC Box. In response, the Additional Director, Town Planning, BBMP on 09.03.2021 addressed a letter to the Joint Committee Representative of MoEFCC, stating that the permission for construction of RCC Drain is given by the Commissioner, BBMP in exercise of the powers conferred under Section 288A of the Karnataka Municipal Corporations Act, 1976. The Committee further records that the permission for construction of RCC Culvert is given by Commissioner BBMP in exercise of powers conferred under Section 288 (1)(c) of the Karnataka Municipal Corporations Act, 1976. This letter has been annexed as Annexure 10 to the Joint Committees Report. As per the aforesaid Section, the Commissioner BBMP in exercise of his discretion has given the said permission to construct RCC Box drain, which has been wrongly highlighted to mislead the Hon'ble Tribunal. The Project Proponent further submits that the construction of the aforesaid U type RCC drain is of no benefit to the Project Proponent or to the Project, but benefits only the free flow of stream in the said Nala.

5. Maintenance of mandatory Buffer zone and no construction therein

It is submitted that the Respondents herein have made proper and adequate disclosure in Form-1 submitted to Karnataka SEIAA regarding the Kaikondarahalli Lake as Wetland/ Waterbodies and have not concealed any material information in the said disclosure Form. Reference in this regard is made

to the 188th meeting of the SEIAA (the High powered Committee) held on 25.11.2017. The Respondents states that it has left 75m Buffer from the Kaikondarahalli Lake and 50 m Buffer on either side of the Nala in compliance with the EC as well as the conditions laid down in Forward Foundation Judgement of this Hon'ble Tribunal.

The honesty of the submissions of the Respondents can also be gathered from Annexure 5 and Annexure 6 of the Joint Committee Report. That based on the said submissions requisite permissions were granted to the Respondents herein which have also been revalidated by the present Joint Committee.

Further, the Appellant has alleged that the Respondents herein are undertaking construction in the buffer zone. It is clarified that no construction whatsoever is done in the buffer zone. The Gas Bank/ LPG Tank has in fact has been proposed to be constructed in the valley zone (which is permitted as per the RMP 2015 Regulation 4.12.2, which states that any construction that does not obstruct the flow of the water is allowed) and not on the Buffer Zone. Further, there is only a proposed drive-way of 8 mtrs which is permitted as per the said Regulations of the RMP. It is relevant to note that the 8 mtrs. road will not be a construction (Concrete), but rather would be earth friendly pavers, which does not hinder the percolation of water into the earth. However, the Appellant has completely rebuked the same by averring that the same is rather a 12 mtrs wide road, which is in fact completely incorrect and has been done only to create prejudice in the mind of this Hon'ble Tribunal. This fact is also clarified from the Second Joint Committee report dated 05.06.2020 (at Volume 2 pg no. 583), which recorded the existence of a 8mtr wide road. Further even the last Joint Committee report states that the Respondents herein have not undertaken any construction in the Buffer Zone. Further the Respondents herein also undertake that it shall not construct anything which is impermissible under law. True copy of the Minutes of the 188th meeting of SEAC as procured from MoEF's website (at page no. 1209 -1237) and Form 1 (at page no 58 - 76) are attached as ANNEXURE 9. Extract of Regulation 4.12.2 of RMP 2015 is annexed as ANNEXURE 10 (at page no. 238).

It is relevant to note that the present high powered Joint Committee report has been authenticated and signed by the Additional Director Town Planning of the BBMP asserting all the above facts. The attention of this Hon'ble Tribunal is also drawn to Annexure 5 attached with the said Joint Committee Report which is the official communication between the Additional Director, Town Planning, BBMP to the Joint Committee Representative of MoEFCC dated 10.02.2021, wherein BBMP has categorically noted the total BuA of the project is 1,25,663.06 sq m. which includes FSI (90678.28 sq m), Non-FSI (34984.78 sq m.) and consists of total number of 625 units. The said letter further records that while according the Building Permission, 75 mtr buffer is reserved from Lake boundary of

Kaikondrahalli Lake to Block-I and Block-II of the Project as per NGT order dated 04.05.2016 and also as per the Residential Development plan approved by the Planning Authority (BDA). The letter further records that there is a Secondary Nala within the Project area which is connecting Kasavanhalli lake to Kaikondrahalli lake. Buffer of 50 mtr is reserved from the edges of this Secondary Nala on either side to Block-I and Block-II of the Project as per NGT order dated 04.05.2016 and as per Development Plan approved by the Planning Authority.

6. Reconciliation of both the earlier reports dated 05.06.2020 and 18.03.2021

It is submitted that the report filed in OA No. 281/2019 made a passing reference qua Survey No. 62 and 63, which is evident from the fact that they have categorically mentioned that *"there is a separate OA 602/2019 pertaining to the project wherein NGT has appointed a Joint Committee to inspect the property in question and give its report."*

Further even the present High Powered Joint Committee comprising of nine members, vide its report dated 18.03.2021, observed that in Report (OA No. 281/2019) nowhere mentions that the entire portion of survey numbers 62 and 63 are falls in the lake buffer and no construction can be done in those survey numbers. Accordingly, the last Committee opined that even though part of the survey number falls in the lake buffer area/ Nala buffer area, construction activities can be permitted in the said property while adhering to all the statutory norms with regard to lake / Nala buffer as per EC and Wetland which is 75.00 Mtrs and 50.00 Mtrs from the lake periphery and from the center of the Nala respectively. The purpose of constituting the high powered Joint Committee was also due to the fact that the Second Committee in its report made a passing observation qua Kaikondrahalli Lake being a wetland, and it was due to this reason, that the said last committee was constituted in order to assess the Mean High Flood Level.

7. Issue of Pollution of Lakes

It is submitted that this is an entirely new point sought to be argued by the Appellant in their Objections which does not find mention in any pleadings filed before. The Appellant has also tried to paint a wrong picture of the project being allegedly non-environmental friendly, for which it has placed reliance on the newspaper articles highlighting pollution of the lakes in Bangalore. It is submitted that the project has been conceived and designed as *Zero Discharge* and *Eco-Friendly* having its own individual Sewage Treatment Plant (STP). The raw sewage water is treated in the said STP and thereafter the said treated water is utilized for the following:

- 1) Water closet flushing purposes to the buildings,
- 2) Landscaping purposes,
- 3) Vehicles Washing
- 4) The parks shall be irrigated in the vicinity of the project and for the construction activities in the vicinity of the project as per the standards provided under the Consent for Establishment issued by Karnataka State Pollution Control Board.

The Respondents herein undertakes and states that there shall be absolutely no discharge of raw sewerage water to the adjoining Kaikondarahalli Lake/Nalas' or any other Lake in any manner whatsoever.

It is relevant to note that the details of aforesaid proposal is also as per the standards provided under the Consent for Establishment (CFE) dated 12.10.2018 issued by the Karnataka State Pollution Control Board. It was only after the aforesaid proposals were demonstrated and submitted with KSPCB, that the CFE was granted to the Respondents herein. A Report from the consultants highlighting the aforesaid undertaking qua SPT as annexed as ANNEXURE 11. Water Demand Calculation for the Projects are annexed at ANNEXURE 12.

The Appellant has also raised an Objection that the Respondents herein have allegedly withheld/ concealed the fact that the CFE granted to them by KSPCB was withdrawn by the Department vide order dated 06.07.2020. It is relevant to note here, that the notice of cancellation of the CFE was never communicated to the Respondents herein. Furthermore, the reason for quashing the CFE is due to the EC being quashed by this Hon'ble Tribunal and for no other reason.

8. Demarcation of Flood Line

As mentioned in para 1 above, Kaikondarahalli lake is maintained by BBMP (Lakes) Department. Hence the issue of calculation of Mean High Flood Level which was the concern raised by this Hon'ble Tribunal in its order dated 08.09.2020, has been calculated and dealt with by Minor Irrigation (Annexure 8) and BBMP's Lakes Department (Annexure 9). Further the BBMP's Lakes Department on 29.08.2020, in a communication addressed to the Respondents herein have also clearly provided the Height of the Bund, maximum water level collection recorded till date in Kaikondarahalli Lake etc. As per the said letter it has categorically stated by BBMP that the water level of the Kaikondarahalli lake has never breached the Bund level and that the flow of direction of water of the lake is from Southern side to Northern side (whereas property in question is located on Southern Eastern side which is completely on the other side of the direction of water flow), further whereas the reduced Level of Maximum Water Level (MWL) of the lake is 880.287m, which is kept as per Minor Irrigation

Standards. It was based on these details that the Joint Committee observed that the Mean Flood Line Level of the Lake is 880.27m, which is less than the top level of the bund (881.407m), and as the direction of the water is from southern to northern side the chances of water flowing in South-eastern direction (property in question is located) is very remote. Further it was also observed that as per the last 10 year data, this lake has never breached the bund level in south-eastern direction. The Committee further records that even otherwise the Respondents have complied with the requirement of maintaining a buffer distance of more than 50mtrs from the Mean High Flood Level by way of maintaining a buffer distance of more than 75mtrs.

9. Stay order passed by RERA Appellate Tribunal

It is pertinent to note that the Joint Committee inspected the Project as well as the permissions granted to the Respondents herein on 08.01.2021 as has been mentioned in Annexure 2 of the Report. Whereas the RERA Appellate Tribunal passed the Stay order on 11.02.2021, which was subsequent to the Committees inspection. It is pertinent to mention that the said stay order was granted in light of the cancellation of EC by this Hon'ble Tribunal on 03.02.2020. It is relevant to point here that the Joint Committee is an independent and impartial Committee which has been constituted under the aegis of this Hon'ble Tribunal. As such the Respondents could not have approached the Committee with any development, as the same might have led to casting aspersions on the independence of the said Committee. Further it is important to bring to the notice of this Hon'ble Tribunal that the Petitioner in Appeal No. 355/2021 before REAT is neither a customer nor a developer/promotor or an Agent and nowhere governed under the Provision of Real Estate and Regulation Act 2016 and therefore the question of maintainability of said appeal is pending for disposal. Even otherwise it is relevant to submit here that the order dated 11.02.2021, though an ex-parte order, is an order directing stay of the RERA Certification, while keeping open the question of maintainability of the Petition in Appeal No. 355/2021 itself. It is submitted that the RERA Appellant Authority REAT subsequently vide order dated 26.03.2021 have clarified that the said stay in no manner amounts to cancellation of the certificate. True copy of the order dated 11.02.2021 (at page no. 1366 -1368) and order dated 26.03.2021 are annexed as ANNEXURE 13.

It is submitted that the Respondents herein have rightly relied on the RERA certification while filing Applications for early hearing of the captioned matter, as the stay of the Certificate does not in any manner mean that the duration of completion of the Project as per RERA timelines would get extended automatically. It is submitted that upon the stay being lifted (as the Respondents have a very strong case on merits, since the same does not fall within the ambit of

RERA) the Respondents would be required to complete the project within the timeline prescribed by RERA. It is relevant to point out that the Respondents, upon becoming aware of the said proceedings have also filed their Objections with REAT over which arguments have also been advanced, and the matter has been reserved for passing orders. However, due to the ensuing pandemic the final order has not been passed in the matter.

It is submitted that the Appellant by filing the present objections is only trying to show the Respondents herein in bad light and is trying to paint a new picture before this Tribunal, without considering the facts at hand. The Appellant is completely disregarding the report filed by the High Powered Committee consisting of expert members of various department, solely based on the Affidavit filed by the BBMP's Legal Cell Department. The Appellant is readily trying to disregard the fact that BBMP itself has granted the requisite permission. In fact BBMP's Additional Director, Town Planning is also a part of the said Committee who has validated the observations in the report. It is submitted that the erstwhile owner of the property in question Smrt Susheelamma, wrote a letter in 2018 asking the authorities at BBMP not to approve the plan for the said project due to her right in the project land. This erstwhile owner is filing frivolous and vexatious complaints similar to the one filed before REAT, despite being aware of the fact that she has no locus-standi as she is neither a customer nor a developer/promotor or an Agent and is nowhere governed under the Provision of Real Estate and Regulation Act 2016). Further owing to her letter in the year 2018 (which has been relied upon by BBMP's Legal Cell Department), BBMP had issued a show cause notice to the Respondents herein. Subsequently, upon verification of all the approvals, sanctions produced by the Respondents herein including correctness of the title of the Respondents, the plans were sanctioned by BBMP. However, this fact is being completely ignored by the Appellant as well as BBMP's Legal Cell Department. It is submitted that the reason for BBMP's contrary stand emanates from the pressure created by the erstwhile owner to arm twist the officials of the BBMP.

It is relevant to note that the Appellant herein is attempting to invalidate the Report and observations made therein by the High-Powered Joint Committee of environmental experts consisting of all the significant 9 (nine) Authorities, who have jointly authenticated and verified the documents as well as the Project by even physically visiting the Project area on 08.01.2021 (refer Annexure 2 of the Joint Committee Report). The Appellant herein is also being disputatious on the communiqué received from the office of Additional Director-CEO Town Planning, BBMP certifying the issues of BuA and RCC box drain by providing the provisions under which the same is granted. **It is astonishing to note that the Appellant is ready to dispute the observations of the**

above High powered Committee and the Communication from the highest level officers at the post of Additional Director-CEO Town Planning, located at HQ of BBMP who are also well versed with actual facts, and is ready to agree to the statements made by the Legal Cell Department of BBMP. This itself shows that disquietous nature of the submissions made by the Appellant and BBMP's Legal Cell Department.

It is vehemently submitted that the Godrej Group was established in 1897 out of a desire to demonstrate economic self-sufficiency and excellence within India in the pre-independence era. The Godrej Group comprises of a varied business portfolio that includes real estate development, fast moving consumer goods, advanced engineering, home appliances, furniture, security and agri-care, and brings the Godrej Group philosophy of innovation, sustainability and excellence to the real estate industry. Each development undertaken by the Respondents herein combines a 124-year legacy of excellence and trust with a commitment to cutting-edge design and technology.

The Respondents herein has contributed immensely to the environmental sustainability and has received over 200 awards in the past 5 years. To carry forward the said philosophy of Godrej, the Respondents herein desires to take up necessary lake development activities as may be directed by the concerned authority or the court as the case may be at its own cost.

The pleadings and written submissions filed by Respondents as well as the written notes submitted earlier on 26.08.2020; 27.08.2020 and 04.09.2020 may be read as part and parcel of this note. True copy of written note dated 26.08.2020, 27.08.2020 and 04.09.2020 are annexed as ANNEXURE 14 (at pg no. 842-961A; at pg no. 962- 994 &1250 – 1288 and at pg no. 1187 - 1282 respectively).

Filed Through

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Place: New Delhi
Date: 18/08/2021

List of lakes in BBMP/BDA/LDA/KFD/MI

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ANNEXURE - I

Sl. No	Name of the lake	Taluk	Hobli	Name of the village Sy No.	Extent (A-G) as per
1	2	3	4	5	6
Lakes under BBMP					
1	Agrahara Lake	B'lore North	Yelahanka	Agrahara -33	15-34
2	Allalasandra kere	B'lore North	Yalahanka	Allalasandra -15	41-23
3	Ambalipura Kelagina kere	B'lore East	Varthur	Ambalipura-40 & 41	3-0 4-09 T-7-09
4	Ambalipura Melinakere	B'lore East	Varthur	Ambalipura-36	12-16
5	Attur kere	B'lore North	Yalahanka	Attur kere-81 Ananthapura-92 Ramagondanahalli- 39 Kempnanahalli-12	56-29 6-15 7-22 19-18 T-90-04
6	Avalahalli	B'lore North	Yalahanka	Avalahalli -10 & Singanayakanahalli 64	11-01 2-10 T-13-11
7	Bhimmana katte	B'lore South	Kengeri	Halagevaderahalli-138	1-23
8	Bayappanapalya Kunte (Munniyappana katte)	B'lore South	Uttarahalli	Vajarahalli -36	2-31
9	Challakere Lake	B'lore East	K.R. Puram	Challakere - 85	38-05
10	Chinnapanahalli kere	B'lore East	K.R. Puram	Chinnapanahalli 15 & 17	11-33 11-10
11	Chokkanahalli lake	B'lore North	Yelahanka	Chokkanahalli Sy-2	8-02
12	Dasarahalli kere (Chokkasandra)	B'lore North	Yeshwanthapura	Dasarahalli - 24 Chokkasandra - 5	3-29 24-04 T-27-33
13	Deepanjali kere	B'lore South	Kengeri	Devatige Ramanahalli-32	7-22
14	Devsandra kere	B'lore East	K.R. Puram	Devasandra 31	16-08
15	Doddabommasandra	B'lore North	Yelahanka	Dodda Bommasandra-56 Kodigehalli- 175 Thindlu - 53	39-10 49-21 35-28 T-124-19
16	Doddakanenahalli kere	B'lore East	Varthur	Doddakanenahalli - 109	18-14
17	Dore kere	B'lore South	Uttarahalli	Uttarahalli -22 Vasanthapura -06	19-11 9-06 T-28-17
18	H Gollahalli Lake (varahasandra Lake)	B'lore South	Kengeri	Kengeri Gollahalli-9 Varahasandra-9 Hemgepura-25	7-08 4-33 7-25 T-19-26
19	Halagevaderahalli Lake	B'lore South	Kengeri	Halagevaderahalli-1	17-10
20	Handrahalli	B'lore North	Yeshwanthapura	Handrahalli -8	16-06
21	Haraluru kere	B'lore East	Varthur	Haraluru-95	34-70
22	Herohalli	B'lore North	Yeshwanthapura	Herohalli-99	34-33
23	Harohalli lake	B'lore North	Yelahanka	Harohalli-91	74-32
24	Jogi kere	B'lore South	Uttarahalli	Mallasandra-30	3-20
25	J.P. Park (Mathikere)	B'lore North	Yeshwanthapura	Jalahalli-32 Mathikere-59 Thaniranahalli-01 Kasaba Yeshwanthapura-114	47-26 -- 20-39 -- T-
26	Kalkondanahalli kere	B'lore East	Varthur	Kalkondanahalli -8 Kasavanahalli -70	18-18 30-05 T-48-23
27	Kalkere Agra kere	B'lore East	K.R. Puram & Bidarahalli	Kalkere-45 Kyalasanahalli-36 Beelisivale-101 & 106 Horamavu Agra-36	73-11 51-19 0-37 & 0-14 61-11 T-187-12
28	Kammagondanahalli	B'lore North	Yeshwanthapura	Kammagondanahalli-18 Shettyhalli-67 Myadarahalli (Medarahalli)-26	15-26 5-32 1-32 T-23-10
29	Kasavanahalli	B'lore East	Varthur	Kasavanahalli-50 Haralur-32	21-30 33-18 T-56-08
30	Kattiganahalli Kere-136	B'lore North	Jafa	Kattiganahalli -136	25-28
31	Kattiganahalli Kere-31	B'lore North	Jafa	Kattiganahalli -31	20-10
32	Kempambudhi Lake	B'lore North	B'lore	Kempambudhi-2	
33	Kodigehalli kere	B'lore North	Yeshwanthapura	Kodigehalli - 30	9-25

34	Kogilu lake	B'lore North	Yelahanka Jala	Kogilu - 84 Kattigenahalli - 117	40-04 38-24 T-78-28
35	Koudenahalli kere	B'lore East	K.R. Puram	Koudenahalli -27	55-05
36	Kudlu Chikere	Anekal Taluk	Sarjapura	Koodlu-70	13-05
37	Kudlu doddakere	Anekal Taluk and B'lore South	Sarjapur & Begur	Koodlu-150 Parapanaagrahara-37	26-38 17-01 T-43-39
38	Kundalahalli Lake	B'lore East	K.R. Puram	Kundalahalli -05	30-20
39	Lingadiranahalli	B'lore North	Yeshwanthapura	Lingadiranahalli-2 & 4	5-32 4-08 T-10-00
40	Mahadevapura Lakde	B'lore East	K.R. Puram	Mahadevapura -7	26-23
41	Malgala kere	B'lore North	Yeshwanthapura	Malgala - 46	6-26
42	Munnekotatu kere	B'lore East	Varthur	Munnekotatu-25	15-38
43	Narasipura-20	B'lore North	Yelahanka	Narasipura-20	15-30
44	Narasipura-26	B'lore North	Yelahanka	Narasipura-26	9-07
45	Nayandanahalli kere	B'lore South	Kengeri	Nayadahalli -31	15-18
46	Parappana Agrahara	B'lore South	Beguru	Parappana Agrahara-23	16-11
47	Puttenahalli kere	B'lore South	Uttarahalli	Puttenahalli -42	13-25
48	Ramagondanahalli	B'lore North	Yelahanka	Ramagondanahalli-52	36-26
49	Sanky tank	B'lore North	Vyalikaval	Vyalikaval - 21	35-00
50	Shilavantana kere	B'lore East	K.R. Puram	Whitefield-41	19-32
51	Sigehalli	B'lore East	K.R. Puram	Sigehalli-32	31-13
52	Singasandra Lake	B'lore South	Begur	Basapura-15 Singasandra -52	9-34 1-08 T-11-02
53	Sowl kere	B'lore East	Varthur	Bellandur-65 Doddakanelli-68 Kaigondanahalli-36	23-33 7-28 30-16 T-61-37
54	Thirumenahalli	B'lore North	Yelahanka	Thirumenahalli-63	7-10
55	Ulsoor	B'lore North	B'lore	Ulsoor	
56	Uttarahalli kere (Mogekere)	B'lore South	Uttarahalli	Uttarahalli -111	15-16
57	Veerasagara lake	B'lore North	Yelahanka	Veerasagara-26 Attur-25	17-24 3-30 T-21-14
58	Vijanapura kere	B'lore East	K.R. Puram	Kowdenahalli -85 Krishnarajapura-97	11-28 2-07 T-13-35
59	Yediyur Lake	B'lore South	Uttarahalli	Dasarahalli -01 Yediyur -59	No extent
60	Yelahanka kere (Kasaba Amanikere)	B'lore North	Yelahanka	Yelahanka-29 Kenchenahalli -15 Venkata-39 Manchenahalli-19 Puttenahalli-49	53-36 30-23 199-31 7-34 18-04 T-310-08

Lakes under BDA

1	Abbigere Kere	B'lore North	Yeshwanthapura	Abbigere-75 Singapura-95	26-06 21-7 T-47-13
2	Alahalli Kere / Anjanapura	B'lore South	Uttarahalli	Allahalli -30 Gollahalli-3	15-35 5-30 T-21-25
3	Amruthalli Kere	B'lore North	Yelahanka	Amruthalli-115	24-36
4	Annappahalli/ Yelachenahalli Lake	B'lore South	Uttarahalli	Yelachenahalli-06, Govinayakanahalli-14	4-39 1-33 T-6-32
5	Arakere	B'lore South	Beguru	Arakere-34	37-21
6	Avalahalli	B'lore North	Yelahanka	Avalahalli-10 Shiganayakanahalli-64	11-01 2-10 T-13-11
7	B.Narayanapura	B'lore East	K.R. Puram	B.Narayanapura-109	15-08
8	Baiyappanahalli kere	B'lore East	K.R. Puram	Baiyappanahalli-61	8-09
9	Basapura Lake-2	B'lore South	Beguru	Basapura-66	10-29
10	Basavanapura Lake	B'lore South	Beguru	Basavanapura-14	7-34
11	Begur Lake	B'lore South	Begur	Begur-94	137-24
12	Bellahalli	B'lore North	Yelahanka	Bellahalli-68	18-32

13	Bellandur	B'lore East	Varthur	Yamaluru-62 Amanikere Bellandur Kahne-1 Ibbalur-12 Kempapura-6 Beluru-2	3-04 284-20 399-14 13-15 2-00 T-700-13
14	Beraten Aghara Lake (Chowdeshwari Layout)	B'lore South	Begur	Beraten Aghara (Chowdeshwari)-18	11-18
15	Bhatrali kere	B'lore East	Bidarahalli	Bhatrali-2	18-10
16	Bheemanakuppe	B'lore South	Kengeri	Bheemanakuppe-180	75-15
17	Bhoganalli kere	B'lore East	Varthur	Bhoganalli-21	12-24
18	Byrasandra	B'lore South	Utharahalli	Byrasandra-56	15-11
19	Byrasandra kere (Chikkepet) (Mellinakere)	B'lore East	K.R. Puram	Byrasandra-109	14-19
20	Chennasandra-2	B'lore East	K.R. Puram	Banasawadi-211	47-38
21	Chikka Banavara	B'lore North	Yeshwanthpura	Chikka Banavara-3, Somashettyhalli-73, Kere gullada halli-22 and Ganigarahalli-11,15	67-38 3-21 26-32 4-14 2-30 T-105-15
22	Chikka bellandur kere	B'lore East	Varthur	Chikkabellandur-9 Mullur -83	67-14 8-07 T-75-21
23	Chikkabasavanapura kere	B'lore East	K.R. Puram	Basavanapura-14	14-07
24	Chikkabasthi	B'lore South	Kengeri	Ramasandra-6	7-06
25	Chikkabettahalli	B'lore North	Yelahanka	Chikkabettahalli-52	1-32
26	Chick begur Lake	B'lore South	Begur	Begur-168, Singanadra-86	32-19 9-37 T-42-16
27	Chikkammanahalli Lake	B'lore South	Begur	Kammanahalli -22 Vamadevanahalli-	5-19
28	Chikkegowdana palya Lake	B'lore South	Kengeri	Hemmagepura-92	
29	Chunchanaghatta	B'lore South	Utharahalli	Chunchanaghatta-70, 70/2, 70/3	20-31 1-0 1-0 T-22-31
30	Chowdeshwari layout Lake	B'lore South	Begur		
31	Devarakere Lake	B'lore South	Utharahalli	Bikasipura-9	7-15
32	Doddabidarakallu	B'lore North	Yeshwanthpura	Doddabidarakallu-125 Nagasandra -06	23-21 16-36 T-40-17
33	Doddakallasandra	B'lore South	Utharahalli	Doddakallasandra-27	21-16
34	Doddanakundi	B'lore East	K.R. Puram (village map) Varthur (In RTC- Bhoomi)	Doddanakundi -200 Kaggadasapura - 25 Vibhutipura - 13	56-39 75-16 3-15 T-135-30
35	Dubasipalya Lake	B'lore South	Kengeri	Valagerehalli-43, 43/P1	23-35 1-0 T-24-35
36	Gangasetty kere (Diesel shed kere (Gangadhariahnakere) (Dyavasandrakunte kere)	B'lore East	K.R. Puram	KR Pura-58 Devasandra-46	18-32 2-35 T-21-27
37	Gandhinagara Lake	B'lore North			
38	Garudachar Palya Kere -1 (Achanakere)	B'lore East	K.R. Puram	Mahadevapura-31	5-36
39	Garudachar Palya Kere -2 (Goshala) Yekkalagatta kere	B'lore East	K.R. Puram	Mahadevapura-86	5-14
40	Garvebhavi Palya	B'lore South	Begur	Hongasandra -41	18-04
41	Gattigere palya Lake	B'lore South	Kengeri	Somapura-27/53	0-37
42	Gottigere Lake	B'lore South	Utharahalli	Gottigere-71	37-13
43	Gowdana Palya Lake	B'lore South	Utharahalli	Kadirenahalli-33	9-30
44	Gubbalala	B'lore South	Utharahalli	Gubbalala-25 Vajarahalli-	8-10
45	Gunjur Kere (Carmelam)	B'lore East	Varthur	Gunjur-95	9-17
46	Gunjur mouji kere	B'lore East	Varthur	Gunjur-301, Kachamaranahalli-74	59-13 4-26 T- 63-39
47	Gunjur Palya kere	B'lore East	Varthur	Gunjur-83	36-27
48	Haralakunte Lake (Somasandrakere)	B'lore South	Begur	Haralakunte-51	16-29
49	Hoodi kere (GIDDANA KERE)	B'lore East	K.R. Puram	Hoodi-138	28-31

50	Hoodi kere -1	B'lore East	K.R. Puram	Hoodi-79	15-10
51	Horamavu Agara	B'lore East	K.R. Puram	Horamavu Agra-77	51-34
52	Horamavu kere	B'lore East	K.R. Puram	Horamavu-83	37-14
53	Hosakerehalli	B'lore South	Uttarahalli	Hosakerehalli-15	59-26
54	Hosakere	B'lore South			
55	Hulimavu	B'lore South	Beguru	Hulimavu-42 Kammanahalli -110	124-25 5-32 130-17
56	Ibbalur Lake	B'lore South	Beguru	Ibbalur-36	18-06
57	Jakkur & Sampigehalli	B'lore North	Yelahanka	Jakkur-15, 23 Yalahanka Amanikere-55 Sampigehalli-12 Agrahara-13	39-21,36-33 58-16 19-25 3-17 T-157-32
58	Jaraganahalli/Sarakki/Puttenahalli Lake	B'lore South	Uttarahalli	Jaraganahalli-7 Sarakki-26 Puttenahalli - 5 Kothanuru-103 Chunchaghatta-28	38-14 38-0 6-10 11-21 13-07 T-107-12
59	Jimkenahalli kere	B'lore East	Bidarahalli	Varanasi-47	8-24
60	Junnasandra kere	B'lore East	Varthur	Junnasandra-32	24-33
61	Kadirenahalli kere	B'lore East	K.R. Puram	Binnamangala-99	
62	K.R. Puram (BEML) Bendiganahalli kere	B'lore East	K.R. Puram	Benniganahalli-47 & 55	18-24, 27-14 T-45-39
63	Kaggadasanapura	B'lore East	K.R. Puram (village map) Varthur (In RTC-Bhoomi)	Byrasandra -5 Kaggadasapura-141 Bendiganahalli - 24/3	14-24 32-16 3-26 T-51-26
64	Kalena Agrahara Lake	B'lore South	Begur	Kalena Agrahara-43	7-30
65	Kalkere Rampura kere	Anekal Taluk (B'lore East)	Jigani Bidarahalli	Kalkere-162 Rampura-22 Maragondanahalli-71 Huvineane-86	64-28 3-04 11-35 108-07 T-187-31
66	Kalyani / Kunte (Next to Sai Baba Temple)	B'lore South	Uttarahalli	Vasanthpura-21	1-33
67	Kannenahalli	B'lore North (Bng South)	Kengeri Yeshwanthpura		
68	Kelagina kere / Byrasandra	B'lore East	K.R. Puram	Byrasandra-112	12-21
69	Kembathahalli	B'lore South	Uttarahalli	Kembathahalli-3 Kathnuru-32/3	5-16 1-33 T-7-20
70	Kendhanapura	B'lore South	Kengeri	Kendhanapura-10	17-20
71	Kengeri Lake	B'lore South	Kengeri	Kengeri-15, Valagerehalli-85	27-03 5-13 T-32-16
72	Kommaghatta	B'lore South	Kengeri	Kommaghatta-03 Ramasandra-46	9-04 28-01 T-37-05
73	Konankunte	B'lore South	Uttarahalli	Konankunte - 2	09-18
74	Konasandra	Anekal Taluk	Jigani	Dyavasandra-9 Bommandahalli-18 Konasandra-17	21-13 7-39 3-20 T-32-32
75	Konnappana agrahara	B'lore South	Begur	Naganathpura (South)81	5-17
76	Kothnur	B'lore South	Uttarahalli	Kothnur-54	18-09
77	Lakshmiapura lake	B'lore North	Yeshwanthpura	Lakshmiapura-25	10-06
78	Lingadheeranahalli	B'lore South	Kengeri	Lingadheeranahalli-13	5-22
79	Madavara	B'lore North	Dasanapura Yeshwanthpura	Madavara -48 Chikkabidarakallu-21 Tirumalapura-32 (from Yeshwanthpura hobli) Doddabidarakallu -98 (From Yeshwanthpura hobli)	35-31 20-20 8-36 2-39 T-88-06
80	Mahadevapura (Bandemahadevpura kere)	B'lore East	K.R. Puram	Mahadevapura-187	13-11
81	Mallasandra Gudde lake	B'lore North	Dasanapura	Mallasandra-49, Mallasandra-50	11-28 5-23 T-17-11
82	Mallathahalli	B'lore North	Yeshwanthpura	Mallathahalli-101 Giddadakonenahalli-6	50-38 20-08 T-71-06
83	Manganahalli	B'lore North	Yeshwanthpura	Manganahalli - 43	6-22
84	Medi Agrahara	B'lore North	Yelahanka	Medi Agrahara-33	13-15

85	Meenakshi Kere	B'lore South	Begur	Kammanahalli (Meenakshi)-38	18-37
86	Mesthipalya Lake	B'lore South	Begur	Jakkasandra-30	11-21
87	Nagarabhavi	B'lore North (Bng South)	Yeshwanthpura	Nagarabhavi-17	17-39
88	Nagareshwara-Nagenahalli Lake	B'lore East	K.R. Puram	Nagareshwara-Nagenahalli-10	11-08
89	Nellagaderanahalli	B'lore North	Yeshwanthpura	Nallagaderanahalli - 62	19-22
90	Nalluralli tank	B'lore East	K.R. Puram	Nalluralli-4 Pantandur Agrahara-85	20-34 27-05 T-47-39
91	Narasappanahalli	B'lore North	Yeshwanthpura	Karivabanahalli-40 Nelagadiranahalli - 90 Nelagadiranahalli -89 Doddabidarakallu - 24	27-13 19-05 5-26 1-20 T-53-24
92	Nyanappanahalli Lake	B'lore South	Begur	Begur-344	6-07
93	Panathur kere -38	B'lore East	Varthur	Panathur - 38	27-17
94	Panathur kere -48	B'lore East	Varthur	Panathur - 48	6-30
95	Pattandur Agrahara	B'lore East	K.R. Puram	Pattandur Agrahara-124	16-35
96	Pattandur Agrahara	B'lore East	K.R. Puram	Pattandur Agrahara-54	12-37
97	Pattanagere Kenchenahalli	B'lore South		Kenchenahalli-33 Pattanagere-43	3-39 0-31 T-4-30
98	Rachenahalli	B'lore North B'lore East	Yelahanka K.R. Puram	Dasarahalli-61 (Bng East-KR Puram) Jakkur - 82 (Bng North-Yelahanka) Rachenahalli - 69 (Bng East-KR Puram)	73-23 39-07 18-16 T-131-06
99	Ramsandra (Hirekere)	B'lore South B'lore North	Kengeri Yeshwanthpura	Ramasandra-159 Kenchanpura-36* Kenchenapura - 36* Kannahalli-37 (Bng north-Yeshwanthpura)	66-20 56-05 5-0 12-29 T-140-14
100	Sadaramangala kere	B'lore East	K.R. Puram	Sadaramangala-61, Kodigehalli-8	51-04 1-17 T-52-21
101	Shivanahalli	B'lore North	Yelahanka	shivanahalli-48 Allalasandra-38, 48	14-30 3-22 0-27 T-18-39
102	Siddapura kere	B'lore East	Varthur	Siddapura -18	27-38
103	Singapura Kere	B'lore North	Yelahanka	Singapura-102	66-18
104	Singasandra	B'lore South	Beguru	Singasandra -99, 100	10-14 0-34 T-11-08
105	Sitaram Palya	B'lore East	K R Puram	Sonnenahalli (Seetharmapalya)-33	23-37
106	Sompura	B'lore South	Kengeri	Sompura - 11	17-38
107	Srigandadakaval (near Rajivgandhi nagar)	B'lore North	Yeshwanthpura	Srigandakavalu-15	6-33
108	Srinivasapura Kere	B'lore North	Yelahanka	Srinivasapura-2	3-14
109	Subbarayanakere	B'lore South	Uttarahalli	Gottigere-12	5-10
110	Subdeharanakere	B'lore South	Begur	Begur-48	6-05
111	Subramanyapura Lake	B'lore South	Uttarahalli	Uttarahalli-64	18-06
112	Sulekere (Soolikere)	B'lore South	Kengeri	Maragondanahalli Krishnasagara	
113	Swarnakunte gudda kere	B'lore South	Begur	Chandrashekarapura-1	09-05
114	Talaghattapura (Gowdarakere)	B'lore South	Uttarahalli	Talaghattapura -73	19-16
115	Ullal	B'lore North	Yeshwanthpura	Ullal-93	24-12
116	Vaderahalli	B'lore North	Yelahanka	Vaderahalli-32	9-34
117	Varahasandra Lake	B'lore South	Kengeri	Hemigepura-4, Varahasandra-24	4-11 13-09 T-17-20
118	Varthur	B'lore East	Varthur	Varthur-319	445-14
119	Vasanthapura (Janardhanakere)	B'lore South	Uttarahalli	Vasanthapura-28	7-10
120	Venkateshpura	B'lore North	Yelahanka	Ventateshpura-12 Sampigehalli-37	6-35 11-29 T-18-24
121	Vibhuthipura kere	B'lore East	Varthur	Vibhuthipura-175	45-18
122	Vishwa nidam lake	B'lore North	Yeshwanthpura	Herohalli-50	4-30
123	Yellenhalli Lake (Elenahalli)	B'lore South	Begur	Yellenhalli-55	4-38

Lakes under Lake Development Authority					
1	Agaram Lake	B'lore South	Kengeri	Agara-11 Venkojiraokhane-11	5-39 136-30 T-142-29
2	Hebbal Lake	B'lore North	Kasaba	Hebbal-38 Kodigehalli-37	92-26 99-33 T-192-19
3	Nagavara Lake	B'lore North	Kasaba	Nagawara-58 Vishwanatanagenahalli - 12,13	56-17 12-35 6-01 T-75-13
4	Vengalahnakere	B'lore East	K.R. Puram	Krishnarajapura-9 Sannathammanahalli-46	38-12 26-23 T-64-35
Lakes under Karnataka Forest Department					
1	Hennur (K.R.Puram Range)	B'lore North	Kasaba	Hennur - 53 Nagawara - 13	58-30 14-11 T-73-01
2	J.B.Kaval Tank (Bangalore Range)	B'lore North	Yelahanka	Jyarakabande Kavalu-P1- 36	44-21 2-04
3	Madiwala (K.R.Puram Range)	B'lore South	Begur	Madivala- 7 Kodichikkanahalli-23 Belekannahalli-64 Rupena Agrahara-11	168-39 80-09 21-35 6-10 T-275-13
4	Mylasandra (Kaggalipura Range) Gumalahanakere (Mylasandra 1) Mylasandra 2	B'lore South	Kengeri	Mylasandra-37 Kasaba Kengeri-58 Mylasandra - 27 Kasaba Kengeri-66	6-24 6-02 T-12-26 10-14 5-28 T-16-02
5	Puttenahalli (Yelahanka Range)	B'lore North	Yelahanka	Puttenahalli - 36 Attur - 49	29-14 7-26 T-37-00
Lakes under Minor Irrigation Department					
1	Agara kere	Bangalore South	Kengeri	Agara - 103 Agara - 102 Agara - 104	13-11 0-08 0-06 T-13-25
2	Alluru kere	Bangalore North	Dasanapura	Aluru-132 Vaderahalli - 8 Mathahalli - 25 Narasipura - 41	39-38 27-23 5-32 1-21 T-75-34
3	Bhimanakuppe kere	Bangalore South	Kengeri	Bheemanakuppe-180	75-15
4	Bidara Amanikere	Anekal			
5	Bidarahalli kere	Bangalore East	Bidarahalli	Bidarahalli-8 Byappannahalli - 21	15-10 81-16 T-96-26
6	Chikkanahalli	Bangalore East			
7	Doddagubbi kere	Bangalore East	Bidarahalli	Doddagubbi-38 NadagowdaGollahalli-39 Chikkagubbi-9	105-18 16-37 1-32 T-124-07
8	Ghattahalli Bommanakere	Anekal	Sarjapura	Gattahalli-62 Rayasandra - 33	51-17 21-22 T-72-39
9	Hoskuru kere (Huskur Lake)	Anekal	Sarjapura	Huskur - 163 Harohalli - 51 Avalahalli - 50	91-10 23-0 — T-114-10
10	Hulimangala Doddakere	Anekal	Jigani	Hulimangala - 22	67-07
11	Kodatikere	Bangalore East	Varthru	Kodati-8 Solikunte - 52	40-32 37-09 T-78-01
12	Margondanahalli kere	Bangalore South	Kengeri	Margondanahalli -45	5-33
13	Rampura kere	Bangalore East			
14	Sakalavara Bujangadasana kere	Anekal	Jigani	Sakalavara - 93	23-34
15	Singanayakana halli kere	Bangalore North			
16	Singena Agrahara kere	Anekal	Sarjapura	Singena Agrahara-94 Narayanaghatta - 128 Gottammanahalli - 13	95-39 19-32 8-04 T-123-35

17	Vaderahalli kere	Bangalore South	Kengeri	B.M.Kaval PI -136	21-07
18	Yellemallappa shetty kere	Bangalore East	K.R. Puram	Avalahalli -57 Avalahalli -12 Heerandahalli - 95 Heerandahalli -96 Kurudu Sonnenahalli -2 Medahalli -63 Veeranahalli -29	13-26 17-28 170-16 33-24 31-2 91-35 132-06 T-490-15

**REPORT OF THE JOINT COMMITTEE IN
APPEAL NO. 54 OF 2018
(H.P. RANJANA VS UNION OF INDIA)
IN COMPLIANCE OF ORDER OF HON'BLE NGT
DATED 08.09.2020**

SUBMITTED TO

**HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

18.03.2021

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**REPORT OF THE JOINT COMMITTEE IN APPEAL NO. 54 OF 2018 (H.P. RANJANA
VS UNION OF INDIA) CONSTITUTED BY HON'BLE NGT, PRINCIPAL BENCH
(NEW DELHI) VIDE ITS ORDER DATED 08.09.2020**

I. PREAMBLE

1. This Issue pertains to M/s Wonder Projects Development Pvt. Ltd which has obtained Environmental Clearance (EC) by the State Environment Impact Assessment Authority (SEIAA), Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018 for construction of "New Residential Building project at Survey Nos. 61/2, 62 & 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk", Bengaluru District.
2. The proposed project involves construction of new residential building on a plot area of 50,382.91 Sq. Mtrs. The total built up area is 1,28,193.9 Sq. Mtrs. It consists of two residential blocks having 2 Basements + Ground Floor + 20 Upper Floors with 655 units. Total parking space proposed is for 877 Nos. of Cars. Total water consumption is 534 KLD (Fresh water + Recycled water). The total wastewater discharge is 482 KLD. It is proposed to construct 2 sewage Treatment Plants with capacity of 210 KLD & 280 KLD. The EC is subject to specified conditions during the construction and operation phases, apart from general conditions.
3. On 09.04.2018, One Mr. Ranjana filed a case vide Appeal No. 54 of 2018 in Hon'ble NGT, Principal Bench (II) against the EC granted by SEIAA, Karnataka to M/s. Wonder Projects Development Pvt. Ltd with respect to Tower 1 of the Project "Godrej Reflections".
4. On 11.03.2019, OA No. 281 of 2019 was filed by The Mahadevapura Parisara Samrakshane Mattu Abhiruchi Samiti (MPSMAS) in Hon'ble NGT, Principal Bench (I) relating to adjoining properties pertaining to Kalkondarahalli Lake which does not pertain to the lands developed by the project proponent i.e., M/s. Wonder Projects Development Pvt. Ltd. On 17.07.2019, Mr. Rajanna filed another case in OA 602/2019, since the project proponent have launched another phase in the project which is Tower 2 "Godrej Lake Gardens". Since the aforesaid three cases were pertaining to the said Kalkondarahalli Lake, the Hon'ble NGT Bench II on 17.07.2019 transferred the Appeal No. 54/2018 and OA No. 602/2019 to Bench-I which was before Bench II since the OA No. 281/2019 which was filed on 11.03.2019 was also pertaining to the Kalkondarahalli Lake.
5. On 17.07.2019, an application was filed by H P Rajanna before the Hon'ble NGT Bench-I seeking appointment of Joint Committee with respect to Appeal No. 54/2018 and OA No. 602/2019 wherein on 19.07.2019, the Hon'ble NGT was pleased to appoint Ministry of Environment, Forest & Climate Change (MOEF&CC), Karnataka State Pollution Control Board (KSPCB) and Central Pollution Control Board (CPCB) as the Joint Committee for inspection of the lands pertaining to the Project Proponent.



6. On 18.06.2019 an application was filed by The Mahadevapura Parisara Samrakshane Mattu Abhirudhi Samiti (MPSMAS) in OA No. 281/2019 for appointment of Joint Committee, wherein the Hon'ble NGT was pleased to appoint Bruhat Bengaluru Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Karnataka State Pollution Control Board (KSPCB), State Environmental Impact Assessment Authority (SEIAA) and Central Pollution Control Board (CPCB) as the Joint Committee for inspection of the adjoining lands of Kalkondarahalli Lake in Sy No. 71/1, 72/1, 72/2, 74/5B and 73. It is important to note that the lands pertaining to Appeal No. 54/2018 and OA No. 602/2019 was not part of the said case OA No. 281/2019.

7. The Joint Committee constituted in OA No.281/2019 filed their report on 23.09.2019 (which may be referred as the first report) with respect to lands involved in the case i.e., Sy No. 71/1, 72/1, 72/2, 74/5B and 73 around Kalkondarahalli Lake, however the said committee in its report has made an observation with respect to the lands involved in Appeal No. 54/2018 and OA No. 602/2019 which is as follows:

SY NO. 62 AND 63 FALLS UNDER LAKE BUFFER AREA: As there is separate OA 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.

8. On 03.02.2020 the Hon'ble NGT based on the report filed in OA No. 281/2019, passed the order in Appeal No. 54 of 2018, 602 of 2019 and 281 of 2019 and quashed the EC of M/s Wonder Projects Development Pvt. Ltd without considering the fact that the Committee formed in Appeal No. 54/2018 and OA No. 602/2019 were yet to file their report.

9. On 14.02.2020, being aggrieved by the cancellation of EC by Hon'ble NGT, the project proponent preferred an Appeal before Hon'ble Supreme Court of India in Civil Appeal No. 1713/2020 challenging the order of Hon'ble NGT mainly on the grounds that the Hon'ble NGT has passed the order based on the report filed in OA No. 281/2019 whereas the reports of the Joint Committee constituted in Appeal No. 54/2018 and OA 602/2019 were yet to be filed.

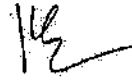
10. On 02.03.2020, the Hon'ble Supreme Court was pleased to admit the said appeal and directed the Joint Committee appointed in Appeal No. 54/2018 and OA No. 602/2019 to submit its report with respect to the said lands pertaining to the Project Proponent before the Registry of the Hon'ble Supreme Court and accordingly the Joint Committee in Appeal No. 54/2018 and OA 602/2019 submitted its report in the Hon'ble Supreme Court on 14.07.2020, (which may be referred as the second report). The Hon'ble Supreme Court passed its final order on 11.08.2020, wherein it observed that the "Hon'ble NGT did not have the benefit of the second report of the Joint Committee in OA No. 602/2019 which was filed for the first time before the Hon'ble Supreme Court". In that view, it was appropriate that the order of the Tribunal be set aside, and the Tribunal reconsider the appeal after taking into consideration the second report of the Joint Committee and that the EC would remain subject to the fresh decision to be taken by the Tribunal. Accordingly, the matter was taken up by the Tribunal on 20.08.2020 for hearing in the light of the judgment of the Hon'ble Supreme Court dated 11.08.2020.

11. Hon'ble NGT observed that the major issue that has been raised on behalf of the appellant is that there was no proper appraisal by the Expert Appraisal Committee (EAC) as per Environment Impact Assessment (EIA) Notification dated 14.09.2006 and grant of EC was violated on account of the project being wrongly treated as Category B under entry B (a), instead of category B-1 under entry B(b) of the Schedule to the 2006 notification and also being in violation of statutory regulations laid down with respect to buffer zone under the 1961 Act and the statutory requirements of the Wetlands (Conservation and Management) Rules, 2017 (Wetlands Rules, 2017).
12. There is no proper and adequate disclosure in Form-1 with regard to area being eco fragile. Complete disclosure about the water bodies/wetlands has not been given in the said application. The extent of construction has not been correctly described and evaluated by SEIAA, Karnataka in violation of principles laid down by the Hon'ble Supreme Court in *M/s Gool Ganga Developers Pvt. Ltd. (supra)*. SEIAA was also not mindful of the mandate of the Wetlands Rules, 2017 and the judgment of the Hon'ble Supreme Court in *M.K. Balakrishnan and Ors. v. Union of India and Ors.* Reference has been made to 'National Wetland Atlas' prepared by the MoEF with the assistance of the Space Application Centre, Indian Space Research Organization (ISRO) and Remote Sensing Application Centre wherein Kaikondarahalli Lake has been identified as a wetland. Extracts from the Atlas have been filed on 25.05.2019 by the appellant with IA 352/2019. The Map annexed to the 'National Wetland Atlas' (Annexure A-7) prominently shows the Kaikondarahalli Lake.
13. The second report is contrary to the first report dated 23.09.2018 filed in OA 281/2019 though two authorities of the Committee in the report are common. The report is also against the counter-affidavit filed by BBMP before this Tribunal. As against the report dated 23.08.2019 (in OA 281/2019), finding the project to be within the buffer zone of the lake, the second report (in OA 602/2019) holds to the contrary. The representatives of CPCB and State PCB are common in both the Committees. In the first Committee, BBMP and BDA were included but in the second Committee SEIAA, Karnataka and MoEF&CC were included, apart from CPCB and the State PCB, without BDA and BBMP.
14. The two reports submitted by the representatives of the statutory authorities need to be reconciled and if necessary, a larger Committee constituted with senior representatives of the concerned departments, to put the matter beyond controversy. Moreover, the second report assumes that the lake in question is not a wetland and the restrictions of the Wetland Rules do not apply to the entire area of the project which finding may be in conflict with the Atlas prepared by the MoEF&CC. It has been observed by the Committee that the Wetland Rules should be followed. The rules require demarcation with reference to the flood line, which is not shown to have been done or considered. The correct size of the project needs to be determined as per parameters in Gool Ganga judgment, *supra* so that if the area is more than 1.50 lacs sq. meters, appraisal is carried out as per category B-1 and not as B as has been assumed.

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15. Since there is a conflict in the reports dated 23.09.2019 in OA 281/2019 and second report in OA 602/2019 dated 14.07.2020 and in both the reports CPCB and KSPCB are parties, MoEF&CC and SEIAA are also not in second report. Stand of BBMP before this Tribunal is against the second report. According to written submissions filed by BBMP on 27.08.2020 the project proponent has violated statutory requirements and accordingly, Hon'ble NGT vide its order dated 08.09.2020 in Appeal No. 54 of 2018 sought an independent report by another Joint Committee which we now constitute. The Joint Committee will comprise apart from the representatives of the four authorities represented in the Committee which has given second report, five other authorities/institutions need to be involved. BBMP and BDA were party to report dated 23.9.2019, they need to be involved to reconcile the two reports. Nominees of Irrigation & Flood Control Department, Government of Karnataka and nominee of Revenue Department, Government of Karnataka are required for demarcation of mean high flood level as per the Wetland Rules. Karnataka State Wetland Authority is to be added for relevant expertise. Thus, there will be nine (09) members in all. The nominee of the MoEF&CC will be the Coordinator/Chairman of the Committee who, in the circumstances, should be of the level of Joint Secretary or equivalent. The Committee will be at liberty to involve any other expert/institution. It will be open to hold meetings by video conferencing, if so decided but it may visit the site, look into the earlier reports and the above points, particularly size of the project, compliance of statutory rules relating to buffer zone/wetland and furnish its report within two months of its first meeting.

Accordingly, in pursuance to the directions of the Hon'ble NGT Principal Bench (New Delhi), this Joint Committee has been constituted for submission of a factual report. Further, for the sake of brevity, the issues that have been dealt clearly in detail about the project in the reports of the earlier Joint Committees constituted in OA No. 281 of 2019 and 602 of 2019 have not been fully reiterated and wherever essential and required, the key aspects have been suitably incorporated in this report of the Joint Committee.



II. COMPOSITION OF THE JOINT COMMITTEE

As per directions of Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2019 and linked matters MA No. 49/2020 in OA No. 602/2019 a Joint Committee with the following members was constituted (Annexure-1):

S. No	Name	Designation	Nominee / Representative Department
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer	Chairman of the Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore
2	Dr. H.R. Mahadev, IAS	Commissioner	Representative of BDA
3	Shri. Vijaykumar Gogi, IFS (Subsequently replaced by Shri. Brijesh Kumar, IFS due to transfer of Shri. Vijaykumar Gogi).	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	Representative of SEIAA, Karnataka and Karnataka Wetland Authority
4	Shri. H.L. Prasanna	Engineer-in-Chief	Representative of Minor Irrigation and Ground Water Development Department
5	Shri. R. Prasad (Subsequently replaced by Shri. H.N. Raghu due to transfer of Shri. Prasad)	Additional Director of Town Planning	Representative of BBMP
6	Shri. M.K. Prabhudev	Chief Environmental Officer	Representative of KSPCB
7	Shri. G. Thirumurthy (Subsequently replaced by Smt. Sowmya, Scientist-D due to transfer of Shri. Thirumurthy)	Additional Director / Scientist-E	Representative of CPCB
8	Shri. David Doraswamy	Survey Supervisor	Representative of Department of Revenue (Land Records)
9	Dr. Murali Krishna	Joint Director / Scientist-D	Co-Opted Member from IRO, MoEFCC, Bangalore

Pursuant to constitution of the Joint Committee, the first meeting of the Joint Committee was convened through video conference on 23.12.2020. (Copy of the Minutes of the First Meeting is enclosed as Annexure-2) and during the videoconference it was decided to undertake a site visit to the project site to understand the issues in greater detail. Pursuant to the site visit, communications were sent to all concerned agencies/ departments to provide latest status and to provide specific input/ information relating to their department (Minutes of site visit are enclosed as Annexure-3).

III. SPECIFIC INFORMATION SOUGHT FROM VARIOUS DEPARTMENTS FOR RECONCILIATION OF BOTH THE REPORTS IN OA NO. 281/ 2019 AND 602/2019

As per the directions of the Hon'ble NGT, the Joint Committee tried to reconcile the information relating to each Department / Agency to understand the facts of the matter and accordingly, the following specific information was sought from each Department:

S.NO	DEPARTMENT	INFORMATION/ CLARIFICATION SOUGHT
1	BBMP/ Revenue Department	- What is the Buffer area from the lake to Block-I and Block-II? - What is the Buffer area from centre of the secondary nala to Block-I and Block-II? - Whether approval was accorded for construction of a box drain for flow of water in the secondary nala or for usage of Kharab land in the project site and whether the same is in consonance with the existing Rules/ Acts in force.
2	Wetland Authority/ BBMP/ Minor Irrigation and Flood Control	- Whether the Kalkondarahalli lake has been notified as Wetland or Not? - What is the maximum buffer area to be left from the lake. If the lake is notified as a Wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan verdict? - What is the maximum water level of Kalkondarahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4 (vi) of Wetland Rules 2017? - To confirm whether any construction temporary/ permanent nature undertaken in buffer area? - Whether adequate buffer distance is maintained from lake periphery to Block-I and Block-II as per Rule 4 of Wetland Rules.

3	BDA/ BBMP	▪ Whether building permission accorded for construction of Block-I and Block-II or not? If permission is accorded, the details of the same. ▪ To confirm the size / total area of the project (Both FSI and Non-FSI) area of two towers cumulatively.
4	SEIAA	▪ Whether EC obtained and details of EC along with its validity ▪ Whether EIA studies were required or not during the appraisal of the project (B1/ B2 category) based on EIA Notification 2006.
5	KSPCB	▪ Whether CFE obtained or not and if yes, details of CFE along with its validity.



BASED ON THE OFFICIAL RECORDS RECEIVED FROM VARIOUS AGENCIES POINTWISE CLARIFICATION IS PROVIDED:

A. BUFFER ZONE AND DISTANCE FROM THE LAKE PERIPHERY TO CONSTRUCTED TOWERS:

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
1	- As per Environmental Clearance (EC) accorded by SEIAA, Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018, Specific Condition No. 48, a minimum buffer of 75 Meters from the lakes should be left in the project site. - In accordance with the Order of Hon'ble NGT, New Delhi dated 04.05.2016 in OA No. 222 of 2014, a minimum buffer of 75 Meters from the lakes should be left in the project site. - As per the Judgement of Hon'ble Supreme Court of India in Matter relating to Mantri Tech Zone (Civil Appeal No. 6016 of 2016) a buffer zone of 30 meters has to be left from lake periphery. - As per Bangalore Development Authority (BDA) Master Plan 2015 it stipulates a buffer area of 30 meters around the lake. - As per Judgement of Hon'ble Supreme Court in M. K. Balakrishnan case (WP 230 of 2001) a minimum buffer of 50 meters has to be left if it is a Wetland.	- As per letter No. ADLR/Others/39/2019-20 dated 02.02.2021 received along with survey map from Assistant Director, Land Records, Government of Karnataka it is noted that a measured distance of 77.45 is left from lake periphery to Block-I and a measured distance of 79.40 m is left from Block-II. Copy of the letter is enclosed as Annexure-4. - As per BBMP letter No. BBMP/ Addl.Dir/ PR /54 /2020-21 dated 10.02.2021 it is noted that "There is Kaikondarahalli lake on the North-Eastern Side of the project. While according to the building permission 75.00 mtrs buffer is reserved from the lake boundary of the Kaikondarahalli lake to the Block-I and Block-II of the project as per NGT Order dated 04.05.2016 and also as per Residential Development plan approved by Planning Authority". Copy of the letter is enclosed as Annexure-5.

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by various Statutory Agencies namely Revenue Department, Bruhat Bangalore Mahanagara Palike (BBMP), Wetland Authority (Department of Forest, Ecology & Environment), Report of the Joint Committee in OA No. 602/ 2019 and also keeping in cognizance of directions of Hon'ble NGT in OA No. 222 of 2014, Master Plan 2015 prepared by Bangalore Development Authority (BDA), Orders of Hon'ble Supreme Court in Mantri Tech Zone matter

and Verdict of M.K. Balakrishnan, the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any buffer zone norms from the lake periphery and have adequately maintained a buffer distance of more than 75.00 meters from the lake periphery to Block-I and Block-II which is a maximum threshold under any of the aforesaid Statutory Provisions. Further, during the Joint Committee Inspection held on 08.01.2021, no constructions of either permanent or temporary nature or no compound wall too have been noted in the 75.00 meters buffer zone from lake periphery to Block-I and II.

B. SIZE OF THE PROJECT

S. No.	Relevant Statutory Provisions / Norms	Status of Compliance by Project Authorities																								
2	- As per Environmental Impact Assessment (EIA) Notification dated 14.08.2006, Environmental Clearance (EC) needs to be obtained for building / construction projects/ area development projects and townships under B (a) and projects with built up area more than 20,000 Sq.Mtrs and less than 1,50,000 Sq.Mtrs under B2 Category and projects with built up area more than 1,50,000 Sq. Mtrs under B1 Category, which also needs conduct of EIA Studies. - As per the Orders of the Hon'ble Supreme Court of India in Gool Ganga case (Civil Appeal No. 10854/2016) "when EC is granted for a particular construction it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered	- As per the Environmental Clearance accorded by SEIAA, Karnataka Vide No. SEIAA 114 CON 2017 dated 10.01.2018, it is noted that total built up area is 1,28,193.9 Sq. Mtrs and the same has been reiterated by the Department of Ecology and Environment vide their letter No. SEIAA2EAA2018 dated 01.03.2021 Further it is also clarified that this appraisal was done based on the information provided by PA in Form-I as in Karnataka no mandatory pre site visit is being done by SEIAA prior to issue of EC. It is also stated that if the shafts and cut out areas are added, the gross built up area is $1,28,193.90 + 12246.40 = 1,40,420.30$ Sq. Mtrs which is less than 1,50,000 Sq. Mtrs and accordingly, the project falls under B2 Category which does not require mandatory EIA studies. Copy of the letter is enclosed as Annexure-6. - As per BBMP letter No. BBMP/ Add.Dr /PR /54/2020-21 dated 10.02.2021 it is noted that BBMP has accorded building permission for Block-I and Block-II as under: <table><tr><th>Blocks</th><th>Total Built up Area (Sq. Mtrs)</th><th>FSI area (Sq. Mtrs)</th><th>Non-FSI area (Sq. Mtrs)</th><th>No. of Units</th><th>Date of Building Permission</th></tr><tr><td>I</td><td>61418.72</td><td>44739.99</td><td>16678.73</td><td>265</td><td>30.08.2018</td></tr><tr><td>II</td><td>84244.34</td><td>45938.29</td><td>18306.05</td><td>360</td><td>28.05.2019</td></tr><tr><td>TOTAL</td><td>125663.06</td><td>90678.28</td><td>34984.78</td><td>625</td><td></td></tr></table>	Blocks	Total Built up Area (Sq. Mtrs)	FSI area (Sq. Mtrs)	Non-FSI area (Sq. Mtrs)	No. of Units	Date of Building Permission	I	61418.72	44739.99	16678.73	265	30.08.2018	II	84244.34	45938.29	18306.05	360	28.05.2019	TOTAL	125663.06	90678.28	34984.78	625	
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TOTAL	125663.06	90678.28	34984.78	625																						

constructions, which is not open to the sky is to be treated as built up area in terms of EIA Notification dated 14.09.2006".	As per information received from Bangalore Development Authority (BDA) vide its letter BDA/COMMR/EM/EO-3/T-205/2020-21 dated 01.02.2021 (Enclosed as Annexure-7), it is noted that Development Plan has been approved by BDA on 07.03.2018 for construction of a residential building in an FAR area of 1,27,149.25 Sq. Mtrs. Further, the Joint Committee constituted in OA.No. 602 of 2018 in its report at Page No. 29 made a comparative table of permissible Floor Area Ratio (FAR) which is partly replicated below: <table border="1" data-bbox="769 975 1255 1166"> <thead> <tr> <th>Particulars</th> <th>Development Plan of BDA</th> <th>EC by SEIAA</th> <th>Building Plan of BBMP</th> </tr> </thead> <tbody> <tr> <td>Permissible FSI / FAR in %</td> <td>2.25</td> <td>NA</td> <td>1.895</td> </tr> <tr> <td>FAR (Built Up Area) M²</td> <td>1,27,149.25</td> <td>1,28,193.80</td> <td>1,25,863.08</td> </tr> <tr> <td>No. of Units</td> <td>688</td> <td>655</td> <td>625</td> </tr> </tbody> </table>	Particulars	Development Plan of BDA	EC by SEIAA	Building Plan of BBMP	Permissible FSI / FAR in %	2.25	NA	1.895	FAR (Built Up Area) M ²	1,27,149.25	1,28,193.80	1,25,863.08	No. of Units	688	655	625
Particulars	Development Plan of BDA	EC by SEIAA	Building Plan of BBMP														
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FAR (Built Up Area) M ²	1,27,149.25	1,28,193.80	1,25,863.08														
No. of Units	688	655	625														
Remarks of the Joint Committee Considering the official records made available by various Statutory Agencies namely State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Report of the Joint Committee in OA No. 602/ 2018 and also keeping in cognizance of directions of Hon'ble Supreme Court in Goel Ganga Case (Civil Appeal No. 10854/2016) the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any built up area norms and appraisal of the project was done correctly under B2 Category, wherein projects with built up area less than 1,50,000 Sq. Mtrs does not require EIA studies. Further, this Committee is also of the view that all the concerned agencies are suitably empowered to take appropriate punitive action during construction/ operational phase if any deviation or violation noted and PA needs to construct the project strictly as per BBMP Sanction Plan.																	

C. KAIKONDARAHALLI LAKE AS WETLAND AND MEAN HIGH FLOOD LEVEL

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
3	As per the Information provided by Wetland Authority (Department of Ecology and Environment), Karnataka vide its letter No. SEIAA2EAA 2018 dated 01.03.2021, It is to note that Kalkondarahalli Lake is a wetland as identified by SAC (Space Application Centre), Ahmedabad in their Wetland Atlas. It is one amongst the lakes in the Provisional Inventory of Wetlands submitted by the State Government to the Central Government. <u>However, It is to note that as on date Kalkondarahalli lake is not notified as Wetland.</u>	As per letter No. ADLR/Others/39/2019-20 dated 02.02.2021 received along with survey map from Assistant Director, Land Records, Government of Karnataka it is noted that a measured distance of 77.45 Mtrs is left from lake periphery to Block-I and a measured distance of 79.40 Mtrs is left from Block-II. Copy of the letter is enclosed as Annexure-4 As per Judgement of Hon'ble Supreme Court in M. K. Bajakrishnan case (WP 230 of 2001) dated, 03.04.2017 a minimum buffer of 50 meters has to be left if it is a Wetland and the same is complied in this instant case even though Kalkondarahalli is not notified as a Wetland. As per the Information provided by the Department of Minor Irrigation vide its letter No. EIC/TA-Z/AE.1/NGT/2020-21/524 dated 25.02.2021 (enclosed as Annexure-8) and communications from BBMP vide their letter No. EE-1/ Lakes/ PR/ 125/2020-21 dated 29.08.2020 and CE /LAKES /PR /1052/2020-21 dated 25.02.2021 (enclosed as Annexure-8) the following is noted: a) Full Tank Level (FTL) is 879.307 M from Mean Sea Level (MSL) b) Max Water level (MWL) of Kalkondarahalli Lake is 880.207 M from MSL c) Top Bund Level (TBL) is 881.407 M from MSL Mean Flood Level will be in between FTL and MWL of Kalkondarahalli Lake.

	Further, it is also noted that water-outlet of the lake is on the Northern side and since the project is on the south-eastern side of the lake, the chances of water overflowing in the project site are very remote. As per Information provided it has been noted that in the last 10 years, the lake water has never breached the bund level on the South-Eastern Side and as per requirement project proponent has maintained an adequate buffer of more than 50.00 Mtrs from the mean high flood line. Further, level of the bund is 881.467 Mtrs from MSL and Flood line is 0.80 Meters above the Full Tank Level (i.e., 0.90 * 879.307 = 880.207 Mtrs from MSL).

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by various Statutory Agencies namely State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Department of Minor Irrigation (MI) and also keeping in cognizance of directions of Hon'ble Supreme Court in M.K. Balakrishnan (Writ Petition No. 230 of 2001), the Joint Committee states that M/s. Wonder Projects Development Pvt. Ltd has not violated any buffer zone norms and have left an area of more than 75.00 meters from lake periphery which is more than required distance of 50.00 Mtrs from the Mean High Flood line and it has also been noted that PA has made appropriate declarations regarding existence of Kalkondarahalli Lake at 75 Mtrs and Harlur/Kasavarahalli Lake at a distance of 0.80 Kms in Form-I during submission of their application to SEIAA for EC.

The Joint Committee noted that Kalkondarahalli is not notified as Wetland as on date and in case had it been notified also, a distance of 60 meters has to be left as buffer zone, which the project authorities have also complied. Further, the Joint Committee also noted that the Mean Flood Line level of Kalkondarahalli Lake is 880.287 Mtrs which is less than the top level of the bund (881.407 meters). As the direction of waterflow in the outlet is towards Northern side, the chances of water flowing in South-Eastern direction is very remote and as per last 10 years data, this lake has never breached the bund level in the South Eastern side. It is also noted that project proponent has complied to the requirement of maintaining a buffer distance of more than 50.00 Mtrs from the Mean High Flood Line by way of maintaining a buffer distance of more than 75.00 Mtrs.

D. KHARAB LAND IN THE PROJECT SITE

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
4	- As per Environmental Clearance (EC) accorded by SEIAA, Karnataka vide No. SEIAA 114 CON 2017 dated 10.01.2018, Specific Condition No. 42, the project proponent shall not use Kharab land if any for any purpose. - As per official records it is noted that an area of 13 Guntas (1315.229 Sq. Mtrs) of land in the project site is Kharab Land.	The Joint Committee noted that BBMP vide its letter No. CE/SWD/PR/140/2017-18 dated 02.08.2017 has accorded permission for construction of U type RCC drain and 2 No's of RCC box culverts on Kharab Land of the project site without deviating the original alignment so that the water flow is not interrupted. Project proponent in his written submission made to this Joint Committee vide his letter dated 15.09.2020 informed that this construction of drain on the Nala was undertaken as per suggestions of BBMP and this construction is of no way beneficial to the project proponent or its customers in any way and this has been done only for the benefit of the lake, environment, and general public after incurring huge cost and expenses as desired by the Authority. BBMP vide its letter No. BBMP/ Addl.Dr /PR /54 /2020-21 dated 09.03.2021 indicated that the permission for construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Commissioner, BBMP in exercise of the powers conferred under Section 288A and 288(1)(c) of the Karnataka Municipal Corporations Act-1976. Copy of the letter is enclosed as Annexure-10. As per the report of the Joint Committee constituted in OA No. 602 of 2019 it is noted that the Storm Water drain originates from Kasavanahalli Lake and flows towards Kalkondarahalli lake in Survey No's 63/2 and the total length of the drain from

		Kasavanahalli lake outlet to Kalkondarahalli lake inlet is 525 Meters out of which 130 meters (from CH 395 meters to CH 525 meters) i.e., 130 meters of drain is passing from the project site.
Remarks of the Joint Committee Considering the official records made available by various Statutory Agencies namely Revenue Department, Bruhat Bangalore Mahanagara Palike (BBMP) and also keeping in cognizance of the Joint Committee Report in OA 602/ 2019, the Joint Committee noted that construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Commissioner, BBMP in exercise of the powers conferred under Section 288A and 288(1)(c) of the Karnataka Municipal Corporations Act-1978.		



E. RECONCILIATION OF BOTH REPORTS OF THE JOINT COMMITTEE CONSTITUTED IN OA NO 281 OF 2019 AND 602 OF 2019

S. No.	Relevant Reports of the Joint Committee	Reconciliation of Both the Reports of the Joint Committee
5	Report of the Joint Committee constituted by Hon'ble NGT in OA No. 602/2019 Report of the Joint Committee constituted by Hon'ble NGT in OA No. 281/2019	Based on examination of both the reports of the Joint Committee, it was noted that the Appeal bearing no. 54/2018 was filed by the Appellant i.e., Mr. H.P. Ranjanna during pendency of the said Appeal and Original Applications bearing no. OA No. 602/2019 was filed pertaining to the property in question. Yet another OA No. 281/2019 pertaining to a different property/project bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73 and between different parties was filed before Hon'ble NGT titled as <i>Mahadevpura Parisaraamrakshana Mattu Abhivrudhi Samiti vs. UOI</i>, alleging environmental non-compliance by some other party near Kalkondarahalli Lake. It is relevant to note that the only similarity in both the OA's is that the Project in question in Appeal No. 54/2018 and the Properties mentioned in OA No. 281/2019, are in the vicinity of the same lake namely "Kalkondarahalli Lake". The Hon'ble NGT vide its Order dated 11.03.2019 appointed Joint Committee in OA No. 281/2019 comprising of CPCB, KSPCB, BBMP and BDA to survey property bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73 and take appropriate action in accordance as per law. Whereas another Joint Committee was constituted by the Hon'ble NGT vide order dated 19.07.2019, in OA No. 602/2019 comprising of CPCB, SEIAA, KSPCB and MoEF & CC, specifically to survey the property in question. The Joint Committee in OA No. 281 of 2019, filed its report with the Hon'ble NGT, wherein an observation has been made in the report with respect to the Project in Question, the extract of the report is as follows:

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62	Godrej by name "Wonder Projects Development Pvt Ltd" have obtained Environmental Clearance from SEIAA and consent for establishment from KSPCB and for establishment of residential apartment in Sy Nos. 61/2, 62 and 63/2. There is Nala within the project area which connects Kasavanahalli tank to Kaikondrahalli Tank. Project under construction.	Sy. No. 62 and 63 falls under Lake buffer area. As there is separate O.A. 602/2019 on this project, the same will be inspected by the committee as per the order dated 19.7.2019 and separate report will be submitted by the committee.
		63/1 Vacant site No Violation

It is pertinent to clarify that the above Joint Committee's observation that the *Sy No. 62 and 63 falls under Lake Buffer area* is not *per se* contrary to the report submitted by the Joint Committee in OA. No. 602/2019. It appears that what the Joint Committee in OA. No. 281/2019, meant by Lake Buffer is only Lake is a Wetland and only a portion of land around it and did not deal in greater detail owing to the fact that there was already a separate Committee constituted by the Hon'ble. NGT in OA No. 602/2019. The extract of the same is mentioned hereinaabove.

However, the said Report in OA No. 281/2019 never sought to imply or mean that the entire Sy No. 62 and 63 cannot be used for 'construction activities'. In other words, construction activities shall be permitted while adhering to Buffer regulations with respect to the said Sy Nos 62 and 63. Very significantly, the said Joint Committee of OA. No. 281/2019 nowhere stated that the construction proposed by Project Proponent falls under the said lake buffer area.

Further, even the Joint Committee Report filed in OA No. 602/2019 says that only 48 Acres 23 Guntas of the Kaikondrahalli Lake is a Wetland which does not include Project Land in question. In fact, as already stated hereinaabove the construction of the building is beyond 75

		mtrs. from the lake periphery. Thus, it appears that both the reports of two Joint Committees are not in any way per se contradictory to each other but rather complimenting each other about the said aspect. As per records, the following details have been noted:		
Sy. No	Total Area (Acres)	Area in Sq. Mtrs	Nala and Lake Buffer Area (Sq. Mtrs)	Area available for development (Sq. Mtrs)
61/2	03.05	12646.92	4837 (38.25%)	7809.32 (61.75%)
62	03.02	12342.80	10543 (85.42%)	1799.80 (14.58%)
63/2	06.24	25393.81	13884 (54.67%)	11509.81 (45.32%)
	12.31	50382.93	29264 (58.08%)	21118.93 (41.92%)
REMARKS OF THE JOINT COMMITTEE				
- After perusal of both the reports of the Joint Committee constituted in OA No. 281/ 2019 and OA No. 802/2019, this Committee noted that in one of the Joint Committee Report (OA No. 281/2019), it was mentioned that Survey Number 62 and 63 falls in the lake buffer, but it has not stated that the entire portion of survey numbers 62 and 63 are falling in the lake buffer and no construction can be done in those survey numbers. Accordingly, this Committee opines that even though part of the survey number falls in the lake buffer area/ Nala buffer area, construction activities can be permitted in the same survey number while adhering to all the statutory norms with regard to lake / nala buffer as per EC and Wetland which is 75.00 Mtrs and 50.00 Mtrs from the lake periphery and from the center of the nala respectively. - Further, it is also noted that out of total project area, nearly about 58% (29264 Sq. Mtrs) of the area comes under either Lake Buffer area or Nala Buffer area and project proponent cannot undertake any construction in that area and the area available for developmental activity is only about 42% (21118.93 Sq. Mtrs) and suitable consideration have already been made in the project design. - Accordingly, this Joint Committee opines that construction activities in the above survey numbers can be permitted while strictly adhering to both Lake and Nala buffer area requirements and in case of any violation in future, appropriate enforcement action can be taken by relevant Statutory agencies.				

F. RELEVANT STATUTORY APPROVALS**a) ENVIRONMENTAL CLEARANCE**

S. No.	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
5	Environmental Clearance from State Environmental Impact Assessment Authority (SEIAA), Karnataka and conduct of Environmental Impact Assessment Studies.	- As per the Environmental Clearance accorded by SEIAA, Karnataka Vide No. SEIAA-114/CON/2017 dated 10.01.2018, it is noted that total built up area is 1,28,193.9 Sq. Mtrs and the validity of the EC is till 09.01.2025. - Department of Ecology and Environment vide their letter No. SEIAA2EAA2018 dated 01.03.2021 have revalidated and the above and stated that if the shafts and cut out areas are also added, the gross built up area is $1,28,193.90 + 12246.40 = 1,40,420.30$ Sq. Mtrs which is less than 1,50,000 Sq. Mtrs and accordingly, the project falls under B2 Category which does not require EIA studies. (Copy enclosed as Annexure-6).

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by SEIAA, Karnataka, written submissions made by the Project Authorities and the Report of the Joint Committee in OA 802/ 2019, the Joint Committee states that the appraisal of the project was carried out as per EIA Notification 2006 under B2 Category as the total project area (including FSI and Non FSI) is less than 1,50,000 Sq. Mtrs for which Environmental Impact Assessment (EIA) Studies are not required and all applicable and relevant information including the nearest lakes etc. have been duly indicated in the Form-I submitted to SEIAA, Karnataka.

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b) CONSENT FOR ESTABLISHMENT

S. No	Relevant Statutory Provisions/ Norms	Status of Compliance by Project Authorities
5	Consent for Establishment (CFE) to be obtained by the Project Proponent from the Karnataka State Pollution Control Board	- Project proponent has obtained Consent to Establish vide PCB/701/CNP/17/4-755 dated 12.10.2018 and it is valid till 09.01.2025 (co-terminous with the validity of EC). - KSPCB vide their Letter dated 11.02.2021 informed that the Consent has been withdrawn vide Letter PCB /701 /CNP /17 /1046 dated 06.07.2020 (Copy of the letter is enclosed as Annexure-11)

REMARKS OF THE JOINT COMMITTEE

Considering the official records made available by KSPCB, the Joint Committee noted that project authorities have obtained CFE from KSPCB on 12.10.2018 which was subsequently withdrawn on 06.07.2020 based on news article getting to know about the quashing of the EC to the project proponent by Hon'ble NGT. As per official records made available, the project proponent does not have a valid CFE to undertake construction work in the site and in case project proponent proposes to initiate construction activities in the project site, CFE needs to be revalidated again from KSPCB before start of construction activities.

The Joint Committee also noted that PA has stopped all the construction activities in the project site since 03.02.2020 based on the Orders of the Hon'ble NGT and the same have been duly informed to all the concerned Departments vide his letter dated 28.02.2020 and on the day of the visit of the Joint Committee no construction activity was noted.



OTHER STATUTORY APPROVALS OBTAINED BY THE PROJECT AUTHORITIES

As per written submissions made by the project proponent and also considering the records available, it is noted that project proponent has obtained the following relevant statutory clearances from various agencies as detailed below:

S.No.	Relevant Permission Obtained	Concerned Statutory Agency	Date of Approval/ Permission
1.	Registration of Khata in the name of Wonder Projects Development Pvt Ltd.	Btuhat, Bangalore Mahanagara Palike (BBMP)	07.01.2018
2.	Amalgamated Khata	BBMP	20.10.2018
3.	NOC from Airport Authority of India	AAI	20.10.2018
4.	NOC from Bharat Sanchar Nigam Limited	BSNL	26.12.2018
5.	Government Order for Change of Land use from Industrial (Hi-Tech) to Residential. As per the Revised Master Plan 2015 the Said Properties falls under Industrial (Hi-Tech) Zone	Urban Development Department	24.10.2017
6.	BDA Order- Change of Land Use for Change of Land use from Industrial (Hi-Tech) to Residential	Bangalore Development Authority (BDA)	08.12.2017
7.	Permission for construction of U Type RCC Box Drain and RCC Box Culvert in Kharab land was accorded by the Chief Engineer with prior approval from the Commissioner of BBMP.	Storm Water Drain Department of BBMP	02.08.2017
8.	NOC from Fire and Emergency services - Phase -1 (Godrej Reflections)	Department of Fire and Emergency Services	22.12.2017
9.	Environmental Clearance from Ministry of Environment and Forests (EC)	Ministry of Environment and Forests (MOEF)	10.01.2018
10.	NOC from Bangalore Electricity Supply Company	Bangalore Electricity Supply Company (BESCOM)	31.01.2018
11.	Relinquishment Deed for Block 1 and 2, relinquishing the Park and Open space Area	BDA	17.02.2018
12.	Development Plan approved by Bangalore Development Authority	BDA	07.03.2018
13.	Registration of RERA (Real Estate and Regulation Act) for Godrej Reflections as per Section 4(2)(d) of RERA Act. Sanction Plan approved from Competent Authority needs to be filed before obtaining RERA certification. Project Proponent have uploaded Development Plan dated 07.07.2017 to RERA for obtaining the approval, which was accordingly, granted	Real Estate and Regulation Act (RERA)	29.03.2018

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14.	NOC from Fire and Emergency services - Phase -2 (Godrej Lake Gardens)	Department of Fire and Emergency Services	20.04.2018
15.	Building Plan approval from Bruhat Bengaluru Mahanagara Palike - Godrej Reflections vide PA's application dated 15.11.2017	BBMP	30.08.2018
16.	Consent for Establishment from Karnataka Pollution Control Board, whereas the Project Proponent started construction of "Godrej Reflections" only in April 2019 and later the construction commenced in respect of Godrej Lake Gardens. Further, condition 46 of the Building License dated 30.08.2018 provides that the NOC from KSPCB needs to be submitted by the Developer within 30 days from the date of sanction. Hence CEE is not mandatory for obtaining building license	Karnataka Pollution Control Board (KSPCB)	12.10.2018
17.	NOC from Bangalore Water Supply and Sewerage Board	Bangalore Water Supply and Sewerage Board (BWSSB)	30.10.2018
18.	Registration of RERA (Real Estate and Regulation Act) for Godrej Lake Gardens, Refer Section 4(2)(d) of RERA Act	Real Estate and Regulation Act (RERA)	25.05.2019
19.	Building Plan approval from Bruhat Bengaluru Mahanagara Palike - Godrej Lake Gardens	BBMP	28.05.2019
20.	Civic Amenities Site Building Plan Approval	BDA	29.11.2019
21.	Vide PA letter dated 28.02.2020, PA informed all the relevant statutory authorities that all developmental and construction related activities have been halted since 03.02.2020 as per Orders of Hon'ble NGT, Principal Bench, New Delhi (NGT) in Appeal No. 54 of 2018 and OA No. 602 of 2019. Copy enclosed as Annexure-12.		

CONCLUSION AND FINAL REMARKS

As per directions of Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 sought an Independent report by another Joint Committee with the following mandate:

- Reconciliation of the two Joint Committee Reports (OA No. 281 of 2019 and OA No. 602 of 2019)
- To verify the size of the project (FSI and Non-FSI)
- To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland

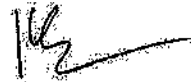
As per the directions of the Hon'ble NGT, this Joint Committee after reconciliation of both the earlier Joint Committee Reports submitted in OA No. 281 of 2019 and OA No. 602 of 2019 along with written submissions and official correspondence received from relevant Statutory Agencies have also been referred and accordingly conclude the following:

1. M/s. Wonder Projects Development Pvt. Ltd have not violated Kalkondarahalli lake buffer zone requirements and have left an adequate buffer area of more than 75.00 Mtrs from the lake periphery and more than 60.00 Mtrs from the Secondary Nala in the project site to the partially constructed tower in Block-I which is the maximum threshold under any of the applicable Statutory requirements including various Judgements of Hon'ble Supreme Court and Hon'ble NGT and also as per Wetland requirements.
2. Project Proponent has not undertaken any construction either of permanent or temporary nature in the lake buffer zone and this buffer area has been earmarked for greenbelt development.
3. Project Proponent has not violated any built-up area norms and appraisal of the project under B2 Category was done correctly as the total built area of the project (including FSI and Non FSI area) was less than 1,60,000 Sq. Mtrs which do not require mandatory Environment Impact Assessment (EIA) Studies as per Environment Impact Assessment Notification, 2006.
4. Project Proponent has maintained adequate Nala Buffer of more than 50.00 Mtrs to the partially constructed tower in Block-I which is the maximum threshold even if it is considered as Primary or Secondary Nala.
5. As per the provisional inventory submitted by State Government of Karnataka to Central Government, Kalkondarahalli Lake has been included in the provisional inventory list of Wetlands. However, as on date this Kalkondarahalli Lake has not been notified as a Wetland by the Government. The Mean High Flood Level of this Kalkondarahalli Lake is 860.207 Mtrs which is less than the top bund level (TBL) i.e., 861.407 Mtrs. Considering the last 10 years data, it has been noted that this lake has never overflowed and further the direction of flow of

water is towards Northern Side and this project being located in the South-Eastern side of the lake, the possibility of water overflowing into this project site is very remote. Further, the requirement of maintaining a buffer distance of 50.00 Mtrs from the Mean High Flood Level is also complied as project proponent have left a buffer distance of 75.00 Mtrs from the lake periphery.

6. As per official records it is noted that 13 Guntas of the project site with a secondary nala flowing from Kasavanahalli Lake to Kaikondarahalli Lake is a Kharab Land in which no development / constructions are to be undertaken. However, considering the importance of free flow of water between the two lakes without disturbance and as a special case permission for construction of RCC Box Drain and U type RCC Drain in Kharab land was accorded by Bruhat Bangalore Mahanagara Palike (BBMP) under exercise of due powers conferred to the Commissioner, BBMP under Section 288A and 288(1)(c) of the Karnataka Municipal Corporation Act, 1976 which the Joint Committee finds to be in order.
7. Pursuant to reconciliation of both the Joint Committee Reports in OA No. 281 of 2019 and OA No. 602 of 2019, it is noted that out of total project area, nearly about 58% (29264 Sq. Mtrs) of the area comes under either Lake Buffer area or Nala Buffer area and the project proponent cannot undertake any construction in that area and the area available for developmental activity is only about 42% (21118.93 Sq. Mtrs) and suitable consideration have already been made in the project design with regard to buffer area requirements. Accordingly, this Joint Committee opines that construction activities in the above survey numbers can be permitted while strictly adhering to both Lake and Nala buffer area requirements and in case of any violation in future, appropriate enforcement action can be taken by relevant Statutory Agencies.
8. Project Proponent have obtained all requisite permissions from relevant Statutory Agencies and Construction of the Project have been stopped from 03.02.2020 pursuant to Orders of the Hon'ble NGT in Appeal No. 54 of 2018 and OA No. 602 of 2019 and on the day of Joint Committee visit also the same was noted that construction has been stopped.

Accordingly, the Report of the Joint Committee is submitted to Hon'ble NGT, Principal Bench (New Delhi) in confirmation to its Order dated 08.09.2020 in Appeal No. 54 of 2018 for taking further appropriate decision and for passing suitable orders.



S. No	Name	Designation	Signature
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer, IRO Bangalore and Chairman	Kaushlesh Pratap Singh 12/03/21
2	Dr. H.R. Mahadev, IAS (Represented by Shri. B.A. Shivananda, Superintending Engineer, BDA)	Superintending Engineer, BDA	B.A. Shivananda 12/03/2021
3	Shri. Brijesh Kumar, IFS	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	Brijesh Kumar 12/03/21
4	Shri. H.L. Prasanna RES (Represented by Shri. Jagadish B.K., Asst. Engineer, Minor Irrigation)	Asst. Engineer, Minor Irrigation	Jagadish B.K. 12/03/21
5	Shri. H.N. Raghu, Additional Director, Town Planning, BBMP. (Represented by Shri. B. Manjesh, Joint Director, Town Planning BBMP)	Joint Director, Town Planning, BBMP	B. Manjesh 12/03/2021
6	Shri. M.K. Prabhudev	Chief Environmental Officer, KSPCB	M.K. Prabhudev 12/03/21
7	Smt. Sowmya. D	Scientist-D, Regional Directorate, CPCB Bangalore	Sowmya D. 12/03/2021
8	Shri. David Doraswamy	Survey Supervisor, Department of Revenue (Land Records)	David Doraswamy 12/03/21
9	Dr. Murali Krishna	Scientist-D, IRO, Bangalore	Dr. Murali Krishna 12/03/21

ANNEXURE-1



47

सत्यमेव जयते

भारत सरकार / GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय / MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

एकीकृत क्षेत्रीय कार्यालय, बेंगलुरु / INTEGRATED REGIONAL OFFICE, BANGALORE

4th Floor, E & F- Wings, Kendriya Sadan, 17th Main Road,
II Block, Koramangala, Bangalore- 560 034

File No. EP/12.7/NGT/49/Kar/ 964

URGENT COURT MATTER

December 16, 2020

Sub: Constitution of a Joint Committee in Appeal No. 54 of 2018 and Linked Matters in MA No. 49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi

Ref: Order of Hon'ble NGT, Principal Bench, New Delhi Order dated 08.09.2020

Hon'ble NGT, Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 has directed constitution of a Joint Committee for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd".

Pursuant to receipt of Order of Hon'ble NGT, nominations were sought from all the concerned agencies and based on the nominations received, the Joint Committee is constituted with the following Members:

S. No	Name	Designation	Nominee / Representative Department
1	Shri. Kaushlesh Pratap Singh, IFS	Regional Officer	Chairman of the Joint Committee and Representative of MoEFCC Integrated Regional Office (IRO), Bangalore
2	Dr. H.R. Mahadev, IAS	Commissioner	Representative of BDA
3	Shri. Vijaykumar Gogi, IFS	Principal Secretary to Government (Ecology and Environment), Forest, Ecology and Environment Department	Representative of SEIAA, Karnataka and Karnataka Wetland Authority
4	Shri. H.L. Prasanna	Engineer-in-Chief	Representative of Minor Irrigation and Ground Water Development Department

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5	Shri. R Prasad	Additional Director of Town Planning	Representative of BBMP
6	Shri. M.K. Prabhudev	Chief Environmental Officer	Representative of KSPCB
7	Shri. G. Thirumurthy	Additional Director/ Scientist-E	Representative of CPCB
8	Shri. David Doraswamy	Survey Supervisor	Representative of Department of Revenue (Land Records)
9	Dr. Murali Krishna	Joint Director/ Scientist-D	Co-Opted Member from IRO, MoEFCC, Bangalore

In order to ascertain the facts of the matter, it is proposed to convene the First Meeting of the Joint Committee on 23.12.2020 (Wednesday) at 11.30 AM through Video-Conference (through Google Meet, link will be shared separately).

Accordingly, all the Members of the Joint Committee are kindly requested to make it convenient to attend the meeting and also please share your gmail for sharing the meeting to rosz.bng-mef@nic.in / rosz.bng-mefcc@gov.in.

Yours faithfully,



(K.P. Singh, IPS)

Regional Officer,

Integrated Regional Office (Bangalore)

To,

All the Joint Committee Members listed above.

ANNEXURE-2

MINUTES OF FIRST MEETING OF THE JOINT COMMITTEE CONSTITUTED BY HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 54 OF 2018

1. The first meeting of the Joint Committee constituted by Hon'ble NGT Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd" was held under the Chairmanship of Shri. K.P. Singh, Regional Officer, Ministry of Environment, Forest and Climate Change (MoEFCC), Integrated Regional Office, Bangalore through Videoconference on 23.12.2020.
2. At the outset, the Chairman welcomed all the Members for the videoconference and after a formal round of introduction of the Members, the Chairman briefed about the constitution of the Joint Committee and informed the Members that Dr. Murali Krishna, Scientist-D/ Joint Director in the MoEFCC, Regional Office has been co-opted as an additional Expert Member to serve in this Joint Committee.
3. The Chairman informed all the Members regarding the constitution of this Joint Committee and it was noted that representatives of nine departments like MoEFCC, Central Pollution Control Board (CPCB), Karnataka State Pollution Control Board (KSPCB), Karnataka State Environmental Impact Assessment Authority (SEIAA), Bruhat Bangalore Mahanagara Palike (BBMP), Bangalore Development Authority (BDA), Irrigation and Flood Control Department, Revenue Department and Karnataka State Wetland Authority are serving as Members of this Joint Committee. All the Members/ representatives of the Concerned Departments attended the videoconference held on 23.12.2020.
4. Chairman informed all the Members about the Mandate of this Joint Committee and Members noted that there are 3 main objectives for this Joint Committee as follows:
 - ☐ Reconciliation of the two Joint Committee Reports (281 of 2019 and 602 of 2019)
 - ☐ To verify the size of the project (FSI and Non-FSI)
 - ☐ To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland
5. Members noted that for similar purpose two other Court Cases are also going on namely OA No. 281/ 2019 and OA No. 602/ 2019 and since this case also pertains to the same subject, all the cases have been clubbed.
6. The Members were appraised that in OA No. 281 of 2019, one report of the Joint Committee was filed and in another case OA 602/ 2019 another report of the Joint Committee was filed, and both the reports had a contradictory view/ some disparity with regard to the final findings of the their reports especially with regard to this project belonging to M/s. Wonder Projects

Pvt. Ltd. Accordingly, Hon'ble NGT wanted this Committee to examine the above issues and to submit its final report within 2 months from the date of convening of its first meeting (i.e., before 23.02.2021). The Members were also briefed that the case is next listed for hearing on 15.01.2021.

7. After detailed discussion about the allegations, issues raised in the petition and the directions of the Hon'ble NGT, the Committee decided to undertake a site visit to the alleged project site area to physically verify the project to ascertain the distance between the lake boundary and the project site; distance between nala to the construction site; and to verify adequacy of the buffer area as per statutory norms have been left or not and also to verify the building plan to ascertain the total area of the project (FSI and Non-FSI) etc.
8. Finally, after seeking consensus from all the Members of the Joint Committee, it was agreed to undertake a site visit to the project area on 08.01.2021 (Friday). Chairman requested all the concerned department representatives to gather all the relevant information pertaining to their departments with regard to this project to further deliberate during the scheduled site visit.
9. The meeting ended with a vote of thanks to the Chair.

ANNEXURE-3

**MINUTES OF THE SITE INSPECTION OF THE JOINT COMMITTEE CONSTITUTED BY
HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 54 OF 2018**

1. As per the decision taken in the first meeting of the Joint Committee constituted by Hon'ble NGT Principal Bench, New Delhi vide its order dated 08.09.2020 in Appeal No. 54 of 2018 and linked matters MA No. 49/2020 in OA No. 602/2019 for ascertaining the facts in matter related to construction of "New residential building project at Survey No's 61/2, 62 and 63/2, Kasavanahalli Village, Varthur Hobli, Bengaluru East by M/s. Wonder Projects Development Pvt Ltd" on 23.12.2020 through video conference, a visit to the project site was undertaken on 08.01.2021 by the Joint Committee.
2. Representatives of all the Departments as per constitution of the Joint Committee were present during the site inspection except representatives of Bangalore Development Authority (BDA) and Bruhat Bangalore Mahanagara Palike (BBMP). Upon enquiry it was noted that the nominee of BBMP being a primary contact of Covid-19 positive person was in home isolation so could not attend the inspection. However, no information or clarification from the representative of BDA received by the Joint Committee.
3. The Chairman welcomed all the Members of the Joint Committee and the Committee discussed in detail about the key issues raised in the petition and also referred to the reports of the Joint Committee submitted to Hon'ble Tribunal in OA No. 281 of 2019 and 602 of 2019. After discussing in detail about the issues, the Joint Committee noted that the Mandate of this Joint Committee relates mainly to three issues namely the following:
 - Reconciliation of the two Joint Committee Reports (281 of 2019 and 602 Of 2019)
 - To verify the size of the project (FSI and Non-FSI)
 - To verify the compliance of Statutory Rules relating to Buffer Zone / Wetland
4. Pursuant to discussion on both the reports and also keeping in cognizance and direction of Hon'ble NGT vide its orders dated 08.09.2020, a site visit was undertaken to the project area. During the visit Members of the Joint Committee noted that the total area of the project is 12 acres 18 Guntas and a secondary nala as per Revenue Records ad measuring to an extent of 13 Guntas of Kharab Land is bifurcating the project into two portions and adjoining the project site on North Eastern side, kaikondarahalli lake is situated and on the day of site visit, no construction work was observed, and it appeared that construction work has been abandoned from several months.
5. After detailed deliberations, the Joint Committee suggested representatives of concerned departments to revalidate or confirm the following within two weeks (before 27.01.2021) for finalization of the Joint Committee Report to Hon'ble NGT.

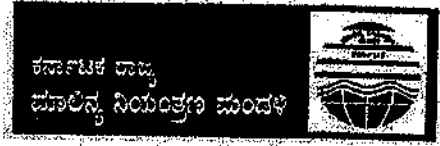
BBMP/ Revenue Department	- What is the Buffer area from the lake to Block-I and Block-II? - What is the Buffer area from centre of the secondary nala to Block-I and Block-II? - Whether approval was accorded for construction of a box drain for flow of water in the secondary nala or for usage of kharab land in the project site and whether the same is in consonance with the existing Rules/ Acts in force?
Wetland Authority/ BBMP/ Minor Irrigation and Flood Control	- Whether the Kaikondarahalli lake has been notified as Wetland or Not? - What is the maximum buffer area to be left from the lake if the lake is notified as a Wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan verdict? - What is the maximum water level of Kaikondarahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4 (vi) - To confirm whether any construction temporary/ permanent nature undertaken in buffer area? - Whether adequate buffer distance is maintained from lake periphery to Block-I and Block-II as per Rule 4 of Wetland Rules.
BDA/ BBMP	- Whether building permission accorded for construction of Block-I and Block-II or not with details if permission accorded. - To confirm the size / total area of the project (Both FSI and Non-FSI) area of two towers cumulatively
SEIAA	- Whether EC obtained and details of EC along with its validity - Whether EIA studies were required or not during the appraisal of the project (B1/ B2 category) based on EIA Notification 2006
KSPCB	Whether CFE obtained or not and if yes, details of CFE along with its validity

- The Committee also noted that this matter has been listed for next hearing on 15.01.2021 and as per Order dated 08.09.2020, this Joint Committee needs to submit its factual report within two months of convening of its first meeting. Accordingly, the Joint Committee suggested seeking additional time till 23.02.2021 from Hon'ble NGT for submission of its final report which is two months from the date of first meeting held on 23.12.2020.
- The committee opined that after two weeks and after receipt of requisite written feedback from all the concerned agencies along with relevant official records supplementing their say, the final report shall be prepared by the MoEFCC Regional Office with support of CPCB and KSPCB and all efforts to be made for timely submission of Joint Committee report to Hon'ble NGT before 23.02.2021.

ANNEXURE-4

Officer of the Senior Environmental Officer
Karnataka State Pollution Control Board
Bangalore - South
"NISARGA BHAVAN", 3rd Floor,
Thimmalah Road, 7th 'D' Cross,
Shivanagar, Bangalore - 560 010.
Phone: 23228862

ಹಿರಿಯ ಪರಿಸರ ಅಧಿಕಾರಿಯವರ ಕಛೇರಿ
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
ಬೆಂಗಳೂರು-ದಕ್ಷಿಣ
"ನಿಸರ್ಗ ಭವನ", 3ನೇ ಮಹಡಿ,
ತಿಮ್ಮಲಾಹ ರಸ್ತೆ, 7ನೇ 'ಡಿ' ಮುಖ್ಯ ರಸ್ತೆ,
ಶಿವನಗರ, ಬೆಂಗಳೂರು-560 010.
ಫೋನ್ : 23228862



towards a cleaner Karnataka

No. KPCB/ZSEO-Bng-South/2019-20/362

date: 16 FEB 2021

To,

Dr. Murali Krishna,
Scientist 'D'

Ministry of Environment, Forest & Climate Change (MOEF & CC)
South Zone office, Kendriya Sadan, 4th Floor,
Bengaluru.

Sir,

Sub: Forwarding Survey Sketch, pertaining to Sy. No. 61, 62, 63 of Kasavanahalli village, Varthur Hobli, Bangalore East Taluk.

Ref: 1. Inspection by joint committee of Hon'ble NGT dt: 08.01.2021.
2. Letter with Survey report of Assistant Director of Land Records,
Bangalore East Taluk, K.R. Pura, Bangalore, dated:02.02.2021,

With respect to above, subject it is to be informed that the Assistant Director of Land Records, Bangalore, East Taluk, Bangalore, has forwarded the letter along with Survey sketch of Sy. No. 61, 62, 63 of Kasavanahalli Village, Varthur Hobli, to this office vide ref (2) instead of submitting to Joint committee of NGT and the same is herewith forwarded for your kind perusal and needful action.

K. Srinivasulu
Zonal Senior Environmental Officer,
Bng (South).

sc'd

16/2

12/2

sc'd

16/2

ನಂ. ಭೂ.ಸ.ನಿ/ಮೋಡಿ/ಇತರೆ/39/2019-20.

ಭೂದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರವರ ಕಛೇರಿ
ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ಕೆ.ಆರ್.ಪುರ,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 02-02-2021.ಹಿರಿಯ ಪರಿಸರ ಅಧಿಕಾರಿಯವರ ಕಛೇರಿ,
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ,
"ನಿಸರ್ಗ ಭವನ", 3ನೇ ಮಹಡಿ, ತಿಮ್ಮಯ್ಯ ರಸ್ತೆ,
7ನೇ 'ಡಿ' ಮುಖ್ಯರಸ್ತೆ, ಶಿವನಗರ, ಬೆಂಗಳೂರು-560 010.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ವರ್ತೂರು ಹೋಬಳಿ, ಕಸವನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.
63 ರ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದ ನಕ್ಷೆ ನೀಡುವ ಬಗ್ಗೆ.

- ಉಲ್ಲೇಖ: 1. ತಮ್ಮ ಕಛೇರಿ ಪತ್ರದ ಸಂಖ್ಯೆ: PCB/RSEO/BNG-SOUTH/2019-20/71, Dated: 27-04-2019.
2. ಜಂಟಿ ಸಮಿತಿಯ ಸ್ಥಳ ಪರಿಶೀಲನೆ ದಿನಾಂಕ: 08-01-2021 ರಂದು ನೀಡಿರುವ ಸೂಚನೆಯ ಮೇರೆಗೆ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ವರ್ತೂರು ಹೋಬಳಿ, ಕಸವನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ. 63 ರ ಜಮೀನಿನಲ್ಲಿರುವ 'ಬಿ' ವಿರಾಜು ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಈಗಾಗಲೇ ವರದಿ ಸಲ್ಲಿಸಿದ್ದು, ದಿನಾಂಕ: 08-01-2021 ರಂದು ಜಂಟಿ ಸಮಿತಿಯು ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಿ ಕೆಲವು ಸೂಚನೆಗಳನ್ನು ನೀಡಿದ್ದು, ಅದರಂತೆ ಬಿಬಿಎಂಪಿ ಅಧಿಕಾರಿಗಳ ಜೊತೆಯಲ್ಲಿ ಸ್ಥಳ ಪರಿಶೀಲಿಸಿ ನಕ್ಷೆಯನ್ನು ತಯಾರಿಸಿ ವಿವರಗಳೊಂದಿಗೆ ವರದಿಯನ್ನು ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ತಮ್ಮ ಕಛೇರಿಗೆ ಸಲ್ಲಿಸಿದೆ.

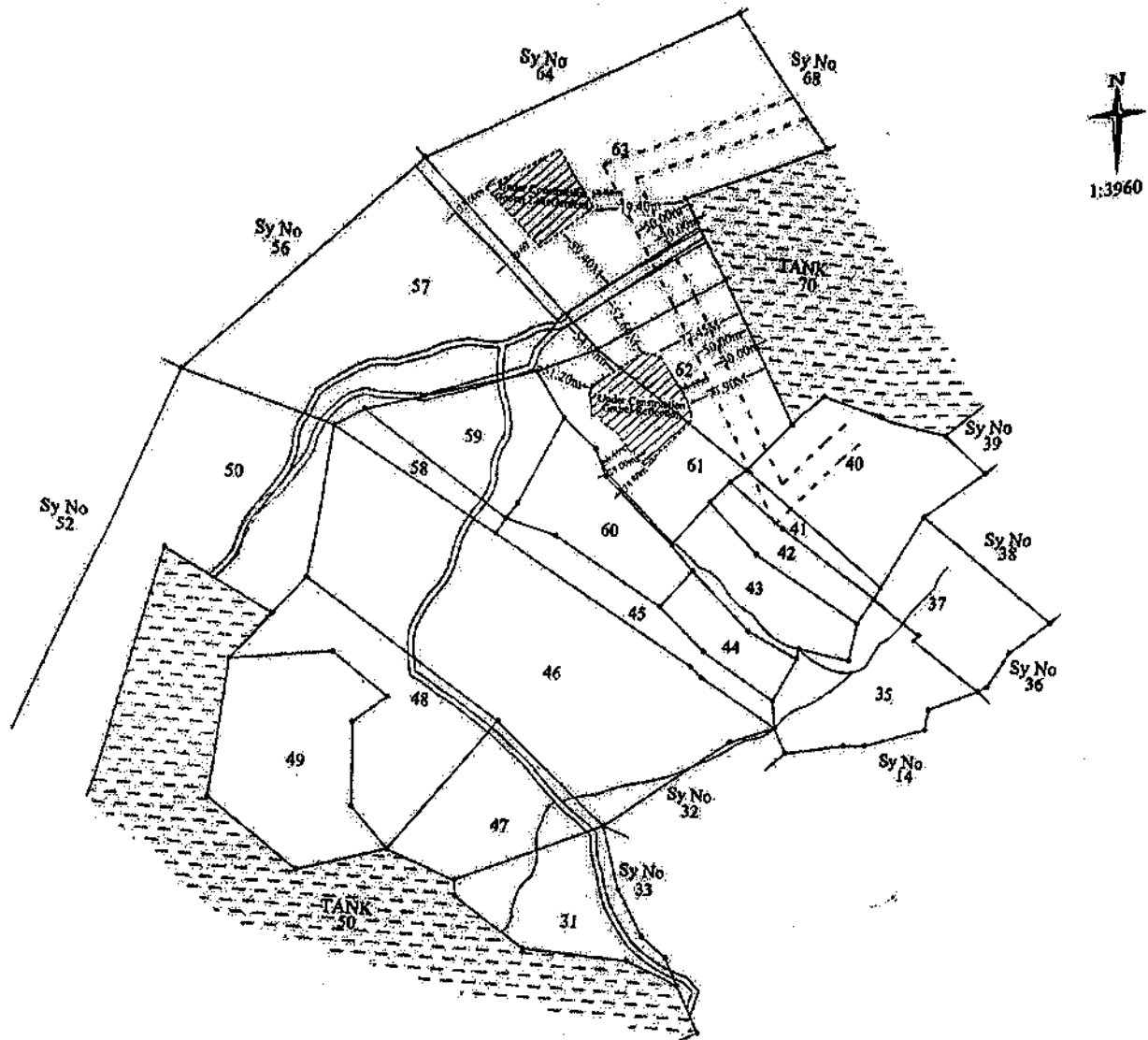
ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಭೂದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು
ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು
ಬೆಂಗಳೂರು

Village: Kasavanahalli

Hobli : Varthur

Taluk : Bangalore East

Joint Sketch of sy no 61,62,63



NO. ADLR/Phedil/0139/2019-20

Measurements have been taken as per instructions received from Hon'ble KSPCB during site inspection.

- This symbol indicates the Nala under 'B' Kharab in an extent of 13 Guntas in Sy. No. 63 as per Village Map
- This symbol indicates the 13 Guntas of 'B' Kharab in Sy. No. 63 Drain under construction as per physical condition at site
- This symbol indicates Secondary Nala as per village map
- This symbol indicates Tertiary Nala as per village map
- - - This symbol indicates 30m Buffer from the boundary of the lake
- - - This symbol indicates 50m Buffer from the boundary of the lake

Signature
 District Surveyor
 Bangalore East

Signature
 District Surveyor
 Bangalore East

Prepared by
 Signature
 District Surveyor
 Bangalore East

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ANNEXURE-5



61

Bruhat Bengaluru Mahangara Palike**Office of the Additional Director of Town Planning, N.R. Square, Bengaluru-02**

No: BBMP/Addl.Dir/PR/ 54 / 2020-21

Date: 10-02-2021.

To,

Sri. Koushlesh Pratap Singh, IFS
Regional Officer and Chairman of the
Joint Committee and Representative of MoEFCC.
Integrated Regional office, (IRO),
Bengaluru-4th Floor, E & F Wings
Kendriya Sadan, 17th Main Road, 2nd Block, Koramangala,
Bengaluru- 560034.

Respected Sir,

Sub:- Submission of Report to Joint Committee in Appeal No. 54 of 2018
constituted by Hon'ble National Green Tribunal, Principal Bench, New
Delhi.

Ref:- Joint Committee Meeting Held on 05-02-2021 through Video
Conference.

As per the Hon'ble National Green Tribunal, Principal Bench, New Delhi order
dated. 08-09-2020 in appeal No. 54 of 2018 Joint Committee was constituted for
ascertaining the facts in matter related to construction of Residential Project by M/s
Wonder Projects Development Pvt. Ltd., at Sy No. 61/2, 62 & 63/2, Kasavanahalli
Village, Varthuru Hobli, Bengaluru East Taluk. Being BBMP is also one of the
representative Department of the Joint Committee is here by submitting the report as
under.

The project proponent M/s Wonder Projects Development Pvt. Ltd., was applied
to BBMP for Building Plan sanction for the construction of Residential projects at Sy
No. 61/2, 62 & 63/2, Kasavanahalli Village, Varthuru Hobli, Bengaluru East Taluk with
the following statutory department NOC's enclosed as Annexures.

Sl. No	Name of the Statutory Department NOC's	Reference Number and Date
1.	Fire Force Department	GBC(1)/336/2017, Dated. 22-12-2017 (A-1)
2.	Airport Authority of India	BANG/SOUTH/B/091727/171996, Dated. 20-10-2016 (A-2)
3.	HAL	ASC/DOM(AO)/131/14-17/783/2017, Dated. 11-01-2018 (A-3)
4.	BSNL	DE/SAN/BG/S-11/VOL XIII/20, Dated. 26-12-2016 (A-4)

sc'd
16/2/21



5.	SEIAA (Environmental Clearance)	SEIAA/114/CON/2017, Dated. 10-01-2018 (A-5)
6.	KSPCB	PCB/701/CNP/17/H-755, Dated. 12-10-2018 (A-6)
7.	BESCOM	CE(E)/BANG MA SZ/AE/ABE-2/K-148/17-18/ 8377- 80, Dated. 31-01-2018 (A-7)
8.	BWSSB	BWSSB/ESC/CE(M)/ACE(M)-IV/DCE(M)- II/TA(M)-III/4421/2018-19, Dated. 30-10-2018. (A-8)
9.	BDA	Bangalore Development Authority has issued is Residential Development Plan vide No. BDA/TPM/DLP/41/2016-17/2161/2017-18, Dated. 07-03-2018 to the project proponent M/s Wonder Projects Developments Pvt. Ltd., for construction of Residential Projects at Sy No. 61/2, 62 & 63/2 Kasavanahalli Village, Varthuru Hobli, Bengaluru East Taluk, Bengaluru. (A-9)

Based on the Residential Development plan issued by the Bengaluru Development Authority which is Planning Authority for Bangalore city, NOC's issued by above statutory departments, Zoning Regulations 2015 and Building Bye-Laws 2003 Building Permission was accorded by BBMP for construction of Residential project Block - I and Block - II vide LP No. BBMP/Addl.Dir/JDNorth/LP/0203/2017-18, dated. 30-08-2018 and 28-05-2019 respectively as under with the approval of Commissioner, BBMP.

Project site area – 50382.95 Sq.m

Blocks	Total Built up area (in Sq.m)	FSI Area (in Sq.m)	Non FSI area (in Sq.m)	No of Floors	No of Units	Date of Building Permission
Block - I	61418.72	44739.99	16678.73	2BF+GF+20UF	265	30-08-2018
Block - II	64244.34	45938.29	18306.05	BF+GF+20UF	360	28-05-2019
Total	125663.06	90678.28	34984.78		625	

There is kaikondarahalli lake on the North - Eastern side of the project. While according the Building Permission 75.00 m buffer is reserved from the Lake boundary of Kaikondarahalli lake to the Block - I and Block - II of the project as per NGT order dated. 04-05-2016 and also as per Residential Development plan approved by Planning Authority.

There is a Secondary Nala within the project area which is connecting Kasavanahalli lake to Kaikondarahalli lake. Buffer of 50.00 m is reserved from the edges



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of this Secondary Nala on Either side to the Block – I and Block – II of the Project as per NGT order Dated. 04-05-2016 and as per Development Plan Approved by Planning Authority.

The project proponent has constructed RCC box drain for flow of water in the Secondary nala or for usage of Kharab land in the project site with the approval of BBMP vide Permission No. CE/SWD/PR/140/2017-18, Dated. 02-08-2017 given by Chief Engineer (Storm Water Drain), BBMP (A-10). Clarification is sought from Chief Engineer (SWD) BBMP to submit report under which Act/Rules the Permission is accorded to construct the RCC box drain for flow of water in the secondary nala or for usage of kharab land in the project site. Report once received from Chief Engineer (SWD), BBMP, the same will be submitted for your perusal.


Additional Director,
Town Planning, BBMP

Enclosers :- (Annexures – 1 to 10)

Copy to,

1. The Hon'ble Commissioner, BBMP, Bengaluru for kind information.
2. Chief Engineer, (SWD), BBMP, Bengaluru for information and for necessary action.
3. Chief Engineer, (Lakes), BBMP, Bengaluru for information.
4. Office Copy

ANNEXURE-6

File No. SEIAA2EAA2018

Date-1-03-2021

Report on M/s Wonder Projects Development Pvt Ltd

(Appeal No 54/2018 (OA No. 602/2018) before the principal Bench of the Hon'ble NGT)

- Ref:- 1. Letter No. EP/12.7/NGT/49/Kar dated 15-2-2021 and EP/12.7/NGT/49/Kar/260 dated 25-2-2021 of Regional Officer IRO, Bengaluru
2. Letter No. ADLR/Podi/Others dated 2-2-2021 of ADLR Bengaluru (East)

Background:

In view of the order dated 8-9-2020 of Hon'ble NGT, Principal Bench in Appeal No 54/2018 (OA No. 602/2019), a high-level committee was formed to get a factual status on the alleged violations in sanction and execution of Wonder Projects Development Pvt Ltd in Sy No 61/2, 62 & 63/2 Kasavanahalli Village, Varthur Hobali, Bangalore-East Taluk, Bangalore Urban District.

The newly appointed committee has done an inspection of the project site on 8-1-2021 and took note of the ground status. Subsequently various members were expected to comment on the issues raised by NGT in the background of their order dated 8-9-2020.

In response to the issues flagged (Ref 1) by the Regional Officer, IRO, Bengaluru, response of the Department of Ecology and Environment, Government of the Karnataka is as under:

I) From EIA Perspective:-

Number and date of EC	SEIAA114CON2017 dated 10-01-2018
Location of the Project	Survey No's 61/2, 62 & 63/2 Kasavanahalli Village, Varthur Hobali, Bangalore East Taluk, Bangalore Urban District.
Project details	Construction of new Residential Building on a plot area of 50382.91 Sqm. The total built up area is 1,28,193.9 Sqm. The proposed project consists of 2 residential blocks having 2 Basements + Ground Floor + 20 Upper Floors with 655 units.
Whether EC was granted for this project and if yes what is its validity	The EC was issued for this project vide No. SEIAA114CON2017 dated 10-01-2018 for a total built up area of 1,28,193.9 Sqm. As per the EIA Notification 2006 the validity of EC for construction projects is 7 years.

Shri Munkhi 'se'
B. n. n.

1/2/21

BRJESH KUMAR, IES
Principal Secretary to Government
(Ecology and Environment)
Forest, Ecology and Environment

Whether EIA studies were required or not during the appraisal of the project (B1/B2 category) based on EIA Notification 2006.	As per EIA Notification 2006 the construction projects with a built-up area less than 1,50,000 Sqm falls under B2 category, which does not require EIA studies. The EC for this project was issued for a built-up area of 1,28,193.9 Sqm, which does not require EIA studies as per the EIA Notification 2006.
Implication of Orders of Hon'ble Supreme Court in Goel Ganga case (Civil Appeal No.10854/2016)	As per the orders of Hon'ble Supreme Court in Goel Ganga case (Civil Appeal No.10854/2016) directions on built up area as follows (i) The total built up area under the Notification of 14.09.2006 means all constructed area which is not open to sky (ii) Built up area under the Notification of 04.04.2011 means all covered area including basement and service areas. EC for M/s Wonder Projects Development Pvt Ltd was issued on 10-01-2018, whereas the Hon'ble Supreme Court judgement in Goel Ganga case (Civil Appeal No.10854/2016) was passed on 10-08-2018 ie after the issue of the EC. However as per the concept plan submitted by the proponent in Form-I the total built up area (including basement but excluding shafts & cutout areas) is reported to be 1,28,193.9 Sqm. Further as per the submitted plan, area of shafts and cutouts is 12226.40 Sqm. It is to be noted that for conducting EIA studies (ie Category B1), the built-up area should be more than 1,50,000 Sqm. Even if the shafts and cutout areas are added, the gross built up area is $1,28,193.90 + 12226.40 = 1,40,420.30$ Sqm. Hence there is no statutory requirement of EIA Studies for this project. During issue of EC under B2 category for the total built up area $1,28,193.90 + 12226.40 = 1,40,420.30$ Sqm, which is less than 1,50,000 Sqm. Hence the project comes under B2 category that also not require EIA studies.

II) From Wetland Perspective:-

Whether Kaikondrahalli lake has been Notified as wetland or not	Kaikondrahalli lake is a wetland that has been identified by SAC (Space Application Centre), Ahmedabad in their Wetland Atlas. It is one among the lakes in the Provisional inventory of wetlands submitted by the State Government to the Central Government.

Pranav
PRANAV K. MAR. IFS
 Principal Secretary to Government
 (Ecology and Environment)
 Forest, Ecology and Environment Department

	However, as per the prevailing Wetland Rules, it is yet to be notified as a wetland.
What is the maximum buffer area to be left from the lake if the lake is notified as a wetland area and what activities are permitted within buffer area as per Wetland Rules and also considering Justice Balakrishnan Verdict.	As per Rule 4(vi) of the Wetland(Conservation and Management) Rules, 2017 and also order dated 03-04-2017 of Hon'ble Supreme Court in M.K Balakrishnan &ors versus Union of India&ors (Writ Petition No 230/2001), no construction of permanent nature (ie within the buffer) is permitted within 50 meters from the High Flood Level of the Wet land. As per the EC granted, the project proponent should maintain 75 meters from the lake as buffer zone which should be free from erection of permanent structures. As per the measured distance (Ref 2) construction taken up either in Block I or Block II are not within 50 meters from the edge of the lake. Thus, even though the wetland in question is yet to be notified, the project does not violate either Balakrishnan Verdict or Wetland Rules 2017.
What is the maximum water level of Kaikondrahalli lake/ height of the bund and what is the maximum water level observed during last 10 years along with direction of flow of water from lake as per Rule 4(vi).	The information to be submitted by Minor Irrigation Department of Karnataka.

III) Other Issues related:-

To confirm whether any construction temporary/permanent nature undertaken in buffer area.	The information to be submitted by BDA/BBMP.
Whether adequate buffer distance is maintained from	As per the measured distance (Ref 2) construction taken up either in

B. Kumar
 B. Kumar, I.E.S.
 Principal Secretary to Government
 (Ecology and Environment)
 Forest, Ecology and Environment Department

lake periphery to Block-I and Block-II as per rule 4 of wetland rules	Block I or Block II are not within 50 meters from the edge of the lake.

Note: Physical measurement with regards to wetland-buffer has been done by a joint sub-committee of Assistant Director of Survey and Settlement KR Puram, Bengaluru (South), Assistant Director Land Records Bengaluru (East) and M.Fayaz Ahmed Surveyor Bengaluru (East) (Ref-2). The same has been adopted here.

Dated: 1-3-2021

Brijesh Kumar 1/3/2021
(Brijesh Kumar)
Principal Secretary (Environment)
Govt of Karnataka and
Member Secretary, SEIAA Karnataka

ANNEXURE-7



ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ

Bangalore Development Authority

ಸಂಖ್ಯೆ :
No.

No. BDA/Commr/EM/EO-3/T-205 /2020-21

Dated: 01.02.2021,

ದಿನಾಂಕ :

Date :

To,

Regional Officer
And
Chairman of the Joint committee,
Ministry of Environment, Forest and climate change,
Integrated Regional Office,
Kendriya sadan, IVth Floor
E & F Wings, 17th Main road,
II nd Block, Koramangala,
Bengaluru-560 034.

Respected Sir,

Sub:- Constitution of Joint Committee in Appeal No.54 of 2018 and MA No.49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi vide its order dated.08.09.2020

Ref:- 1. Your office letter No.EP/12.7/NGT/49/KAR/1068, Dated.08.01.2021.
2. Minutes of the site inspection of the Joint Committee Dated : 08.01.2021

With reference to the above subject and your office letter cited at reference (1), it is regretted to inform you that, no communication was received from your office for assembling at Godrej Reflections, Haralur Main road Bangalore, project site. However, only proposed visit date 08.01.2021 was mentioned during the video conference held on 23.12.2020, but venue of assembly was not confirmed.

On the part of BDA and as per the details sought in the minutes of site inspection of the joint committee it is confirmed from our records that BDA has not received any application for building plan approval for the said projects at Sy. No.s 61/2, 62 & 63/2 Kasavanahalli village, Varthur Hobli, Bengaluru sast taluk, Bengaluru District by M/s Wonder projects Development Pvt Ltd.

However, the Development Plan issued by BDA Town Planning Member is enclosed for your ready reference.

Thanking you

Shri. Murali Krishna
Secy

2/2/21

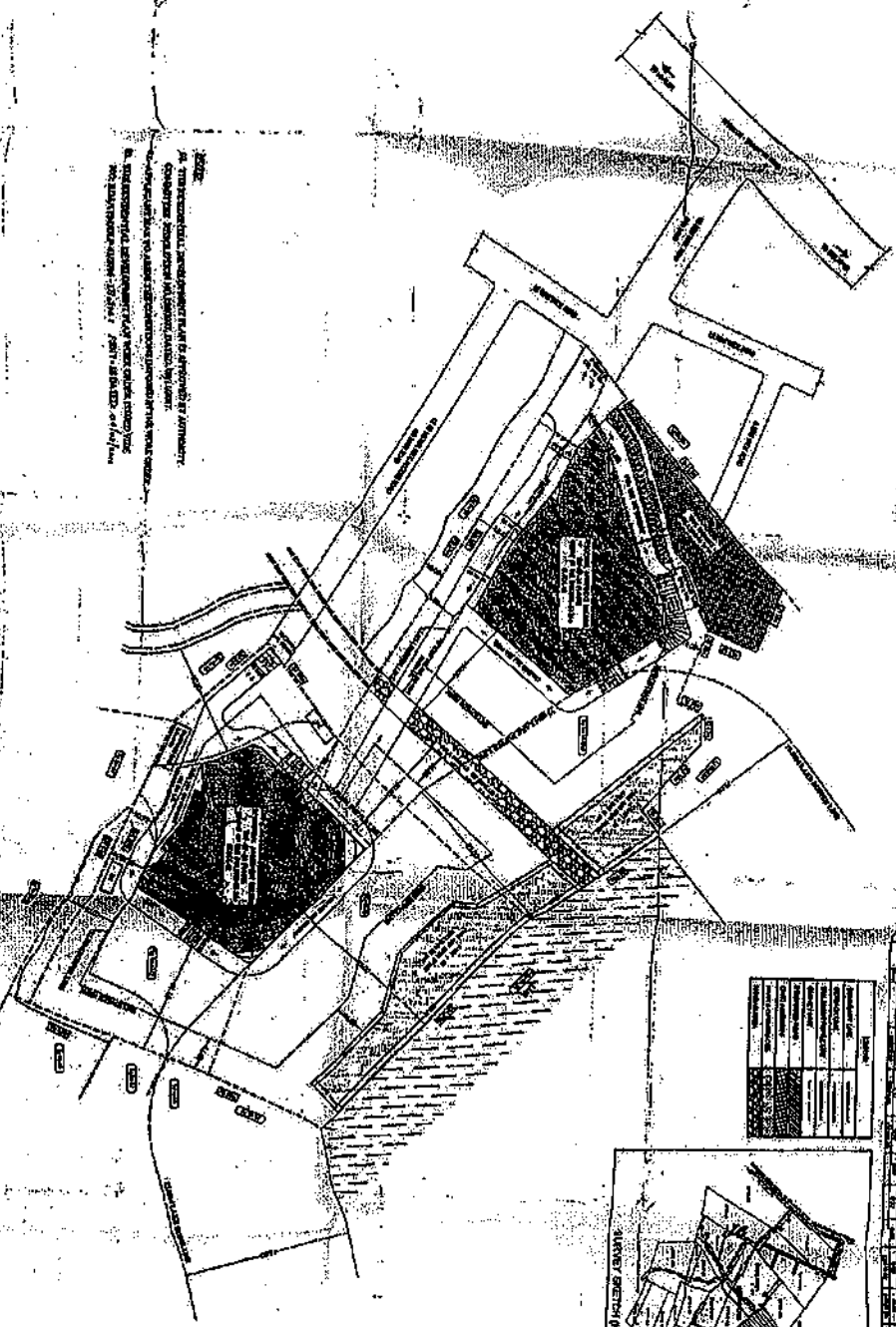
Yours Faithfully

Commissioner,
BDA, Bangalore.

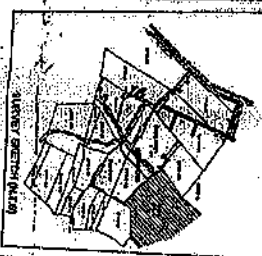
ಟಿ. ಚೌಡಾiah ರಸ್ತೆ, ಕುಮಾರಪಾರ್ಕ್ ಪಶ್ಚಿಮ, ಬೆಂಗಳೂರು 560 020

T. Chowdaiah Road, Kumarapark West, Bangalore 560 020, Facsimile : 2334 5799, Website : www.bdabangalore.org

NOTES:
1. THIS PROJECT HAS BEEN APPROVED BY THE
COMMUNITY DEVELOPMENT DEPARTMENT, CITY OF
LOS ANGELES, AND THE PROJECT HAS BEEN
REGISTERED WITH THE CITY OF LOS ANGELES
DEPARTMENT OF PLANNING AND DEVELOPMENT.
2. THE PROJECT HAS BEEN APPROVED BY THE
CITY OF LOS ANGELES DEPARTMENT OF
PLANNING AND DEVELOPMENT, AND THE
PROJECT HAS BEEN REGISTERED WITH THE
CITY OF LOS ANGELES DEPARTMENT OF
PLANNING AND DEVELOPMENT.



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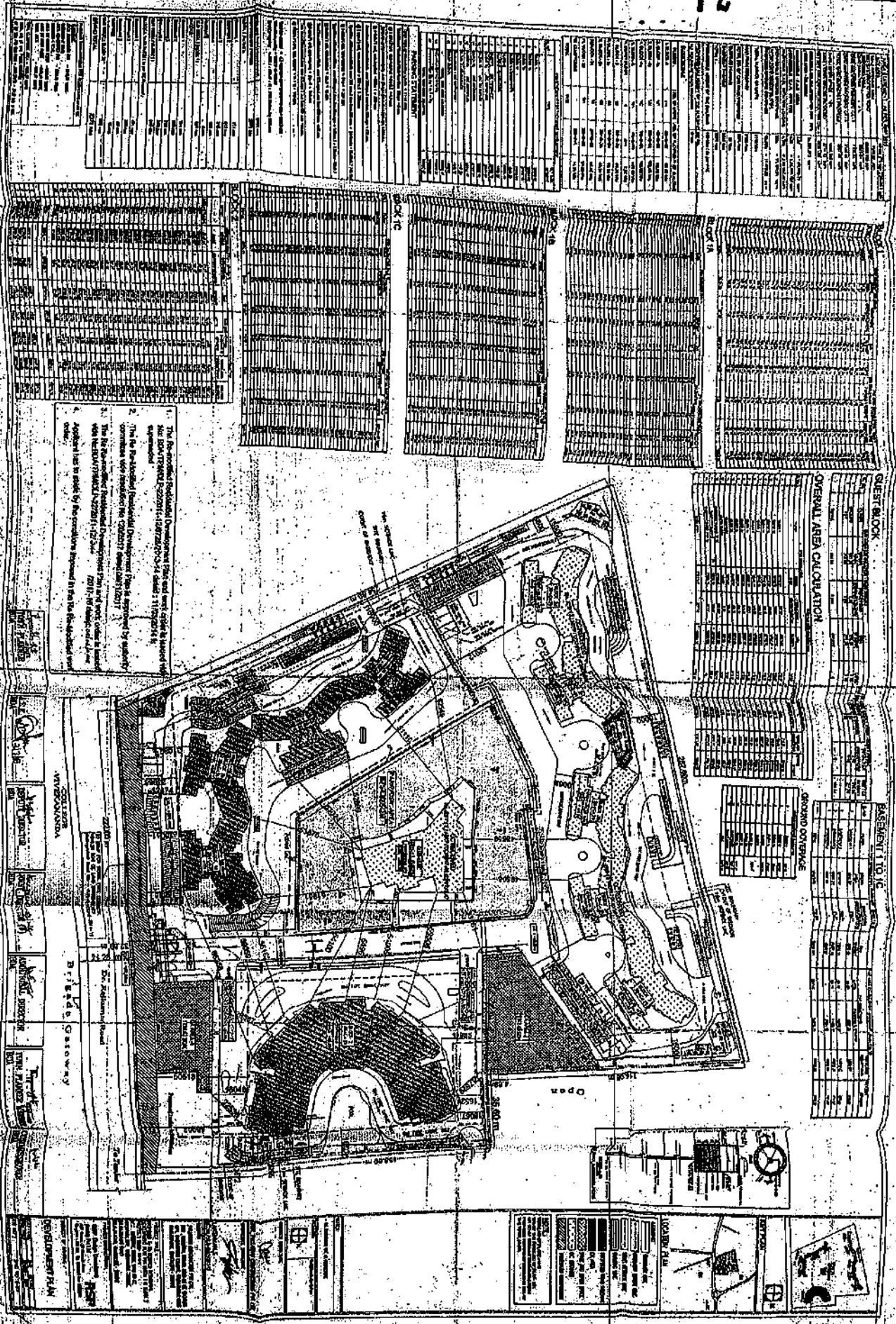
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ANNEXURE-8



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ಪ್ರಧಾನ ಇಂಜಿನಿಯರ್‌ರವರ ಕಛೇರಿ
ಸಣ್ಣ ನೀರಾವರಿ (ದಕ್ಷಿಣ) ವಲಯ,
ಕೆ.ಆರ್. ವೃತ್ತ, ಬೆಂಗಳೂರು-560 001.

ಸಣ್ಣ ನೀರಾವರಿ ಮತ್ತು
ಅಂತರ್ಜಲ ಅಭಿವೃದ್ಧಿ ಇಲಾಖೆ

ಕಛೇರಿ: 22274290, 22292286,
22211308

ಇ-ಮೇಲ್: cemisouth@gmail.com
cemisouth@yahoo.co.in

No:EIC/TA-2/AE.1/NGT/2020-21/524

Date: 25.2.2021

To

✓ Shri. K.P.Singh, IFS
Regional officer,
IRO, Bengaluru
Sir,

Sub: Information related to Mean High Flood
Level of Kaikondarahalli Lake in OA No.54
of 2018-reg.

Ref: 1. Letter No: EIC/TA-2/AE.1/NGT/2020-
21 dated 23.02.2021
2. Chief Engineer, Lakes, BBMP Letter
No:1052 dated 25.2.2021

With respect to the above subject, as the Kaikondarahalli Lake is coming
under the purview of Chief Engineer, BBMP (Lakes) Bengaluru, a letter was
addressed to the Chief Engineer, BBMP (Lakes) to submit Mean High Flood Level
of said Lake vide reference (1).

The Chief Engineer, BBMP (Lakes) Bengaluru has submitted the details
vide letter cited under reference (2). The above information is herewith enclosed
along with this letter for kind perusal.

Encl:as above.

Yours faithfully,

[Signature]
Engineer-in-Chief

Minor Irrigation (South)

Bengaluru.

Dr. Muralikrishna,
Sd/-
1/2
25/2/21

[Signature]
25/2/21

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ANNEXURE-9



76

BRUHATH BANGALORE MAHANAGARA PALIKE

No: CE/LAKES/PR/1052 /2020-21

Office of the Chief Engineer, Lakes 2nd
Floor, BBMP, Annex Building 03, H O
Premises, N,R Square, Bangalore-02.
Dated:- 25/2/2021

To,
Engineer-in-Chief
Minor Irrigation (South)
Bengaluru
Sir,

Sub: Information related to Mean High Flood Level of
Kaigondarahalli Lake in OA No:54 of 2018-reg.

Ref: 1) Letter No: 1240 Dated:19/2/2021 from Regional Officer,
IRO, Bangalore.
2) your office letter EIC/TA-2/AE.1/NGT/2020-21,
Dated:23/2/2021.

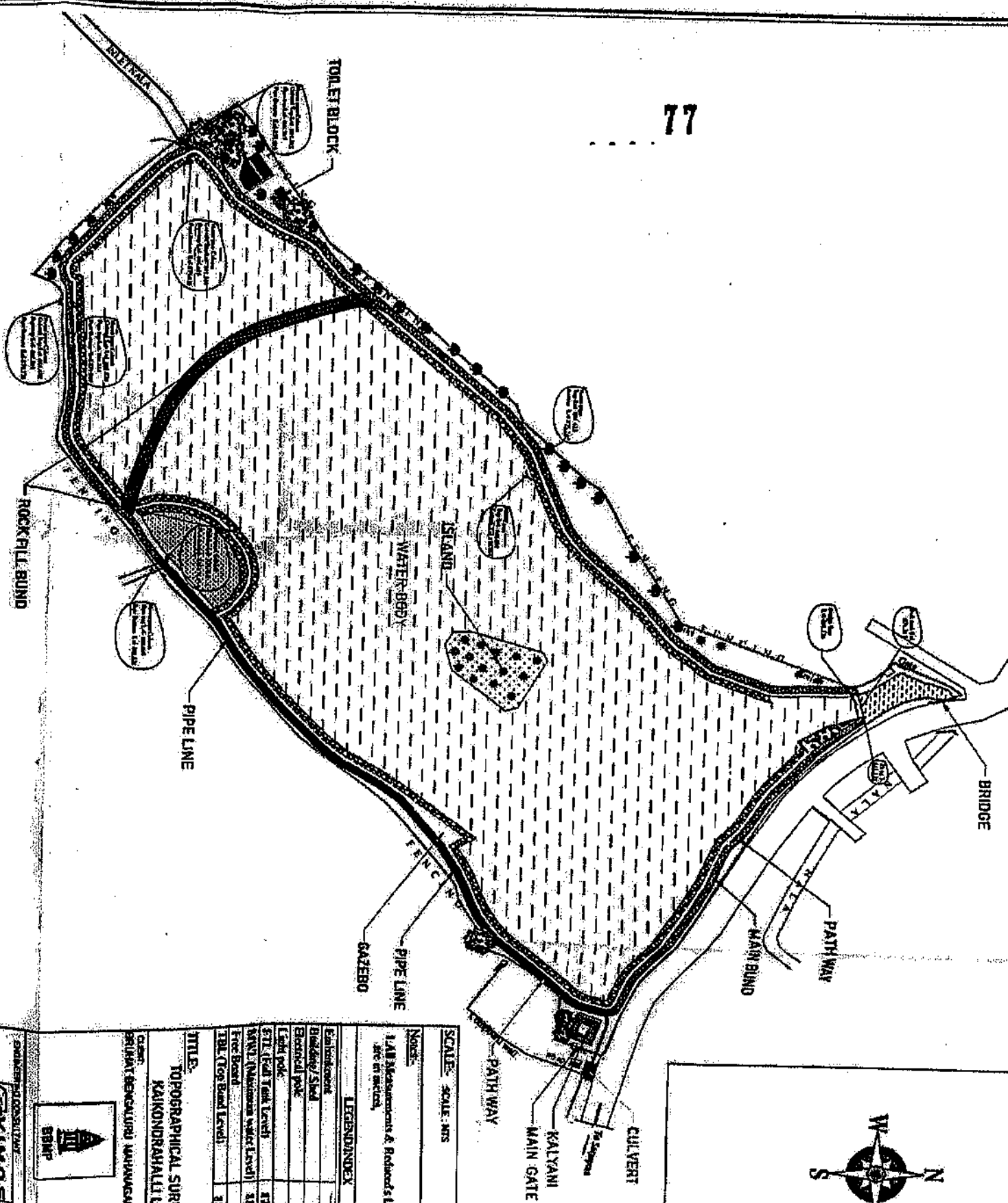
With reference to the above subject, Kaigondarahalli Lake was developed
from this office during 2009-10. It was requested to submit Mean High Flood
Level of Kaigondarahalli Lake. The Kaigondarahalli Lake was surveyed & the
details are as below.

- Full Tank Level (FTL) of Kaigondarahalli Lake - 879.307m
(Is a level upto which the water is stored upto tank and it corresponds to
the Crest of the Waste weir)
- Maximum Water Level(MWL) of Kaigondarahalli Lake - 880.207m
(Is the maximum level of water allowed in the tank. The difference
between MWL and FTL is the spillage (As per MI Standards 0.9Mt)
- Free Board - 1.2m
- Top Bund Level (TBL) - 881.407

The Mean High Flood Level is not measured. However, the Mean Flood Level
will be in between FTL and MWL of Kaigondarahalli Lake.

Yours Faithfully,

[Signature]
Chief Engineer
Lakes, BBMP 25/2/21



SCALE: MTS

落

1. All Measurements & Reduced Levels are in metric.

LEGEND/INDEX

Enrichment	
Building/Stock	2000
Electrical pole	
Light pole	
57L (Feed Tank Length)	879.307
58VL (Polysulfone water Level)	340.207
Free Board	1.20M
TBL (Top Board Level)	381.407

TITLE

TOPOGRAPHICAL SURVEY OF KAIKONDRAHALI LAKE

BRILLIANT BECAUSURE NARAYAGARA PALACE



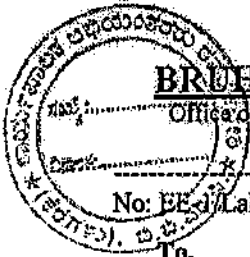
BBM

ENDING THE POISON WAR

EVIMOS
TELECOMUNICACIÓES

843 VANDERHOVE, 218 Ocean Drive, Longwood,
Hennepin County, MN 55345
Home: 612-835-1100, Fax: 612-835-1100
Cell: 612-835-1100, Email: 843VANDERHOVE@AOL.COM


BRUHAT BANGALURU MAHANAGARA PALIKE

 Office of the Executive Engineer-1, Lakes, 3rd Floor, Annex-3 Building, B.B.M.P
 N.R.Square, Bangalore - 02


No: EE-1/Lakes/PR/12572020-21

Date: 29/08/2020

 To,
 M/s Godrej Properties Ltd.
 Level 10, Prestige Obelisk,
 No.3, Kasturba Road,
 Bengaluru- 560 001

Sir,

 Sub: Information regarding Kaikondanahalli Lake,
 Ref: 1) your letter dated 29.08.2020.

 With reference to the above subject & reference, the details requested by
 you are provided as below:

*RL - Reduced Level

Sl No	Description	Details
1	All inlet levels of Kaikondrahalli lake and inlet levels entering from sy No.63/2 & 62)	Kaikondrahalli: Inlet 1-RL: 878.461 m Inlet 2-RL: 879.630 m (entering from sy No.63/2 & 62) Inlet 3-RL: 879.207 m Inlet 4-RL: 878.894 m
2	Outlet level of Kaikondrahalli lake	Kaikondrahalli: Outlet RL:879.387m (Full Tank Level)
3	Height of the Bund around the Kaikondarhalli lake	Main bund approximate RL:881.467m, Ring bund approximate RL:881.593m
4	Length and Breadth of the Kaikondrahalli lake	The total area of Kaikondrahalli lake as per Revenue Sketch is 48 Acres 23 Guntas
5	Maximum level of water collection recorded till date in the kaikondrahalli lake	The RL of Maximum Water Level (MWL) of kaikondarahalli lake is 880.287m, which is kept as per the Minor Irrigation Standards. It is observed that the water rises to the maximum level of 0.3m above the Full Tank Level (Waste weir level) of the lake during rains. The approximate RL of Maximum Level of Water Collection observed is 879.687m.
6	Whether the water level reaches beyond the bund level.	No

7	What is the Present water level of Kaikondrahalli lake	Present Water Level of Kaikondrahalli Lake is: 879.387m (Full Tank Level)
8	Lake/ Tank Bund was constructed by which department and which department is maintaining both the lakes.	Data of Main Bund construction is not available in this office.
9	Whether the bund wall can be considered as flood line for measurement purpose.	No, the flood level is 0.90 meter above the Full Tank Level.
10	What is the elevation of the lake bed	The approximate level of Kaikondrahalli lake: 878.000 m
11	What is the water flow direction	Flow direction in Kaikondrahalli lake is Southern side to North

The above details provided are as per the available data in this office as on today.

[Signature]
 Executive Engineer-I
 Lakes, BEMP
 Lakes, BEMP

ANNEXURE-10



81

Bruhat Bengaluru Mahanagara Palike**Office of the Additional Director of Town Planning, N.R. Square, Bengaluru-02**

No: BBMP/Addl.Dir/PR/ 54 /2020-21

Date: 09-03-2021

To,

Sri. Koushlesh Pratap Singh, IFS
Regional Officer and Chairman of the
Joint Committee and Representative of MoEFCC.
Integrated Regional office, (IRO),
Bengaluru 4th Floor, E & F Wings
Kendriya Sadan, 17th Main Road, 2nd Block, Koramangala,
Bengaluru - 560034.

Respected Sir,

Sub:- Submission of Report to Joint Committee in Appeal No. 54 of 2018
constituted by Hon'ble National Green Tribunal, Principal Bench, New
Delhi.

- Ref:- 1) Your Office File No. EP/12.7/NGT/49/Kar/, Dated. 08-03-2021.
(by E-mail)
2) This office letter No. BBMP/Addl.Dir/PR/54/ 2020-21, dated.10-02-2021.
3) Chief Engineer (Storm Water Drain), BBMP Office Letter No.
2092/20-21, dated. 08-03-2021

With reference to above subject this office has provided the required information
to your office vide reference (2). Vide reference (1) your office seek information relating
to relevant provisions under which permission given by BBMP for construction of RCC
Box Drain in kharab land in the project site. Accordingly the information is provided by
Chief Engineer (Storm Water Drain) BBMP, as below.

The permission for construction of RCC Drain is given by Commissioner, BBMP
in exercise of the powers conferred under section 288A of The Karnataka Municipal
Corporations Act - 1976 which is as under.

**"288A. Prohibition of structures or fixtures which cause obstruction
in public streets. - No person shall except with the writtern permission
of the Commissioner under section 288 erect or set up any wall, fence,
rail, post, step, booth or other structures or fixtures in or upon any
public street or upon or over any open channel, well or tank in any
street so as to form an obstruction to, or an encroachment upon or a
projection over, or to pecupy any portion of such street, channel,
drain, well or tank"**

And

162
10/3/2021

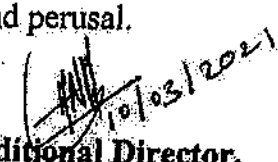


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The permission for construction of RCC Culvert is given by Commissioner, BBMP in exercise of the powers conferred under section 288 (1) (c) of The Karnataka Municipal Corporations Act - 1976 which is as under

"288. Power to allow certain projections and erections.- (1) The Commissioner may grant a licence subject to such conditions and restrictions as he may think fit to the owner or occupier of any premises.- (c) to construct any step or drain - covering necessary for access to the premises."

The above information is for your kind information and perusal.


Additional Director,
Town Planning, BBMP

Enclosures :- (Ref (2) and (3))

Copy to,

1. The Hon'ble Commissioner, BBMP, Bengaluru for kind information.
2. Chief Engineer, (SWD), BBMP, Bengaluru for information.
3. Office Copy

ANNEXURE-11

ಫಾಕ್ಸ್ / Fax : 080-25586321

ಇಮೇಲ್ / Email : ho@kspcb.gov.in

ವೆಬ್‌ಸೈಟ್ / Website : http://kspcb.gov.in



84

080-25581383, 25589112
080-25589113, 25589114

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5 ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB/NEIA/BNG/CEO-2/1465/2020/ 5087

Date:

To
The Regional Officer,
Integrated Regional Office,
Ministry of Environment, Forest and Climate Change
Regional Office, South Zone, E-3/240, Kendriya Sadan,
4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala,
Bangaluru-560 034.

11 FEB 2021

Sir,

Sub: Constitution of a Joint Committee in Appeal No.54 of 2018 and Linked Matters in MA No.49/2020 in QA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi-reg

Ref:- 1. Consent for Establishment (CFE) order No.PCB/701/CNP/17/H-755 dated: 12.10.2018.

2. Consent withdrawal order No. PCB/701/CNP/17/1046 dated: 06.07.2020.

3. Board office letter communicating validity of CFE vide letter No. 4771 dated: 28.01.2021

4. E-mail sent by CEO on 04.02.2021.

5. Video Conference meeting with Regional officer, Integrated Regional office, MoEF & CC and other officers on 05.02.2021.

With reference to the Video Conference held on 05.02.2021 it is to be clarified as follows:

1. The Board office had issued Consent for Establishment on 12.10.2018 w.r.t Wonder Project Development Pvt Ltd., Sy. No. 61/2,62 & 63/2 of Kasavanahalli village, Varthur Hobli, Bangaluru East Taluk, Bengaluru District coterminous with Environmental Clearance validity i.e., valid up to 09/01/2025.
2. Later on, Board has withdrawn CFE issued vide order dated 06.07.2020 (copy enclosed).
3. As on this day the Project proponent has not filed any application seeking Consent for Establishment (CFE).

This is for kind information and further needful.

Yours faithfully,

Member Secretary.

"ಪ್ಲಾಸ್ಟಿಕ್ ಬಳಕೆ ನಿಲ್ಲಿಸಿ, ಪರಿಸರ ಹಾನಿ ತಪ್ಪಿಸಿ"

AVOID USE OF PLASTIC BE 'ECO' FRIENDLY

ಫ್ಯಾಕ್ಸ್ / Fax.: 080-25586321

ಈಮೇಲ್ / Email : ho@kspcb.gov.in

ವೆಬ್‌ಸೈಟ್ / Website : http://kspcb.gov.in



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080-25581383, 25589112
080-25589113, 25589114

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB/NEIA/BNG/CEO-2/1465/2020/ 5087

Date:

11 FEB 2021

To
The Regional Officer,
Integrated Regional Office,
Ministry of Environment, Forest and Climate Change
Regional Office, South Zone, E-3/240, Kendriya Sadan,
4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala,
Bangaluru-560 034.

Sir,

Sub: Constitution of a Joint Committee in Appeal No.54 of 2018 and Linked Matters in MA No.49/2020 in OA No.602/2019 constituted by Hon'ble NGT, Principal Bench, New Delhi-reg

- Ref:- 1. Consent for Establishment (CFE) order No.PCB/701/CNP/17/H-755 dated: 12.10.2018.
2. Consent withdrawal order No. PCB/701/GNP/17/1048 dated: 06.07.2020.
3. Board office letter communicating validity of CFE vide letter No. 4771 dated: 28.01.2021
4. E-mail sent by CEO on 04.02.2021.
5. Video Conference meeting with Regional officer, Integrated Regional office, MoEF & CC and other officers on 05.02.2021.

With reference to the Video Conference held on 05.02.2021 it is to be clarified as follows:

1. The Board office had issued Consent for Establishment on 12.10.2018 w.r.t Wonder Project Development Pvt Ltd., Sy. No. 61/2, 62 & 63/2 of Kasavanahalli village, Varthur Hobli, Bangaluru East Taluk, Bengaluru District coterminous with Environmental Clearance validity i.e., valid up to 09/01/2025.
2. Later on, Board has withdrawn CFE issued vide order dated 06.07.2020 (copy enclosed).
3. As on this day the Project proponent has not filed any application seeking Consent for Establishment (CFE).

This is for kind information and further needful.

Yours faithfully,

Member Secretary.

"ಪ್ಲಾಸ್ಟಿಕ್ ಬಳಕೆ ನಿಲ್ಲಿಸಿ, ಪರಿಸರ ಹಾನಿ ತಡೆ"

AVOID USE OF PLASTIC BE 'ECO' FRIENDLY

It is learnt from the news article appeared on 04.02.2020 in Times of India and Kannada daily news papers that Hon'ble NGT has quashed the Environmental Clearance issued by SEIAA Government of Karnataka. Based on this Show cause notice was served to you on 07.02.2020. The reply letter submitted by you is not acceptable as you are not having Environmental Clearance at present. Further, as per Hon'ble NGT Order dated 03.02.2020, since the project related to M/s. Wonder Projects Development Pvt. Ltd., for construction of Residential Apartment with 655 flats & Club House having built up area of 1,28,193.9 sqm. Located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District does not have Environmental Clearance issued SEIAA, Government of Karnataka. The Board had referred to the Legal opinion on 29.04.2020. The Legal Officer opined that the Hon'ble Supreme Court has directed only to file the report in the registry of the said court. Therefore the report to be filed in O.A. No.602/19 in the NGT shall be filed in Supreme Court and as per direction of Chairman, Note 43.

In view of the above as per the direction of Hon'ble NGT the Board decided to withdraw the GFE issued to your project.

Hence, the following Order.

ORDER

In exercise of the powers vested with Karnataka State Pollution Control Board, under Section 27(2) of Water (Prevention and Control of Pollution) Act, 1974, the Board hereby "Withdraw" the Consent For Establishment issued to M/s. Wonder Projects Development Pvt. Ltd., # 80, Hulikul Ascent 2nd Cross, Lavelle Road, Bengaluru - 560 001 for construction of Residential Apartment with 655 flats & Club House having built up area of 1,28,193.9 sqm. Located at Sy. No. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District.

Please note that, Establishment or taking up of further construction activity without valid consent of the Board attracts Penal action under provisions of Sec. 25 read with Sec. 44.

of Water (Prevention & Control of Pollution) Act, 1974, which includes initiate action under 33(A) of Water Act of Closure and Direction for Cutoff Power Supply and Water Supply or any other service.

Sd/-

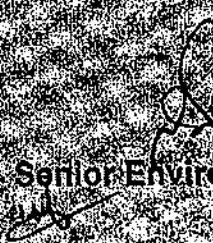
**MEMBER SECRETARY
KARNATAKA STATE POLLUTION CONTROL BOARD
BENGALURU-560 001.**

To,

Authorized Signatory
M/s. Wonder Projects Development Pvt. Ltd.,
80, Hulkot Ascent, 2nd Cross,
Lavelle Road,
Bengaluru - 560 001

Copy to:

1. The Senior Environmental officer, KSPCB, Regional office, Bangalore South for Information
2. The Regional Officer, KSPCB, Bommanahalli for information and for necessary Action
3. Master file
4. Case file


Senior Environmental Officer.

ANNEXURE-12

Wonder Projects Development Pvt. Ltd.
Level 10, Prestige Oberoi,
No. 3, Kasurba Road,
Bangalore - 560 001, India
Tel : +91-80-4835 7099
Fax : +91-80-4835 7000

CIN : U70102MH2015PTC65969

Regd. Office : Godrej One,
5th Floor, Pirojshanagar,
Eastern Express Highway,
Vikhroli (E), Mumbai - 400 079, India
Tel : +91 -22-8189 8500
Fax : +91 -22-8189 8888
Website : www.godrejproperties.com

Date: 28th February, 2020
Place: Bangalore

1. The Member Secretary, Karnataka State Environment Impact Assessment Authority, Ambedkar Veedhi, Sampangi Rama Nagar, Bengaluru,
2. The Commissioner, Bangalore Development Authority (BDA), T. Chowdiah Road, Kumara Park West, Bangalore-560020,
3. The Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP) N.R. Square Corporation Circle, Bangalore-560001,
4. The Senior Environmental Officer, Karnataka State Pollution Control Board, Parisara Bhavan #49, 4th and 5th Floor, Church Street, Bangalore-560001,
5. The Karnataka State Fire & Emergency Services, No. 1 Annaswamy Mudhallar Road, Bangalore-560042,
6. Bangalore Electricity Supply Company (BESCOM), Corporate Office, K.R. Circle, Bangalore-560001,
7. The Chief Engineer (M), Bangalore Water Supply and Sewerage Board (BWSSB), Cauvery Bhavan, K.G. Road, Bangalore-560009,

Dear Sir/Madam,

Sub: Information regard halt of work at project site of Godrej Reflections and Godrej Lake Gardens (Projects) at Sy No.61/2, 62, 63/2 Kasavanahalli Village, Varthur Hobli Bangalore East Taluk Bangalore.

Ref: The orders dated 03.02.2020 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi (NGT) in the Appeals - OA No. 54 of 2018 & O.A. No.602 of 2019

This has reference to the subject Projects and the NGT order detailed supra.

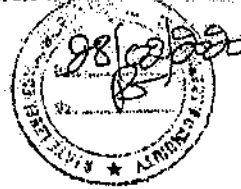
This is to bring to your kind notice that:

- We have halted all development and construction related activities at the said Projects, with effect from 03rd Feb. 2020 in view of the said NGT orders;
- We have challenged the said Impugned NGT order before the Hon'ble Supreme Court of India and we are hopeful of getting a favourable order.

Thanking You,
For Wonder Projects Development Private Limited

Authorized Signatory

Godrej



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

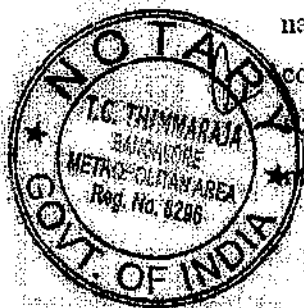
VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

I, Nisha Mohan, W/o Mr. Mohan Kumar N., aged about 33 years, working with the Respondent No. 11 and 12 Company, having its office at Prestige Obelisk, Level 10, No. 3 Kasturba Road, Bangalore-560001, do hereby solemnly affirm and state as under:-

1. That I am the Authorized Representative of the Respondent no. 11 and 12 (hereinafter referred to as Project Proponent) and I am well acquainted with all the facts and circumstances of the case based on the documents available with the Project proponent Company and as such I am competent to swear this affidavit.
2. That on 28.08.2020, during the course of arguments, it was portrayed by the Appellant that upon inclusion of the FSI and non-FSI area, the total built up area, of the Project Proponent goes beyond 1,50,000 sq meters, and as such the same falls under B-1 category, thereby requiring EIA certification.
3. I say that the aforesaid allegations are completely baseless and meritless. The Project Proponent's total built up area is below 1,50,000 sq meters. In this regard the Project Proponent has also obtained a certificate from a recognized and qualified Architect namely Mindspace Architects, certifying that the total built up after considering both FSI and non-FSI is 125,663.06 sq meters. As such the said project is within the threshold limit of 1,50,000 sq meters. and has, therefore, been rightly appraised by SEIAA. The



No. of Corrections: 0



Certificate of built-up area statement for the project is annexed herewith as ANNEXURE R1.



DEPONENT



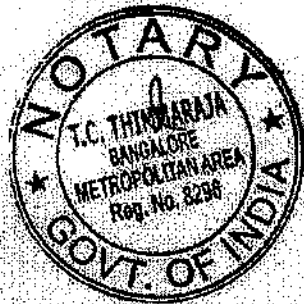
VERIFICATION:

I, the abovenamed deponent do hereby verify that the contents of the above Affidavit are true to my knowledge and belief and based on the records available with the Project Proponent Company, no part of it is false and nothing material has been concealed therefrom.

Verified at Bengaluru on this the 1st day of September 2020.



DEPONENT



SWORN TO BEFORE ME

T.C. THINDARAJA, B.A., LL.B.
ADVOCATE, NOTARY PUBLIC
GOVT. OF INDIA
City Civil Court Complex, Premises
BANGALORE - 560 001

1.9.2020

No of Corrections - 02



mindspace
architect + engineers + interior designers

Partners
N.D. Moha
V. Suryanarayana
P.N. Madappa
Amit Swain
Swetha.A

We (Mindspace Architects), registered architects under Council of Architecture and into this field for the last 16 years, hereby certify that the total Net built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed by Wonder Projects Development Private Limited, in their Project i.e. Godrej Reflections and Godrej Lake Gardens (being developed in Survey number 61/2, 62 and 63/2 of Kasavanahalli village, Varthur Hobli, Bangalore East Taluk, Bangalore), is 1,25,663.06 SQ Meters.

Definitions:

Gross BuA: The total covered floor area including external walls and without any deductions.

Deductions: Parts of the floor where there are cut-outs/voids in the floor/slab (e.g ducts, shafts etc)

Net BuA: This is the Gross BuA (as defined above) after the exclusion of any deductions/cut-outs/voids in the floor (Net BuA = Gross BuA - Deductions)

FSI/FAR: FSI stands for Floor Space Index and it is also known as Floor Area Ratio (FAR). FSI and FAR are both computed as the ratio between the area of a covered floor (Built up Area) to the area of the plot (land) on which a building stands. FAR or FSI is computed as per zonal regulations or local authority guidelines. FAR is expressed as a number whereas FSI is expressed as a percentage.

The Net BuA can be split into 2 parts, namely:

- a. **FSI/FAR Area:** This is the portion of the Net BuA which is counted as part of FSI/FAR as per prevailing regulations. This includes all built-up/covered habitable areas (apartment including balconies and walls), built-up/covered common circulation areas leading to these habitable areas (lobbies, corridors, staircases) and built-up/covered common amenities (clubhouse).
- b. **Non-FSI/Non-FAR Area:** This is the portion of the Net BuA which is exempted and not counted as part of the FAR/FSI as per prevailing regulations. These exempted areas include area used for the purpose of parking spaces, main stair case room, lift shaft, lift wells, lift machine rooms, ramps, ventilation ducts, sanitary ducts and overhead tanks.

BuA details of Godrej Reflections (Phase I):

BuA details of Godrej Reflections (Phase I)						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-2	5,688.07	24.61	5,663.46	419.22	5,244.24
2	Basement-1	5,688.07	359.63	5,328.44	417.86	4,910.58
3	Ground Floor	5,202.76	235.51	4,967.25	397.42	4,569.83
4	1st Floor	2,503.07	74.29	2,428.78	2,398.00	30.78
5	2nd Floor	1,979.15	74.29	1,904.86	1,874.08	30.78
6	3rd Floor	1,979.15	74.29	1,904.86	1,874.08	30.78
7	4th Floor	2,639.96	83.42	2,556.54	2,359.28	197.26
8	5th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
9	6th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
10	7th Floor	2,650.03	82.67	2,567.36	2,536.58	30.78
11	8th Floor	2,644.16	82.67	2,561.49	2,530.71	30.78
12	9th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
13	10th Floor	2,483.55	82.67	2,400.88	2,370.10	30.78
14	11th Floor	2,477.68	82.67	2,395.01	2,364.23	30.78
15	12th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
16	13th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
17	14th Floor	2,428.51	82.67	2,345.84	2,315.06	30.78
18	15th Floor	2,422.64	82.67	2,339.97	2,309.19	30.78
19	16th Floor	2,359.06	84.34	2,274.72	2,243.94	30.78
20	17th Floor	2,352.44	98.14	2,254.30	2,223.52	30.78
21	18th Floor	2,306.04	62.68	2,243.36	2,212.58	30.78
22	19th Floor	1,697.29	114.12	1,583.17	1,552.39	30.78
23	20th floor	955.19	64.68	890.51	545.35	345.16
24	Terrace	857.62	0.00	857.62		857.62
25	TOTAL	63,681.84	2,263.12	61,418.72	44,739.99	16,678.73

BuA details of Godrej Lake Gardens (Phase II):

BuA details of Godrej Lake Gardens (Phase II):						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-1	6,964.14	18.75	6,945.39	316.33	6,629.06
2	Ground Floor	5,622.84	83.37	5,539.47	344.05	5,195.42
3	1st Floor	5,525.44	44.09	5,481.35	403.30	5,078.05
4	2nd Floor	2,335.90	72.10	2,263.80	2,217.63	46.17
5	3rd Floor	2,321.38	72.10	2,249.28	2,203.11	46.17
6	4th Floor	2,321.38	72.10	2,249.28	2,203.11	46.17
7	5th Floor	2,907.33	74.73	2,832.60	2,613.20	219.40
8	6th Floor	2,734.71	77.94	2,656.77	2,437.37	219.40
9	7th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
10	8th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
11	9th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
12	10th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
13	11th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
14	12th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
15	13th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
16	14th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
17	15th Floor	2,736.13	77.94	2,658.19	2,612.02	46.17
18	16th Floor	2,736.13	77.94	2,658.19	2,612.02	46.17
19	17th Floor	2,671.53	77.94	2,593.59	2,547.42	46.17
20	18th Floor	2,084.62	92.62	1,992.00	1,945.83	46.17
21	19th Floor	2,014.68	76.90	1,937.78	1,907.00	30.78
22	20th floor	1,021.67	299.79	721.88	691.10	30.78
23	Terrace	210.61		210.61		210.61
24	TOTAL	66,086.17	1,841.83	64,244.34	45,938.29	18,306.05

Total BuA for the project (Phase I + Phase II):

Total BuA for the project (Phase I + Phase II):						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl. No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-2	5,688.07	24.61	5,663.46	412.99	5,244.24
2	Basement-1	12,652.21	378.38	12,273.83	731.19	11,539.64
3	Ground Floor	10,825.60	318.88	10,506.72	741.47	9,765.25
4	1st Floor	8,028.51	118.38	7,910.13	2,801.30	5,108.83
5	2nd Floor	4,345.05	146.39	4,168.66	4,091.71	76.95
6	3rd Floor	4,300.53	146.39	4,154.14	4,077.19	76.95
7	4th Floor	4,961.34	155.52	4,805.82	4,562.39	243.43
8	5th Floor	5,380.81	158.15	5,222.66	4,972.48	250.18
9	6th Floor	5,208.19	161.36	5,046.83	4,796.65	250.18
10	7th Floor	5,384.74	160.61	5,224.13	5,147.18	76.95
11	8th Floor	5,378.87	160.61	5,218.26	5,141.31	76.95
12	9th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
13	10th Floor	5,218.26	160.61	5,057.65	4,980.70	76.95
14	11th Floor	5,212.39	160.61	5,051.78	4,974.83	76.95
15	12th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
16	13th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
17	14th Floor	5,163.22	160.61	5,002.61	4,925.66	76.95
18	15th Floor	5,158.77	160.61	5,058.16	4,921.21	76.95
19	16th Floor	5,095.19	162.28	4,932.91	4,855.96	76.95
20	17th Floor	5,023.97	176.08	4,847.89	4,770.94	76.95
21	18th Floor	4,390.66	155.30	4,235.36	4,158.41	76.95
22	19th Floor	3,711.97	191.02	3,520.95	3,459.39	61.56
23	20th floor	1,976.86	264.47	1,612.39	1,236.45	375.94
24	Terrace	1,068.23	0.00	1,068.23	0.00	1,068.23
25	Total	1,29,748.01	4,104.95	1,25,663.06	90,678.28	34,984.78



mindspace

architect+engineers+interior designers

96

Partners
N.D. Kichu
Suryanarayana
P.N. Medappa
Ami Swati
Srinidhi A

In conclusion, we hereby certify that the total Net BuA (FAR and Non-FAR area) of the project is
1,25,663.06. SQM

Thanking you,

Your Sincerely,

P.N. Medappa

COA License No.: CA/93/16013

Bangalore corporation No.: BCC/BL-3/G/A-2887/2018-19

For Mindspace Architects

Page 5 of 5

GOEL GANGA DEVELOPERS (INDIA) (P) LTD.
v. UNION OF INDIA

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(2018) 18 Supreme Court Cases 257

a (BEFORE MADAN B. LOKUR AND DEEPAK GUPTA, JJ.)
GOEL GANGA DEVELOPERS INDIA PRIVATE
LIMITED

Appellant:

Versus

b UNION OF INDIA THROUGH SECRETARY MINISTRY OF
ENVIRONMENT AND FORESTS AND OTHERS

Respondents.

Civil Appeals No. 10854 of 2016 with Nos. 10901 of
2016 and 5157-58 of 2018†, decided on August 10, 2018

c A. Environment Law — Environmental Clearance/NoC/Environment
Impact Assessment (EIA) — Specific Clearances — Development Projects —
Environment Impact Assessment (EIA) Notification, 2006 — Construction
in violation of the environmental clearance (EC), as in the present case, in
violation of the clearance granted under Noti. dt. 4-4-2011 — Establishment
and Effect of — “Built-up area” under Notis. dt. 4-4-2011 and 14-9-2006 —
Concept of floor space index (FSI)/floor area ratio (FAR) — Non-relevance of,
for computation of “built-up area” for which EC is granted

d — Imposition of damages of Rs 100 crores or 10% of project cost,
whichever was higher, for violation of environmental clearance in addition
to Rs 5 crore damages imposed by NGT, instead of directing demolition —
Detailed coercive directions issued to ensure deposit of these damages within
six months

e — Held, the concept of FSI or non-FSI may be relevant for the purposes
of building plans under municipal laws and regulations but it has no linkage
or connectivity with the grant of EC and both will have an equally deleterious
effect on the environment — When EC is granted for a particular construction
it includes both FSI and non-FSI areas — Held, the built-up area under the
Noti. dt. 14-9-2006 means all constructed area which is not open to the sky and
the built-up area under the Noti. dt. 4-4-2011 means all covered area including
basement and service areas

f — EC dt. 4-4-2008 was granted to the project proponent for construction
of built-up area 57,658.42 sq m, whereas the total construction raised by it was
1,00,002.25 sq m. — Rejecting the contention of project proponent that while
calculating the built-up area the constructions mentioned in Rr. 15.4.1.1(a), (b)
and (c), 17.7.3 and 15.4.2 of the Pune Municipal Corporation Development
Control Rules, 1982 were to be excluded, held, the construction raised
g by the project proponent was in violation of the environmental clearance
granted to it. However, considering that the project proponent had already
taken money and a large number of flats and shops had already been

† Arising from the Judgment and Order in *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC
OnLine NGT 4213 [National Green Tribunal, (Western Zone) Pune Bench, Application No. 184
of 2015 (WZ), dt. 27-9-2016] and *Tanaji Balasaheb Gambhire v. Union of India* [National Green
Tribunal, (Western Zone) Pune Bench, Review Application No. 35 of 2016, dt. 8-1-2018]

occupied and persons belonging to the middle class had invested their life's earnings, demolition not ordered/directed — However, inter alia, damages of Rs 100 crores or 10% of the project cost, whichever was higher, in addition to Rs 5 crores as levied by NGT, imposed on the project proponent — Words and Phrases — "Built-up area" — Pune Municipal Corporation Development Control Rules, 1982, Rr. 15.4.1.1(a), (b) & (c), 17.7.3 and 15.4.2 (Paras 14, 17, 53, 58.2, 66.1, 66.2 and 66.9)

B. Environment Law — National Green Tribunal Act, 2010 — S. 19(4)(f)
— Review petition — Who can hear and where — Held, the powers of review which NGT exercises are akin to those of a civil court — In terms of Or. 47 R. 5 CPC, a review petition should normally be heard by the same Bench which passed the original order

— Further, this normal rule should not be disturbed unless it is virtually impossible for the original Bench to hear the matter or the members of the Bench themselves opt not to hear the matter — Further, under sub-rule (2) of R. 22 of 2011 Rules the matter should ordinarily be heard at the same place of sitting where it was originally decided, however, this is not a mandatory direction — National Green Tribunal (Practices and Procedure) Rules, 2011 — Rr. 22(2) and 22(3) — Civil Procedure Code, 1908 — Or. 47 R. 5 — Practice and Procedure — Review (Paras 36, 38 and 40)

C. Environment Law — National Green Tribunal Act, 2010 — S. 19(4)(f)
— Exercise of power of review — Impermissibility of, when appeal already pending

— Statutory appeal was pending in the Supreme Court against the original order when the respondent's review application, inter alia, praying for demolition of the illegal structures and enhancement of compensation, was taken up for hearing by NGT — In the present case, held, project proponent/appellant had not only challenged original order of NGT on the ground that he had not violated EC but also on the ground that the damages awarded were highly excessive — Therefore, the Bench hearing the review application erred in holding that review application was maintainable — Civil Procedure Code, 1908 — Or. 47 R. 1(2) — Practice and Procedure — Review (Paras 7, 45 and 47)

D. Environment Law — Polluter Pays Principle and Remedial/Compensatory/Punitive Measures — Remedial action/Reclamation/Rehabilitation measures/Compensation/Disgorgement of gains of wrongdoer
— Damages for carrying out construction in violation of environmental clearance (EC) — Quantification of — Carbon footprint as basis

— Rejecting the contention that damages should be assessed on the basis of "carbon footprint", held, the courts cannot introduce a new concept of assessing and levying damages unless expert evidence in this behalf is led or there are some well-established principles — However, in a case where expert evidence is led on the basis of empirical data it is established that by applying the principles of carbon footprint damages can be assessed, court may rely upon

GOEL GANGA DEVELOPERS (INDIA) (P) LTD.
 v. UNION OF INDIA

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a such data — Evidence Act, 1872 — S. 45 — Words and Phrases — “Carbon footprint” (Paras 59 to 63)

E. Environment Law — Environment (Protection) Rules, 1986 — Rr. 3 to 5 — EIA Notifications issued under — Cannot be varied/abrogated by officials of MoEF — Environment (Protection) Act, 1986, S. 4

b F. Public Accountability, Vigilance and Prevention of Corruption — Corruption/Abuse of Power — Environmental Clearance/NoC — Improper grant of — Fine imposed upon the PMC and direction given by NGT to PMC to take appropriate action against the erring officials; and directions to enquire into conduct of other officials concerned, also upheld

c The project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd., purchased 79,100 sq m or 7.91 ha of land comprised in six Survey Nos. 35, 36, 37, 38, 39 and 40 in Vadgaon, Pune. These survey numbers were amalgamated in accordance with the rules and the plot became one plot of 79,100 sq m.

d The project proponent applied for environmental clearance (EC) for the project and in the proposal dated 27-6-2007, he had shown that he would be erecting/constructing 12 buildings having 552 flats, 50 shops and 34 offices. The 12 buildings were to have stilts with basement and 1 floors. The total built-up area was indicated as 57,658.42 sq m. EC was granted to the project proponent on 4-4-2008.

The original applicant filed an application before the National Green Tribunal (“NGT”, for short) claiming that the project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd., had raised construction in violation of the environmental clearance (“EC”, for short) granted for the project and also in violation of the various municipal laws.

e The case of the project proponent was that the term “built-up area” is synonymous with “floor space index” or FSI and that the constructed area, which is exempted from FSI area, or is a non-FSI area, is not a part of the “built-up area”. The project proponent contended that while calculating the built-up area, the constructions mentioned in Rules 15.4.1.1(a), (b) and (c) and Rule 17.7.3 of the Pune Municipal Corporation Development Control Rules, 1982 (“DCR”, for short), in addition to the areas specifically exempted under Rule 15.4.2 are to be excluded. It was contended that if the built-up area is calculated in accordance with DCR then the project proponent has till date not constructed the built-up area of 57,658.42 sq m, which he was permitted to construct under the EC granted to it on 4-4-2008. The stand of the Union of India and the original applicant was that built-up area means an area which is covered regardless of the area being FSI or non-FSI in terms of the EIA Notification of 2006.

g The issues involved in this appeal were:

1. Whether the project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd., had raised construction in violation of the environmental clearance.
2. Whether NGT could have entertained a review application/reviewed its order dated 27-9-2016, when an appeal against the same was already pending before the Supreme Court?

Held :

Under the notification of 2006, all constructed area, which is covered and not open to the sky has to be treated as “built-up area”. There is no exception for non-FSI area. (Para 16)

Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. Both will have an equally deleterious effect on the environment. (Para 17)

Notification dated 4-4-2011

It is not at all necessary to decide whether the Notification dated 4-4-2011 issued by the Ministry of Environment and Forests is clarificatory or is in substitution of the original notification of 2006. There is no ambiguity with regard to the definition of “built-up area” even under the notification of 2006 and it covers all constructed area not open to the sky. The notification of 2011 only provides that the built-up area or covered area shall be the area of all floors put together including basement(s) and other service areas. (Para 19)

Clarification dated 7-7-2017

The Notification dated 14-9-2006 was issued by the Central Government and published in the gazette after inviting objections from the public. The first clarification with regard to this notification was issued on 4-4-2011. These two decisions of the Central Government which were notified as per the provisions of law could not have been set at naught by the Joint Director even if it was issued with the approval of a higher authority. Since such decision has not been notified in the gazette, the statutory Notification dated 14-9-2006 and its subsequent clarification dated 4-4-2011 could not have been virtually set aside by the office memorandum dated 7-7-2017 issued by the Joint Director, Ministry of Environment, Forests and Climate Change. (Para 22)

Common Cause v. Union of India, (2017) 9 SCC 499 relied on

Environmental clearance (EC) for expansion of the project in question granted to it by the State Level Environment Impact Assessment Authority (SEIAA) on 20-11-2017

SEIAA has laid down general conditions for pre-construction phase and the first condition itself clearly shows that the non-FSI area constructed by the project proponent under first EC of 4-4-2008 has not been taken into consideration. (Para 27)

In case the total construction raised by the project proponent is taken as 1,00,002.25 sq m and if the area of the proposed construction is added then the project will fall in B-1 category and, therefore, SEIAA had no authority to grant EC by treating the project as falling under Category B-2. Furthermore, the EC

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- a dated 20-11-2017 is also illegal as the same has been granted on the presumption of the order dated 31-5-2016 passed by the Principal Secretary, Environment Department, State of Maharashtra holding that the construction of 18 buildings instead of 12 buildings is permissible. (Para 28)

Allegations made by the original applicant against various officials

- b The law is well settled that no person can be condemned unheard. It would, therefore, not be fair to deal with allegations made against individuals who are not parties to the petition and who have had no chance to reply to the allegations levelled against them. (Para 30)

However, as far as their official capacity is concerned, NGT was fully justified in coming to the conclusion that certain officials of PMC were going out of their way to help the project proponent and therefore, directions given by NGT in its order dated 27-9-2016 in this regard, upheld. (Para 31)

- c Prima facie, the Principal Secretary, Environment Department, Government of Maharashtra has not acted in a fair and transparent manner. The allegations made by the original applicant cannot be lightly brushed aside. His actions need to be looked into and, therefore, direction given by NGT directing the Chief Secretary to the State of Maharashtra to take notice of the conduct of the officers concerned, upheld. (Paras 35 and 66.8)

- d *Challenge to the order dt. 8-1-2018 passed in Tanaji Balasaheb Gamdhire, 2018 SCC OnLine NGT 302*

Section 19(4)(f) of the National Green Tribunal Act, 2010 provides that the Tribunal shall have the same powers as are vested in civil courts while trying a suit in respect of matters relating to review of its decisions. Therefore, the power of review vested with NGT is akin to the power vested with the civil court. As such, the principles which govern the exercise of review jurisdiction before a civil court will apply with equal force to NGT. (Para 34)

- e A review petition should normally be heard by the same Bench which originally decided the matter. A review petition should not be heard by any other Bench unless it is impossible or totally impracticable for the earlier Bench to hear the matter. In a review petition, like in the present case, where the review petitioner contends that certain arguments raised by him have not been considered then it is only the Judges who originally heard the matter who can decide whether such point was urged or not. (Para 38)

- f Any judicial authority including NGT which is presided over by a judicial member who may be a retired Judge of the Supreme Court or of a High Court is expected to deal with all contentions raised before it. There is a presumption that judicial authorities must have dealt with all the contentions raised before them. (Para 39)

g According to sub-rule (2), the matter should ordinarily be heard at the same place of sitting where it was originally decided. However, this is not a mandatory direction because sub-rule (2) itself contemplates that the matter shall "ordinarily" be heard at the same place. In tribunals like NGT where members may be transferred from one Bench to another or may be attending a Bench on circuit then problems can sometimes arise. These issues can be easily resolved by resorting to

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the latest technology and if necessary, the arguments in such cases can be heard by videoconferencing. (Para 40)

Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167 : 1980 SCC (Tax) 222, referred to

In terms of Order 47 Rule 5 CPC, a review should normally be heard by the same Bench which passed the original order. (Para 43)

Malthesh Gudda Pooja v. State of Karnataka, (2011) 15 SCC 330 : (2014) 2 SCC (Civ) 473, relied on

Malthesh Gudda Pooja v. State of Karnataka, 2009 SCC OnLine Kar 918; *Malthesh Gudda Pooja v. State of Karnataka*, 2009 SCC OnLine Kar 918, referred to

As far as the facts of this case are concerned, the original applicant could have raised all issues which he raised in the review application even by filing a counter-affidavit in the appeal filed by the project proponent or by challenging the original order in the Supreme Court as he has done now. In this context, once the Supreme Court was seized of the matter and all issues were being argued, NGT should not have proceeded to hear the review application. (Para 45)

The project proponent had not only challenged the original order of NGT on the ground that he had not violated the EC but also on the ground that the damages awarded were highly excessive. Therefore, the question that what should be the extent of damages was specifically before the Supreme Court. (Para 47)

Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4217; *Tanaji Gambhire v. Union of India*, 2017 SCC OnLine NGT 1954, referred to

On 23-5-2016, the project proponent filed reply to the affidavit dated 18-5-2016 filed by the original applicant in which they raised objections that such affidavit was not filed on 18-5-2016 and the copy of the same was handed over to them on 20-5-2016 and the original applicant had no permission to file such an affidavit. All these disputed issues as to whether such an affidavit was filed with the permission of the Court or it was referred to in the first hearing or in the second hearing could only be decided by the Bench which had heard the matter. (Para 51)

Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4201; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4204; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4205; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4206; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4219; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4203; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4207; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4208; *Tanaji Balasaheb Gambhire v. Union of India*, 2015 SCC OnLine NGT 838; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 1330; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4209; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4215; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4210; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4211; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4202; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4212; *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4214, referred to

Is demolition the only answer?

Now there are 807 flats and 117 shops which are either constructed or under construction. Keeping in view the interest of these third parties who were not parties before NGT, in the peculiar facts and circumstances of the case, demolition is not the answer. This would put innocent people at loss. (Para 53)

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a The project proponent cannot be permitted to build nothing more than 807 flats, 117 shops/offices, cultural centre and clubhouse. (Para 54)

b The project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law. However, in the present case damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has manoeuvred and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone up to 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area, etc. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs 100 crores or 10% of the project cost whichever is more. We also make it clear that while calculating the project cost the entire cost of the land based on the circle rate of the area in the year 2014 shall be added. (Para 64)

c The base year has been fixed as 2014 since the original EC expired in 2014 and most of the illegal construction took place after 2014. In addition thereto, if the project proponent has taken advantage of transfer of development rights (for short "TDR") with reference to this project or is entitled to any TDR, the benefit of the same shall be forfeited and if he has already taken the benefit then the same shall either be recovered from him or be adjusted against its future projects. The project proponent shall also pay a sum of Rs 50 crores as damages, in addition to the above for contravening mandatory provisions of environmental laws. (Paras 64 and 66.9)

d The project proponent is granted six months' time to deposit the amount of damages imposed above in the Registry of the Supreme Court. In case the project proponent does not deposit the amount within six months then all the assets of the project proponent as well as its Directors shall be attached and the amount of damages shall be recovered by sale of those assets. It is further directed that in case this amount is not deposited within the period of six months then the licence/registration/permission granted to the project proponent to develop any "real estate project" within the meaning of the Real Estate (Regulation and Development) Act, 2016 shall be cancelled and the project proponent and its Directors shall not be granted permission to develop any "real estate project" under the Real Estate (Regulation and Development) Act, 2016 without permission of the Court. (Para 66.13)

e *Whether the original applicant is entitled to special damages?*

f This litigation is obviously not a public interest litigation. Therefore, the claim of the original applicant to award him special damages cannot be accepted. (Para 57)

g *Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4213, partly reversed*
Tanaji Balasaheb Gambhire v. Union of India, 2018 SCC OnLine NGT 302, reversed

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Advocates who appeared in this case :

A.N.S. Nadkarni, Additional Solicitor General, Ranjit Kumar, R.P. Bhatt, Kavin Gulati and Jayant Bhushan, Senior Advocates (Venkita Subramoniam T.R., Rahat Bansal, Braj K. Mishra, Vijay Kumar, Rohit Gupta, Ms Aparna Jha, Ms Kriti Sondhi, Shriram P. Pingle, Ms Rashmi Dhongde, Nitin Lonkar, Ms Sonali Suryavanshi, Nilesh Bhandari, Ashok Jain, Gurmeet Singh Makker, Divya Prakash Pande, Salvador Santosh Rebello, Niraj Kumar, Rahul Garg, Ridhi Kackkar, Ranjesh Kr. Sinha, Gaurav Rawal, Mukesh Verma, Pawan Kr. Shukla, Ms Vasudha Zutshi, Yash Pal Dhingra, Kunal Chandra Nishant Ramakantrao Katneshwarkar, Ninad Laud, Kush Chaturvedi, Ms Anshula Grover, Anjuman Tripathy, Somay Kapoor, Ms Priyashree Sharma, Parth Singh Chaudhary and Aman Verma, Advocates) for the appearing parties

Chronological list of cases cited

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9. 2016 SCC OnLine NGT 4212, <i>Tanaji Balasaheb Gambhire v. Union of India</i>	283c	e
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18. 2016 SCC OnLine NGT 4203, <i>Tanaji Balasaheb Gambhire v. Union of India</i>	282b-c	
19. 2016 SCC OnLine NGT 4202, <i>Tanaji Balasaheb Gambhire v. Union of India</i>	283c	
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21. 2016 SCC OnLine NGT 1330, *Tanaji Balasaheb Gambhire v. Union of India* 282e, 282e-j
 a 22. 2015 SCC OnLine NGT 838, *Tanaji Balasaheb Gambhire v. Union of India* 282d-
 23. (2011) 15 SCC 330 : (2014) 2 SCC (Civ) 473, *Malthesh Gudda Pooja v. State of Karnataka* 278a
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 b 26. (1980) 2 SCC 167 : 1980 SCC (Tax) 222, *Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi* 278g-h

The Judgment of the Court was delivered by

DEEPAK GUPTA, J.— Applications for intervention/impleadment are allowed. Application for amendment of grounds of appeal in Civil Appeal No. 10854 of 2016 is allowed.

c 2. These matters are being decided by one judgment since they all arise out of one original application filed by Shri Tanaji Balasaheb Gambhire (hereinafter referred to as "the original applicant") before the National Green Tribunal ("NGT", for short) being Application No. 184 of 2015.

d 3. The original applicant filed an application before NGT claiming that the project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd. had raised construction in violation of the environmental clearance ("EC", for short) granted for the project and also in violation of the various municipal laws. It was prayed that the illegal structures be demolished; the State Level Environment Impact Assessment Authority (SEIAA) and the Maharashtra State Pollution Control Board be directed to initiate appropriate action against the project proponent for violation of the Environment Impact Assessment (EIA) Notification, 2006; the Union of India be directed to take action against SEIAA; and lastly, it was prayed that the project proponent be directed to pay/deposit a heavy amount of compensation in the environment relief fund. NGT vide its order dated 27-9-2016¹ allowed the application in the following terms: (*Tanaji Balasaheb case*¹, SCC OnLine NGT para 54)

"54. For the aforesaid reasons, the applicant succeeds in his legal pursuit to challenge the non-compliance of EC conditions by Respondent 9 and obtain certain directions. Hence the Application is allowed and we issue following directions:

g 1. Respondent 9 shall pay environmental compensation cost of Rs. 100 crores or 5% (five per cent) of the total cost of project to be assessed by SEAC whichever is less for restoration and restitution of environment damages and degradation caused by the project proponent by carrying out the construction activities without the necessary prior environmental clearance within a period of one month. In addition

¹ *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213

to this, it shall also pay a sum of Rs 5 crores for contravening mandatory provision of several Environmental Laws in carrying out the construction activities in addition to and exceeding limit of the available environment clearance and for not obtaining the consent from the Board.

2. In view of our finding that there has been manifest, deliberate or otherwise suppression of facts of illegality in the project activity of Respondent 9-PP by the officer of PMC, we impose fine of Rs 5 lakhs upon the PMC and direct Commissioner PMC to take appropriate action against the erring officers. The amount of Rs 5 lakhs shall be paid within one month.

3. We direct the Chief Secretary, State of Maharashtra and the competent authority to take notice of the conduct of the officers concerned who have misled the Department of Environment in the matter relating to interpretation of FSI and BUA in terms of which order dated 31-5-2016 has been issued in particular the Principal Secretary, Department of Environment who has authored the order dated 31-5-2016.

4. PMC, DoE and SEIAA are directed to pay cost of Rs 1 lakh each to the applicant within 4 weeks."

4. Aggrieved by the aforesaid order of NGT, the project proponent filed Civil Appeal No. 10854 of 2016. Pune Municipal Corporation ("PMC", for short) also challenged the said order insofar as it adversely affects PMC by filing Civil Appeal No. 10901 of 2016.

5. Review application being Application No. 35 of 2018 was filed by the original applicant before NGT. This application was partly allowed on 8-1-2018² and Direction 1 in the original order dated 23-9-2016¹ was modified and substituted as under: (*Tanaji Balasaheb case*, SCC OnLine NGT para 54)

"54. ... '1. Respondent 9-PP shall pay environmental compensation cost of Rs 100 crores or 5% (five per cent) of the total cost of project to be assessed by SEAC, whichever is less, for restoration and restitution of environment damage and degradation caused by the project proponent by carrying out the construction activities without the necessary prior environmental clearance within a period of one month. In addition to this, it shall also pay a sum of Rs 5 crores for contravening mandatory provision of several environment laws in carrying out the construction activities in addition to and exceeding limit of the available environment clearance and for not obtaining the consent from the Board.' "

6. Thereafter, the project proponent filed IA No. 8000 of 2018 for permission to amend its appeal permitting it to challenge the order passed in review application dated 8-1-2018², which we have allowed.

² *Tanaji Balasaheb Gambhire v. Union of India*, 2018 SCC OnLine NGT 302

¹ *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213

7. Appeal being Diary No. 3911 of 2018 was filed by the original applicant challenging the original order dated 27-9-2016¹ as well as the order dated 8-1-2018² passed in review application praying that demolition of the illegal structures be ordered and the compensation be enhanced to Rs 300 crores.

The factual matrix

8. The facts briefly stated are that the project proponent purchased 79,100 sq m or 7.91 ha of land comprised in six Survey Nos. 35, 36, 37, 38, 39 and 40 in Vadgaon, Pune. These survey numbers were amalgamated in accordance with the rules and the plot became one plot of 79,100 sq m. From the documents placed on record, it is apparent that as per the Development Control Plan for the city of Pune, 3 roads of the width of 36 m, 30 m and 18 m bisected this plot into two which for the sake of convenience were referred to as Plot No. 1 and Plot No. 2. As per the Development Plan, there are certain statutory reservations in addition to the roads and some land has to be left out or reserved for schools, cultural centres, open areas, etc. The remaining area is referred to as the "balance plot area" which in this case works out to 46,993.79 sq m. Out of this "balance plot area" 15% is to be reserved for amenity space and another 10% area is to be compulsorily left out as open space leaving "net plot area" of 41,455.21 sq m. Prima facie these calculations do not appear to be correct. However, this will not impact the merits of the case. Be that as it may, the undisputed fact is that FSI has to be calculated on the "net plot area". We may, at this stage, point out that the aforesaid figures are based on the written submissions submitted on behalf of the Union of India by the learned Additional Solicitor General and these figures have not been disputed before us.
9. On 12-3-2007, the project proponent applied for sanction of layout and building proposal plan on an area of 15,141.70 sq m, originally depicted as Plot No. 3 and the sanctioned FSI was 15,313.16 sq m. Thereafter, on 5-9-2007, revised layout plan was submitted for an area measuring 28,233.23 sq m and the sanctioned FSI was 39,526.54 sq m. The project proponent applied for EC for the project and in the proposal dated 27-6-2007, he had shown that he would be erecting/constructing 12 buildings having 552 flats, 50 shops and 34 offices. The 12 buildings were to have stilt with basement and 11 floors. The total built-up area was indicated as 57,658.42 sq m. The EC was granted to the project proponent on 4-1-2008. Paras 2 and 3 of the communication granting EC read as under:

2. The project proponent is proposing for construction of group housing project at Sl. Nos. 35 to 40, Village Vadgaon Budruk, Singhad Road, Pune, Maharashtra, at a cost of Rs 10,737.14 lakhs. The project involves construction of 12 buildings with stilt, basement plus 11 floors for 552 flats, 50 shops and 34 offices. The total plot area is 79,100.00 sq m. Total built-up area as indicated is 57,658.42 sq m. Total water requirement will be 745 KLD and 400 KLD of waste water will be generated from

¹ Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4213

² Tanaji Balasaheb Gambhire v. Union of India, 2018 SCC OnLine NGT 302

the buildings which will be treated in sewage treatment plant. The treated waste water will be used for landscaping, DG set cooling and horticulture purpose. The solid waste generated from the buildings will be 1500 kg/day and disposed as per the MSW Rules, 2000. The parking space is proposed for parking of 1072 cars.

3. EAC after due consideration of the relevant documents submitted by the project proponent and additional clarifications furnished in response to its observations have recommended the grant of environmental clearance for the project mentioned above subject to compliance with EMP and other stipulated conditions. Accordingly, the Ministry hereby accords necessary environmental clearance for the project under Category 3(a) of the EIA Notification, 2006 subject to the strict compliance with the specific and general conditions mentioned below:"

10. EC was granted, subject to certain conditions. We may refer to certain relevant conditions which read as under:

"Part A—Specific conditions

I. Construction phase

v. Permission to draw and use groundwater for construction work shall be obtained from competent authority prior to construction/operation of the project.

5. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry."

Concept of "built-up area" under the Notification dated 14-9-2006

11. It is not disputed that EC was granted for built-up area of 57,658.42 sq m. The main dispute is with regard to the interpretation of the term "built-up area". The case of the project proponent is that the term "built-up area" is synonymous with "floor space index" or FSI and that the constructed area, which is exempted from FSI area or is a non-FSI area is not a part of the "built-up area". On the other hand, the submission made by the original applicant as well as by the learned Additional Solicitor General appearing for the Ministry of Environment, Forests and Climate Change is that the built-up area will cover all constructed area and the concept of FSI area or non-FSI area is totally alien to environmental laws.

12. The learned Senior Counsel for the project proponent has drawn our attention to the Development Control Rules for Pune Municipal Corporation, Pune, 1982 ("DCR", for short). Under DCR, no building can be constructed without grant of building permission/commencement certificate by Pune Municipal Corporation. There is a detailed procedure for obtaining the building permission/commencement certificate wherein layout plans, building plans, etc. have to be submitted. The main emphasis was on Rule 2.13 of DCR, which defines "built-up area" as follows:

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- a "2.13. Built-up area.—Area covered immediately above the plinth level by the building or external area of any upper floor whichever is more excepting the areas covered by Rule 15.4.2."

Rule 2.39 defines "floor area ratio" as follows:

- b "2.39. Floor area ratio (FAR).—The quotient obtained by dividing the total covered area (plinth area) on all floors excluding exempted areas as given in Rule 15.4.2 by the area of the plot.

$$\text{FAR} = \frac{\text{Total converted area on all floors}}{\text{Plot area}}$$

Note.—The term FAR is synonymous with floor space index (FSI)."

13. Strong reliance is placed on Rule 15.4.2, which reads as under:

- c "15.4.2. In addition to Rules 15.4.1.1(a), (b) and (c) and 17.7.3, the following shall not be included in covered area or FAR and built-up area calculations:

- (a) A basement or cellar space under a building constructed on stilts and used as parking space, and air conditioning plant rooms used as accessory to the principal use;

- d (b) Electric cabin or substation, watchman's booth of maximum size of 1.6 sq m with minimum width or diameter of 1.2 m, pump house, garage shaft, space required for location of fire hydrants, electric fittings and water tanks;

- (c) Projection as specifically exempted under these Rules;

- e (d) Staircase room and/or lift rooms above the topmost storey, architectural features, chimneys, elevated tanks of dimensions as permissible under these Rules;

Note.—The shaft provided for lift shall be taken for covered area calculations only on one floor up to the minimum required as per these Rules;

- f (e) One room, measuring 2 m x 3 m on the ground floor of cooperative housing societies or apartment owners/cooperative societies buildings and other multi-storeyed buildings as office-cum-letter box room;

- g (f) Rockery, well and well structures, plant, nursery, water pool, swimming pool, (if uncovered) platform round a tree, tank fountain, bench, chabutra with open top and unenclosed sides by walls, ramps, compound wall, gate, slide, swing, overhead water tank on top buildings;

- (g) (Deleted);

- (h) Sanitary block subject to provision of Rule 15.4.1(a) and built-up area not more than 4 sq m."

14. The contention of the learned Senior Counsel appearing for the project proponent is that while calculating the built-up area the constructions mentioned in Rules 15.4.1.1(a), (b) and (c) and Rule 17.7.3 in addition to the

areas specifically exempted under Rule 15.4.2 are to be excluded. He submits that if the built-up area is calculated in accordance with DCR then the project proponent has till date not constructed the built-up area of 57,658.42 sq m which it was permitted to construct under the EC granted to it on 4-4-2008.

15. On the other hand, the stand of the Union of India and the original applicant is that built-up area means all area which is covered regardless of the area being FSI or non-FSI in terms of the EIA Notification of 2006. The building/construction projects are covered by Item 8 of the schedule to the EIA Notification dated 14-9-2006. Construction of a project which is covered under the schedule can be commenced only after obtaining EC in terms of Para 2 of the said notification. The schedule itself categorises the various projects and activities into two categories being "Category A" and "Category B". "Category A" projects require clearance by the Central Government in the Ministry of Environment, Forests and Climate Change on the recommendation of the Expert Appraisal Committee to be constituted by the Central Government whereas those activities which form "Category B" of the schedule including modernisation and expansion of such projects require EC from the State/Union Territory Environment Impact Assessment Authority (SEIAA) and such authority is required to base its decision on the recommendation of the State/Union Territory Level Expert Appraisal Committee (SEAC). There is further division of "Category B" into B-1 and B-2. B-1 projects require Environmental Impact Assessment (EIA) Report to be prepared and scoping to be done whereas B-2 projects do not require any Environmental Impact Assessment Report. Item 8 of the schedule, with which we are concerned, reads as follows:

(1)	(2)	(3)	(4)	(5)
8		Building/Construction projects/Area development projects and townships		
(a)	Building and construction projects	and	Covering an area $\geq 20,000$ sq m and built-up area $< 1,50,000$ sq m or built-up area#	#(built-up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
(b)	Townships and area development projects	and	Covering an area ≥ 50 ha and built-up area $\geq 1,50,000$ sq m ++	++All projects under Item 8(b) shall be appraised as Category B-1."

16. From a bare perusal of the two hashtags (#) in Columns 4 and 5 of Item 8(a), it is apparent that what is shown under Column 5 is actually a continuation of Column 4 and basically it describes or defines "built-up area" to mean covered construction and if the facilities are open to the sky, it will be taken to be the activity area. This by itself clearly shows that under the notification of 2006, all constructed area, which is covered and not open to the sky has to be treated as "built-up area". There is no exception for non-FSI area.

17. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble, etc., all of which will impact the environment. Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. Therefore, when EC is granted for a particular construction, it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered construction which is not open to the sky is to be treated as built-up area in terms of the EIA Notification dated 14-9-2006.

Notification of 4-4-2011

18. Our attention has been drawn to the Notification dated 4-4-2011 issued by the Ministry of Environment and Forests. By means of this notification, the words of Column 5 against Item 8(a) have been replaced and substituted as under:

- "The built-up area for the purpose of this Notification is defined as 'the built-up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects'."

This notification clearly defines "built-up area" as all constructed area including basement and service areas without any exception.

19. The learned Senior Counsel appearing for the project proponent has submitted that this notification is only prospective in nature and, therefore, will not affect the notification of 2006. On the other hand, it has been submitted by the original applicant that this is only a clarificatory notification and as such it will come into force with effect from 2006. In our opinion, it is not at all necessary to decide whether this notification is clarificatory or is in substitution of the original notification of 2006. We say this because as held by us above, there is no ambiguity with regard to the definition of "built-up area" even under the notification of 2006 and it covers all constructed area not open to the sky. The notification of 2011 only provides that the built-up area or covered area shall be the area of all floors put together including basement(s) and other service areas. We may again re-emphasise that this definition also is in consonance with the concept of grant of EC for construction as explained

above and it is obvious that the concept of FSI or non-FSI area is alien to environmental laws.

Clarification dated 7-7-2017

20. Strong reliance has been placed by the project proponent on the office memorandum dated 7-7-2017 issued by Dr Ashish Kumar, Joint Director, Ministry of Environment, Forests and Climate Change. The said office memorandum reads as follows:

F. No. 22-35/2017-IA.III
Government of India
Ministry of Environment, Forests and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Jor Bag Road, Aliganj,
New Delhi - 110 003
Dated 7-7-2017

OFFICE MEMORANDUM

Sub.: Clarification on the date of applicability of Notification No. S.O.(E) 695 dated 4-4-2011 issued by MoEF & CC defining "built-up area" of the project.

The Ministry is in receipt of a reference dated 3-4-2017 from Confederation of Real Estate Developers Association of India (CREDAI) seeking clarification on the abovementioned subject. CREDAI has requested that the definition of built-up area (BUA) given vide Notification No. S.O. 695(E) dated 4-4-2011 should have prospective effect.

2. The matter has been examined in the Ministry. BUA defined in Notification No. S.O. 1533 (E) dated 14-9-2006 mentions at Item 8(a) Columns 4 and 5 "built-up area for covered construction, in the case of facilities open to sky, it will be the activity area".

3. The Ministry has further defined BUA vide its Notification No. S.O. 695 (E) dated 4-4-2011 which reads as "the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the building or construction project".

4. The definition provided in the Ministry's notification will have its effect from the prospective date of the notification only. The projects which are not covered in the period of above notifications should be assessed as per the definition of built-up area provided in the building bye-laws or Development Control Regulation (DCR) of the local authorities in the States.

5. This issues with approval of competent authority.

sd/-

(Dr Ashish Kumar)
Joint Director Ph: 011-24695474
Email: ashish.k@nic.in

All States/UTs/SIEAAs/MoEF & CC Divisions

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a 21. It is urged on the basis of the aforesaid memorandum that prior to the Notification dated 4-4-2011, the built-up area had to be calculated and assessed as per the building bye-laws or the Development Control Regulations of the local authorities in the States. On behalf of the original applicant, it has been urged that this memorandum is meaningless and that it has been issued when the matter was pending before NGT, at the instance of one of the Directors of the project proponent, Shri Atul Goel, who was Joint Secretary of Confederation of Real Estate Developers Association of India (CREDAI), Pune.

b 22. Without going into this aspect of the matter, we are clearly of the view that such an office memorandum could not and should not have been issued. The Notification dated 14-9-2006 is a statutory notification issued in terms of Rule 5(3) of the Environment (Protection) Rules, 1986 which provides that before such a notification is issued, the Central Government has to give notice of its intention of issuing a notification and objections to the same are invited. c No doubt the Central Government is empowered in public interest to dispense with the requirement of notice but this obviously has to be done in exceptional cases. The Notification dated 14-9-2006 was issued by the Central Government and published in the gazette after inviting objections from the public. The first clarification with regard to this notification was issued on 4-4-2011 to d which we have adverted above. These two decisions of the Central Government which were notified as per the provisions of law could not have been set at naught by the Joint Director even if it was issued with the approval of a higher authority. We are of the view that since such decision has not been notified in the gazette, the statutory Notification dated 14-9-2006 and its subsequent clarification dated 4-4-2011 could not have been virtually set aside by this office e memorandum.

f 23. We are also of the view that the so-called office memorandum is not at all clarificatory in nature. As held by us above, the notification of 2006 with regard to "built-up area" was absolutely clear and needed no clarification. We fail to understand how the concept of built-up area as understood in the building bye-laws or DCR could be introduced into the notification of 2006 by this office memorandum which virtually made the notification of 2006 totally redundant. Therefore, we quash the office memorandum dated 7-7-2017.

g 24. This is not the first time that we have noticed such clarificatory communications being issued by the officials of the Ministry of Environment, Forests and Climate Change, which virtually have the effect of nullifying the statutory provisions and notifications. We have adverted to some of these communications in our judgment in *Common Cause v. Union of India*³. We expect the officials of the Ministry of Environment, Forests and Climate Change to take a stand which prevents the environment and ecology from being damaged, rather than issuing clarifications which actually help the project proponents to flout the law and harm the environment.

25. In view of the above, we are clearly of the view that the EC granted to the project proponent on 4-4-2008 was for constructing a total built-up area of 57,658.42 sq m and this would include all covered construction not open to the sky. No artificial division on the basis of FSI and non-FSI area can be made. Therefore, NGT was fully justified in coming to the conclusion that the construction raised by the project proponent was in total violation of the EC granted to it.

Environmental clearance dated 20-11-2017

26. The project proponent has drawn our attention to the EC for expansion of the project in question granted to it by the State Level Environment Impact Assessment Authority (SEIAA) on 20-11-2017. We may note that this clearance indicates that the existing construction comprises of 138 flats and 115 shops which have been completed, 69 flats and 2 shops which are under construction, meaning thereby that 807 flats and 117 shops are already in existence and in addition thereto 454 more flats and cultural centre are sought to be constructed. This will take the total number of flats to 1261 and number of shops to 117. We may also notice that SEIAA has laid down general conditions for pre-construction phase and the first condition is as follows:

"(1) This environmental clearance (EC) is issued for total built-up area of 1,47,219.45 m² as approved by local planning authority. It is noted that the total proposed construction area is 1,47,219.45 m² which includes the area of previous EC (dated 4-4-2008) 57,658.42 m² and the proposed expansion area of 89,561.03 sq m. However, the above area of 1,47,219.45 sq m is notional as the non-FSI area component of the previous EC is not included in 1,47,219.45 m². After considering the non-FSI area of the previous EC, the total built-up area becomes 1,81,238.94 m². SEIAA has also taken note of the clarification issued by MoEF and CC vide office memorandum dated 7-1-2017, stating the definition of built-up area will be assessed as per the building bye-laws or DCR of the local authorities in the States."

27. The aforementioned condition itself clearly shows that the non-FSI area constructed by the project proponent under first EC of 4-4-2008 has not been taken into consideration. The project proponent has raised construction in Plot No. 1 of an FSI area measuring 48,424.66 sq m, and non-FSI area measuring 46,088.47 sq m. Therefore, the total construction raised in Plot No. 1 is 94,513.13 sq m. In Plot No. 2, the construction raised on an FSI area is 630.55 sq m and on the non-FSI area is 4,858.57 sq m and, therefore, the total construction already raised in Plot No. 2 is 5489.12 sq m. The total construction raised by the project proponent is 1,00,002.25 sq m against the built-up area of 57,658.42 sq m mentioned in the EC of 4-4-2008. This could not have been ignored by SEIAA.

28. In case the total construction raised by the project proponent is taken as 1,00,002.25 sq m and if the area of the proposed construction is added then the project will fall in B-1 category and, therefore, SEIAA had no authority to

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- a grant EC by treating the project as falling under Category B-2. Furthermore, the EC dated 20-11-2017 is also illegal as the same has been granted on the presumption of the order dated 31-5-2016 passed by the Principal Secretary, Environment Department, State of Maharashtra holding that the construction of 18 buildings instead of 12 buildings is permissible. The EC completely lost sight of the fact that the order dated 31-5-2016 was quashed and set aside by NGT in its order dated 27-9-2016¹. We may note that the official who passed the order on 31-5-2016 was the same official, who held the office of Member-Secretary of SEIAA, which granted environmental clearance on 20-11-2017. Therefore, the EC dated 20-11-2017 was beyond the authority of SEIAA and was granted under a totally false assumption and the same is therefore quashed and set aside.

c *Allegations made by the original applicant against various officials*

- c 29. NGT in its order dated 27-9-2016¹, has found that there was suppression of facts by the officers of PMC. NGT also directed the Chief Secretary to the State of Maharashtra to take notice of the conduct of the officers who were misleading the Department of Environment. Costs were imposed on PMC, Department of Environment and SEIAA. This has been challenged before us by PMC.

- d 30. The original applicant, both in his original application filed before NGT and in appeal filed before us as well as in other proceedings, has made serious allegations against individual officers of PMC as well as SEIAA and specially the Principal Secretary, Environment Department, Government of Maharashtra. However, for reasons best known to the original applicant, none of these individuals has been made a party in personal capacity in these proceedings. The law is well settled that no person can be condemned unheard. It would, therefore, not be fair on our part, to deal with allegations made against individuals who are not parties to the petition and who have had no chance to reply to the allegations levelled against them. Therefore, we refrain from commenting on the conduct of the officials in their individual capacity.

- f 31. However, as far as their official capacity is concerned, we are of the view that NGT was fully justified in coming to the conclusion that certain officials of PMC were going out of their way to help the project proponent and we, therefore, upheld the directions given by NGT in its order dated 27-9-2016¹ in this regard. In view of what we have discussed above, it is more than apparent that despite notifications of 2006 and 2011 being clear and unambiguous, the officials of PMC have given an interpretation which was tailor-made to suit the project proponent. This was being done even before the clarification of 7-7-2017 was issued. This clearly indicates that some officials of PMC were espousing the case of the project proponent at the cost of the environment.

- g 32. We may also observe that prima facie we are of the view that the Principal Secretary, Environment Department, Government of Maharashtra

¹ Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4213

has not acted in a fair and transparent manner. The allegations made by the original applicant cannot be lightly brushed aside. In the original order dated 27-9-2016¹, NGT held as follows: (*Tanaji Balaseheb case*¹, SCC OnLine NGT para 42)

"42. From the extracted portion of the order dated 31-5-2016 of Principal Secretary, Environment Department, it is seen that it has declared construction of 18 buildings on the site instead of 12 buildings is permissible which, according to him, only a changes on configuration of buildings. This opinion undoubtedly is based on his erroneous conclusion that total BUA which is nothing but FSI consumed i.e. 48,17.14 sq m which is within the EC limit as against the actual construction activity which has exceeded over 1,00,000 sq m BUA. Hence, we set aside that order/communication dated 31-5-2016."

The official holding the post of Principal Secretary must have been aware of these directions because he was a party to the proceedings before NGT. Despite that, while granting fresh EC on 20-11-2017, this official noticed that reference to the Environment Department for verification of files was withdrawn vide letter dated 31-5-2016 and the matter has been considered afresh. When the letter dated 31-5-2016 had been quashed the obvious result would be that action had to be taken in accordance with the earlier directions in the 27th meeting of SEAC III (Non-MMR) held from 10-1-2015 to 13-3-2015 and the 87th meeting of SEIAA held on 10-8-2015 to 12-8-2015. This was not done. His actions need to be looked into and, therefore, we uphold the direction given by NGT directing the Chief Secretary to the State of Maharashtra to take notice of the conduct of the officers concerned. We further direct the Chief Secretary to file detailed report in respect of the conduct of the then Principal Secretary, Department of Environment to NGT within 3 months which will thereafter pass appropriate directions in the matter.

***Challenge to the order dated 8-1-2018 passed in Tanaji Balasaheb Gambhire v. Union of India*²**

33. This order has been challenged both by the project proponent by amending the appeal and by the original applicant by filing a separate appeal.

34. Section 19(4) of the National Green Tribunal Act, 2010 provides that the Tribunal shall have the same powers as are vested in civil courts while trying a suit in respect of matters relating to review of its decisions. Therefore, the power of review vested with NGT is akin to the power vested with the civil court. As such, the principles which govern the exercise of review jurisdiction before a civil court will apply with equal force to NGT.

35. Rule 32(2) of the National Green Tribunal (Practices and Procedure) Rules, 2011 provides that a review application shall ordinarily be heard by the Tribunal at the same place of sitting which has passed the order unless the Chairperson may, for reasons to be recorded in writing, direct it to be heard by

¹ *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213
² 2018 SCC OnLine NGT 302

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a the Tribunal sitting at any other place. Sub-rule (3) of Rule 22 provides that ordinarily review application shall be disposed of by circulation.

36. Since the powers of review which NGT exercises are akin to those of a civil court, it would be pertinent to refer to the relevant portions of Order 47 of the Civil Procedure Code, 1908, which read as follows:

b "1. *Application for review of judgment.*—(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

c and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order.

d (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate court the case on which he applies for the review.

* * *

e 5. *Application for review in court consisting of two or more Judges.*—

f Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause for a period of six months next after the application from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the court shall hear the same."

g 37. The project proponent has urged various grounds to challenge the order passed in the review application. The first ground is that whereas the original order was passed by a Bench comprising of Dr Justice Jawad Rahim and Dr Ajay A. Deshpande, the review application was heard and decided by a Bench comprising of Justice U.D. Salvi and Dr Nagin Nanda. It has been urged that Dr Justice Jawad Rahim continues to be a Judicial Member of NGT and, in fact, was sitting in the Western Bench at Pune on 8-1-2018 when the impugned judgment² in review was pronounced by NGT.

38. We are clearly of the view that a review petition should normally be heard by the same Bench which originally decided the matter. A review

² Tanaji Balasaheb Gambhire v. Union of India, 2018 SCC OnLine NGT 302

petition should not be heard by any other Bench unless it is impossible or totally impracticable for the earlier Bench to hear the matter. In a review petition, like in the present case, where the review petitioner contends that certain arguments raised by him have not been considered then it is only the Judges who originally heard the matter who can decide whether such point was urged or not. In the present case, the review application was based mainly on the contention that the affidavit dated 18-5-2016 was not taken into consideration by the Bench.

39. It is well known that parties raise various contentions in their pleadings or in their evidence. On many occasions when arguments are heard many of the pleas are not urged. Any judicial authority including NGT which is presided over by a judicial member who may be a retired Judge of this Court or of a High Court is expected to deal with all contentions raised before it. There is a presumption that judicial authorities must have dealt with all the contentions raised before them. If a party urges that some of the contentions urged by it have not been taken into consideration then it has to file a review application and it is but obvious that such review application should be heard by the same Bench which had originally heard the matter.

40. Sub-rule (3) of Rule 22 of the National Green Tribunal (Practices and Procedure) Rules, 2011 clearly lays down that a review application shall be disposed of by circulation. If the review application is to be disposed of by circulation then there is no problem in the matter being circulated before the very same Bench which had earlier heard the matter. This can be done even at a place which may be different from the original place of hearing. It is only if the Bench decides to give oral hearing in the review application and notice is issued to the opposite party that sub-rule (2) of Rule 22 will come into operation. According to sub-rule (2) the matter should ordinarily be heard at the same place of sitting where it was originally decided. However, this is not a mandatory direction because sub-rule (2) itself contemplates that the matter shall "ordinarily" be heard at the same place. In tribunals like NGT where members may be transferred from one Bench to another or may be attending a Bench on circuit then problems can sometimes arise. These issues can be easily resolved by resorting to the latest technology and if necessary, the arguments in such cases can be heard by videoconferencing. The normal rule that the same Bench should hear the review application should not be disturbed unless it is virtually impossible for the original Bench to hear the matter or the members of the Bench themselves opt not to hear the matter.

41. In this behalf, we must remind ourselves that the power of review is a power to be sparingly used. As aptly put by V.R. Krishna Iyer, J., "A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon"⁴. The power of review is not like appellate power. It is to be exercised only when there is an error apparent on the face of the record. Therefore, judicial discipline requires that a review application should be heard by the same Bench. Otherwise, it will become an intra-court appeal to another

⁴ *Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi*, (1980) 2 SCC 167, p. 173, para 14 : 1980 SCC (Tax) 222

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a Bench before the same court or tribunal. This would totally undermine judicial discipline and judicial consistency.

b 42. We may refer to the judgment of this Court in *Malthesh Gudda Pooja v. State of Karnataka*⁵. In that case, a writ appeal was disposed⁶ of by a Division Bench comprising of Hon'ble V. Gopala Gowda and L. Narayana Swamy, JJ., at the Dharwad Circuit Bench of the Karnataka High Court. Thereafter, a review petition was filed before a Bench comprising of Hon'ble K. Sreedhar Rao and Ravi Malimath, JJ. An objection was raised that the review petition should be heard by the same Judges who had originally heard the matter but this objection was overruled and the review petition was allowed⁷ and the appeal was ordered to be listed afresh before the Division Bench. This appeal was listed before the Dharwad Circuit Bench consisting of Hon'ble D.V. Shailendra Kumar and N. Ananda, JJ. This Bench held that the order of review passed was a nullity since c the Judges who had heard the review should not have heard the same especially when the Judges of the original Bench were available. The matter came to this Court and this Court after referring to Order 47 Rule 5, CPC and Rule 5 of the High Court of Karnataka Rules, 1959 and taking note of the fact that the Chief Justice of the Karnataka High Court had passed an order that the review petition be listed as per roster held as follows: (SCS pp. 341-42, paras.18-20)

d "18. Order 47 Rule 5 of the Code and Chapter 3 Rule 5 of the High Court Rules require, and in fact mandate that if the Judges who made the order in regard to which review is sought continue to be the Judges of the Court, they should hear the application for review and not any other Judges unless precluded by death, retirement or absence from the Court for a period of six months from the date of the application. An e application for review is not an appeal or a revision to a superior court but a request to the same court to recall or reconsider its decision on the limited grounds prescribed for review. The reason for requiring the same Judges to hear the application for review, is simple. Judges who decided the matter would have heard it at length, applied their mind and would know best, the facts and legal position in the context of which the decision was rendered. They will be able to appreciate the point in issue, when the grounds for review are raised. If the matter should go before another Bench, f the Judges constituting that Bench will be looking at the matter for the first time and will have to familiarise themselves about the entire case to know whether the grounds for review exist. Further, when it goes before some other Bench, there is always a chance that the members of the new Bench g may be influenced by their own perspectives, which need not necessarily be that of the Bench which decided the case.

⁵ (2013) 15 SCC 330 : (2014) 2 SCC (Civ) 473

⁶ *Malthesh Gudda Pooja v. State of Karnataka*, 2009 SCC OnLine Kar 919

⁷ *Malthesh Gudda Pooja v. State of Karnataka*, 2009 SCC OnLine Kar 918

19. Benjamin Cardozo's celebrated statement in *The Nature of Judicial Process* (pp. 12-13) is relevant in this context:

'There is in each of us a stream of tendency, whether you choose to call it philosophy or not, which gives coherence to thought and action. Judges cannot escape that current any more than other mortals. All their lives, forces which they do not recognise and cannot name, have been tugging at them—inherited instincts, traditional beliefs, acquired convictions ... In this mental background every problem finds its setting. We may try to see things as objectively as we please. Nonetheless, we can never see them with any eye except our own.'

20. Necessarily, therefore, when a Bench other than the Bench which rendered the judgment, is required to consider an application for review, there is every likelihood of some tendency on the part of a different Bench to look at the matter slightly differently from the manner in which the authors of the judgment looked at it. Therefore the rule of consistency and finality of decisions, makes it necessary that subject to circumstances which may make it impossible or impractical for the original Bench to hear it, the review applications should be considered by the Judge or Judges who heard and decided the matter or if one of them is not available, at least by a Bench consisting of the other Judge. This is only where both Judges are not available (due to the reasons mentioned above) the applications for review will have to be placed before some other Bench as there is no alternative. But when the Judges or at least one of them, who rendered the judgment, continues to be members or member of the court and available to perform normal duties, all efforts should be made to place it before them. The said requirement should not be routinely dispensed with.

43. A perusal of the above judgment leaves no manner of doubt that this Court has held that in terms of Order 47 Rule 5 CPC, review should normally be heard by the same Bench which passed the original order. We may reiterate the reasons given by this Court. These are:

43.1. The Judges who heard the matter originally have applied their mind and would know best the facts and legal position.

43.2. They will be in the best position to appreciate the matter in issue when a review is filed;

43.3. If the matter goes before another Bench that Bench will have to virtually hear the matter afresh;

43.4. Most importantly, when the matter goes to a new Bench the members of the new Bench may go by their own perspective and philosophy which may be totally different to that of the Bench which originally heard the matter.

44. We may again re-emphasise that judicial discipline, judicial traditions and consistency in pronouncements require that the Bench which heard the matter originally should hear the review petition unless it is virtually impractical for the original Bench to hear the matter, or where the members of the original Bench recuse.

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a 45. Another ground raised is that the statutory appeal was already pending in this Court against the original order when the review application was taken up for hearing. It is contended, on the basis of Order 47 Rule 1(2) CPC, that review application should not have been taken up for hearing because the original applicant could have before this Court taken up all the points which he had taken in his review application. It is also contended that this is not a case where there is an error apparent on record and as such the power of review could not have been exercised. As far as the facts of this case are concerned, we are clearly of the view that the original applicant could have raised all issues which he raised in review application even by filing a counter-affidavit in the appeal filed by the project proponent or by challenging the original order in this Court as he has done now. In this context, once this Court was seized of the matter and all issues were being urged, NGT should not have proceeded to hear the review application.

c 46. We may add that on 21-12-2016⁸, the review application itself was listed before the Bench of Dr Justice Jawad Rahim and Dr. Jay A. Deshpande, which adjourned the matter to 25-1-2017 to hear it regarding maintainability of the review application in view of the statutory appeal provided under the National Green Tribunal Act, 2010. However, the matter got listed before the other Bench and on 25-7-2017⁹, the said Bench considered this objection raised by the project proponent in terms of Order 47 Rule 1 CPC and the Bench held as follows: (*Tanaji Gambhire case*⁹, SCC OnLine NGT)

e "Having perused the record, we find that the appellant is seeking quashing of the order of compensation in totality and the review applicant is seeking enhancement of the compensation granted by the Tribunal. We do not see any commonality in the grounds resorted to by the applicant and appellant in the said appeal. Exception to subclause (2) of Order 47 Rule 1 of the Code of Civil Procedure, therefore, does not come to the help of Respondent 9. We are, therefore, of the considered opinion that the review application is maintainable. Plea of non-maintainability of the review application is rejected."

f 47. We are of the view that the aforesaid finding is incorrect. The project proponent had not only challenged the original order of NGT on the ground that he had not violated the EC but also on the ground that the damages awarded were highly excessive. Therefore, the question that what should be the extent of damages was specifically before this Court. We are, therefore, clearly of the opinion that the Bench hearing the review application erred in holding that the review application was maintainable despite the appeal pending before this Court.

g 48. We may also note that the Bench which heard the review has rejected all other grounds of review mainly on the ground that there is no error apparent on the face of the record but has only dealt with the issue of enhancement

⁸ *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4217

⁹ *Tanaji Gambhire v. Union of India*, 2017 SCC OnLine NGT 1954

of damages to be imposed on the basis of "carbon footprint" relying on the affidavit dated 18-5-2016. The Bench noted that this affidavit had not been taken into consideration by the earlier Bench. How could the latter Bench hearing the review application know whether any reference was made to this affidavit at the time of original hearing or not? In fact, the project proponent urges that this affidavit was never filed on 18-5-2016.

49. Here, it would be pertinent to mention that according to the original applicant he was given oral permission by the Bench to file such an affidavit on 23-2-2016. We have perused the order dated 23-2-2016¹⁰ and find that it makes no mention of any such request being made. If there is no such request then the question of issuing an oral direction to file such an affidavit does not arise. We may also add that after 23-2-2016, the matter was listed on numerous occasions i.e. 16-3-2016¹¹, 5-4-2016¹², 18-4-2016¹³, 22-4-2016¹⁴, 2-5-2016¹⁵ and 5-5-2016¹⁶ before NGT. In none of the orders there is any reference to carbon footprint or to any affidavit to be filed by the original applicant. If an oral permission had been given, obviously the original applicant would have either filed an application or would have made a request that he wants to file such an affidavit.

50. The affidavit in question is dated 18-5-2016 and it is alleged that it was filed on 18-5-2016. The matter was listed for hearing on 19-5-2016¹⁷ on which date also there is no reference to any such affidavit. It would be pertinent to note that in between the project proponent had filed an MA No. 389 of 2016 before the Principal Bench stating that an interim order dated 23-12-2015¹⁸ had been passed against it and the matter was not being heard and, therefore, it may be heard by a Bench presided over by Dr Justice Jawad Rahim, who apparently was holding Court in the Pune Bench at that time and the Principal Bench allowed the same on 2-5-2016¹⁹ directing that the matter be listed before the Bench presided over by Dr Justice Jawad Rahim. On 19-5-2016, the original applicant sought time stating that he had filed review application against the order dated 2-5-2016²⁰ before the Principal Bench praying that the matter should be heard by the earlier Bench presided over by Justice U.D. Salvi and, therefore, the matter could not be heard by Dr Justice Jawad Rahim on that day and was further adjourned to 23-5-2016. There is no reference to carbon footprint in the order dated 19-5-2016¹⁷. On 23-5-2016²⁰, the matter was heard by the Bench presided over by Dr Justice Jawad Rahim and the orders reserved.

10 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4201

11 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4204

12 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4205

13 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4206

14 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4219

15 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4203

16 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4207

17 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4208

18 *Tanaji Balasaheb Gambhire v. Union of India*, 2015 SCC OnLine NGT 838

19 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 1330

20 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4209

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a In this order also there is no reference to the affidavit with regard to carbon footprint. If the filing of the affidavit would have been brought to the notice of the Bench, it would have recorded in the order that some fresh affidavit had been filed. Subsequently, the project proponent, who is the contesting respondent, filed an application on 20-7-2016 praying that in the meantime he had obtained permission of the Environment Department and SEIAA to which we have adverted hereinabove.

b 51. The original applicant sought time to file counter-affidavit. The matter was adjourned²¹ to 28-7-2016 for rehearing deleting the same from reserved list since there were subsequent developments. On 28-7-2016²², the matter was got adjourned to 2-8-2016 on which date²³ some execution application for implementation of the interim orders was taken up and direction was issued to PMC. The matter was again taken up on 8-8-2016²⁴, 19-8-2016²⁵ and 24-8-2016²⁶ when the hearing was closed and judgment was pronounced through videoconferencing on 27-9-2016¹. In none of these orders any mention was made for carbon footprint or to the affidavit on the basis of which the review application was filed. On 23-5-2016, the project proponent filed reply to the affidavit dated 18-5-2016 filed by the original applicant in which they raised objections that such affidavit was not filed on 18-5-2016 and the copy of the same was handed over to them on 20-5-2016 and the original applicant had no permission to file such an affidavit. All these disputed issues as to whether such an affidavit was filed with the permission of the Court or it was referred to in the first hearing or in the second hearing could only be decided by the Bench which had heard the matter on 23-5-2016²⁰ or on 24-8-2016²⁶ on which dates the original application was reserved for orders.

c 52. We are of the considered view that the review application should have been heard by a Bench headed by Dr Justice Jawad Rahim who was admittedly available and in fact continues to be a member of NGT. Therefore, we are constrained to set aside the order passed in *Tanaji Balasaheb Gambhire v. Union of India*² dated 8-8-2018.

f *Is demolition the only answer?*

53. The next issue which arises is that what we should do with the construction. A large number of flats are already occupied and a large number of persons have paid money for occupying these flats. The learned counsel appearing for those persons who have purchased the flats urged that the flats should not be demolished otherwise they shall be put to great monetary loss.

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- 21 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4215
 - 22 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4210
 - 23 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4211
 - 24 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4202
 - 25 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4212
 - 26 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4214
 - 1 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213
 - 20 *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4209
 - 2 2018 SCC OnLine NGT 302

As pointed out above, now there are 807 flats and 117 shops which are either constructed or under construction. These flats are 1, 1.5 and 2 BHK flats and small shops and offices. The project proponent has already taken money from these persons and a large number of flats and shops have already been occupied and even where the remaining flats and shops are not occupied, persons belonging to the middle class have invested their life's earnings in this project. Keeping in view the interest of these third parties who were not parties before NGT, we are of the view that in the peculiar facts and circumstances of the case, demolition is not the answer. This would put innocent people at loss. Normally, this Court is loath to legalise illegal constructions but in the present case we have no option but to do so.

54. We hasten to clarify that the project proponent cannot be permitted to build any more flats. What we are permitting him to do is to only complete construction of 807 flats, 117 shops/offices and cultural centre including the clubhouse. We make it clear that he shall not be allowed to build the two buildings in which he was to construct 454 tenements, and will obviously have to return the money with interest @ 9% p.a. to the individual(s) who have invested in the same. There is no equity in favour of these persons since the plan to raise this construction was submitted only after 2014 when the validity of the earlier EC had already ended. Therefore, though we uphold the order of NGT dated 27-9-2016¹ that demolition is not the answer in the peculiar facts of the case, we also make it clear that the project proponent cannot be permitted to build nothing more than 807 flats, 117 shops/offices, cultural centre and clubhouse.

Whether the original applicant is entitled to special damages?

55. On behalf of the original applicant various issues were raised before us which had not been raised before NGT and find no mention either in the original order or even in the order under review. We are not considering those issues. It was urged that the project proponent has reduced the area of cultural centre. This averment is not correct, as pointed out by the Senior Counsel appearing for the Union of India. The development plan is not only for the area under the project but covers a much larger area where more than one builder and projects may be involved. It is not the responsibility of only one builder to provide the entire community services and these have to be provided pro rata by all developers of projects in the area. It was also alleged that the builder had built 3 basements which are illegal.

56. On the other hand, it was contended by the learned Senior Counsel for the project proponent that one of the basements has already been blocked and the other two basements shall also not be put in use and would be completely blocked off. We make it clear that PMC and SEIAA will ensure that the project proponent blocks the basements in such a manner that they can never be put to any use. Another argument raised by the original applicant was that the project proponent had stated that though he would not use any groundwater, however, it has utilised the groundwater and violated the condition of the EC. Reliance

¹ *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213

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- a is placed on certain photographs showing water being pumped. On the other hand, on behalf of the project proponent it has been urged that this water was being pumped out from the excavated area when the building was built and the water level had risen. We cannot decide this disputed question of fact in these proceedings.

- b 57. We may also point out that in this case the original applicant has tried to project the case as if he is filing the case in the public interest and has prayed for certain general directions. He has also claimed special damages for himself. The main grievance of the original applicant is with regard to the violation of the EC and according to him these violations started in the year 2009. The original applicant had applied for a flat in the project in question and had issued notice to the project proponent on 21-10-2011 about deficiency in service. This notice was replied to on 17-11-2011. Thereafter, the original applicant filed Consumer Complaint No. 93 of 2012 on 22-2-2012. This complaint was decided on 20-11-2014. Thereafter, the order of the District Consumer Disputes Redressal Forum was challenged before the State Consumer Disputes Redressal Commission both by the project proponent and original applicant in February 2015. It appears that thereafter there were complaints and counter-complaints filed by the parties against each other and
- d the project proponent filed a civil suit for defamation against the original applicant on 2-12-2015 and it was only thereafter on 7-12-2015 an application was filed in NGT by the original applicant. We are highlighting these facts only to emphasise the fact that this litigation is obviously not a public interest litigation. Therefore, the claim of the original applicant to award him special damages cannot be accepted.

e *Quantification of damages*

58. We need to decide and re-assess the issue of damages since the original applicant has also challenged the original order of NGT. While assessing the damages we may note certain facts:

- f 58.1. The EC was granted on 4-4-2008 but construction commenced after issuance of consent to establish dated 20-6-2009 and the EC would be valid for a period of 5 years from the date of such consent i.e. up to 19-6-2014;

58.2. The EC dated 4-4-2008 was granted for construction of built-up area of 57,658.42 sq m, whereas admitted by now the constructed built-up area is 1,00,009.25 sq m. Therefore, there is clear-cut violation of the terms of the EC;

- g 58.3. Any construction raised after 19-6-2014 is without any EC especially since we have held that EC granted on 20-11-2017 is invalid.

Carbon footprint

59. The main case of the original applicant is that the damages should be assessed on a scientific basis by calculating the damage caused to the environment by the project proponent on the basis of "carbon footprint". In the

absence of detailed submissions, we find ourselves totally unequipped to go into this aspect of the matter.

60. In the original application filed by the original applicant before NGT there is no reference to carbon footprint. Even when evidence was initially led, no reference was made to the same. The concept of carbon footprint was introduced by the original applicant only in his affidavit dated 18-5-2016. In fact, according to the project proponent, this affidavit was not even filed on 18-5-2016. It appears to us that there is no order of NGT specifically permitting the original applicant to file such an affidavit. The submission of the original applicant is that he was orally permitted to file the same. These disputed questions would have been only decided by the Original Bench and, therefore, we have already set aside the order passed in *Tanaji Balasaheb Ganbhire v. Union of India*² dated 8-1-2018.

61. The courts cannot introduce a new concept of assessing and levying damages unless expert evidence in this behalf is led or there are some well-established principles. We find that no such principles have been accepted or established in the present case. When there are no pleadings in this regard we fail to understand how the concept of carbon footprint can be introduced after evidence has been closed, at the stage of arguments. We cannot assess the impact in actual terms and, therefore, we can only impose damages or costs on principles which have been well settled by law.

62. We may also note that the method to which the original applicant referred to is not part of any law, rule or executive instructions. This method is no doubt used to compensate and impose damages on nations but we cannot apply this method while imposing damages on a person who violates the EC. We may also add that the calculation made by the original applicant in his affidavit dated 18-5-2016 filed before NGT are based on assumptions some of which we have not found to be correct, namely — (1) use of groundwater; (2) reduction of cultural centre space; (3) construction of basements, etc.

63. We may make it clear that we are not laying down the law that damages cannot be assessed on the basis of carbon footprint. In a case where expert evidence in this behalf is led or on the basis of empirical data it is established that by applying the principles of carbon footprint damages can be assessed, the Court may, in the facts and circumstances of the case, rely upon such data but, in the present case, there is no such reliable material.

64. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law. However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has manoeuvred and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone up to 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats

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- a and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area, etc. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs 100 crores or 10% of the project cost, whichever is more. We also make it clear that while calculating the project cost the entire cost of the land based on the circle rate of the area in the year 2014 shall be added. The cost of construction shall be calculated on the basis of the schedule of rates approved by the Public Works Department (PWD) of the State of Maharashtra for the year 2014. In case the PWD of Maharashtra has not approved any such rates then the Central Public Works Department rates for similar construction shall be applicable. We have fixed the base year as 2014 since the original EC expired in 2014 and most of the illegal construction took place after 2014. In addition thereto, if the project proponent has taken advantage of transfer of development rights (for short "TDR") with reference to this project or is entitled to any TDR, the benefit of the same shall be forfeited and if he has already taken the benefit then the same shall either be recovered from him or be adjusted against its future projects. The project proponent shall also pay a sum of Rs 5 crores as damages, in addition to the above for contravening mandatory provisions of environmental law.
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65. Normally, this Court is not inclined to grant ex post facto EC. However, in the peculiar facts of this case, we direct that once the project proponent deposits the amount of damages as directed by us then the project proponent may approach the appropriate authority for grant of EC. The authority may impose such conditions for grant of EC as it deems necessary.

e **Findings and directions**

66. We summarise our findings and directions as follows:

- 66.1. That built-up area under the notification of 14-9-2006 means all constructed area which is not open to the sky.
- f 66.2. Built-up area under the Notification of 4-4-2011 means all covered area including basement and service areas.
- 66.3. The communication dated 7-7-2017 is totally illegal and accordingly quashed.
- 66.4. The original application cannot be treated as a public interest litigation.
- g 66.5. We are not taking note of the allegations levelled against the individuals who have not been arrayed as parties.
- 66.6. That the order dated 27-9-2016¹ of NGT is upheld except insofar as Direction 1 is concerned.
- 66.7. The order in review application passed by NGT on 8-1-2018² is held to be totally illegal and is accordingly set aside.

¹ *Banaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213

² *Tanaji Balasaheb Gambhire v. Union of India*, 2018 SCC OnLine NGT 302

66.8. We uphold the original order dated 27-9-2016¹ holding that the construction raised by the project proponent was in violation of the environmental clearance granted to it on 4-4-2008. We uphold the fine imposed upon PMC and the direction given to PMC to take appropriate action against the erring officials. We also uphold the direction given to the Chief Secretary to the State of Maharashtra and in addition, direct that the Chief Secretary to the State of Maharashtra shall look into the conduct of the official holding the post of Principal Secretary (Environment) to the Government of Maharashtra on 27-9-2016 and will submit his report to NGT within three months from today. b

66.9. We impose damages of Rs 100 crores or 10% of the project cost, whichever is higher, on the project proponent and in addition thereto, project proponent will pay Rs 5 crores as levied by NGT in its order dated 27-9-2016¹.

66.10. Project proponent shall not be permitted to raise construction of two buildings having 454 tenements.

66.11. We direct that the project proponent shall only be permitted to complete construction of a total 807 flats, 117 shops/offices and cultural centre including clubhouse. c

66.12. The project proponent will only be permitted to seek environmental clearance for completion of the project subject to payment of costs in the aforesaid terms and it may be granted ex post facto environmental clearance in the peculiar facts of the case, on such terms and conditions as the environmental authority deems fit and proper. d

66.13. The project proponent is granted six months' time to deposit the amount of damages imposed in terms of Direction 66.9 supra in the Registry of this Court. In case the project proponent does not deposit the amount within six months then all the assets of the project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd. as well as its Directors shall be attached and the amount of damages shall be recovered by sale of these assets. It is further directed that in case this amount is not deposited within the period of six months then the license/registration/permission granted to M/s Goel Ganga Developers India Pvt. Ltd. to develop any "real estate project" within the meaning of the Real Estate (Regulation and Development) Act, 2016 shall be cancelled and the project proponent i.e. M/s Goel Ganga Developers India Pvt. Ltd. and its Directors shall not be granted permission to develop any "real estate project" under the Real Estate (Regulation and Development) Act, 2016 without permission of this Court. e

66.14. The matter be listed on 22-10-2018 for issuing appropriate directions as to how the amount of damages are to be utilised;

67. All the appeals are disposed of in the aforesaid terms. Pending applications, if any, shall also stand disposed of. f

¹ Tanaji Balasaheb Gambhire v. Union of India, 2016 SCC OnLine NGT 4213

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(BEFORE DEEPAK GUPTA AND ANIRUDDHA BOSE, JJ.)

GOEL GANGA DEVELOPERS INDIA PRIVATE
LIMITED

Appellant;

Versus

UNION OF INDIA THROUGH SECRETARY, MINISTRY OF
ENVIRONMENT AND FORESTS AND OTHERS

Respondents.

IA No. 64665 of 2019† in Civil Appeal No. 10856
of 2016, decided on September 11, 2019

Environment Law — Development vis-à-vis Ecology: National Urban and Rural Development — Constructed area which is to be treated as “built-up area” for reckoning environmental impact — Ruling in *Goel Ganga Developers*, (2018) 18 SCC 257, that municipal building laws regarding FSI and FAR are irrelevant for reckoning “built-up area” for environmental impact, held, not only does not in any way violate judgment of three-Judge Bench in *Okhla Bird Sanctuary case*, (2011) 1 SCC 744, but rather furthers the spirit of the law laid down therein — Concern of three-Judge Bench in *Okhla Bird Sanctuary case*, was not to reduce the ambit of “built-up area”, but rather to enhance it

— Concern of Bench in *Okhla Bird Sanctuary case* was that not only constructed area which is not open to the sky be treated as “built-up area”, but additionally that constructed area which is open to the sky should in appropriate circumstances be treated as “built-up area” due to its environmental impact, and not as “activity area” — Environment Impact Assessment (EIA) Noti. dt. 14-9-2006 — Item 8(a) Columns (4) & (5) — Interpretation — Thus, held, ruling in *Goel Ganga Developers*, (2018) 18 SCC 257 that all constructed area, which is covered and not open to sky has to be treated as built-up area and that there is no exception for non-FSI area, and that municipal laws regarding FSI and FAR have no relevance, affirmed — Words and Phrases — “Built-up area” (Paras 2 to 7)

Noida Memorial Complex Near Okhla Bird Sanctuary, In re, (2011) 1 SCC 744, explained and followed

Goel Ganga Developers India (P) Ltd. v. Union of India, (2018) 18 SCC 257, affirmed

IA dismissed

SS-D/63084/C

Advocates who appeared in this case :

A.N.S. Nadkarni, Additional Solicitor General, Mukul Rohatgi, Ranjit Kumar and Ms Senia Mathur, Senior Advocates Venkita Subramoniam T.R., Rahat Bansal, Mehul Gupta, P. Mudgal, Rohit Raj, Shankey Agrawal, Mukesh Verma, Pawan Kr. Shukla, Yash Pal Dhingra, Mahesh D. Adkar, Vijay Kumar, Ms Aparna Jha, Nitin Bonkar, Ms Sonali Suryawanshi, Shankey Agrawal, D.L. Chidananda, Ms Suhasini Sen, G.S. Makker, Dr Nishesh Sharma, Ranjan Kr. Chaurasia, Nishant Sharma, Nishant Ramkantrao Katneshwarkar and Aman Verma, Advocates) for the appearing parties.

† arising from the Judgment and Order in *Tanaji Balasaheb Gambhire v. Union of India*, 2016 SCC OnLine NGT 4213 [National Green Tribunal, Application No. 184 of 2015 (WZ), dt. 27-9-2016]

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Chronological list of cases cited

1. (2018) 18 SCC 257, *Goel Ganga Developers (India) (P) Ltd. v. Union of India* 289e-f, 290e, 291d-e
a 2. (2011) 1 SCC 744, *NOIDA Memorial Complex Near Okhla Bird Sanctuary, In re* 289b, 290d, 290e, 290f, 291a-b, 291c, 291d, 291e

ORDER

1. The only issue involved in this application is whether non-consideration of a judgment delivered by a three-Judge Bench in *NOIDA Memorial Complex Near Okhla Bird Sanctuary, In re*¹, hereinafter referred to as "*NOIDA Park case*", has led to wrong conclusions by this Court with regard to the interpretation of built-up area in terms of Item 8 of the Schedule of the Environment Impact Assessment (EIA) Notification dated 14-9-2006. The relevant portion of the notification reads as follows:

(1)	(2)	(3)	(4)	(5)
8		Building/Construction projects/Area development projects and Townships		
(a)	Building and construction projects	≥20,000 sq.m and <1,50,000 sq.m of built-up area#		#(built-up area for construction; if the case of facilities open to the sky, it will be the activity area)
(b)	Townships and area development projects	Covering an area ≥50 ha and or built up area ≥1,50,000 sq.m ++		All projects under Item 8(b) shall be appraised as Category B-1."

2. While interpreting this clause, one of us (Deepak Gupta, J.) held as follows: (*Goel Ganga Developers case*², SCC pp. 270-71, paras 16-17)

- "16. From a bare perusal of the two hashtags (#) in Columns 4 and 5 of Item 8(a), it is apparent that what is shown under Column 5 is actually a continuation of Column 4 and basically describes or defines "built-up area" to mean covered construction and if the facilities are open to the sky, it will be taken to be the activity area. This by itself clearly shows that under the notification of 2006, all constructed area, which is covered and not open to the sky has to be treated as "built-up area". There is no exception for non-FSI area.

17. Indeed, the concept of FSI or non-FSI has no concern or connection with grant of EC. The same may be relevant for the purposes of building plans under municipal laws and regulations but it has no linkage or connectivity with the grant of EC. When EC is to be granted, the authority

¹ (2011) 1 SCC 744

² *Goel Ganga Developers (India) (P) Ltd. v. Union of India*, (2018) 18 SCC 257

which has to grant such clearance is only required to ensure that the project does not violate environmental norms. While projects and activities, as mentioned in the notification, may be allowed to go on, the authority while granting permission should ensure that the adverse impact on the environment is kept to the minimum. Therefore, the authority granting EC may lay down conditions which the project proponent must comply with. While doing so, such authority is not concerned whether the area to be constructed is FSI area or non-FSI area. Both will have an equally deleterious effect on the environment. Construction implies usage of a lot of materials like sand, gravel, steel, glass, marble, etc., all of which will impact the environment. Merely because under the municipal laws some of this construction is excluded while calculating the FSI is no ground to exclude it while granting the EC. Therefore, when EC is granted for a particular construction it includes both FSI and non-FSI areas. As far as environmental laws are concerned, all covered construction, which is not open to the sky is to be treated as built-up area in terms of the EIA Notification dated 14-9-2006."

3. The contention raised on behalf of the applicant is that since the three-Judge Bench had in para 84 of the judgment in *Noida Park case*, observed that the EIA Notification dated 14-9-2006 calls for a close second look by the authorities concerned especially in respect of the projects/activities falling within the ambit of Items 8(a) and 8(b) of the Schedule to the Notification which need to be described with greater precision and clarity and the definition of built-up area with facilities open to the sky needs to be freed from its present ambiguity and vagueness, the two-Judge Bench which delivered the judgment² was bound by this judgment¹ of the three-Judge Bench and could not have held that the Notification dated 14-9-2006 clearly shows that all constructed area which is covered and not open to the sky, has to be treated as built-up area.

4. Though the observations in para 84, at first blush, support the contention of the applicant, one has to appreciate the factual background in which these observations were made. In *Noida Park case*, the Court was asked to intervene and halt a project in which a huge park was being constructed. As far as Item 8(a) of the Schedule to the EIA Notification, 2006 is concerned, the contentions in this regard start from para 38. MoEF took the stand that no environmental clearance was required because the project area was 33.43 ha, which was less than 50 ha and the built-up area was 9542 sq m, which was less than 20,000 sq m.

5. It was contended on behalf of the petitioners and the Amicus Curiae that the project would fall under Section 8(a) because though the covered construction of the project was only 6999.50 sq m, the project by its very nature provided facilities open to the sky and the whole of this open area, which

¹ *Noida Memorial Complex Near Okhla Bird Sanctuary, In re*, (2011) 1 SCC 744

² *Goel Ganga Developers (India) (P) Ltd. v. Union of India*, (2018) 18 SCC 257

was activity area, should be treated as the built-up area. The park consisted of certain constructed structures like pathways, walkways, statues, fountains, etc. which were open to the sky and treated as activity area. The contention of the Amicus Curiae and the petitioners who were objecting to the project was that the construction which was open to the sky and was to be treated as activity area should also be considered as part of the built-up area.

6. The main dispute in *NOIDA Park case*¹ was whether the project was a building and construction project or a township and area development project. This Court held that this was a township and area development project. While considering this dispute the Court felt that there was some ambiguity. This issue did not arise in the case in hand. The second point urged before the Court was that the facilities open to the sky, i.e. the activity area, should also be included in the built-up area and it was this confusion which the Court wanted the Central Government to settle. No party had raised any contention in *NOIDA Park case*¹ about the covered area being built-up area. All the parties were ad idem that covered construction was built-up area and the Court also held so.

7. This Court in this judgment has only held that all covered construction shall be deemed to be built-up area and that the municipal laws regarding floor space index (FSI) or floor area ratio (FAR) have no relevance. This issue did not arise in *NOIDA Park case*¹. Therefore, in one common the earlier judgment will have no impact on the present case.

8. Reference was also made to the Notification dated 4-4-2014 and the Clarification dated 7-7-2017. These have already been dealt with in the judgment dated 10-8-2018² and these were not points of issue in *NOIDA Park case*¹. Therefore, we find no merit in the application and the same is dismissed accordingly.

¹ *Narain Memorial Complex Near Okhla Bird Sanctuary, In re*, (2011) 1 SCC 744
² *Goel Ganga Developers (India) (P) Ltd. v. Union of India*, (2018) 18 SCC 257



mindspace

architect+engineers+interior designers

ANNEXURE- 6

133

Partners
N.D.Mohe
P.N.Medappa
Amit Swain
Swetha.A

Date: 23.04.2021

To,
Wonder Projects Development Private Limited
Level 10, Prestige Obelisk, Kasturba Road,
Bangalore - 560 001

Dear Sir,

Sub: Confirmation on additional components of the development that are not covered and are open to sky.

We are the Architects on record for the development named Godrej Reflections and Godrej Lake Gardens being developed by Ms. Wonder Projects Private Limited in Survey numbers 61/2, 62 and 63/2, Kasavanahalli village, Varthur hobli, Bangalore East Taluk.

We hereby certify that in addition to the BuA as defined by EIA notification dated 14.09.2006 which includes all covered construction that are not open to sky, the following are the additional components of the development that are not covered and are open to sky:

Driveways and Pathways: 4594.64 SQM
Open to sky amenities: 1103 SQM
Compound Wall: 334 SQM

TOTAL: 6031.64SQM

This letter is in addition to the letter already submitted for FSI and Non-FSI area.

Thank you.

P.N.Medappa
COA License No.: CA / 93 / 16013
Bangalore corporation No.: BCC/BL-3.6/A-2887/2018-19
For MindSpace Architects

134

HAWAII - SINGAPORE

ROAD METER WIDE ROAD
07TH MAIN ROAD

6.00 METER WIDE ROAD

12004 WIDE ROAD

7.000 WIDE ROAD

730001 LABS

SITE PLAN

AN. HEIGHT OF THE BUILDING = 60.75M
B. 100.47

[illegible][illegible][illegible]

The image is a large, rectangular area filled with a dense, black and white pattern. It appears to be a scan of a document or a heavily degraded photograph. The pattern consists of a grid of vertical and horizontal lines, creating a series of small, irregular rectangular cells. The lines are of varying thickness and are somewhat blurred, giving the overall appearance of a noisy or low-quality scan. The pattern is consistent across the entire area, with no discernible text or other features.

The image is a high-contrast, black and white scan of a document page, likely a ledger or form. The page is heavily degraded with noise and artifacts, making the text illegible. The layout appears to have multiple columns and rows, with some text visible in the top left corner.

[illegible][illegible]

NO.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
RECEIVED BY: [Signature] DATE: [Date] TIME: [Time] LOCATION: [Location] REMARKS: [Remarks] INITIALS: [Initials] SANCTION: [Sanction]																																																																																																				

AREA STATEMENT BLOCK-1 (UNDER CONSTRUCTION)

FLOORS	GROSS	DUCTS	NET BUA	FAR DEDU.	FAR AREA	UNITS
LOWER BASEMENT	5,688.07	24.61	5,663.46	5,244.24	419.22	-
UPPER BASEMENT	5,688.07	359.63	5,328.44	4,910.58	417.86	-
GROUND FLOOR	5,202.76	235.51	4,967.25	4,569.83	397.42	-
FIRST FLOOR	2,503.07	74.29	2,428.78	30.78	2,398.00	12
SECOND FLOOR	1,979.15	74.29	1,904.86	30.78	1,874.08	12
THIRD FLOOR	1,979.15	74.29	1,904.86	30.78	1,874.08	12
FOURTH FLOOR	2,639.96	83.42	2,556.54	197.26	2,359.28	16
FIFTH FLOOR	2,473.48	83.42	2,390.06	30.78	2,359.28	16
SIXTH FLOOR	2,473.48	83.42	2,390.06	30.78	2,359.28	16
SEVENTH FLOOR	2,650.03	82.67	2,567.36	30.78	2,536.58	16
EIGHTH FLOOR	2,644.16	82.67	2,561.49	30.78	2,530.71	16
NINETH FLOOR	2,473.48	83.42	2,390.06	30.78	2,359.28	16
TENTH FLOOR	2,483.55	82.67	2,400.88	30.78	2,370.10	16
ELEVENTH FLOOR	2,477.68	82.67	2,395.01	30.78	2,364.23	16
TWELVETH FLOOR	2,473.48	83.42	2,390.06	30.78	2,359.28	16
THIRTEENTH FLOOR	2,473.48	83.42	2,390.06	30.78	2,359.28	16
FOURTEENTH FLOOR	2,428.51	82.67	2,345.84	30.78	2,315.06	15
FIFTEENTH FLOOR	2,422.64	82.67	2,339.97	30.78	2,309.19	14
SIXTEENTH FLOOR	2,359.06	84.34	2,274.72	30.78	2,243.94	14
SEVENTEENTH FLOOR	2,352.44	98.14	2,254.30	30.78	2,223.52	13
EIGHTEENTH FLOOR	2,306.04	62.68	2,243.36	30.78	2,212.58	9
NINETEENTH FLOOR	1,697.29	114.12	1,583.17	30.78	1,552.39	4
TWENTYETH FLOOR	955.19	64.68	890.51	345.16	545.35	0
TERRACE FLOOR	857.62	Nil	857.62	857.62	-	-
TOTAL	63,681.84	2,263.12	61,418.72	16,678.73	44,739.99	265

SITE AREA

As per DP Approved, Site Area	=	51,698.16 Sqm.(12 Ac. 31 Gu.)
Deduct Kharab Area	=	1,315.21 Sqm.(13 Gu.)
Net Site area Considered	=	50,382.95 Sqm.(12 Ac. 18 Gu.)

Net Site Area	=	50,382.95 Sqm.
Deduct Civic amenities area 5%	=	2,540.66 Sqm.
Net Site area for Development 95%	=	47,842.29 Sqm.

AREA STATEMENT BLOCK-2 (PROPOSED)

FLOORS	GROSS	DUCTS	NET BUA	FAR DEDU.	FAR AREA	UNITS
BASEMENT FLOOR	6,964.14	18.75	6,945.39	6,629.06	316.33	-
GROUND FLOOR	5,622.84	83.37	5,539.47	5,195.42	344.05	-
FIRST FLOOR	5,525.44	44.09	5,481.35	5,078.05	403.30	-
SECOND FLOOR	2,335.90	72.10	2,263.80	46.17	2,217.63	18
THIRD FLOOR	2,321.38	72.10	2,249.28	46.17	2,203.11	18
FOURTH FLOOR	2,321.38	72.10	2,249.28	46.17	2,203.11	18
FIFTH FLOOR	2,907.33	74.73	2,832.60	219.40	2,613.20	22
SIXTH FLOOR	2,734.71	77.94	2,656.77	219.40	2,437.37	22
SEVENTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
EIGHTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
NINETH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
TENTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
ELEVENTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
TWELVETH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
THIRTEENTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
FOURTEENTH FLOOR	2,734.71	77.94	2,656.77	46.17	2,610.60	22
FIFTEENTH FLOOR	2,736.13	77.94	2,658.19	46.17	2,612.02	22
SIXTEENTH FLOOR	2,736.13	77.94	2,658.19	46.17	2,612.02	22
SEVENTEENTH FLOOR	2,671.53	77.94	2,593.59	46.17	2,547.42	21
EIGHTEENTH FLOOR	2,084.62	92.62	1,992.00	46.17	1,945.83	12
NINETEENTH FLOOR	2,014.68	76.90	1,937.78	30.78	1,907.00	9
TWENTYETH FLOOR	1,021.67	299.79	721.88	30.78	691.10	0
TERRACE FLOOR	210.61	-	210.61	210.61	-	-
TOTAL	66,086.17	1,841.83	64,244.34	18,306.05	45,938.29	360

137 COMBINED AREA STATEMENT BLOCK -01 & 02

FLOORS	DUCTS	DUCTS	NET BUA	FAR DEDU.	FAR AREA	UNITS
LOWER BASEMENT	24.61	24.61	5,663.46	5,244.24	419.22	-
UPPER BASEMENT	359.63	378.38	12,273.83	11,539.64	734.19	-
GROUND FLOOR	235.51	318.88	10,506.72	9,765.25	741.47	-
FIRST FLOOR	74.29	118.38	7,910.13	5,108.83	2,801.30	12
SECOND FLOOR	74.29	146.39	4,168.66	76.95	4,091.71	30
THIRD FLOOR	74.29	146.39	4,154.14	76.95	4,077.19	30
FOURTH FLOOR	83.42	155.52	4,805.82	243.43	4,562.39	34
FIFTH FLOOR	83.42	158.15	5,222.66	250.18	4,972.48	38
SIXTH FLOOR	83.42	161.36	5,046.83	250.18	4,796.65	38
SEVENTH FLOOR	82.67	160.61	5,224.13	76.95	5,147.18	38
EIGHTH FLOOR	82.67	160.61	5,218.26	76.95	5,141.31	38
NINETH FLOOR	83.42	161.36	5,046.83	76.95	4,969.88	38
TENTH FLOOR	82.67	160.61	5,057.65	76.95	4,980.70	38
ELEVENTH FLOOR	82.67	160.61	5,051.78	76.95	4,974.83	38
TWELVETH FLOOR	83.42	161.36	5,046.83	76.95	4,969.88	38
THIRTEENTH FLOOR	83.42	161.36	5,046.83	76.95	4,969.88	38
FOURTEENTH FLOOR	82.67	160.61	5,002.61	76.95	4,925.66	37
FIFTEENTH FLOOR	82.67	160.61	4,998.16	76.95	4,921.21	36
SIXTEENTH FLOOR	84.34	162.28	4,932.91	76.95	4,855.96	36
SEVENTEENTH FLOOR	98.14	176.08	4,847.89	76.95	4,770.94	34
EIGHTEENTH FLOOR	62.68	155.30	4,235.36	76.95	4,158.41	21
NINETEENTH FLOOR	114.12	191.02	3,520.95	61.56	3,459.39	13
TWENTYETH FLOOR	64.68	364.47	1,612.39	375.94	1,236.45	00
TERRACE FLOOR	Nil	-	1,068.23	1,068.23	-	-
TOTAL	2,263.12	4,104.95	1,25,663.06	34,984.78	90,678.28	625

Total Ground Coverage Area

Under Construction Block - 01 = 5,202.76 Sqm.

Proposed Block - 02 = 5,622.84 Sqm.

Total = 10,825.60 Sqm.

$$\text{COVERAGE} = \frac{10,825.60}{47,842.29} \times 100 = 22.63\% < 50.00\%$$

Total FAR Area

Under Construction Block - 01	=	44,739.99 Sqm.
Proposed Block - 02	=	45,938.29 Sqm.
<u>Total</u>	=	<u>90,678.28 Sqm.</u>

$$\text{FAR} = \frac{90,678.28}{47,842.29} = 1.895 < 2.25$$

PARKING : (Block-02)

Total Residential Units from 2nd Floor to 20th Floor = 360 nos.

No. of Units over 50 Sq. below 225 Sqm. = 324 Nos

@ 1 Car / 1 Unit, Cars Required = $324 \times 1 = 324$ Cars

No. of EWS Units below 50 Sq = 36 Nos

@ 1 Car / 2 Units, Cars Required = $36 / 2 = 18.00$ Cars

Total Cars Required = $324 + 18 = 342$ Cars

10% Visitors Parking = $342 / 10 = 34.20$ Say 35 cars

Club house area in 18th & 19th floor = 711.69 Sqm.

@ 1 Car / 50 sqm, Cars Required = $\frac{711.69}{50} = 14.23$ Say 15 Cars

Total Cars Required for Under Construction Block - 01 - 282 Cars

Total Cars Required = $342 + 35 + 15 + 282 = 674$ Cars

Total cars Provided

Lower Basement Block - 1	=	106 cars
Upper Basement Block - 1	=	113 cars
Ground Floor Block - 1	=	90 cars
Basement Floor Block - 2	=	141 cars
Ground Floor Block - 2	=	111 cars
First Floor Block - 2	=	134 cars
Surface Block - 2	=	20 cars
<u>Total Cars Provided</u>	=	<u>715 cars</u>

Total Cars required for Block 2

392 Cars

Total Cars provided for Block 2

$141 + 111 + 134 + 20 = 406$ Cars

PROPOSED AREA CALCULATION	
SITE AREA	= 56,198.16 Sqm.
Area Deducted Under Kharab (19 Gu.)	= 1,315.21 Sqm.
Net Site Area	= 50,382.95 Sqm.
Area Reserved for Park & Open Spaces	= 5,093.87 Sqm.
Area Reserved for Civic Amenities	= 2,540.66 Sqm.
Net Site Area for Residential Development 95.00%	= 47,842.29 Sqm.
Allowable Coverage	= 50.00 %
Allowable Coverage Area	= 23,921.45 Sqm.
Achieved Coverage Area	= 10,825.60 Sqm.
Allowable FAR	= 2.25
Allowable FAR Area	= 1,07,645.15 Sqm.
Achieved FAR Area	= 90,678.28 Sqm.
Height of Building Block - 01 & 02	= 60.15mt
Total Nos. of Residential Units	= 625 Nos.
Total Cars Required	= 674 Cars
Total Cars Provided	= 715 Cars

II. NOC Details

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Sl No.	Name of the Statutory Department	Reference No. & Date	Conditions Imposed
1)	Fire Force Department	GBC(1)/336/2017, dated: 22 - 12 - 2017	All the conditions imposed in the letter issued by the Statutory Body should be adhered to
2)	Airport Authority of India	BANG / SOUTH / B / 091727 / 171996, dated: 20 - 10 - 2016	
3)	HAL	ASC / DGM (AO) / 131 / 14 - 17 / 783 / 2017 dated: 11 - 01 - 2018	
4)	BSNL	DE / SAN / BG / S - 11 / VOL XIII / 20 dated: 26 - 12 - 2016	
5)	SEIAA	SEIAA / 114 / CON / 2017 dated: 10 - 01 - 2018	
6)	KSPCB	PCB / 701 / CNP / 17 / H - 755 dated: 12 - 10 - 2018	
7)	BESCOM	ಮಾ(ವಿ)/ವಿವಿಕ್ಯವ/ಅ/ವಿ-2/6-148/17-18/8377-80 ದಿನಾಂಕ: 31-01-2018	
8)	BWSSB	BWSSB / EIC / CEAM / ACEAM-IV / DCEAM-II / TA(M)-III / 4421 / 2018 - 19, dated: 30 - 10 - 2018	

ಸಕಲು ಪ್ರತಿ
ಪರಿಷ್ಕೃತ ನಕೆ:

ಜಿಲ್ಲಾ: ಈ ಹಿಂದಿನ ಸಮಸಂಖ್ಯೆ ಎಲ್.ಬಿ.ಸಂಖ್ಯೆ 283/12-10
ದಿನಾಂಕ: 28/12/18
ದಿನಾಂಕ: 28/12/18

III. The Applicant has paid the fees Rs. 1,63,95,000/- vide Onlie Receipt No. RE-ifms331-TP/000090 dated: 28 - 05 - 2019 for the following:-

- Licence Fees & Scrutiny Fee : 60,71,000-00
- Ground Rent : 28,90,995-00
GST (18% of the Ground Rent) : 5,20,380-00
- Betterment Charges
a) For Building : 1,28,480-00
- Security Deposit : 64,24,434-00
- Plan copy charges : 2,58,000-00
- 1% Service Charge on Labour Cess to be paid to BBMP : 1,01,364-00

TOTAL : 1,63,95,751-00

SAY Rs. : 1,63,95,000-00

ಇದೇ ಮೊತ್ತವನ್ನು ಮುಖ್ಯ ಅಧಿಕಾರಿ ಅಧೀನದ ದಿನಾಂಕ 28/5/19
ಮಾ.ವಿ.ಸಂಖ್ಯೆ (ಅ)/ವಿ ಎಲ್.ಬಿ. ಸಂಖ್ಯೆ 283/17-18
ದಿನಾಂಕ 28/5/19, ಸ್ವಲ್ಪ ಸಹಿ ಮುಖಾಂತರವನ್ನು ದಿವ್ಯಾಂಗವಾದ
ಪತ್ರಕ್ಕೆ ಅಳವಡು ಅಭ್ಯರ್ಥನರಾದ ದಿನಾಂಕ 28/5/19
ರೂ: 27,51,902/- ಮೂಲಕ ಮುಖ್ಯ ಮಹತ್ವ ಪಡೆದಿರುತ್ತದೆ
(ಎಲ್ಲಾ ಮಹತ್ವ ಅಭ್ಯರ್ಥನರಾದ)

B.R. Muddaiah 28/5/19
ಜಿಲ್ಲಾಧಿಕಾರಿ (ಸಹಿ ಮಹತ್ವ ಅಭ್ಯರ್ಥನ)
ಮುಖ್ಯ ಮಹತ್ವ ಮಹತ್ವ ಮಹತ್ವ
28/5/19 28/5/19 28/5/19

Proceedings for 188th Meeting of SEAC held on 25th November 201725th November 2017

Members present in the meeting:

8/12/2017
SEIAA

Shri. N. Naganna	-	Chairman
Shri. B. Chikkappaiah	-	Member
Dr. N. Krishnamurthy	-	Member
Dr. M.I. Hussain	-	Member
Shri. G.T. Chandrashekarappa	-	Member
Dr. Vinod Kumar C.S	-	Member
Sri. Vyshak V. Anand	-	Member
Sri. J.G. Kaveriappa	-	Member
Sri. D. Raju	-	Member
Sri. Vijaya Kumar, IFS	-	Secretary

The Chairman, SEAC, Karnataka welcomed the members of the Committee and others present. The following proposals listed in the agenda were appraised in accordance with the provisions of EIA Notification 2006. The observation and decision of the Committee are recorded under each of the agenda items.

Confirmation of the proceedings of 187th SEAC meeting held on 20th and 21st November 2017.

The State Expert Appraisal Committee, Karnataka perused the proceedings of 187th SEAC meeting held on 20th and 21st November 2017 and confirmed the same.

Deferred subjects - EIA Proposals:

188.1 Formation of Housing Layout at Raichur, Growth Centre, Raichur District of CEO & Executive Member, Karnataka Industrial Area Development Board (KIADB), Khanija Bhavana, 4th & 5th Floor, East Wing, No. 49, Race Course Road, Bangalore - 560001. (SEIAA 49 CON 2013)

Name of the Applicant:	Development Officer & Executive Engineer, KIADB, Gulbarga.
Name of the Consultancy Firm:	M/s. ABC Techno Labs India (P) Ltd., Chennai

KIADB have applied for Environmental Clearance from SEIAA for their new proposed formation of housing layout with residential & commercial building at Sy. No. listed at Raichur Taluk & District under 8(b) of Schedule of EIA Notification, 2006 under Category-B. Total project cost is Rs. 123 Crores.

Project Details: Land: Total Plot Area: 1030228.37 Sqm (254.33 Acres or 102.88 hectares) (plain); The Project consists of 3069 plots; Water Requirement: Total water requirement is 2 MLD and is sourced from Raichur Corporation. Excavated Wastewater generated will be treated in proposed STP of design capacity 1.6 MLD KLD; Municipal Solid Waste

Management: Total waste generated: 9787 kg/day. Power: Total Power requirement: 7500 KVA supplied from BESCOM; Backup Power proposed: DG sets of 9 X 250 KVA;

Details surrounding the Project: Srisaillam Reservoir: 95 kms. Other details: Rain Water Harvesting is proposed.

1. Land details: notified under KIADB, 1966 28 (3) issued on 24.9.1996. Geotechnical investigation report submitted.

2. Proposed land use details (Sqm)

a. Residential:	4,59,275.7 (44.57%).
b. Parks, open space:	1,08,174.23 (10.50%)
c. Traffic & transportation:	3,35,757.32 (32.61%)
d. Civic amenities:	6,23,318 (6.055)
e. Commercial area:	64,688.92 (6.27%)

Total area: 1030228.37 (100%)

The proponent and environmental consultant present explained the proposed ToRs in the 102nd meeting of SEAC held on 26th April 2013. The Committee after deliberation had decided to issue the model ToRs along with the following additional ToRs:

1. Land ownership documents.
2. Details of buffer zone proposed.
3. Commitment letter from the Raichur Corporation for water supply.
4. Four seasons data for ambient air quality monitoring with predominant wind direction.

Accordingly ToRs were issued vide letter dated 22.05.2013.

The proponent vide letter dated 19.03.2016 have requested for extension of validity of ToR for one more year to complete the EIA report, as they are not able to finalize the draft EIA report due to delay in finalizing certain design details. The Authority perused the representation of the proponent in its 116th meeting held on 31st March 2016 and had decided to extend the validity period for further period of one year ie., till 21.05.2017.

The proponent has submitted the EIA report vide letter dated 21.04.2017 which was received on 11.05.2017.

The proposal is therefore placed before the committee for EIA appraisal.

The proponent and Environmental Consultant from M/s. ABC Techno Labs India (P) Ltd attended the meeting of SEAC to provide required information/clarification.

The committee noted that the Environment consultant present in the meeting is not the EIA coordinator and has come without freezing the project boundary.

The committee therefore decided to defer the proposal providing one more opportunity to the proponent to present the proposal in the next meeting. The committee also asked the proponent to submit the village map duly marking the project site, details of nala/water bodies within the project site and required buffer zone provided as per the norms.

The proponent was invited to provide required clarification/additional information.

While appraising the proposal the committee observed that the Layout proposed is in the land belonging to Potagal and Yaramarus villages of Raichur Taluk. The Proponent has stated that there is no kharab land in the entire extent. He has also stated that in the survey no 269 of Potagal village the water pond shown is a private one and not reflected in any of the revenue records, except the village survey map.

While appraising the proponent has accepted to have a relook on the extent of kharab land and he has stated that if there is any discrepancies in survey numbers made out in the application and appraisal material, he will submit the revised application. The committee observed that the TOR for the project was issued in the year 2013 and further extended up to 21st May 2017 and hence the extended period is also lapsed. The proponent was suggested to get the extension from the Authority and come for the appraisal for which the proponent has agreed.

In view of the above the committee decided to defer the subject and give one more opportunity to the proponent to present the proposal with required information.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

- 188.2 Establishment of EPIP Industrial Area II Phase, Ganjimutt Village, Mangalore Taluk, Dakshina Kannada District. 38.87 Ha (96.05 Acres) of CEO & Executive Member, Karnataka Industrial Areas Development Board (KIADB), 14/3, 2nd floor, Rashtrothana Parishat (RP) Building, Nrupathunga Road, Bangalore (SEIAA 8 IND2013)

Name of the Applicant: Sri. Onkar Murthy, Development Officer, KIADB.

Name of the Consultancy Firm: M/s ABC Consultants .

KIADB has proposed to develop EPIP Industrial Area 2nd phase in an area of 96.05 acres near Ganjimutt Village, Mangalore Taluk, Dakshina Kannada District. The project site is located within 500 meters from Ganjimutt Village, Mangalore Taluk, and Dakshina Kannada District. The area lies in the northern latitude of 12°58'31.6" and eastern longitude of 74°57'24.1". Site is well connected by road, rail and air port. Site is well connected with the State Highway, SH 70 north direction and Site is also connected with National Highway 169 north direction, Mangalore International Airport is around 6.8 Km west direction away from the project site. Mangalore Railway Station is about 18 Km from the project site.

Once the industrial plots are completely sold expected establishments are interlinked/interdependent projects such as Garment Industries, I.T/B.T & Electronics, Agro Based Industries, Pharmaceutical industries and general industries.

Following information are furnished in the application:

Presently the land is with shrub in most of the area. KIADB has proposed to acquire lands required for development of Industrial estate and the amenities. KIADB has acquired land from the village near Gunjimutt.

Phalguni(gurupura) river - 3.2 km (S)

Nethravathi river-11.0 km (S)

3.78 MLD of water will be drawn from Phalguni (Gurupura)River for the proposed industrial area .

The power requirement for the proposed development is 6.95 MW and the source of power will be from Mangalore Electricity Supply Company Limited (MESCOM)/KPTCL.

Provision of plots for Police Station, STP, Canteen, electric grid, public transport & solid waste management etc., will be made.

There is a Court case (5837/2011) in High Court Bangalore pertaining to develop industrial area.

The project proponent presented PFR and proposed ToR before the Committee during the 100th meeting of SEAC held on 16th March 2013. Following additional ToRs are to be considered by the project proponent for the preparation of the EIA:

Demarcation of land use within the proposed industrial area.

Impact due to changed land use

Proposal of CETP

Accordingly ToRs were issued vide letter dated 22.05.2013.

The proponent vide letter dated 19.03.2016 have requested for extension of validity of ToR for one more year to complete the EIA report, as they are not able to finalize the draft EIA report due to delay in finalizing certain design details. The Authority perused the representation of the proponent in its 116th meeting held on 31st March 2016 and had decided to extend the validity period for further period of one year ie., till 05.04.2017.

The proponent has submitted the EIA report vide letter dated 13.03.2017 which was received on 15.04.2017.

The proposal is therefore placed before the committee for EIA appraisal.

The proponent and Environmental Consultant from M/s. ABC Techno Labs India (P) Ltd attended the meeting of SEAC to provide required information/clarification.

The committee noted that the Environment consultant present in the meeting is not the EIA coordinator and has come without freezing the project boundary.

The committee therefore decided to defer the proposal providing one more opportunity to the proponent to present the proposal in the next meeting. The committee also asked the proponent to submit the village map duly marking the project site, details of nala /waterbodies within the project site and required buffer zone provided as per the norms.

The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee observed that the original application made out earlier is to an extent of 38.88 hectares, but now the appraisal material states that the extent involved is 42.16 hectares. Also the ToR for this proposal has been issued in the year 2013, and further extended up to 5th April 2017. Hence it needs further extension which has not been obtained so far. The proponent has agreed to comply with the above basic lacunas and come for the appraisal for which the proponent has agreed.

In view of the above the committee decided to defer the subject and to give the proponent one more opportunity to submit the information sought by the committee including the information asked in the earlier meeting.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

- 188.3 Ammendment in Environmental Clearance to include Red Category Industries at Dobaspet 4th Phase Industrial Area in the Villages of Yedehalli, Chandana Hosahalli, Honnenahalli, Kengal Kempohalli, Avverahalli, K.G.Srinivasapura, Billanakote, Nelamangala Taluk, Bangalore Rural District by KIADB-DABASPET - NELAMANGALA (SEIAA 20 IND 2017)

The Proponent has obtained Environmental Clearance for the above said proposal on 27-08-2015, and is seeking ammendment to EC to include Red category industries at Dobaspet 4th phase Industrial Area. As per the TGR Notification, Dated:18-11-2003, the entire area of Dobaspet 4th phase falls under Zone-I.

In this regard, the Proponent has applied for EC amendment. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

While appraising the proposal the proponent has stated that the lands for this project have been acquired beyond 100 meters from the habitat as per the guidelines of C&I Department. The proponent has also stated that in case of water bodies the lands have been acquired up to the edge of water bodies and while preparing the development plan, he has left buffer as per NGT order of dated: 4th May 2016. The committee deliberated on the siting guidelines for setting up of Red category industries and found that the proponent has failed to furnish the required information.

The proponent also submitted that while allotting land to the industries they will impose conditions to compulsorily install effluent treatment plant with zero liquid discharge, to maintain the air emission within the prescribed standards of the Central Pollution Control Board and to dispose the hazardous waste such as ETP sludge etc., to the authorised processing agencies.

In the light of the above observations, the committee decided to recall the proponent after submission of the following information.

- 1) To furnish the information to meet the siting guidelines for setting up of Red category industries as stipulated by MoEF & CC/CPCB.
- 2) The actual distance between the habitat(minimum/maximum distance) and the acquired lands is to be assessed properly and submitted.
- 3) If any expansion of the village beyond the gramathana limits has taken place, the same has to be reported citing maximum and minimum distances from the expanded portion.
- 4) The list and nature of industries for which the land has been allotted with the pollution potential is to be submitted.
- 5) Baseline studies should be made afresh and to be submitted.
- 6) Submit the compliance to the earlier EC issued.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

2:30 PM to 4:00 PM

Fresh proposals:

- 188.4 Proposed Commercial Building Project at Sy.Nos.58/2 & 59/2 of Doddanekundi Village, Bengaluru East Taluk, Bangalore District by M/s. Bagmane Developers Pvt. Ltd. (SEIAA 113 CON 2017)

M/s Bagmane Developers Pvt. Ltd., have applied for Environmental clearance from SEIAA for their proposed Commercial building project "Bagmane Taurus 3" in survey Nos.58/2 & 59/2, Doddanekkundi village, K. R Puram Hobli, Bangalore East Taluk, over a plot area of 20,224.00 sqm with the following details:

Total Built-up area	84,996.02 sqm
Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	2Basements + 1Ground floor + 12 Upper floors
Total Landscape Area	8273.0 sqm
FAR Area	59,694.98 sqm
Ground coverage area	5536.83 sqm
Car Parking	1195 Nos
Source of Power	BESCOM
Power requirement	5200 KVA
Backup DG sets	5 x 1500 KVA
Source of water	BWSSB
Water requirements	Construction phase : 20 KLD Operational phase : 350 KLD
Sewage Treatment Plant	350 KLD
Use of STP treated water	Utilization for urban reuse, viz., flushing, Gardening & HVAC
Total Project Cost	208 crores

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee while appraising the proposal, observed that the in original application made out in Form-1A, it is mentioned that the building is of two basements, one ground floor and 12 upper floors. Whereas in the concept plan uploaded to E portal along with the application, it is mentioned that the project is for two basements, one ground floor and 11 upper floors excluding terrace for which the proponent stated it is due to typographical error.

The committee after discussion and deliberation decided to reconsider the proposal after obtaining following information:

- 1) The proponent to submit the revised Form IA after correcting the typographical error and to upload to E portal.
- 2) As far as traffic study is concerned the status of the connecting road moves from D category to F category at the end of three years. The proponent to submit the detailed mitigative measures to improve the status.
- 3) The proponent to relook into the storm water management plan within the site keeping in view the carrying capacity of the drain.

- 4) The proponent to monitor and submit the air quality data for 24 hours.
- 5) The proponent to submit the detailed energy conservation measures adopted in selection of the building material.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

188.5 Proposed construction of Residential Building Project at Sy.Nos.61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District by M/s. Wonder Projects Development Pvt. Ltd. (SEIAA 114 CON 2017)

M/s Wonder Projects Development Pvt Ltd., has proposed to develop a residential apartment buildings project at Survey Nos.61/2, 62, & 63/2 of kasavanahalli village, Varthur Hobli, Bengaluru East Taluk, Bengaluru. The proposed project will be developed on a plot covering a land area of 50,382.91 sqm(12.45 acres) with following details:

Name of the Project	Proposed Residential Building Apartment project by M/s Wonder Projects Development Pvt Ltd.,
Total Built-up area	1,28,193.9 Sqm
Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	2 Blocks with 2 Basements + Ground Floor+20 upper floors
Total Landscape Area	21667.7 sqm(45.2%)
FAR Area	39,423.70 sqm
Ground coverage area	5536.83 sqm
Car Parking	877 Nos
Source of Power	BESCOM
Power requirement	Construction Phase : 500 KVA Operational Phase 3499 KW
Backup DG sets	1x320 KVA & 1x500 KVA DG sets : Block 1 1x380 KVA & 1x500 KVA DG sets : block 2
Source of water	BWSSB & borewells
Water requirements	Operational phase : 534 KLD
Sewage Treatment Plant	210 KLD and 280 KLD of SBR technology
Use of STP treated water	Utilization for flushing & Gardening purpose

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee appraised the proposal considering the information provided by the proponent and while appraising the proposal, the committee observed that there is a lake on the northern side and also a nala running across the land. The proponent has

stated that they have left 75 meter buffer zone for the lake and 50 meter buffer on either side of the nala. The committee also observed that there is a variation in the traffic study details between the original application and the presentation material. The proponent has stated that it is due to the error while calculating the details and submitted that the LOS will remain as "C" (towards Sarjapur) and "D" (towards outer ring road) even after the completion of the project. The committee advised the proponent to submit the revised traffic study details accordingly. The proponent also stated that they are planning to get LEED certificate and complying with IGBC norms.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

1. The proponent shall submit the revised traffic study details.
2. Point recharging to the existing borewell shall be done by using harvested rainwater.
3. Budget Provision shall be made for greenery development.
4. The proponent shall adopt disinfection instead of chlorination as the chloride content in the nearby lake is found to be exceeding the limits.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

188.6 Proposed construction of Residential Development Project at Khata No.423, 17 & 30, Sy.Nos.98/2, 100 & 101 of Nagasandra Village, Yashwanthpur Hobli, Bengaluru North Taluk, Bengaluru District by M/s. ARVIND INFRACON LLP (SEIAA 115 CON 2017)

M/s Arvind Infracon LLP has submitted a proposal to develop a Residential Apartment with 470 units having a total built-up area of 70,019.71 sqm at Khata No.423,17 and 30, in sy nos.98/2, 100 and 101, Nagasandra village, Yeshwanthpur village, Yeshwanthpur Hobli, Bengaluru North Taluk, Bengaluru with following details:

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mr. Deepak Manchanda- Authorized signatory, M/s. Arvind Infracon LLP, No-17/2-6, 3rd Floor, Raheja Point, Commissariat Road, Ward no -76, Richmond Town, Bangalore - 560 025.
2	Name & Location of the Project	M/s. Arvind Infracon LLP, No-17/2-6, 3rd Floor, Raheja Point, Commissariat Road, Ward no -76, Richmond Town, Bangalore - 560 025.

3	Co-ordinates of the Project Site	13.045874, 77.502015
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.,)	Not Applicable
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A 222 of 2014 dated 04.05.2016, if Applicable.	Not Applicable
5	Type of Development	
a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital /other	Residential Apartment
b.	Residential Township/ Area Development Projects	
6	Plot Area (Sqm)	15,630.92 Sq m
7	Built Up area (Sqm)	70,019.71 Sq m
8	Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	2 Basement + Ground + 19 upper Floors + Terrace
9	Number of units in case of Construction Projects	Number of Units: 470 No's
10	Number of Plots in case of Residential Township/ Area Development Projects	NA
11	Project Cost (Rs. In Crores)	113 Crores
12	Recreational Area in case of Residential Projects / Townships	
13	Details of Land Use (Sqm)	
a.	Ground Coverage Area	2,883.09 Sq m
b.	Kharab Land	859.95 Sq m
c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of the EIA notification, 2006	4,874.42 Sq m
d.	Internal Roads	-
e.	Paved area	-
f.	Others Specify	-
g.	Parks and Open space in case of Residential Township/ Area Development Projects	7013.46 Sq m
h.	Total	15,630.92 Sq m
14	Details of demolition debris and / or Excavated earth	
a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	
b.	Total quantity of Excavated earth (in	17,298.54 m3

	cubic meter)	
c.	Quantity of Excavated earth propose to be used in the Project site (in cubic meter)	The 949.59 m3 excavated earth will be used for landscaping of gardens
d.	Excess excavated earth (in cubic meter)	Rest of 2,437.21 m3 of excavated earth will be used within the project site etc.
e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	NA
15	WATER	
I.	Construction Phase	
a.	Source of water	Tankers
b.	Quantity of water for Construction in KLD	20 KLD
c.	Quantity of water for Domestic Purpose in KLD	5 KLD
d.	Waste water generation in KLD	4 KLD
e.	Treatment facility proposed and scheme of disposal of treated water	There will be no treatment in the construction phase.
II.	Operational Phase	
a.	Total Requirement of Water in KLD	Fresh 278.5 KLD Recycled 70.5 KLD Total 349 KLD
b.	Source of water	BWSSB
c.	Waste water generation in KLD	314 KLD
d.	STP capacity	350 KLD
e.	Technology employed for Treatment	Sequential Batch Reactor
f.	Scheme of disposal of excess treated water if any	NA
16	Infrastructure for Rain water harvesting	
a.	Capacity of sump tank to store Roof run off	100 cum
b.	No's of Ground water recharge pits	15 No's
17	Storm water management plan	Enclosed.
18	WASTE MANAGEMENT	
I.	Construction Phase	
a.	Quantity of Solid waste generation and mode of Disposal as per norms	
II.	Operational Phase	
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	705 Kg/day Will be treated in Organic Waste Converter.
b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	470 Kg/day Will be handed over to Authorized vendors.
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	NA
d.	Quantity of E waste generation waste generation and mode of Disposal as per norms	NA
19	POWER	

a.	Total Power Requirement -Operational Phase	1920 KVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	500 KVA - 2 No's
c.	Details of Fuel used for DG Set	2 Litres per Hour
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	NA
20	PARKING	
a.	Parking Requirement as per norms	529 No's
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	
c.	Internal Road width (RoW)	

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee while appraising the proposal observed that the information submitted is incomplete and after deliberation and discussion decided to reconsider the proposal after submission of the following information:

- 1) To upload the additional information submitted dated : 18-11-2017 to E portal
- 2) To submit Baseline data.
- 3) To conduct surface water analysis of the nearest downstream lake and to submit the report.
- 4) To submit the details of number of recharge pits, their dimension and location.
- 5) To mark and submit the location of Environmental sensitive points within the five kilometre radius.
- 6) To submit the EMP budget details.
- 7) To submit the detailed energy conservation measures adopted in selection of the building materials.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

188.7 Proposed Residential Apartment project at 8/2 of Allasandra village, Yelahanka Hobli, Bangalore North Taluk, Bangalore Urban District by M/s. Axis Concepts Capstone Pvt. Ltd. (SEIAA 116 CON 2017)

M/s Axis Concepts Capstone Pvt Ltd., have applied for Environmental Clearance form SEIAA for their proposed Residential Apartments at Survey number 8/2, of Allasandra Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore Urban district over a plot area of 10,642.22 sqmts with the following details .

1.	Name of the project	Proposed Residential Apartment by M/s Axis

		Concepts Capstone Pvt Ltd.,
2.	Location of the project	Sy No 8/2 of Allalasandra Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore urban District.
3.	Land use as per CDP	Residential Zone.
4.	Name & Address of the project proponent	Mr Prasanna S K, CEO M/s Axis Concepts Capstone Pvt Ltd # 38, Maini Sadan, 2 nd Floor, 7 th Cross, Lavelle Road, Bangalore-560 001
5.	New/ Expansion/Modification	New
6.	Site Area in Sqmt	10,642.22 Sq mt
7.	Total Built up area in Sqmt	26,595.40 Sqmt
8.	Configuration of the Building (No. of blocks, floors, No. of units)	2 Basements + Ground floor + 15 Upper floors. 142 Units.
	Height of the building	50.70 meters
9.	Land use details (Ground coverage area, park & open space etc.)	Permissible Ground Coverage area is 65%. Proposed Ground coverage area 15.84%. Landscape area of 4322.00 Sqmt.
10.	Source of water & NOC from the competent authority	Source of water from BWSSB. (In process)
11.	Water requirement in KLD	123 KLD
12.	Wastewater generation in KLD	110 KLD
13.	STP capacity in KLD & technology	110 KLD & Sequential Batch Reactor (SBR) Technology
14.	Rain water harvesting implementation, Recharge pits, Storage capacity	Storm water collection Sump - 35.00 Cum with 16 No's Recharge pits
15.	Energy savings	22.1 %
16.	Parking facility provided	Total Car Parking provided is 162 No's
17.	Traffic : nearest road - LOS - Existing & modification	Allalasandra Approach Road; LOS- Existing- A; Modification - A
18.	Cost of the Project	56.05 crore

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee appraised the proposal considering the information provided by the proponent and while appraising the proposal, the committee observed that the project is located in Survey number 8/2 of Allalasandra. In the northern side of the site there is a lake and on the western side beyond the boundary of this project there is a tertiary nala. The proponent has stated that he has left 75 meter buffer for the lake and a buffer zone of 25 meter has been maintained for the tertiary nala which is about 8 to 9 meters away from the boundary of this site. A BBMP road which is the approach road for this project has been formed on the northern side in this proposed land. The 75 meter buffer left for the lake includes the width of this road. The BBMP road which is

constructed in this land is the only approach road for this site. Hence the proponent has agreed to take the approach from this road to the building through elevated road leaving the buffer zone intact except putting up some columns. The proponent has also stated that the fire driveway on the western side is also running in buffer zone and he has agreed to take this also at the elevated level leaving the buffer zone intact except for putting up some columns.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

- 1) The proponent shall submit the revised concept plan by making changes for providing elevated road.
- 2) The proponent shall provide alternate sewage treatment facility instead of septic tank during construction.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

4:00 PM to 5:30 PM

188.8 Proposed Construction of Residential Apartment Project at Sy.No.87/3 of Thanisandra Village, K.R.Puram Hobli, Bangalore East Taluk, Bengaluru District by M/s. AMIGOESTELLA INDIA LLP (SEIAA 117 CON 2017)

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Sri. Mohammed Hamza Ali Partner M/s Amigoestella India LLP, No.37/10, 1st floor, Meane Avenue Tank Road, Opp: Lake Side Hospital Ulsoor, Bangalore - 560042
2	Name & Location of the Project	Proposed Residential Apartment project at Sy. No 87/3, of Thanisandra Village, K.R. Puram Hobli, Bangalore East Taluk, Bangalore Urban District
3	Co-ordinates of the Project Site	Longitude: 77°44'08.72"E Latitude: 12° 58'07.13"N
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.,)	Rachenahalli lake is 1.61 Kms to the Southwest. Tertiary nala is inside site for which 25 m buffer has been left.
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A 222 of 2014 dated 04.05.2016, if Applicable.	Tertiary nala is inside the site for which 25 m buffer has been left. There are no Lakes within 75 m from the site boundary.
5	Type of Development	

	a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital /other	Residential Building
	b.	Residential Township/ Area Development Projects	No
6		Plot Area (Sqm)	7485.70 sq.m.
7		Built Up area (Sqm)	28,075.05 sq.m
8		Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	Basement + Ground Floor + 4 Upper Floor + Terrace Floor with total of 168 units
9		Number of units in case of Construction Projects	Total Number of Units is 168 Nos.
10		Number of Plots in case of Residential Township/ Area Development Projects	-
11		Project Cost (Rs. In Crores)	30
12		Recreational Area in case of Residential Projects / Townships	Playground area - 300 sq.m, Senior Citizen allocated area - 150 sq.m. Cycling track area - 81 sq.m. Total recreational ground area = 561.4 sq.m (7.5% of plot area); Gym and Indoor games on Ground floor: 561.4 sq.m.(7.5% of plot area. Total recreational area = 1122.8m. (15% of plot area)
13		Details of Land Use (Sqm)	
	a.	Ground Coverage Area	3,548.60 sq.m (47.41%)
	b.	Kharab Land	-
	c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of the EIA notification, 2006	2,927.79 sq.m (39.11%)
	d.	Internal Roads	1009.31 sq.m. (13.48%)
	e.	Services	-
	f.	Others Specify	-
	g.	Parks and Open space in case of Residential Township/ Area Development Projects	NA
	h.	Total Net Site area	7485.70 sq.m
14		Details of demolition debris and / or Excavated earth	
	a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	No demolition is involved.
	b.	Total quantity of Excavated earth (in cubic meter)	27,668.70cu.m.
	c.	Quantity of Excavated earth propose to be used in the Project site (in	27,668.70cu.m.

	cubic meter)							
d.	Excess excavated earth (in cubic meter)	Nil						
e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	No disposal						
15	WATER							
I.	Construction Phase							
a.	Source of water	From Nearby treated water suppliers (MoU will be submitted)						
b.	Quantity of water for Construction in KLD	25 KLD						
c.	Quantity of water for Domestic Purpose in KLD	5 KLD						
d.	Waste water generation in KLD	4 KLD						
e.	Treatment facility proposed and scheme of disposal of treated water	The sewage generated during the construction phase will be treated in the Septic Tank and Soak pit						
II.	Operational Phase							
a.	Total Requirement of Water in KLD	<table><tr><td>Fresh</td><td>43.47</td></tr><tr><td>Recycled</td><td>35.91+37.80 = 73.71</td></tr><tr><td>Total</td><td>117.18</td></tr></table>	Fresh	43.47	Recycled	35.91+37.80 = 73.71	Total	117.18
Fresh	43.47							
Recycled	35.91+37.80 = 73.71							
Total	117.18							
b.	Source of water	BWSSB						
c.	Waste water generation in KLD	111.32 KLD						
d.	STP capacity	115 KLD						
e.	Technology employed for Treatment	SBR Technology						
f.	Scheme of disposal of excess treated water if any	No Disposal. The treated water will be reused for toilet flushing, car washing and landscaping in the project site.						
16	Infrastructure for Rain water harvesting							
a.	Capacity of sump tank to store Roof run off	70 cu.m.						
b.	No's of Ground water recharge pits	4 Nos.						
17	Storm water management plan	The storm water from the site will be collected by rainwater harvesting system and will be used for recharging the ground water						
18	WASTE-MANAGEMENT							
I.	Construction Phase							
a.	Quantity of Solid waste generation and mode of Disposal as per norms	No of labours = 75 Nos. Per capita of waste generated = 0.2 kg/day 15 kg/day of waste will be generated. Separate collection bins will be used for organic and inorganic waste. Organic waste will be converted in organic convertor. Inorganic solid waste will be handed over to authorized recyclers.						
II.	Operational Phase							
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	201.6 kg/day. Biodegradable waste will be converted in organic convertor.						

b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	134.4 kg/day. Non- Biodegradable waste will be handed over to authorized recyclers
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	Nil
d.	Quantity of E waste generation and mode of Disposal as per norms	E – waste generation is very less.
19	POWER	
a.	Total Power Requirement - Operational Phase	1000 kVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	1 X 1000 kVA
c.	Details of Fuel used for DG Set	HSD
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	• Energy saved by using Solar water Heater : 25,000kWH/ Year.....(a) • Total SPV Power Generation in a year = 0.6 L kWH / Annum.....(b) • Total Solar Energy utilization (Energy saving using solar heater and solar PV) in a year = (a)+(b)= 0.25+0.6 L KWH = 0.85 L / Annum(c) • Total energy savings = 29.10%
20	PARKING	
a.	Parking Requirement as per norms	One car spacing for 1 unit Total units = 168 +10% visitors Parking required is 184 cars Parking Provided is 202 Ecs which is as Per NBC and MoEF Norms
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	R K NAGAR MAIN ROAD-LOS – C
c.	Internal Road width (RoW)	8 m

The proponent was invited to provide required clarification/information. The proponent remained absent.

The Committee decided to defer the subject providing one more opportunity to proponent with intimation that the proposal will be appraised based on merit in his absence, in case he remains absent.

Action: Secretary, SEAC to put up the proposal before SEAC in subsequent meetings.

188.9 Proposed Construction of Residential Apartment Project at Sy.Nos.6 2/4, 5, 6, 7 & 8 of Nallurahalli Village, K.R.Puram Hobli, Bangalore East Taluk, Bengaluru District by M/s. ANKURAA NITYA VENTURES (SEIAA 118 CON 2017)

M/s Ankura Nitya Ventures have applied for Environmental Clearance from SEIAA for their proposed Residential Apartment project at survey No.62/4, 5,6,7 & 8 of

Nallurahalli Village, K.R Puram hobli, Bangalore East Taluk, Bangalore Urban District over a plot area of 7790.13 sqm with the following details:

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mr. P Balasubramanyam Managing Partner M/s. Ankuraa Sai Nitya Ventures No. 1057/49, Hagadur Village, K R Puram Hobli, Bangalore East Taluk
2	Name & Location of the Project	Proposed Residential Apartment project by M/s. Ankura Nitya Ventures, at Sy. No 62/4, 5, 6, 7 & 8, of Nallurahalli Village, K.R. Puram Hobli, Bangalore East Taluk, Bangalore Urban District.
3	Co-ordinates of the Project Site	Longitude: 77°44'08.72"E Latitude: 12° 58'07.13"N
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.,)	Nallurahalli lake is 455 m to the North. Tertiary nala is inside the site for which 25 m buffer has been left.
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A 222 of 2014 dated 04.05.2016, if Applicable.	Tertiary nala is inside the site for which 25 m buffer has been left. There are no Lakes within 75 m from the site boundary.
5	Type of Development	
a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital /other	Residential Building
b.	Residential Township/ Area Development Projects	No
6	Plot Area (Sqm)	7790.13 sq.m.
7	Built Up area (Sqm)	30,286.92 sq.m
8	Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	3 Wings, each having Basement + Ground Floor + 14 Upper Floor + Terrace Floor with total of 196 units.
9	Number of units in case of Construction Projects	Total Number of Units is 196 Nos.
10	Number of Plots in case of Residential Township/ Area Development Projects	-
11	Project Cost (Rs. In Crores)	30
12	Recreational Area in case of Residential Projects / Townships	Playground area - 300 sq.m, Senior Citizen allocated area - 150 sq.m. Cycling track area - 134 sq.m. Total recreational ground area = 584.25 sq.m. (7.5% of plot area); Gym and Indoor games on Ground floor: 584.25 sq.m.(7.5% of plot area. Total recreational area = 1168.5m. (15% of plot area)
13	Details of Land Use (Sqm)	
a.	Ground Coverage Area	1,639.42 sq.m (21.04%)
b.	Kharab Land	-
c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of	2,656.84 sq.m (34.11%)

		the EIA notification, 2006	
d.	Internal Roads	3,493.87sq.m. (44.85%)	
e.	Services	-	
f.	Others Specify	-	
g.	Parks and Open space in case of Residential Township/ Area Development Projects	NA	
h.	Total Net Site area	7,790.13	
14	Details of demolition debris and / or Excavated earth		
a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	No demolition is involved.	
b.	Total quantity of Excavated earth (in cubic meter)	16003.58 cu.m.	
c.	Quantity of Excavated earth propose to be used in the Project site (in cubic meter)	16003.58 cu.m.	
d.	Excess excavated earth (in cubic meter)	Nil	
e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	No disposal	
15	WATER		
I.	Construction Phase		
a.	Source of water	From Nearby treated water suppliers (MoU will be submitted)	
b.	Quantity of water for Construction in KLD	25 KLD	
c.	Quantity of water for Domestic Purpose in KLD	5 KLD	
d.	Waste water generation in KLD	4 KLD	
e.	Treatment facility proposed and scheme of disposal of treated water	The sewage generated during the construction phase will be treated in the Septic Tank and Soak pit	
II.	Operational Phase		
a.	Total Requirement of Water in KLD	Fresh	50.72
		Recycled	41.89+44.10= 85.99
		Total	136.71
b.	Source of water	BWSSB	
c.	Waste water generation in KLD	129.87 KLD	
d.	STP capacity	130 KLD	
e.	Technology employed for Treatment	SBR Technology	
f.	Scheme of disposal of excess treated water if any	No Disposal. The treated water will be reused for toilet flushing, car washing and landscaping in the project site.	
16	Infrastructure for Rain water harvesting		
a.	Capacity of sump tank to store Roof run off	40 cu.m.	
b.	No's of Ground water recharge pits	12 Nos.	
17	Storm water management plan	The storm water from the site will be collected by rainwater harvesting system and will be used for recharging the ground water	
18	WASTE MANAGEMENT		
I.	Construction Phase		

a.	Quantity of Solid waste generation and mode of Disposal as per norms	No of labours = 75 Nos. Per capita of waste generated = 0.2 kg/day 15 kg/day of waste will be generated. . Separate collection bins will be used for organic and inorganic waste. Organic waste will be converted in organic convertor. Inorganic solid waste will be handed over to authorized recyclers.
II.	Operational Phase	
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	235.20 kg/day. Biodegradable waste will be converted in organic convertor.
b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	156.8 kg/day. Non- Biodegradable waste will be handed over to authorized recyclers
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	Nil
d.	Quantity of E waste generation waste generation and mode of Disposal as per norms	E – waste generation is very less.
19	POWER	
a.	Total Power Requirement -Operational Phase	1000 kVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	1 X 1000 kVA
c.	Details of Fuel used for DG Set	HSD
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	• Energy saved by using Solar water Heater : 25,000kWH/ Year.....(a) • Total SPV Power Generation in a year = 0.6 L kWH / Annum....(b) • Total Solar Energy utilization (Energy saving using solar heater and solar PV) in a year = (a)+(b)= 0.25+0.6 L KWH = 0.85 L / Annum(c) • Total energy savings = 29.10%
20	PARKING	
a.	Parking Requirement as per norms	One car spacing for 1 unit Total units = 196 +10% visitors Parking required is 215 cars Parking Provided is 231 Ecs which is as Per NBC and MoEF Norms
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	ITPL Main Road -Towards Hoodi - LOS - D
c.	Internal Road width (RoW)	8 m

The proposal is placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

While appraising the proposal, the committee observed that there is a tertiary nala running on the southern side of the site for which the proponent has stated that he has left 25 meter buffer zone from the edge of the nala. A portion of fire driveway on the southern side is coming on the buffer zone for which the proponent has agreed to

take this portion of the fire drive way at the elevated level keeping the buffer zone intact except putting up some columns.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

- 1) The proponent shall make some alternate arrangement to reduce the traffic on the road by running shuttle service from the project to the nearest proposed metro station which is stated to be 400 meters from the site, for which a commitment in this regard shall be furnished.
- 2) During the construction period the required construction materials shall be transported in the wee hours when the traffic is less.
- 3) The proponent shall submit the revised concept plan by making changes for providing elevated road.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

188.10 Proposed Expansion of Residential Apartment Project at Sy.Nos.6/1B, 20/3, 20/4, 20/2 and 8/2 of Municipal No.3493, Doddanekundi Village, Varthur Hobli, Bengaluru East Taluk, Bangalore District by M/s. Durga Projects & Infrastructure Pvt. Ltd. (SEIAA 119 CON 2017)

M/s. Durga Projects & Infrastructure Pvt Ltd have applied for Environmental Clearance form SEIAA for their proposed Expansion of Residential Apartment with 504 flats with plot area of 19,728 sqm and builtup area of 79,743 sqm. Now the proponent intends to expand the project which consists of 848 flats Residential Apartment with a plot area of 32,931.02 sqmts. having a built up area of 1,44,705.14 sqm.

1	Name & location of the project with Colored Google map Enlarged CDP map Contour map with RLs Dated site photographs	Survey No's 6/1 B, 20/3, 20/4, 20/2 and 8/2, Municipal No. 3493, Doddanekundi, Varthur Hobli, Bengaluru East Taluk, Bengaluru. Submitted / Enclosed Submitted / Enclosed Submitted / Enclosed -
2	Name of project proponents & address	M/s. Durga Projects & Infrastructure Pvt. Ltd., G K Arcade, 1st Floor, Ashoka Pillar Road, Jayanagar 1st Block, Bangalore - 560011.
3	Name of the consultant and accreditation	M/s. SAMRAKSHAN, F- 4, 1st Floor, Swastik Manandi Arcade, SC Road, Sheshadripuram, Bangalore - 560 020. Phone- 080 23460102.

4	Land use plan, previous land use and land conversion details	The project site is located in Residential Zone as per the Revised Master Plan 2015. (Conversions orders are submitted)			
5	Particulars of sensitive areas and water bodies with distance from the property	Water Bodies (Aerial distance): Doddanekundi lake at 0.75 Km (West), L B Sastry Nagar lake at 2.5 Km (South West), Chinnapanahalli lake at 1.5 Km (South), Whitefield lake at 1.8 Km (East) and Nakkundhi lake at 1.30 Km (North) from the project site.			
6	New/Expansion/modernization	Expansion of Residential Apartment Project			
7	Status organization	Private Limited Company			
8	Documents submitted (mandatory):	Form I ----- Submitted Form I A ----- Submitted Conceptual Plan ----- Submitted			
9	Nature of project	Total no of flats	Building configuration	Total plot area (in sq m)	Total built up area (in sq m)
	Building and Construction project	<u>EC obtained</u> - 504 flats	<u>After expansion:</u> Building configuration: Block A to H Consisting of Basement, Ground and 14 floors, Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. Club House block consisting of Basement, Ground and 2 floors.	<u>EC obtained:</u> 19,728.00 sq m (4 Acres 34.5 Guntas) <u>Proposed addition:</u> 13,203.02 sq m (3 Acres 11 Guntas) After expansion: 32,931.02 sq m (8 Acres 5.5 Guntas)	<u>EC obtained</u> : 79,743 sq m <u>Proposed expansion:</u> Addition of 64,962.14 sq m Total Project after Expansion: 1,44,705.14 sq m
	Township & Area development projects Other (Specify)	NA	NA	NA	NA
10	Height of the building (in meters)	44.95 m			
	Existing Road width in front of the project site (in meters)	50 m Fire station near Mahadevpura at about 6 Kms from			

	Distance to the nearest Fire Station (in km)	project site.	
11	Project cost Rs. (in Lakhs)	1,500 Lakhs	
12	Land records/ particulars submitted	Submitted	
13	Details of source of water	Construction Phase	Operation Phase
		Tertiary treated water will be used	BWSSB Sources.
14	If the source of water is other than BWS&SB, is scientific assessment report along with impact on competitive users enclosed? Does the project comes under grey area? If so status of CBWA permission.	Source of water for the project is from BWSSB Sources. NA	
15	Water requirement (KLD) along with water balance chart	Total water requirement: 602 KLD Wastewater generated: 542 KLD Water recycled for flushing: 191 KLD (Water balance Chart submitted)	
16	Submitted NOC from competent Authority for water supply?	Submitted	
17	Labourers details		
	Location of the laborer camp	Within the project site	
	No. of labourers	250 persons	
	No. of toilets provided for them	30 toilets with bathrooms will be provided	
	Methods of waste/sewage disposal	The liquid waste from workers camps is being disposed through Under Ground Drainage system.	
	Solid waste generated by labourers camp (Kg/day) and its disposal details	62.5 Kg/day - The domestic wastes will be disposed through BBMP.	
18	Excavated Earth: Quantity (in cum) and its disposal plan	The proposed project is residential apartment project having basement floor and earth excavation is necessary. Presently basement works is completed for Block A-H as per the EC obtained, the excavated earth is reuse for backfilling, paved arear formation. In the expansion proposal earth excavation details is presented for proposed blocks viz, J, K, L, M, N & P. The total quantity of excavated soil is about 25,500 cum. About 11,000 cum will be used for landscape development, 8,000 cum will be used for backfilling and 6,500 cum will be used for formation and hardscaping activities within the project site.	
19	If disposed off in others property, agreement for the same	NA as the excavated earth will be reused in the project.	
20	Construction debris	Construction debris is about 50 cum will be used for road formation within the site.	
21	Size of STP (KLD) and Technology adopted with flow diagram	600 KLD capacity STP proposed based on SBR technology	

22	Disposal of excess treated wastewater Is sewer line existing? If not, give the plan for disposal	Treated sewage in the project will be recycled for Toilet Flushing, reused for Landscape development etc., NA		
23	Solid waste generated	Type	Quantity	Mode of Disposal
		Bio degradable	1018 Kgs/day	Organic solid waste will be treated in an organic converter and Inorganic waste will be sent for recycling.
		Non bio degradable	678 Kgs/day	
24	Hazardous waste generated	Type	Quantity (in Cum)	Mode of Disposal
		Waste Oil from DG Set	50 - 100 L/annum	Disposed through KSPCB approved and CPCB register waste oil re-processors.
25	Rain water harvesting proposed with details of recharge pits and collection sump	Roof top rain water will be stored in collection tank and reused for domestic purposed after pretreatment (Filtration). The Proponents shall also Provide Recharging Pits along the inner periphery of the boundary wall with recharging pit of size 1.2 m dia x 2.5 m deep spaced at 20 m center to center. These recharging pits are filled with graded media comprising of Boulder at bottom and with coarse aggregates to facilitate percolation of harvested rain water to Recharge Ground Water table.		
26	Power requirement (in kVA) with source	4250 kVA will be supplied from BESCOM		
27	DG sets details with number and capacity:	EC obtained: 4 X 320 kVA capacity. After expansion: 3 X 500 kVA capacity DG sets are proposed as against EC obtained configuration.		
28	Energy conservation devices proposed in the project and savings in percentage	Low loss energy efficient transformers, CFL's, LED fittings, Ballasts and variable frequency drives for motors and solar street lighting are proposed.		
29	Landscape plan proposed (in sq m and percentage) On natural earth: On podium: Number of trees cut & retained List of tree species proposed (with emphasis on local and fruit/flower bearing species & number	10,326.23 sq m (33.02 %) Project site is barren land About 75 trees of native / indigenous species of trees will be planted at site List submitted		
30	Parking facilities provided Cars Two-Wheelers	EC obtained: 555 cars After expansion: 963 cars		
31	Traffic study details with dated peak hour traffic density photographs;	-		
32	Status of construction	Not Started		

33	Legal issues pending (if any)	None
34	Conceptual plan for your project to be submitted	Submitted
35	Any novel green building concept adopted?	The project is designed as per BDA.

PROJECT AT GLANCE:

PROPOSED PROJECT	Expansion of Residential Apartment Project. (Addition of plot area, floors, blocks, built up area and flats) <u>Reference:</u> Environmental Clearance obtained from SEIAA, Karnataka vide SEIAA letter No. SEIAA 6 CON 2014 dated 09.12.2014.
LOCATION	"Durga Petals" Survey No.s 6/1 B, 20/3, 20/4, 20/2 and 8/2, Municipal No. 3493, Doddanekundi, Varthur Hobli, Bengaluru East Taluk, Bangalore. (NOTE: The additional land of 3 Acres 11 Guntas is located in Survey No. 20/2 and 8/2)
TOTAL PLOT AREA	EC obtained: 19,728.00 sq m (4 Acres 34.5 Guntas) Proposed addition: 13,203.02 sq m (3 Acres 11 Guntas) After expansion: 32,931.02 sq m (8 Acres 5.5 Guntas)
TOTAL BUILT UP AREA	EC obtained: 79,743 sq m Proposed expansion: Addition of 64,962.14 sq m Total Project after Expansion: 1,44,705.14 sq m
TOTAL COST OF PROJECT TOWARDS EXPANSION	Rs. 150,00,00,000/- (Rupees One Hundred and Fifty Crores Only)
PROJECT PROFILE	<u>EC obtained:</u> Activity: Residential Apartment with 504 Flats Built up area: 79,743 sq m Total plot area: 19,728 sq m (4 Acres 34.5 Guntas) Number of blocks: 8 Blocks (A to H) Building configuration: Block A to G Consisting of Basement, Ground and 13 floors and Block H consisting of Basement, Ground and 2 floors and a club house. <u>Proposed Expansion:</u> Additional Flats: 344 Flats Additional Built up area: 64,962.14 sq m Additional Plot area: 13203.02 sq m (3 Acres 11 Guntas) Additional Blocks: Additional 6 Blocks (Namely J, K, L, M, N and P) Building configuration: Addition of 1 floors for Block A to G, addition of floors in Block H and addition of 6 new Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. <u>Scenario after expansion:</u> Activity: Residential Apartment 848 Flats

	Built up area: 1,44,705.14 sq m Total plot area: 32,931.02 sq m (8 Acres 5.5 Guntas) Number of blocks: Total 14 blocks Building configuration: Block A to H Consisting of Basement, Ground and 14 floors, Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. Club House block consisting of Basement, Ground and 2 floors.
CAR PARKING DETAILS	EC obtained: 555 cars After expansion: 963 cars
WATER SUPPLY	The water supply is from BWSSB sources
PROPOSED SANITATION	CFE is obtained for STP of 300 KLD Capacity. However, in the proposed expansion proposal Sewage Treatment Plant (STP) of 600 KLD capacity will be established as against EC obtained.
SOLID WASTE MANAGEMENT	Collection and Segregation at source of generation and the Organic waste will be treated in Organic Converter and the Inorganic Waste will be sent for recycling.
AIR POLLUTION/ NOISE GENERATION SOURCE	EC obtained: 4 X 320 kVA capacity. After expansion: 3 X 500 kVA capacity DG sets are proposed as against EC obtained configuration.

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting to provide required clarification/additional information.

While appraising the proposal the committee observed that the present proposal is for the expansion of the project for which EC has already been issued on 9th December 2014, i.e, before NGT order came into effect. In the earlier proposal the survey numbers provided were 6/1b, 20/3 and 20/4 to an extent of 4 acres 34.5 guntas i.e, 19,728 sqmts. Now, the proponent has acquired additional land in survey number 20/2 and 8/2 to an extent of 3 acres 11 guntas or 13,203 sqmts. In the earlier proposal there were 8 blocks i.e, from A to H, out of which 7 blocks have been tackled and under construction. Now the expansion proposal is for providing one additional floor for A to G blocks and remodelling the H block by providing additional 12 floors. Also the proponent has proposed additional 6 blocks i.e., J,K,L,M,N and P. In blocks J,K,L 2B+G+14UF have been proposed. In block M 2B+G+6UF and in Block N and P B+G+14UF have been proposed by increasing the built up area from 79,743 sqmts. to 1,44,705.14 sqmts. In the additional land acquired in survey No.20/2 there is no kharab land, whereas in 8/2 there is a 5 guntas of kharab land. As per the detailed report prepared by the Chief Engineer, SWD, BBMP there is only one live nala in the southern side of survey number 8/2, whereas the other nalas which are appearing in village survey map are irrigation nalas which are now defunct and development has taken place in the vicinity of this site. The proponent has stated that he has left 35 meter buffer for the nala running in the

southern side of survey No.8/2 and the kharab land which is in the form of defunct nala has been retained as it is and left 25 meter buffer in survey No.20/4 where the block No.H is proposed to be constructed.

The committee after detailed discussion/deliberation decided to reconsider the proposal after submission of the following information:

- 1) To submit traffic study details.
- 2) To submit the structural stability design details vetted by the 3rd party wherever the vertical expansion is proposed.
- 3) To correct and submit the water balance chart as per the presentation.
- 4) To redesign the rainwater storage sump tank to accommodate the storage of rainwater in two consecutive rainy days.
- 5) To submit the planting design with the tree species in the ratio of one plant for every 80 sqmts of the site area.
- 6) To workout and submit the scheme to provide hot water to each floor.
- 7) To rework and submit energy consumption analysis as per energy conservation building code 2009 of Bureau of energy efficiency.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

With the Permission of Chairman, (Reconsideration Proposal)

188.11 Proposed Hirebasuru sand Quarry project in Block No.28 in Tungabhadra River Bed at Sy Nos.1-6, 58 of Hirebasuru Village, Honnali Taluk, Davangere District (6.07 Ha) (15-0 Acres) by Sri Jyothi Chouhan (SEIAA 42 MIN 2017)

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mrs. JYOTHI CHOUHAN # 439/1, Sri Sai Nivas 12th Cross, Bhuvaneshwari Nagara, Hebbal, Kempapura, Bangalore-78 Karnataka State, Ph No. : +91 9448129367/9482572509
2	Name & Location of the Project	"Hirebasuru Sand Block" (Block No.28) in Tungabhadra River Bed, opposite to Survey No. 1-6 & 58 Hirebasuru Village, Honnali Taluk, Davangere District, Karnataka.
3	Co-ordinates of the Project Site	Latitude : N 14° 11' 23.2" to N 14° 11' 51.4" Longitude: E 75° 40' 07.5" to E 75° 40' 26.2"
4	Type of Mineral	Sand

5	New / Expansion / Modification / Renewal	New	
6	Type of Land [Forest, Government Revenue, Gomal, Private/Patta, Other]	Government Revenue	
7	Whether the project site fall within ESZ/ESA	No	
8	Area in Ha	6.07Ha.	
9	Actual Depth of sand in the lease area in case of River sand	1.5m	
10	Depth of Sand proposed to be removed	0.7m	
11	Annual Production Proposed (Metric Tons/ CUM) / Annum	5057Tons	
12	Quantity of Topsoil/Over burden in cubic meter	2974.6 m3 per annum	
13	Mineral Waste Handled (Metric Tons/ CUM)/ Annum	Nil	
14	Project Cost (Rs. In Crores)	0.15cr	
15	Environmental Sensitivity		
	a. Nearest Forest	-	
	b. Nearest Human Habitation	Hirebasuru village is at a distance of 350m.	
	c. Educational Institutes, Hospital	Honnali Taluk.	
	d. Water Bodies	The project lies in Tungabhadra river.	
	e. Other Specify	-	
16	Applicability of General Condition of the EIA Notification, 2006	No	
17	Details of Land Use in Ha		
	a. Area for Mining/ Quarrying	4.249	
	b. Waste Dumping Area	-	
	c. Top Soil Storage Area	-	
	d. Mineral Storage Area	-	
	e. Infrastructure Area	-	
	f. Road Area	-	
	g. Green Belt Area	1.821	
	h. Unexplored area	-	
	i. Others Specify	-	
18	Method of Mining/ Quarrying	Manual Method	
19	Water Requirement		
	a. Source of water	Drinking water & Domestic	
	b. Total Requirement of Water in KLD	Dust Suppuration	21
		Domestic	02
		Other	-
		Total	23
20	Storm water management plan	Nil	

The Project proponent and Environment Consultant attended the 184th meeting of SEAC held on 12th and 13th October 2017 to provide required information/clarification.

The committee appraised the proposal considering the information provided in the Statutory Application Form 1, pre-feasibility report, approved quarry plan, EMP and additional information provided during the meeting. The committee observed that the annual rate of replenishment calculation details is not reflected in the approved quarry plan.

The committee after discussion and deliberation had decided to reconsider the proposal after submission of the following information:

1. Revised quarry plan with replenishment calculation approved by the competent authority.
2. Details of stock yard.
3. Exact distance from the nearest habitat to the block is to be ascertained and its conformation to the norms is to be furnished.

The proponent has submitted revised quarry plan and annual replenishment data approved by the Dept., of Mines and Geology. On perusal of the approved quarry plan the committee has observed that there are inconsistencies in the year wise calculations production shown in table No.4.1 and statement made below the summary of the production and waste shown in table No.4.3. The committee has decided to reconsider the proposal and asked the proponent to set right these inconsistencies and get approved by the competent authority.

The committee after discussion and discussion decided to reconsider the proposal, after submission of the above information.

The proponent and Environmental consultant attended the meeting to provide required clarification/additional information.

The committee perused the replies submitted by the proponent and while appraising the proposal the proponent stated that the stock yard has been identified by the side of the river bank which is in the patta land and has entered into an MOU with the owner of the land. There is a connecting road starting from the river bank upto Hirebasur village which is about one kilometre and is a mud road. Beyond Hirebasur village there is a asphalted road connecting Hirebasur and Benākanahalli. It has been proposed to take up mining by sub dividing the entire block in to sub blocks. The depth of mining proposed is 0.7 meters per annum and total quantity proposed for mining is 26,765 tonns for five years.

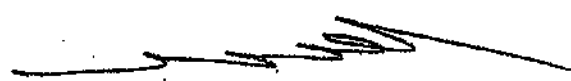
The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

1. In case the replenishment is lower than the approved rate of production, then the mining activity / production levels shall be decreased / stopped accordingly till the replenishment is completed.
2. The Proponent shall submit the stockyard details with MOU.
3. The proponent shall stabilize the river bank with waste materials like pebbles and planting with khus grass and suitable plant species.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

The meeting concluded with thanks to the Chair.


Secretary, SEAC
Karnataka.


Chairman, SEAC
Karnataka.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

APPENDIX 1
(See Paragraph - 6)
FORM 1

(I) Basic Information

Sl. No.	Item	Details
1	Name of the project/s	Proposed Residential Building Project of M/s Wonder Projects Development Pvt. Ltd.
2	Sr. No. in the schedule	8(a), Category B2-Building and Construction project
3	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	Total Plot area: 50,382.91 Sqm (12.45 Acres) Total Built-up Area: 1,28,193.9 Sqm
4	New/ ~~Expansion~~ /Modernization	New Residential units.
5	Existing Capacity/ Area etc.	Plot Area: 50,382.91 Sqm (12.45 Acres)
6	Category of Project i.e. 'A' or 'B'	Category B-Building and Construction project for BUA area >20,000Sqm < 1, 50,000Sqm.
7	Does it attract the general condition? If yes, Please specify.	No
8	Does it attract the specific condition? If yes, Please specify.	No
9	Location	Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru. <u>Geological Coordinates</u> Latitude : 12°54'38.21"N Longitude : 77°40'08.52"E
	Plot/Survey/ Khatha-No.	Survey. Nos. 61/2, 62 & 63/2
	Village	Kasavanahalli Village
	Tehsil	Bengaluru East
	District	Bengaluru Urban
	State	Karnataka
10	Nearest Railway station / airport along with distance in Kms.	1. Carmelaram Railway Station is located at a distance of 4Km* from the project site. 2. Kempegowda International Airport Limited at Devanahalli, 32 km* from the project site. *Aerial distance

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

11	Nearest town, city, District headquarters along with distance in Kms.	Project site falls within Bengaluru City limits.
12	Name of the applicant	M/s. Wonder Projects Development Pvt. Ltd.
13	Registered Address	Godrej Properties Ltd. #80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
14	Address for correspondence :	Godrej Properties Ltd. #80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
	Name	Mr. Mohammed Samiulla
	Designation (Owner/Partner/CEO)	Deputy General Manager
	Address	#80, Hulkul Ascent, 2nd Cross, Lavelle Road, Bangalore - 560 001
	Pin Code	560001
	E-mail	mohammed.samiulla@godrejproperties.com
	Telephone No.	+91 80 4354 5555
	Fax No.	Nil
15	Details of Alternative Sites examined, if any. Location of these sites should be shown on a Topo sheet.	No alternative sites were examined.
16	Interlinked Projects	Nil
17	Whether separate application of interlinked project has been submitted	Nil
18	If yes, date of submission	NA
19	If no, reason	Proposed site is suitable in all the aspects for independent Project.
20	Whether the proposal involves approval/ clearance under: (a) The Forest (Conservation) Act, 1980 (b) The Wildlife (Protection) Act, 1972 (c) The C.R.Z Notification, 1991	This proposal does not require approval /clearance under Forest Act, Wild life Act, & C R Z Notification
21	Whether there is any Government order / policy relevant /relating to the site	Nil
22	Forest land involved (hectares)	No forest land is involved

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at
 Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru

23	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	No
24	Expected cost of the project	Land Cost: 110 Crores Construction Cost: 149.5 Crores Plant & Machinery : 50.5 Crores Total project cost: Rs. 310 Crores

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

(II) Activity

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	The proposed project is being developed on a plot of land measuring about 50,382.91 Sqm; presently the land is vacant & the proponent proposes to develop residential apartments. The contour plan has been enclosed as Drawings along with the EMP report.
1.2	Clearance of existing land, vegetation and buildings?	Yes	The proposed project site/land doesn't require any extensive clearance of vegetation. The existing trees will be retained in green belt development plan within the project site.
1.3	Creation of new land uses?	Yes	The land will be used for development of residential apartments as per the approved plan.
1.4	Pre-construction investigations e.g. bore houses, soil testing?	Yes	Soil investigation has been carried out.
1.5	Construction works?	Yes	As per conceptual plan only.
1.6	Demolition works?	No	No Demolition works are anticipated
1.7	Temporary sites used for construction works or Housing of construction workers?	Yes	Temporary sheds will be provided for storing of construction materials. Total 250 nos. of temporary sheds will be set up for construction workers with 35 toilets 60 urinals & 35 EWC & 35 bathrooms.
1.8	Above ground buildings, structures or Earthworks including linear structures, cut and fill or excavations	Yes	Excavation work will be carried out for foundation of buildings and basements. The total excavated quantity of earth will be approx. 50,000 m ³ for phase 1 and 85,000 m ³ for phase 2. The excavated earth will be reused within the site for ground leveling & also in green belt development activities.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Sl.No.	Information/Checklist confirmation	Yes /No	Details there of (with approximate quantities /rates, wherever possible) with source of information data
1.9	Underground works including mining or tunneling?	No	NA
1.10	Reclamation works?	No	NA
1.11	Dredging?	No	NA
1.12	Offshore structures?	No	NA
1.13	Production and manufacturing processes?	No	NA
1.14	Facilities for storage of goods or materials?	Yes	During construction phase the construction materials will be stored in the temporary sheds within the site. During operation phase, DG lube oil will be stored in a designated place and the diesel will be stored in a leak proof tank. Waste oil from DG sets will be stored in leak proof containers on impervious floors in a designated place within the site premises.
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?	Yes	During operation phase, the solid waste will be collected separately as biodegradable (Organic) and non-biodegradable (inorganic/recyclable) in the respective bins provided. ✓ Recyclable waste will be handed over to the authorized vendors for further processing. ✓ STP sludge will be used as manure for gardening. ✓ E-Wastes generated will be handed over to authorized E-Waste processors. The domestic sewage will be treated in STP Refer STP feasibility report attached as Annexure 4 with this report.
1.16	Facilities for long term housing of operational workers?	No	No long term housing of operational workers shall be provided.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.17	New road, rail or sea traffic during construction or operation?	No	The existing transport infrastructure facility will be used.
1.18	New road, rail, air, waterborne or other transport infrastructure including new or altered routes & stations, ports, airports etc?	No	Not Applicable as this is a construction project.
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?	No	There is no change in the existing route or the traffic movement. Traffic pattern in the approach road during construction and operation phase is expected not much variation as this is residential building. A detailed Traffic Density Study has been carried out to assess the changes in the existing traffic scenario. Report for the same is attached as Annexure 3
1.20	New or diverted transmission lines or pipelines?	Yes	New electrical and water supply lines shall be arranged for the project.
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	No such proposals of impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers shall be done at the project site.
1.22	Stream crossings?	Yes	A primary nala connecting to Kaikodrahalli lake is crossing across the project site. 50 m buffer on both side are provided as per the NGT specifications.
1.23	Abstraction or transfers of water from ground or surface waters?	No	Construction phase: Tertiary treated water will be used for curing and dust suppression during construction phase. Concreting and Domestic water requirements during construction shall be met by external authorized supplier. Operation phase: Water requirements will be met by BWSSB & treated water from STP of capacity 210 KLD and 280 KLD.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.24	Changes in water bodies or the land surface affecting drainage or run-off?	Yes	Runoff will increase due to increased paved surface. Hence the runoff from the project site will be recharged to ground water aquifer by implementing well designed Rain water harvesting system.
1.25	Transport of personnel or materials for construction, operation or decommissioning?	Yes	During construction phase: Raw materials for construction works will be transported by trucks and the no. of trips will be scheduled only during non peak hours. The transportation trucks will be covered with tarpaulin sheets. to avoid dust emissions. During operation phase: Adequate parking space will be provided as per the approved plan.
1.26	Long-term dismantling or decommissioning or restoration works?	No	Not applicable
1.27	Ongoing activity during decommissioning which could have an impact on the environment?	No	NA
1.28	Influx of people to an area in either temporarily or permanently?	Yes	Construction Phase: There will be temporary influx of about 1100 Nos. of construction laborers will be employed. Operation Phase: There will be an influx of residential people of about 4014 nos. and also the management staffs, security guards and visitors commuting on the project site.
1.29	Introduction of alien species?	No	NA
1.30	Loss of native species or genetic diversity?	No	NA
1.31	Any other actions?	Yes	Rainwater harvesting system has been proposed to conserve water.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

2. Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non renewable or in short supply):

Sl.No.	Information/checklist confirmation	Yes /No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)	No	The proposed project site is undeveloped.
2.2	Water (expected source & competing users) unit: KLD	Yes	Construction phase: Approx. : 150 KLD Source: Tanker/Treated water. Operation phase: Residential units of 655 with a population of 4014 souls. Approx. : 534 KLD of water. Source: BWSSB
2.3	Minerals (MT)	No	NA
2.4	Construction material - stone, aggregates, sand/ soil (expected source - MT)	Yes	Block 1: Sand (Cum): 20887Cum Cement (Bags): 298899bags Tiles (sqm): 50000Sqm Steel (MT): 3486MT Granite/Marble(Sqm): 8632Sqm Glass(Sqm): 8400Sqm Block 2: Sand (Cum): 25000Cum Cement (Bags): 360000bags Tiles (sqm): 69000Sqm Steel (MT): 4075MT Glass(Sqm): 12800Sqm
2.5	Forests and timber (source - MT)	Yes	Minimal use of timber for door frames etc., wherever wood may be used.
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)	Yes	Construction phase: 250 KVA for Phase 1 and 250 KVA for Phase 2 from BESCOM 2 X 250 KVA DG set provided for emergency use. Operation Phase: 3499 KW power from BESCOM.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

			Proposed transformer 3 X 500 KVA capacity for block 1 and 3 X 500 KVA & 1 X 250 KVA capacity for block 2. Proposed back up DG sets 1X500 KVA & 1X320 KVA for Block 1 and 1 X 500 KVA & 1 X 380 KVA for block 2.
2.7	Any other natural resources (use appropriate standard units)	No	Nil

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and Water supplies)	Yes	Diesel & lube oil to be used for DG sets during power failure is stored in leak proof containers on impervious floors in the designated places / earmarked locations within the site and will be disposed off through KSPCB authorised re- processors/recyclers.
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)	No	Nil
3.3	Affect the welfare of people e.g. by changing living conditions?	Yes	Socio-economic status will improve. This will lead to better quality of life and also set a standard for future developments in the area.
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,	No	Nil
3.5	Any other causes	No	Nil

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Soil, overburden or mine wastes	No	Excavated earth will be reused for backfilling and landscape development.
4.2	Municipal waste (domestic and or commercial wastes)	Yes	Construction Phase : Total Solid waste of about 495.0 Kg/day from labour camp will be disposed off into BBMP. Operation Phase : Total solid waste: 2.14 MT/day STP Sludge: 24.5 Kg/Day (which includes Biodegradable & non biodegradable waste)
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)	Yes	Waste & used oil from DG sets will be disposed to KSPCB authorized waste oil recyclers. E-Waste (during operation phase) will be handed over to the approved and authorized KSPCB E-Waste recyclers.
4.4	Other industrial process wastes	No	Nil
4.5	Surplus product	No	Nil
4.6	Sewage sludge or other sludge from effluent treatment	Yes	Total STP sludge of 24.5 Kg/Day generated from the proposed activity will be used as manure / organic fertilizer for horticulture within the Project Site.
4.7	Construction or demolition wastes	Yes	Construction waste such as excavated Earth (soil & rock); 50,000 Cum and 80,000 Cum generated for block 1 and block 2, out of which 14,900 Cum and 20,000 Cum will be used within the project site for backfilling for block 1 and block 2 respectively. Non-recyclable waste such as concrete waste, etc. will be used for road construction and all the recyclable wastes such as steel, other metal scrap, etc. will be sold to recyclers/scrap dealers.
4.8	Redundant machinery or equipment	No	Nil

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

4.9	Contaminated soils or other materials	No	Nil
4.10	Agricultural wastes	No	Nil
4.11	Other solid wastes	No	Nil

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources	Yes	There will be vehicular pollution during construction phase and operation phase. Negligible emissions from DG set in case of power failure.
5.2	Emissions from production processes	No	Not applicable.
5.3	Emissions from materials handling including storage or transport	Yes	Fugitive dust emissions due to transportation of vehicles and handling, loading & unloading of construction materials in construction phase.
5.4	Emissions from construction activities including plant and equipment	Yes	Due to construction activity there will be emissions of dust to Air environment. Fugitive emissions during loading & unloading of construction materials, concrete mixers are negligible. An emission from DG sets, graders, levelers etc. only.
5.5	Dust or odors from handling of materials including construction materials, sewage & waste	Yes	During construction phase: There will be dust emission during construction activities which is controlled by water sprinkling at regular intervals. During operation phase: Sewage treatment plant will be well maintained to ensure aerobic conditions. Solid wastes will be collected in closed containers to avoid odour nuisance.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

5.6	Emissions from incineration of waste	No	Not applicable
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)	No	No waste will burn in open air
5.8	Emissions from any other sources	No	Nil

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers	Yes	Construction phase: Noise will be generated from following sources; 1. Construction machinery 2. On-going construction activity Operation phase: Potential noise generating sources during operation phase, vehicular traffic & from DG sets.
6.2	From industrial or similar processes	No	Not applicable
6.3	From construction or demolition	Yes	Noise pollution will be due to various construction activities, transportation of vehicles and operation of DG sets.
6.4	From blasting or piling	No	Not Applicable
6.5	From construction or operational traffic	Yes	Construction phase: Noise will be generated due to trucks carrying the construction material. Operation phase: During operation phase, noise will be generated due to traffic.
6.6	From lighting or cooling systems	No	---
6.7	From any other sources	No	

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials	No	Nil, as the proposed project is Development of Residential Apartments.
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)	Yes	STP of capacity 210KLD for block 1 and STP of capacity 280 KLD for block 2 will be designed to treat wastewater to acceptable standards for utilization as makeup water for flushing, landscaping and car wash etc.
7.3	By deposition of pollutants emitted to air into the land or into water	No	Nil
7.4	From any other sources	No	Nil
7.5	Is there a risk of long term buildup of pollutants in the environment from these sources?	No	Nil

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

Sl.No.	Information/Checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances	Yes	Storage of HSD, fresh and used lube oil are prone to dangers. Care will be taken that these are stored in closed tanks/ containers, away from any possible sources of ignition.
8.2	From any other causes	No	Nil
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?	No	The city lies in seismic zone II. The design of the building is as per the IS 1893: Part (1) 2002 (Criteria for earthquake resistance design of structures - Part 1 General Provisions and Buildings).

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	Lead to development of supporting facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: • Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) • housing development • extractive industries • supply industries • other	Yes	Infrastructure that accompanies proposed include: • STP for treatment and recycling of waste water generated in the project. • Rainwater harvesting • Adequate parking space. Proportionate development of infrastructure, creation of associated tertiary service sector and employments. • Expected in increase of traffic density due to the proposed project, the project site has access to good road networks & hence the increased traffic can be easily handled. Traffic density study report is enclosed as <i>Annexure</i>
Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.2	Lead to after-use of the site, which could have an impact on the environment	No	Not anticipated
9.3	Set a precedent for later developments	No	Not anticipated
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects	Yes	This project is likely to exert more loads on the resources such as water and electricity.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

(III) Environmental Sensitivity

Sl.No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value.	No	Not Applicable
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests.	Yes	Kaikondrahalli lake exist at a distance of 75 m Harlur / Kasavanahalli lake at a distance of 0.800Km
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration.	No	Not applicable
4	Inland, coastal, marine or underground waters.	No	Not applicable
5	State, National boundaries.	No	Not applicable
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas.	No	Not applicable
7	Defense installations.	No	Not applicable.
8	Densely populated or built-up area.	Yes	The Proposed project site is located within Bengaluru city limits.
9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	Yes	Proposed project site is located near to Bellandur, where in all community facilities are available such as Schools, Hospitals etc., exist within 1 Km of radius.
10	Areas containing important, high quality or scarce resources (Ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	No	Not applicable
11	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	No	Not envisaged.

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

12	Areas susceptible to natural hazard which could cause the project to present environmental problems (Earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	No	The site falls under the Zone II as per seismic zone map of India. Hence the proposed area for construction is not susceptible to natural hazard.

(IV) Proposed Terms of Reference (TOR) for EIA Studies.
NOT APPLICABLE.

I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date:

Place: Bengaluru.

Signature of the Applicant

For M/s Wonder Projects
Development Pvt. Ltd.



Authorised Signatory

Proposed Residential Apartment Buildings Project of M/s Wonder Projects Development Pvt. Ltd. at Sy. Nos. 61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru.

Note:

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z. map duly demarcated by one of the authorized agencies, showing the project activities, wrt. C.R.Z. (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.
2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the Authorized Signatory shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the recommendations or comments of the Chief Wildlife Warden thereon (at the stage of EC)".
3. All correspondence with the Ministry of Environment & Forests including submission of application for TOR /Environmental Clearance, subsequent clarifications, as may be required from time to time, participation in the EAC Meeting on behalf of the Authorized Signatory shall be made by the authorized signatory only. The authorized signatory should also submit a document in support of his claim of being an authorized signatory for the specific project".

Revised Master Plan 2015

BANGALORE

2007

Volume - III

ZONING OF LANDUSE AND REGULATIONS

**(Approved by Govt vide G.O. No UDD 540 BEM AA SE 2004,
Dated: 22 - 06 - 2007 as part of the Revised Master Plan 2015)**



BANGALORE DEVELOPMENT AUTHORITY,

4.12 PARK AND OPEN SPACE (P)

4.12.1) Description

The natural and man made features meant for environmental conservation and preservation, including water bodies, forests and drains; parks, playgrounds, burial grounds and crematoria.

4.12.2) Regulations

i) Permissible land uses:

- i. Uses permissible include: Sports grounds, stadium, playgrounds, parks, swimming pools, cemeteries, garden land and crematoria.
- ii. Uses permissible under special circumstances by the authority: Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, libraries, milk booths, HOPCOMS, the area of such use shall not exceed 5% of the total area and shall not be more than G+ 1 floor in any case.
- iii. Setbacks for the above will be decided by the Authority taking into account the surrounding development and traffic scenario in that area.

ii) Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- i. Sewerage Treatment Plants and Water treatment plants
- ii. Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- iii. In case of water bodies a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- iv. If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- v. Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.

NOTE:

Drains: The drains have been categorized into 3 types namely primary, secondary and tertiary. These drains will have a buffer of 50, 25 and 15m (measured from the centre of the drain) respectively on either side. These classifications have been used for the drains newly identified while finalizing the RMP 2015. In case the buffer has not been marked due to cartographical error for any of the above types of drains, then based on the revenue records buffer shall be insisted in all such cases without referring the land use plan while according approval for building/development/ layout plan. Permissions in sensitive areas earmarked on the land use plan shall be considered only by the planning Authority.

ANNEXURE. II

Date: 26.04.2021

Place: Bangalore

TO WHOMSOEVER IT MAY CONCERN

This is to certify that the Proposed High-rise Residential Development Projects Godrej Reflections and Godrej Lake Gardens situated at Sy No. 61/2, 62 and 63/2 of Kasavanahalli Village, Varthur Hobli, Bangalore East Taluk ("Projects"), have been proposed and designed to provide with their own individual Sewerage Treatment Plant (STP) and in the said Projects raw sewage water is treated in the STP and after such treatment the treated water is utilised for the purposes mentioned below. There shall be absolutely no discharge of the treated water or raw sewerage water to the adjoining Kaikondarahalli Lake/Nalas' or any other Lake in any manner whatsoever.

The treated sewage water from the STP is proposed to be utilized for below purposes:

- 1) Water closet flushing purposes to the buildings,
- 2) Landscaping purposes,
- 3) Vehicles Washing
- 4) The parks shall be irrigated in the vicinity of the project and for the construction activities in the vicinity of the project as per the standards provided under the Consent for Establishment issued by Karnataka State Pollution Control Board.

Water Demand Calculation for the Projects is annexed at Annexure I and II.

The details of aforesaid proposal is also as per the standards provided under the Consent for Establishment dated 12.10.2018 issued by the Karnataka State Pollution Control Board.

We are the MEP consultant for the said Projects.

Thanking you,

For DesignTree Service Consultants Pvt Ltd

Madhu N
Team Lead - PHE



DesignTree Service Consultants Pvt Ltd, # 7, Laxmi Narasimha Complex, 100Ft Ring Road, 15th Cross, 4th Phase
J.P. Nagar, Bangalore-560078. GSTIN :29AACCD8210A1Z5 SAC CODE :998332 State Code : 29

Branch Offices : Hyderabad * Chennai * Kolkata * Vijayawada

ANNEXURE I**WATER DEMAND CALCULATION – GODREJ REFLECTION**

Sl.No	Description of Module	Total Units	Occupancy	Total no. of persons	Domestic water demand in lpcd	Flushing water demand in lpcd	Domestic water reqd in liters/day	Flushing water reqd in liters/day	Total water reqd in liters/day
1	1 BHK	27	4	108	90	45	9,720	4,860	14,580
2	2.5 BHK	63	6	378	90	45	34,020	17,010	51,030
3	3 BHK	131	6	786	90	45	70,740	35,370	1,06,110
4	04BHK	35	7	245	90	45	22,050	11,025	33,075
5	04BHK DUPLEX	8	8	64	90	45	5,760	2,880	8,640
6	03bhk spl	1	9	9	90	45	810	405	1,215
7	CLUB HOUSE			159	25	20	3,975	3,180	7,155
Total		265	40	1,749	565	290	1,47,075	74,730	2,21,805

1	Total water requirement per day	Ltr	2,21,805
		Cum	222
2	Domestic water requirement per day	Ltr	1,47,075
		Cum	147
3	Flushing water requirement per day	Ltr	74,730
		Cum	75
4	STP Capacity	KLD	200

For DesignTree Service Consultants Pvt Ltd


 Madhu N
 Team Lead - PHE



DesignTree Service Consultants Pvt Ltd, # 7, Laxmi Narasimha Complex, 100Ft Ring Road, 15th Cross, 4th Phase
 J.P. Nagar, Bangalore-560078. GSTIN :29AACCD8210A1Z5 SAC CODE :998332 State Code : 29

Branch Offices : Hyderabad * Chennai * Kolkata * Vijayawada

ANNEXURE II**WATER DEMAND CALCULATION – GODREJ LAKE GARDENS**

Sl No	Description of Module	Total Units	Occupancy	Total no. of persons	Domestic water demand in lpcd	Flushing water demand in lpcd	Domestic water reqt in liters/day	Flushing water reqt in liters/day	Total water reqt in liters/day
1	1 BHK	37	4	148	90	45	13,320	6,660	19,980
2	2 BHK	185	5	925	90	45	83,250	41,625	1,24,875
3	3 BHK	132	6	792	90	45	71,280	35,640	1,06,920
4	4Bhk Duplex	4	7	28	90	45	2,520	1,260	3,780
5	3Bhk Duplex	2	7	14	90	45	1,260	630	1,890
6	CLUB HOUSE			191	25	20	4,775	3,820	8,595
	Total	360	29	2,098	475	245	1,76,405	89,635	2,66,040

1	Total water requirement per day	Ltr	2,66,040
		Cum	266
2	Domestic water requirement per day	Ltr	1,76,405
		Cum	176
3	Flushing water requirement per day	Ltr	89,635
		Cum	90
4	STP Capacity	KLD	239

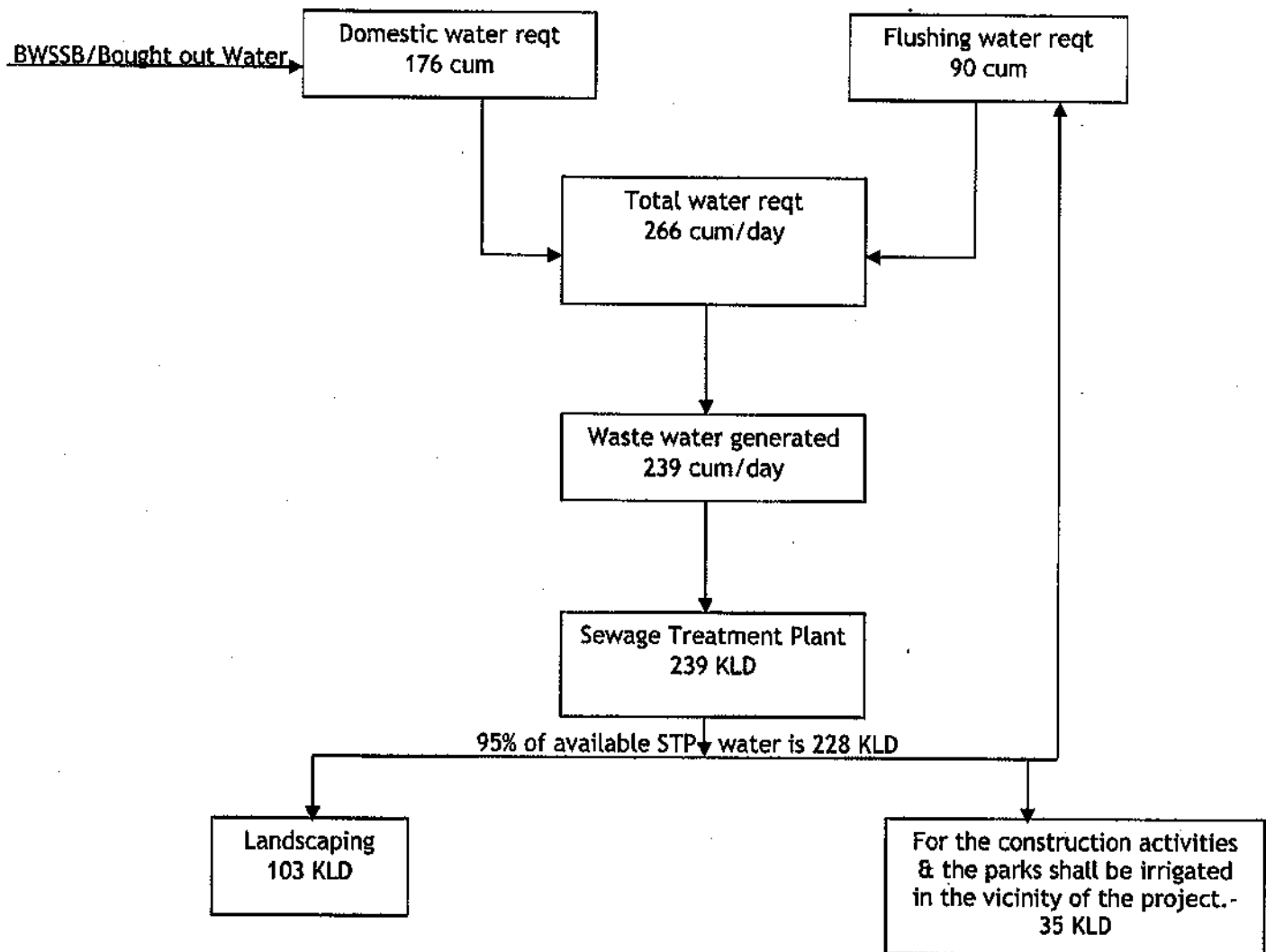
For DesignTree Service Consultants Pvt Ltd


 Madhu N
 Team Lead - PHE



DesignTree Service Consultants Pvt Ltd, # 7, Laxmi Narasimha Complex, 100Ft Ring Road, 15th Cross, 4th Phase
 J.P. Nagar, Bangalore-560078. GSTIN :29AACCD8210A1Z5 SAC CODE :998332 State Code : 29

Branch Offices : Hyderabad * Chennai * Kolkata * Vijayawada

**ANNEXURE IV****WATER BALANCE CHART – GODREJ LAKE GARDENS**

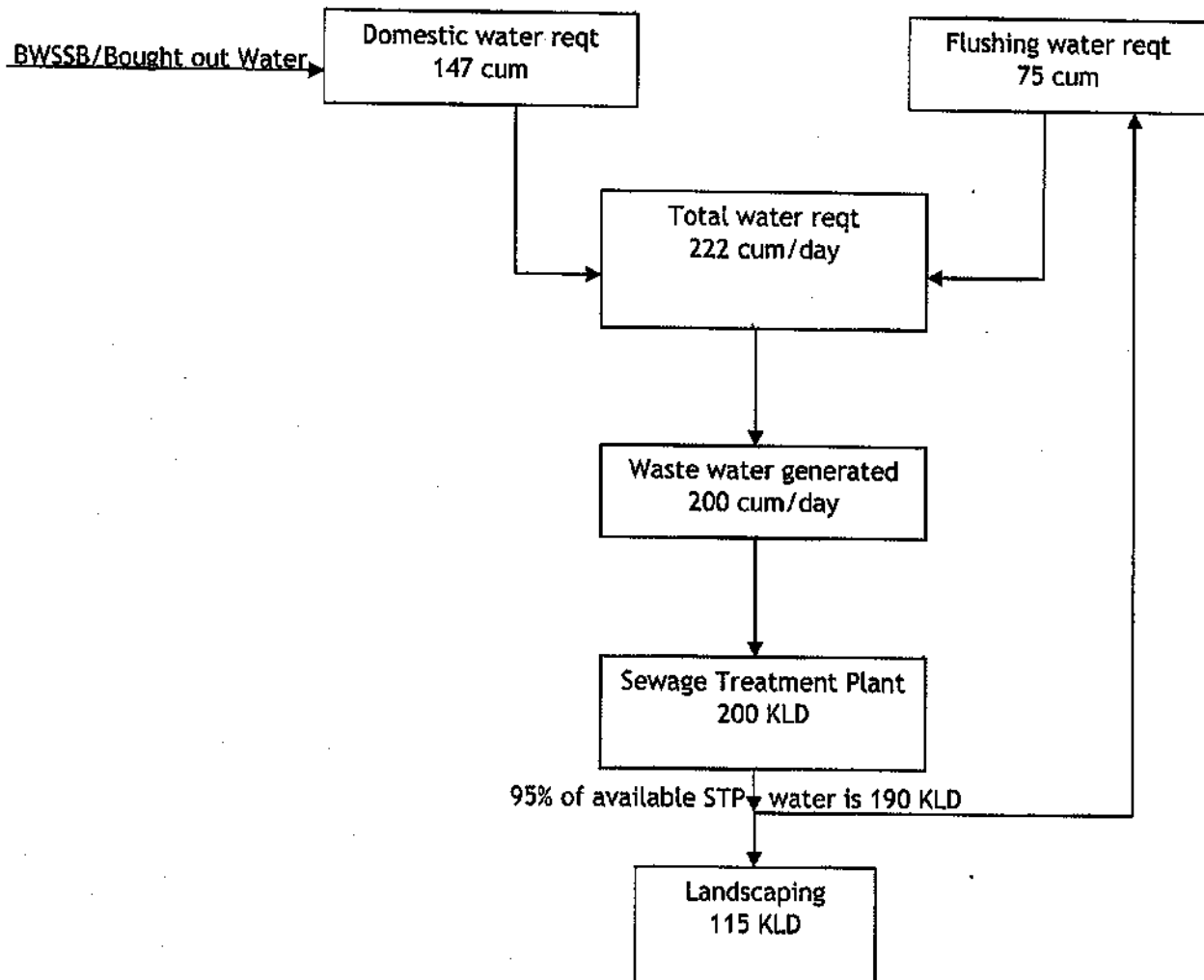
For DesignTree Service Consultants Pvt Ltd

Madhu N
Team Lead - PHE



DesignTree Service Consultants Pvt Ltd, # 7, Laxmi Narasimha Complex, 100Ft Ring Road, 15th Cross, 4th Phase
J.P. Nagar, Bangalore-560078. GSTIN :29AACCD8210A1Z5 SAC CODE :998332 State Code : 29

Branch Offices : Hyderabad * Chennai * Kolkata * Vijayawada

ANNEXURE III**WATER BALANCE CHART – GODREJ REFLECTIONS**

For DesignTree Service Consultants Pvt Ltd

Madhu N

Madhu N
Team Lead - PHE



DesignTree Service Consultants Pvt Ltd, # 7, Laxmi Narasimha Complex, 100Ft Ring Road, 15th Cross, 4th Phase
J.P. Nagar, Bangalore-560078. GSTIN :29AACCD8210A1Z5 SAC CODE :998332 State Code : 29

Branch Offices : Hyderabad * Chennai * Kolkata * Vijayawada

Office Notes

Orders of Court

Appellant, Sri Ashok B. Patil Adv

R1 : RERA

R2 : M/S. Wonder Projects
Pvt Ltd.

Listener's appeal for order
regarding maintainability on
11-02-2021.

Hon'ble Chairman/Hon'ble Judicial Member/
Hon'ble Admn. Member

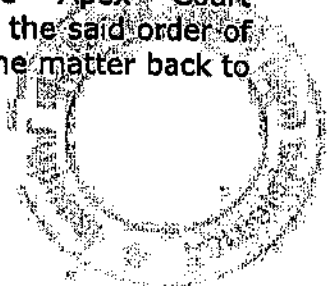
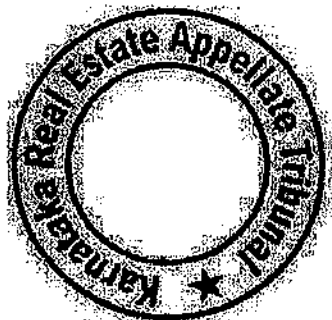
11.02.2021

Heard Sri Ashok B. Patil, learned Counsel appearing for the appellant on interim prayer.

One Mr. Ravi, learned Counsel appeared for respondent No.1/RERA on 18.11.2020, but subsequently none appeared for RERA.

Learned Counsel for the appellant submits that RERA registration certificate granted by the Interim Authority on 29.03.2018 valid for the period from 12.03.2018 to 01.04.2023 and extension of the said certificate by the Chairman of the RERA alone on 18.08.2020 in respect of Phase-I and RERA registration certificate granted by the Chairman of RERA alone on 25.05.2019 valid for the period from 25.05.2019 to 30.08.2024 and its extension granted by the Chairman of the RERA alone in respect of Phase-II of the Project of respondent No.2/promoter are in contravention of the provisions of Section 4(2)(d) r/w Section 2(zq) and Section 3 and Section 21 of the Real Estate (Regulation and Development) Act, 2016 (for short, 'the Act').

He further submits that environment clearance certificate issued by the State Environment Impact Assessment Authority (SEIAA) in respect of Phase-I and Phase II of the Project of respondent No.2/promoter was set aside by the principal Bench of NGT at New Delhi and in the Appeal preferred by the promoter, the Hon'ble Apex Court declined to interfere with the said order of the NGT and remanded the matter back to



Office Notes

Orders of Court

NGT for re-consideration of the issue afresh with a further restraint order that there shall not be further construction of the Project.

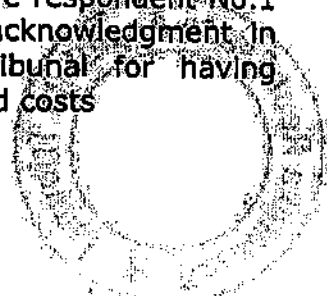
Learned Counsel submits that in spite of bringing the above aspect to the notice of the RERA and seeking stay of RERA registrations and their extension, the RERA failed to grant interim order though has got the said power under Section 36 of the Act.

Learned Counsel submits that the promoter has been constantly violating the provisions of the RERA Act.

After hearing the learned Counsel appearing for the appellant and perusing the Appeal and documents, we prima facie found that RERA certificate issued by Interim Authority in respect of Phase-I and its extension granted by Chairman of RERA alone and RERA certificate issued by Chairman of RERA alone in respect of Phase-II and its extension granted by Chairman of RERA alone are in violation of Section 4(2)(d) r/w Section 2(zq), Section 3 and Section 21 of the Act.

Hence, keeping open the question regarding maintainability, we stay the RERA registration certificates issued in respect of Phase-I and Phase II of the Project of the 2nd respondent and in view of the same we direct the promoter not to carry out any activities in violation of the provisions of the RERA Act till next date of hearing.

Learned Counsel for the Appellant is permitted to take return of one set of Appeal papers and serve respondent No.1 by hand and file an acknowledgment in the Office of this Tribunal for having served and pay required costs



Office Notes

Orders of Court

Immediately to issue notice to respondent No.2 returnable by 09.03.2021.

Office to issue notice to respondent No.2 returnable by 09.03.2021.

List the Appeal on 09.03.2021.

Sd/-
Hon'ble Chairman

Sd/-
Hon'ble Judicial Member

Sd/-
Hon'ble Admn. Member

TRUE COPY

[Signature]
SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU-560 027



OFFICE NOTES

Appellant : Sri Ashok B. Patil, Adv.

R1 : RERA - Sri J.S. Devnath,
Adv.

R2 : Smt. Maneesha Kargori
Adv. for M/s. Argent
Partners

List this appeal for orders
regarding maintainability and
extension of interim order on
26-03-2021.

By

ORDERS OF COURT

Hon'ble Chairman/Hon'ble Judicial Member/
Hon'ble Admn. Member

26.03.2021

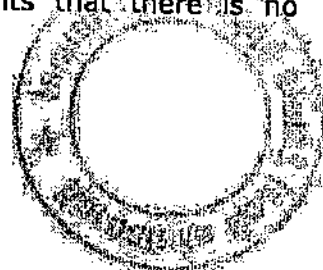
Sri Ashok B Patil, learned Counsel
appearing for the appellant, has argued in
part and Appeal is adjourned to 29.03.2021
for further arguments.

Learned Counsel for the appellant
prays for extension of interim order till the
next date of hearing.

Respondent No.2 has filed objections
opposing the extension of interim order.

Learned Counsel appearing for
respondent No.2 contends that by virtue of
interim order granted in the above Appeal,
the allottees are canvassing that the RERA
registration obtained by the promoter is
cancelled and prays to clarify the same.

Mr. Ashok B Patil, learned Counsel,
submits that there is no ambiguity in the
interim order granted by this Tribunal for
the allottee to make a propaganda as
alleged and he submits that there is no



OFFICE NOTES

ORDERS OF COURT

scope for any modification of the stay order granted.

There is no reason either for the allottees or for any person to apprehend that RERA registration granted in favour of the promoter is cancelled as it has only been stayed by the Tribunal.

List the Appeal on 29.03.2021.

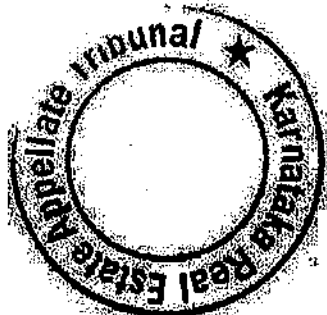
Sd/-
Hon'ble Chairman

Sd/-
Hon'ble Judicial Member

Sd/-
Hon'ble Admn. Member

TRUE COPY

SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU-560 027



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RAJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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Filed Through

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L&L Partners Litigation
vdcosta@luthra.com; asojha@luthra.com
Ph no.-9810232678; 9821396903

Place: New Delhi
Date: 18.06.2021

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018**

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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FILED THROUGH:*Asth*

Venancio D'Costa / Astha

L & L Partners Law Offices

Counsel for the Respondent Nos. 11 & 12

103, Ashoka Estate, Barakhamba Road, New Delhi-110091

Email: vdcosta@luthra.com

Phone: +91 9810232678, +91 9821396903

Place: New Delhi:

Date: 26/08/2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

WRITTEN NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12

MOST RESPECTFULLY SHOWETH:

1. That Survey No. 61/2, 62 and 63/2 of Kasavanhalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru, pertains to the Project Proponent i.e. Respondent No. 11 and 12 herein (hereinafter referred to as 'the property'). Construction of the building "*Godrej Reflection*" started only after obtaining all the necessary approvals. The Project Proponent was granted the following permissions:

Sl No.	Approval required to be obtained	Authority/Board	Date of procurement
1.	Registration of Khata in the name of Wonder Projects Development Pvt Ltd.	<u>BBMP</u>	07.01.2016
2.	Amalgamated Khata	<u>BBMP</u>	20.10.2016
3.	NOC from Airport Authority of India	AAI	20.10.2016
4.	NOC from Bharat Sanchar Nigam Limited	BSNL	26.12.2016
5.	Government Order for Change of Land use from Industrial (Hi-Tech) to Residential As per the Revised Master Plan 2015 the Said Properties falls under Industrial (Hi-tech) zone	UDD - Urban Development Department	24.10.2017
6.	BDA Order- Change of Land Use for Change of Land use from Industrial (Hi-Tech) to Residential	Bangalore Development Authority (BDA)	08.12.2017
7.	Approval for Construction of Drain from Executive Engineer - post approval from Commissioner of BBMP	<u>Storm Water Drain Department of BBMP</u>	02.08.2017
8.	<u>NOC from Fire and Emergency services - Phase -I (Godrej Reflections)</u> (Pg 664 - 665 of the documents filed by Respondent No. 7)	Department of Fire and Emergency Services	22.12.2017
9.	<u>Environmental Clearance</u> from Ministry of Environment and Forests (EC) (Pg. 40-51 of the documents	Ministry of Environment and Forests (MOEF)	10.01.2018

	filed by the Appellant, also at Pg. 463-472 of the documents filed by KSPCB)		
10.	NOC from Bangalore Electricity Supply Company	Bangalore Electricity Supply Company (BESCOM)	21.01.2018
11.	Relinquishment Deed for Block 1 and 2, relinquishing the Park and Open space Area	Bangalore Development Authority (BDA)	17.02.2018
12.	Development Plan approved by Bangalore Development Authority (Pg 270 of the documents filed by Project proponent on 19.05.2018)	Bangalore Development Authority (BDA)	07.03.2018
13.	Registration of RERA (Real Estate and Regulation Act) for Godrej Reflection as per Section 4(2)(d) of RERA Act, Sanction Plan approved from Competent Authority needs to be filed before obtaining RERA certification. Project Proponent have uploaded Development Plan dated 07.07.2017 to RERA for obtaining the approval, which was accordingly, granted	Real Estate and Regulation Act (RERA)	29.03.2018
14.	NOC from Fire and Emergency services - Phase -I (Godrej Lake Gardens) (Pg 666 - 710 of the documents filed by Respondent no. 7)	Department of Fire and Emergency Services	20.04.2018
15.	Building Plan approval from Bruhat Bangalore Mahanagara Palike – Godrej Reflections - but <u>the application was made on 27.11.2017</u> (Pg 436 of the documents filed by Project proponent on 07.02.2019)	<u>Bruhat Bangalore Mahanagara Palike (BBMP)</u>	<u>30.08.2018</u>
16.	<u>Consent for Establishment from Karnataka Pollution Control Board, whereas the Project Proponent started construction of "Godrej Reflection" only in April 2019 and the construction of "Godrej Lake Gardens" has still not commenced.</u> Further, condition 46 of the building license provides that the NOC form KSPCB needs to be submitted by the Developer within 30 days from the date of sanction, which was done by Project Proponent. Hence CFE is not mandatory for obtaining building license. (Pg 429 of the documents filed by Project proponent on 07.02.2019 as well as Pg 495 of documents filed by KSPCB)	<u>Karnataka Pollution Control Board (KSPCB)</u>	<u>12.10.2018</u>

18.	NOC from Bangalore Water Supply and Sewerage Board (Pg 442 of the documents filed by Project proponent on 07.02.2019)	Bangalore Water Supply and Sewerage Board (BWSSB)	30.10.2018
19.	Registration of RERA (Real Estate and Regulation Act) for Godrej Lake Garden, Refer Section 4(2)(d) of RERA Act	Real Estate and Regulation Act (RERA)	25.05.2019
20.	Building Plan approval from Bruhat Bangalore Mahanagara Palike – Godrej Lake gardens	<u>Bruhat Bangalore Mahanagara Palike (BBMP)</u>	28.05.2019
21.	Civic Amenities Site Building Plan Approval	Bangalore Development Authority (BDA)	29.11.2019

2. Post obtaining all the approvals, the Project Proponent commenced construction on 24.04.2019. However, the Appellant herein, without any lawful grounds, and with the aim to harass and browbeat the Project Proponent, to further his malafide intent, filed the captioned Appeal. In the captioned Appeal, all the State Authorities/ Environment Authorities supported the stand of the Project Proponent. However, it was only Respondent No. 5 i.e. BBMP, who contradicted its own action, wherein on one hand it granted all permissions to the Project as shown in Sr. No. 1, 2, 7, 15, 20, above, and on the other hand took a stand of objecting to the Project before this Hon'ble Tribunal. It is relevant to note that BBMP gave its first approval in 2016. Thereafter, BBMP filed its objections before NGT on 05.09.2018. It is relevant to note that post this BBMP on 28.05.2019 sanctioned the Building Plan to the Project Proponent. It is relevant to note that, every Department did due diligence and gave appropriate sanctions, post which they became functus officio. However, a perusal of the above would show that the objections of BBMP are artificially created to harass the Project proponent, as despite objecting to the Project sanctions, BBMP has not withdrawn its sanctions, granted thus far.
3. During pendency of the Appeal two Original Applications (OA) were filed by i.e. *OA No. 602/2019 pertaining to the property*, and *OA No. 281/2019 pertaining to a different property bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73* (hereinafter referred to as "another property") in the matter titled *Mahadevpura Parisaraamrakshane Mattu Abhivrudhi Samiti vs UOI*, alleging environmental non-compliance by some other party near Kaikondrahalli Lake. It is relevant to note that the only commonality in both the OA's is that both the above properties are around the same lake called *Kaikondarahalli Lake, in Bangalore City*. This Hon'ble Tribunal had on 11.03.2019 appointed Joint Committee in

OA No. 281/2019 comprising of KSPCB, BBMP and BDA to survey another property/project bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73. Another Joint Committee came to be constituted by this Hon'ble Tribunal vide order dated 19.07.2019, in OA No. 602/2019 comprising of CPCB, SEIAA, KSPCB and MoEF & CC, specifically to survey 'the property'.

4. The Joint Committee in OA 281 of 2019, filed its report with this Hon'ble Tribunal, *which had no bearing or relevance with the property*. However, on 03.02.2020, Appeal No. 54/2018 and OA 602 of 2019 got listed along with OA 281 of 2019, before this Hon'ble Tribunal. *It is apparent from the records that no report of the Joint Committee constituted in OA No. 602/2019 qua the property, was filed before NGT*. A perusal of page 24 of the report filed in OA 281/2019, would show that "As there is a separate OA 602/2019 on this project, the same will be inspected by the Committee as per the Order dated 19.07.2019 and separate report will be submitted by the Committee." This inspection in OA 602 of 2019, was done by the Committee, on 05.02.2020 giving a separate report.
5. However, before the report in OA 602 could be filed, this Hon'ble Tribunal, while relying on the false representation of the Appellant and Respondent No. 5, passed an order on 03.02.2020, cancelling the Environment Clearance granted to the Project Proponent.
6. Aggrieved by the same the Project Proponent filed a Civil Appeal before Hon'ble Supreme Court bearing no. 1713/2020. On 02.03.2020, the Hon'ble Supreme Court issued notice on the Appeal and directed the Joint committee constituted in OA 602/2019, to file its report before the Registry of the Hon'ble Supreme Court. True copy of the order dated 02.03.2020 is annexed as ANNEXURE A.
7. It is interesting to note that the Joint Committee inspected the site on three occasions i.e. on 26.07.2019, 30.12.2019 as well as on 05.02.2020 (i.e. after passing of the order dated 03.02.2020), wherein the officials of BBMP (Respondent no. 5) were also present, for inspecting the project site, as is evident from a bare perusal of Pg. 15, 16 and 18 of the Report wherein BBMP cooperated with the Committee and did not raise any objections about the environmental compliance of the Project.
8. Finally, on 14.07.2020 the said Joint Expert Committee filed its report with the Hon'ble Supreme Court. The Report categorically and conclusively cleared 'the Project' as environmentally compliant and fulfilling all conditions of EC granted

on 10.01.2018. As such vide judgment dated 11.08.2020, the Hon'ble Supreme Court set aside the impugned order on the ground that this Hon'ble Commission never had the opportunity to go through the report, while passing the impugned order, and remanded the matter back to this Hon'ble Tribunal to decide the dispute upon taking into consideration the Joint Committee report submitted in OA 602/2019.

9. It is submitted that the Joint Committee of experts was constituted in OA 602 of 2019 for inspecting the property. Subsequently, *by order dated 29.07.2019, the MoEF was also added to be a part of the Committee to give wider representation and credibility to the Committee.* It is respectfully submitted that OA 281 of 2019 cannot be compared or brought within the ambit of analysis of the Committee report arising out of OA 602 of 2019. It is an undisputed and admitted position that OA 281 itself says that it does not cover the project in question and that the said project is covered by a separate committee, constituted and formed under OA 602. Therefore, OA 281 itself rules out its report from being evaluated while analyzing the report filed under OA 602. *The report filed by the said Joint Committee is based on scientific and technical inputs/ evidence of environmental experts who studied the issue, made site inspections and only thereafter furnished its report. Thus, it cannot be said that the constitution and report of the experts in OA 281 of 2019 and OA 602 of 2019 are in conflict with each other.* Reliance in this regard is placed on para 81 the judgment passed by the Hon'ble Supreme Court in "*The Director General (Road Development) National Highways Authority of India vs. Aam Aadmi Lokmanch & Ors.*" [2020 SCC Online SC 572], which is annexed as ANNEXURE B.
10. A perusal of the Joint committee report (consisting of MoEF & CC, CPCB, KSPCB, BBMP-SWD Department, Assistant Director Land Records, as members who furnished their reports) would highlight the detailed nature in which the experts of environment matters/ State Authorities have dealt with every single allegation of the Appellant.

Report-page no.	Details as per Affidavit of Compliance filed by KSPCB before Hon'ble Supreme Court
page 3	- Residential Project have not encroached upon or have been constructed in wetlands or Rajakaluves - The construction is being carried out as per modified sanction plan of BBMP leaving Buffer Zones and Drains - The Construction is in accordance with the approved drawings - Adequate space is earmarked with green belt and holding surface run off rain as per EC condition stipulated in KSEIAA
page 9	<i>Godrej has covered only 22.63% of the area against the max permissible</i>

	<u>are of 55%.</u> <u>Further page 35 (of the report) 53.26% of the total are is available for green belt which is more than the required 43%. Thus, complying with SEIAA condition.</u>
Page 11 & Page 33	All the approvals have been procured by Godrej. A list of the same can also be found from Pg 10-12 of the Report
page 14	Concludes that the land utilization is considered as residential use.
page 14	Godrej has obtained confirmation letter of Change in Land Use from BDA on 08.12.2017 for change of land use from Industrial (Hi-Tech) use to Residential use.
page 17	Mentions about the existence of a temporary structure of 2500 sq.ft. which is used as a site office
page 22 & 23	Gives a detailed chart of Godrej complying with the Buffer Zone norms not only as per the judgment of Forward Foundation vs. State but also as per Mantri Techzone vs. Forward Foundation.
page 24	Provides a table highlighting permitted activities in the buffer zone, as per RMP 2015, which includes the existence of 8 mtr driveway, and STP.
page 25 & page 34	States that BBMP has given approval to Godrej to construct U-type RCC drain
page 28	The property is not in Wetland in terms of the definition of International Union for the Conservation of Nature and Natural Resources (IUCN), as well as from the Ramasar Convention. The Report also states that property in question also does not fall under the category of Eco-sensitive Zone
page 32 and page 29	EC issued by SEIAA dated 10.01.2018 mentioned the total built up area as 1,28,193.9 sq. mtrs.sq. mtrs., the proposed project consists of 2 residential blocks. The report further records that the number of units have been reduced to 625 while comparing with EC. Now the total built up area is 1,25,663.06 sq. mtrs.sq. mtrs. Accordingly, the total built up area of the project is less than 150000 sq. mtrs. The Report further records that the EC approved by SEIAA is right as per the threshold limit. As per CFE granted by KSPCB the total built up area of the projects is 1,28,193.9 sq. mtrs. Even as per BBMP's sanction plan dated 28.05.2019 the net built up area is 1,25,663.06 which is much less than the permission granted under EC to construct sq. mtrs.
page 36 and page 37	The Joint Committee at Page 36 records that the Proponent is submitting compliance report on EC and CFE conditions to MoEF & CC and KSPCB. At Page 36 the Committee further records that Environmental Clearance and Consent for Establishment have been granted based on verification of information and documents available on records as per relevant Acts and Rules. Further the said land is not eco-fragile/ wet land and the said land has been classified as Industrial Hi-Tech under the BDA Revised Master Plan (RMP) 2015. Accordingly, the Project Proponent has obtained change of land use from Industrial (Hi-Tech) to Residential. At Page 37 the Committee records that the residential projects in question has not encroached upon or have been constructed on the wetlands and Rajkaluves. The construction is carried out as per the Modified Sanction plan of BBMP by leaving required Buffer Zone of Lake and Drains. The construction is found in accordance with the approved drawings. Adequate space is earmarked for development of Green Belt and holding surface run-off during rain as per EC conditions stipulated by SEIAA.

Pg 53 and 53A	BBMP in its separate report has opined that after verifying the spot, it shows that as per the village map two streams originate from Kasavanhalli lake and flow towards Kaikondrahalli lake. These streams flow in the Survey No. 57 and 63 and since they flow in the Kharab area of the respective survey numbers, the said drain in survey no. 63 is "<u>to be considered as a secondary drain</u>". This report further states that single line drain is spotted and the same is called agricultural drain or feeder channel, and the same ends on the Secondary drain. Since single line drain terminates at Secondary drain the said drain is a Pillu Kaluve, for which Buffer is not applicable. Since these single line drains runs in various Survey Nos., the same is treated as Tertiary Drain. @ Pg 53A, the report further states that the said spot was also verified with respect to RMP-2015, as per which some portion of the eastern part of the project site is marked as valley zone. On verification at spot the drain marked in RMP 2015 is not constructed, however the area earmarked for valley is kept as non-construction zone. On verification buffer at the spot from building line to the center of the valley zone is 34.55 mtrs, which is above the prescribed buffer for Secondary drain (25 mtrs). The said area was verified with the plan sanctioned by BBMP. As informed earlier the nala in survey no. 63 is considered to be Secondary drain. However, the building line of each of the towers is more than 50 mtrs. Away from the edge of the nala. Therefore, it is found that there is no violation of the Buffer area by M/s Wonder Projects and M/s Godrej Properties pertaining to storm water drains in the premises in question. Further permission obtained by Project Proponent for construction of Storm water drain is as per approved drawings.
Pg 55	Qua the issue of concretization by the Project proponent, the construction of RCC box type culvert is also as per the permission granted by BBMP, which has endorsed the same at Pg 55 of the report,

11. With respect to the issue of the Appellant qua the Project Proponent not adhering to the EC, it is a settled position of law that in the event there is **expansion** beyond the approved EC, only then is the **Project Proponent required to obtain fresh Environment clearance**. Reliance is placed on *Keystone Realtors Pvt. Ltd. vs. Shri Anil V Tharthare & Ors.* (2020 (2) SCC 66) annexed herewith as **ANNEXURE C**. In this case, the Court observed that *EIA Notification, 2006, at para 2, imposes restrictions on the execution of new projects and on the expansion of existing projects, until their potential environmental impact has been assessed and approved by the grant of an EC*. The judgment in para 13 further states that the crucial point which must be noted in the said Notification is the phrase, "*expansion with increase in production capacity beyond the capacity for which prior environment clearance has been granted*". However, in the present case there has been no expansion but a reduction in the area granted by the EC, which is also evident from page 29 the report. It records that EC issued by SEIAA dated 10.01.2018 mentioned the total built up area as 1,28,193.9 sq mtrs, consisting of 655 units, however, the Project Proponent have

reduced the units to 625 thereby reducing the total built up area to 1,25,663.06 sq mtrs., which is less than 150000 sq. mtrs. As such, the above action cannot be termed as an expansion. *Furthermore, by reducing the number of units, the Project proponent have endeavored to reduce the population load on the land.*

12. It is submitted that in the marking of Nala's/ Rajakaluve is done based on the revenue records. BBMP has also *notified a map on its official website in this regard.* In the present case, the classification of Nala as Primary happened based on the Village Map of the year 1904. However, when the Joint Committee inspected the site the Storm Water Department of BBMP (i.e. the relevant Authority) on verification opined that the same is in fact a Secondary Nala (Report dated 04.03.2020 (@ Pg 53 of the Report). As such based on the opinion of the appropriate department i.e. Storm Water Department of BBMP, the Joint Committee accepted the conclusion of BBMP that *the streams flowing in survey numbers flow in Kharab area of respective Survey numbers and also since two streams joints together in Survey No. 57 and flow in Survey No. 63, the said drain in Survey No. 63 is to be considered as Secondary Drain.*
13. Furthermore, the allegations of the Appellant (i) that the Kharab land falls in the Nala has also been dealt with by the Storm Water Department of BBMP at Pg 53 of the Report (detailed as above). A perusal of the Village Map (filed at Pg 18 of the Report), would show that the Nala has been categorized as Kharab since 1904 (as is written in Kannada, in the last line), as such the allegation that Kharab land is now falling under Nala, does not hold any water; (ii) The sewage water flowing in the Nala is also falsified from the fact that the expert Joint Committee itself had visited the project in question thrice and has not reported any such illegality by the Appellant; (iii) Project Proponent has constructed the Gas Bank/LPG Tank in the Buffer Zone, is also wrong. The said Gas Bank/ LPG Tank has in fact been constructed on the valley zone (which is also as per the RMP 2015 Regulation 4.12.2, which states that any construction that does not obstruct the flow of the water is allowed, also @ Pg. 199 of documents filed by Project proponent on 19.05.2018) and not on the Buffer Zone, which is also clear from the Report of the Joint Committee which has in fact clarified that the Project Proponent has not undertaken any construction in the Buffer Zone; (iv) Breach of Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, is a false allegation. The said provision talks about obtaining the CFE (at page no. 429 - 435 filed by Project Proponent) before commencing construction. As per the chart of permissions provided above, the CFE was obtained on 12.10.2018, whereas the

Project proponent started construction only in April 2019; (v) Furthermore, Block 1 and 2 is also called as Tower 1 and 2, difference between tower and wing is that each individual building is considered as 1 tower and they consists of several wings which completes the tower, hence, no breach of EC; (vi) CDP of Bangalore was notified in June 2007 under the Town and Country Planning Act, wherein 'the project' was categorized as **Industrial Hi Tech** (also can be seen from the **Joint Committee Report @ Pg 12-14**), further the authority had called for objections before finalizing the said CDP and executing the same, if the said land were to be considered as "wetland" objections qua the same could have been raised and recorded then and the conversion wouldn't have happened. Since no objections were received, the land was categorized as Industrial Hi Tech Zone, post which on 24.10.2017 the land was further converted into residential area by Metropolitan Commissioner, Bangalore Metropolitan Region Development Authority (BMRDA). The Project Proponent have also obtained confirmation letter of change of land use from BDA on 08.12.2017 for the change of land use from Industrial Hi-Tech use to residential use (@Pg 14 of the Report)

14. That the Joint Committee independently and physically visited/inspected the site and measured the distances from the lake and nalas on three occasions, and found to be in compliance with all the parameters as laid down by this Hon'ble Tribunal in the judgment of Forward Foundation vs. State of Karnataka (Original Application No. 222 of 2014), annexed herewith as **ANNEXURE D**, as well as the judgment of Mantri Techzone Pvt Ltd. Vs. Forward Foundation. (2019 SCC Online SC 322), annexed herewith as **ANNEXURE E** which makes the Report of the Committee even more credible. It is relevant to note that in the case of Forward Foundation (*Supra*) this Hon'ble Tribunal provided the distance from the Rajakaluves, waterbodies and wetlands, in para 63 General conditions 1, to be maintained at 75 m from the periphery of Lake boundary, 50 mtrs from the edge of primary Rajakaluve, 35 mtrs from the edge of secondary Rajakaluve and 25 mtrs from the edge of tertiary Rajakaluve. The judgment further recorded that the "offending constructions raised by Respondent no. 9 and 10 such as boundary wall shall be demolished which falls within such areas". Pursuant thereto this judgment was challenged before the Hon'ble Supreme Court in the matter of Mantri Techzone (*Supra*). The Hon'ble Supreme Court in para 60-62 of the said judgment has held that the order of 04.05.2016 (the judgment of Forward Foundations vs. State) is hereby set aside, except the directions issued against Respondent No. 9 and 10 qua the offending constructions (as highlighted above) undertaken by Respondent No. 9 and 10 in that project. As

per the judgment of the Supreme Court, the Buffer limits were restored to 30 mtrs. from Lake Boundary, 50 mtrs. from Primary Nala, 25 mtrs. from Secondary Nala and 15 mtrs. from Tertiary Nala. As such, the position qua the buffer zone as it stood prior to the judgment of this Hon'ble Tribunal in Forward foundation (*supra*) was restored by Mantri Techzone (*Supra*).

15. It is relevant to note that the directions qua the changed buffer limits passed in Forward Foundation (*supra*) was mandated only qua Respondent no. 9 and 10 in that proceeding, as is evident from a perusal of general conditions contained in para 63 of the said judgment which states that "*Thus, we direct the distance in the case of Respondent Nos. 9 and 10 from Rajakaluves, Waterbodies and wetlands shall be maintained as below...*" It is relevant to note that the *aforesaid observation was not maintained for all the projects around Bangalore city, as can be seen from the language of the judgment.* Even otherwise, the Project proponent in the present case has not only complied with the directions of Forward Foundation (*supra*) but also with the directions of Mantri Techzone (*Supra*). (*Reliance is placed on the Joint Committee report, which was prepared by the Committee as well as BBMP, and Clause 4.12.2 (ii) of the Revised Master Plan 2015 (RMP 2015).*)
16. The aforesaid discussion would show that the Project Proponent has *kept the principle of sustainable development in mind while constructing the said project, as is evident from all the compliances done by the Project Proponent, which have also been established by the Joint Committee Report.* As such nothing survives in the present matter. The Appellant has been rising frivolous objections and Respondent No. 5 is blowing hot and cold by sanctioning the permissions and providing reports to the Committee stating that the Project Proponent is in compliance of all its conditions, and on the other hand challenging the said approvals before this Hon'ble Tribunal with the sole purpose to mislead this Hon'ble Tribunal. This clearly shows connivance on the part of Respondent No. 5 with the Appellant herein. Thus, the present Appeal is liable to be dismissed considering all the grounds as mentioned above.

FILED THROUGH:

Astha
Venancio D'Costa / Astha
Counsel for Respondent No. 11 and 12

Place: New Delhi:

Date: 26/08/2020

ANNEXURE. A

ITEM NO.20

COURT NO.1

SECTION XVII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Appeal No(s).1713/2020

WONDER PROJECTS DEVELOPMENT PVT. LTD. & ANR.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.31845/2020-EX-PARTE STAY and IA No.31846/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-03-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s)

Dr. A.M. Singhvi, Sr. Adv.
Mr. Pinaki Misra, Sr. Adv.
Mr. Joy Basu, Sr. Adv.
Mr. V. D. Costa, Adv.
Ms. Astha, Adv.
Mr. Himanshu Sharma, Adv.
Ms. Gauri Goel, Adv.
Mr. Kanak Bose, Adv.
Mr. Faisal Sherwani, AOR

For Respondent(s)

Mr. P.S. Patwalia, Sr. Adv.

Mr. Abhimanue Shrestha, AOR*

Mr. Hetu Arora Sethi, AOR
Mr. Darpan K.M, Adv.
Mr. Rahul Jain, Adv.UPON hearing the counsel the Court made the following
O R D E RIssue notice both on the present appeal as also on the application for *ad interim ex parte* stay.

As prayed for, the respondents may file their respective reply affidavit within a period of ten days. Rejoinder affidavit, if any, be filed by the appellants within one week thereafter.

List the matter after three weeks.

In the meantime, the report in O.A. No.602/2019 shall be filed in the Registry of this Court.

Validity unknown
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SANJAY KUMAR
Date: 2020.03.02
17:42:09
Reason:(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

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Civil Appeal No. 6932 of 2015**(Road Development) National Highways Authority of India v. Aam Aadmi Lokmanch****2020 SCC OnLine SC 572****In the Supreme Court of India****(BEFORE ROHINTON FALI NARIMAN, S. RAVINDRA BHAT AND V. RAMASUBRAMANIAN, JJ.)****Civil Appeal No. 6932 of 2015****Director General (Road Development) National Highways Authority of
India ... Appellant(s);****Versus****Aam Aadmi Lokmanch and Others ... Respondents.****With****C.A. No. 5971 of 2019****C.A. No. 4379 of 2018****C.A. No. 2741 of 2020****(Arising out of Diary No. 19018 of 2018)****C.A. No. 6862 of 2018****C.A. No. 2742 of 2020****(Arising out of SLP (C) No. 28178 of 2018)****C.A. No. 11803 of 2018****C.A. No. 2743 of 2020****(Arising out of SLP (C) No. 1706 of 2019)****C.A. No. 2744 of 2020****(Arising out of Diary No. 1632 of 2019)**

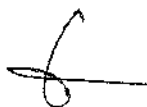
Civil Appeal No. 6932 of 2015, C.A. No. 5971 of 2019, C.A. No. 4379 of 2018, C.A. No. 2741 of 2020 (Arising out of Diary No. 19018 of 2018), C.A. No. 6862 of 2018, C.A. No. 2742 of 2020 (Arising out of SLP (C) No. 28178 of 2018), C.A. No. 11803 of 2018, C.A. No. 2743 of 2020 (Arising out of SLP (C) No. 1706 of 2019) and C.A. No. 2744 of 2020 (Arising out of Diary No. 1632 of 2019)

Decided on July 14, 2020**The Judgment of the Court was delivered by**

S. RAVINDRA BHAT, J.:— Leave granted in SLP (C) Nos. 28178/2018, 1706/2019, Diary No. 19018 of 2018 and 1632 of 2019. With consent of counsel for the parties, they were tagged with the companion civil appeals and heard finally.

2. On 06 June, 2013, when Ms. Vishakha Wadekar, was driving her car with her young daughter, Sanskruti Wadekar she had no inkling that danger lurked round the corner of the highway; over-mining at the height of 75 x 30 ft, in Gut No. 112, resulted in the destruction of a small hill by the side of the national highway. The resultant debris and a part of the hill collapsed and slid down to the road, claiming the lives of Ms. Vishakha and her daughter. The directions made by the Pune bench of the National Green Tribunal, on an application by a registered organization, (the respondent in the appeal, the Aam Aadmi Lokmanch, hereafter "Lokmanch") are the subject matter of the appeals (CA 6932/2015 by NHAI; CA 5971/2019; CA 11803/2018 and CA 6862/2018) before this court. The other appeals by special leave question the judgments and orders of the Bombay High Court, which upheld the regulations framed pursuant to the order of the NGT. The High Court negatived the challenge to those regulations in the writ petitions presented before it.

3. The facts in brief are that the National Highways Authority of India (hereafter "NHAI") had entered into an agreement with M/s P.S. Toll Road (Pvt.) Ltd., a unit/undertaking of Reliance Infrastructure Ltd. (which is arrayed as the ninth respondent; PS Toll Road (Pvt.)


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Ltd. hereafter referred to as "the concessionaire") on 10.03.2010 for the maintenance and operation of the Pune-Satara section of National Highway No. 4, to an extent of 140 kms. The scope of the agreement included construction of the project (i.e. the highway stretch) as well as its operation and maintenance for a period of 24 years. The agreement included stipulations mandating safety to the highway users (clause 18.1.1). The NHAI was duty bound to appoint experienced safety consultants for carrying out safety audits of Project Highways (clause 18.1.2), the expenditure for which was to be borne by the concessionaire (clause 18.1.3). An elaborate highway monitoring mechanism was also contemplated by the agreement (clause 19.1) through which by the seventh of each month, an independent engineer was to furnish a report after due inspection (of the operation and maintenance arrangements), containing defects or deficiencies (clauses 19.2). Additionally, the independent engineer was to require the concessionaire to carry out specified tests for confirming that the highway was operated in accordance with applicable standards (clause 19.3). Other stipulations included, *inter alia*, requirements that the concessionaire had to carry out remedial measures (Clause 19.4.1) within a period of 15 days after receipt of the report of the independent engineer. The concessionaire was put to terms in that if relevant repairs or remedial measures were not undertaken, the NHAI could recover damages in terms of Clause 17.8.¹ Another obligation cast on the concessionaire was to send a periodic report of various occurrences, including "*unusual occurrences on the Project Highway*" such as death or injury to any person (clause 19.6), any obstruction, or "*flooding of Project Highway*".

4. In the meanwhile, the fifth respondent (who has filed CA 5971/2019 against the NGT's order, hereafter referred to as "Rathod") on 03.01.2011 applied to the Government of Maharashtra for a license to extract minor minerals. This license was sought in respect of land bearing survey number 112A to look more to an extent of 5 acres and 93 cents. The license was granted by the appropriate authority of the government. By clause 1 of the terms of this license, the period of the license was two months; clause 5 stated that for extraction and minor minerals digging, work could not exceed more than 20 feet down side of the land surface.

5. Apparently soon after the license was taken over, certain demands were made regarding construction of a connecting road to the village. The materials on record by way of letters written to the local panchayat are to the effect that as a result of construction of the highway and due to the passage of time the existing road had been washed away. Consequently, the 2 km stretch from the left side of the new tunnel going up to the village was virtually non-existent. The panchayat requested that the road should be strengthened and widened.

6. On 31.01.2011, the local authorities of the State government issued a show cause notice to Rathod alleging that debris were stored illegally on the site. It was alleged that this was contrary to Section 48 of the Maharashtra Land Revenue Code, 1966 (hereafter "land revenue code"). Again, on 16.06.2011, the local panchayat issued a notice (which is on the record) stating that as a result of mineral extraction, the natural flow of rainwater was being obstructed. The notice also added that two heavy machines in non-performing condition were lying idle on the land and two JCB machines were also stationed there. Rathore evidently received these notices; this is attested by his replies to the Tehsildar and other local authorities. After obtaining a report from the local officials, the Tehsildar, Bhore issued an order directing payment of Rs. 1,271,200 by Rathod for violation of the land revenue code on account of illegal extraction and use of minor minerals.

7. This activity of excavation and piling of debris, did not go unnoticed on the part of NHAI; it wrote to the Collector of Pune, pointing out that:

"...large scale and indiscriminate excavation in the upper side hills of New Katraj Tunnel at both ends is in progress. Due to this excavation, drainage system above and near tunnel has been affected. This may lead to seepage of water inside tunnel roof thereby collapse of walls and ceiling of tunnel resulting in collapse of tunnel and may lead to major mishap. The collapse in tunnel will block the entire traffic of NH4 from Mumbai/Pune to Bangalore and vice versa leading to chaotic situation."

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8. The letter also mentioned specifically that Rathod had been notified; it sought action from the state government.

9. In the early hours of the morning of 6th June, 2013, due to the monsoon, there was heavy rainfall at Mauje Shindewadi Tehsil, Bhor and the surrounding areas. Water flowing through the hills at Mauje Shindewadi entered the road near the octroi post of the Pune Municipal Corporation, at Mauje Shindewadi Tehsil Bhor, District Pune, on NH-4, with great force. This created an obstacle in the form of a large sheet of water. Under these conditions, when the Alto car driven by Vishakha Wadekar and her daughter Sanskruti, was obstructed, they alighted to wade across to safety; however, the water gushed with great intensity and swept them away, resulting in their death. The resulting magisterial inquiry under Section 176, Code of Criminal Procedure resulted in a report dated 04.10.2013. The Sub-Divisional Magistrate who inquired into the incident appointed an expert, whose report was considered; he also visited the site and held several hearings. During the hearings, pursuant to notices issued to various parties, the statements of Rathod, the local police authorities, eyewitnesses (Abhay Arvind Ranade, Vineet Vasant George and relatives of the deceased), the Project Director (General Manager) of NHAI, the team leader of the independent engineering firm associated with checking quality of maintenance of the highway, etc. were recorded.

10. Soon after the incident, the Lokmanch, through its president, filed an application under Section 14(1) read with Sections 16 and 18 of the National Green Tribunal Act, 2010 (hereafter "the NGT Act"), seeking mandatory injunction to restore natural contours at the foot base of the hill that had been destroyed by Rathod. Besides, general relief by way of directions to other respondents to take necessary action for the protection of hills from destruction and for maintaining foot base design of the hills in the natural survey was sought.

11. The material produced before the NGT by the State of Maharashtra in the form of an affidavit revealed that large scale destruction of hills by individuals and concerns who had been given short term mining licenses, had occurred. According to the affidavit, there were 62 cases, and in many cases "hill-cutting" was resorted to by developers. The state had apparently imposed fines and penalties for these illegal activities.

12. The NGT, in its impugned order, commenting on the role of Rathod, held as follows, while justifying the imposition of liability upon that respondent:

"It appears from the record that land Survey No. 112, is owned by the Respondent Nos. 5 and 6 and their family members. There are hills in the said land. They illegally cut hills without permission and extract minor mineral, which reduced height of hill, circumference of the hill and or peripheral nature, surface of the hill in question. Acts of the Respondent Nos. 5 and 6 made the area of hill fragile, susceptible to danger to the ecology and support of natural soil. In such a case, mere recovery of additional royalty would not be a proper remedial measure. At many places, the hill cutting is noticed prior to and after the pathetic incident and now inquiry is undertaken by the concerned revenue officials."

13. Thereafter, the NGT based on its reasoning that the regulation of some activities, especially involving anything affecting hills has to be strictly regulated, directed as follows:

"12. The question may arise as to what is the meaning of expression 'Hill'. General perception is that it would depend upon ocular assessment of the area, which is rounded land that is higher than the land surrounded by it, but is not expected to be as high as mountain. In other words, it is usually rounded natural elevation of land, lower than a mountain. There is no particular definition of the word 'Hill'. The Oxford Dictionary gives meaning of word 'Hill' as follows:

Hill - noun a naturally raised area of land, not as high or craggy as a mountain, a sloping stretch of road: they were climbing a steep hill in low gear, a heap or mound of something, a hill of sliding shingle.

The wordbook has given meaning of expression 'Hill' as follows:

231 "Hill is an elevation of the earth's surface that has a distinct summit. It has much less surface area than a mountain and is lower in elevation. Hills rise less than

305 metres above the surrounding area, whereas mountains always exceed that height. However, a hill is not simply Small Mountain. It is formed in a considerably different way.

Hills may be classified according to the way they were formed and the kinds of materials they are made of. There are two types, constructional and destructional. Constructional hills are created by a built-up of rock debris or sand deposited by glaciers and wind. Oval-shaped landforms called drumlins and sand dunes are samples of this type. Destructional hills are shaped by the deep erosion of areas that were raised by disturbances in the earth's crust. Such hills may consist of limestone overlying layers of more easily eroded rock."

13. Draft Development Control Regulation Plan (DCR) of Pune is yet not approved by the PMC or Government. The cutting of hill by the Respondent Nos. 5 and 6, created destruction to render a part of land useless, including development thereof for plantation of trees. It goes without saying that the destruction of hill could not have occurred without connivance or at least purposeful act or omission by the Project Proponent i.e. NHAI (Respondent No. 9). It is in the affidavit of Mr. Rajeskumar Kundal, that agreement requires to take necessary steps for stoppage of illegal construction activity at Katraj hill top. However, a Notice dated 25th April, 2011, was issued to the Respondent No. 5 and copy of the same was marked to the Tehsildar, Bhore before occurrence of the incident. The Collector, Pune was requested to look into the matter. The authorities were thus, asked to take appropriate steps for stoppage of illegal activity in order to avoid major mishap and to ensure not to occur. They stated that one Mrs. Vishakha Vadekar, and her daughter died due to water flow, which gushed from the hill top and poured on the road.

14. We do not find any significant material to show that the Respondent No. 9 (NHA) has taken reasonable steps to avoid the untoward incident. We do not find copies of the complaint made by NHA to the authority. Assuming for a moment that such communications were made at the fag end of April, 2011, yet, it was responsibility of NHA to persuade said authority or the higher authority about inaction after 2011. The incident of raining in which Mrs. Vishakha Vadekar and her daughter had flown away, is said to have occurred on 10th July, 2013. Obviously, the Respondent No. 9, appears to have kept silence for about two (2) years, inspite of knowledge that the work of hill cutting was going on. In our opinion, NHA (Respondent No. 9) perhaps was likely to be impliedly benefited due to the illegal act of hill cutting due to availability of murum, stones and soil for the work for its project. The contractor of NHA was, therefore, interested in keeping the fingers crossed.

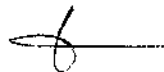
15. Considering probability and circumstances appearing on record, we have no hesitation in holding that there took place degradation of environment to large extent due to hill cutting at Katraj. We have further no hesitation in holding that the hill cutting occurred due to illegal acts of the Respondent Nos. 5, 6 and with or due to act of omission of the Respondent No. 9. They are liable to pay compensation to the legal representatives of the victims of incident in question. They are also liable to pay restitution charges and penalty for causing damage to the environment, in order to avoid such incident in future.

16. We deem it proper to give certain further directions to the concerned authority. In keeping with these findings, we direct:

17. a) The Respondent Nos. 5, 6 and 9 shall pay amount of Rs. 50 Lakhs as joint penalty imposed on them for causing environmental damage in the nearby area of Katraj, due to the hill-cutting.

b) This amount shall be deposited with Collector (Pune) within six (6) weeks, else Collector can recover the amount as arrears of Land Revenue. This amount shall be deposited by Collector in special escrow account, and the amount be spent for environmental protection and conservation activities, including hill protection and conservation in the district.

c) The Respondent Nos. 5, 6 and 9 shall jointly and severally pay amount of Rs. 15 Lakhs towards compensation to the legal representatives of deceased Mrs. Vishakha



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Vadekar, and her daughter if identity of legal representatives is proved before the Collector. The above three (3) Respondents shall immediately within four (4) weeks, deposit such amount in the office of Collector, Pune for payment to the legal representatives of deceased in the incident. The Collector may issue a publication for locating legal representatives of above deceased women for payment of compensation and pay to them compensation after satisfaction of identity of the legal representatives by making due proportion as provided under the relevant provisions of the Succession Act.

d) The Respondent Nos. 5, 6 and 9 shall also deposit amount of Rs. 10 Lakhs with the office of Collector for plantation of trees in order to restore damage caused to environment, though it may not be a sufficient remedy.

e) The Respondent Nos. 1, 2, 3, 4, 7 and 8 shall give instructions to the concerned revenue officials working within all districts to have regular vigil within their areas to verify whether fringes or nearby any hill or hill-top construction is/are noticed and if found to be so, due inquiry may be made as to whether it is authorized or unauthorized. So also, instructions may be issued to the Municipal authorities to ensure that no construction permission shall be given to any construction/development work, which is being proposed and is located at a distance may be of 100 ft. away from lowest slope i.e. incline of any hill within its territorial limits, as well as hill-tops, except for Bamboo cottages.

f) In case of emergency or public purpose, the Hill cutting may be done by the concerned office of the Collector/Commissioner by passing a reasoned order or if so required by Law as provided under the Environment (Protection) Act, 1986 and the Regulations thereunder."

14. Rathod, the NHAI and three other appellants (Pate! India Pvt. Ltd., Fern Constructions (India) Ltd. and D.B. Realty Ltd.) have preferred appeals against the impugned order of the NGT; their grievance is from the general directions issued in the impugned order, implicating buildings near hills.

15. In the second set of matters, i.e. the appeals by special leave, the facts are that acting on the directions of the NGT, the State of Maharashtra invoked its powers under Section 154 of the Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act") and directed, by a notification/circular dated 14.11.2017 that development (relating to construction) was impermissible in an area abutting hills up to 100 feet.

16. By the impugned common judgment, the High Court held that there was no denial that the power to issue such directions or circulars existed by way of the amended Section 154 and that such power was essential. The court further held that no individual or entity could claim any absolute right and contend that he could develop or construct anywhere and that the directions contained in the notification supplemented bye-laws and building codes already in place in Mumbai and Pune. It was also observed that:

"In Regulation 2 we have the definitions and as far as Part II is concerned, that is general planning and building requirements. Regulation 11.1 says that no piece of land shall be used as site for construction of building if the site is hilly and having gradient more than 1:5. Thus, these stipulations are already in place. What the National Green Tribunal brought to the notice of the authorities is indiscriminate cutting of hills in the Katraj Ghat. This unauthorized construction by breaking of hills resulted in an accident. That is why the NGT directed that on hill tops and hill slopes and the portion at the foot of the hill and surrounding 100 feet, no construction activity should be permitted and no development permission be issued and such directions be issued to the Municipal Corporations and Municipal Councils. Bearing in mind that there are in place legal provisions restricting the development activity on hill top and hill slope zones, all that the NGT and this Government Resolution directs is that in cases where there has already been a permitted development activity within 100 feet of the hill, then, no permission for additional construction be granted nor any development be permitted by sanctioning additional Floor Space Index (FSI) or Transferable Development Rights (TDR). In the event in sanctioned development plans if area of the above nature is in buildable zone,

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then, for carrying out development in such zone and while granting individual development permissions, an area of 100 feet surrounding the hills should be demarcated as non-buildable. It can be used as open space, road etc. We are surprised that an order and direction of the NGT traceable to and in accordance with the planning law it challenged before us. Further, the directions of the State Government, which are but reiteration of the existing regulations, are under challenge. The impugned Government Resolution is in consonance with the provisions of the MRTF Act and the constitutional mandate enshrined in Article 21 and 48 thereof.

24. We are not in agreement with Dr. Sathe, Mr. Godbole and Dr. Saraf that merely because such directions are issued in exercise of the powers conferred by sub-section (1) of section 154, the development Plan for the limits of the Municipal Corporations, namely Pune and Mumbai is altered or modified. We are also not impressed by their argument that by such a Government Resolution, a modification is brought about in the Development Control Regulations and all this is without recourse to the specific powers conferred by the MRTF Act. In other words, these are bypassed and by a Government Resolution, the above stand amended. In that regard our attention has been invited to the provisions in the MRTF Act enabling modifications or changes in the Development Plan and the procedure prescribed in that behalf.

25. We do not see any modification to the plan being brought about by the subject Government Resolution. If at all, the directions therein complement the provisions of the Development Control Regulations for the cities of the Mumbai and Pune or the concerned Municipal Corporation/Municipal Council areas. As it is, there was no permission to construct buildings other than a electric sub-stations, water works etc. on hill tops. As far as these slopes are concerned, by their very nature, a hill slides down and if the slope is steep, then, no construction activity can be carried out. There is no guarantee or assurance that any construction activity in such areas would be able to withstand a landslide or accidents, resulting from erosion of the hills on account of natural reasons. It is experienced that human intervention is necessarily not responsible for a landslide, mudslide etc. On account of natural causes and calamities, such events can occur. Apart from that, the occurrence increases because of human intervention including a construction activity carried out at the foot of the hill or on top thereof. It is also possible if the hill is cut from its sides indiscriminately. It is also possible if there is damage to a hill while extracting minor minerals. The hill then becomes uneven. Then, it is not possible to prevent any calamity. Hence, in order to take care of the natural calamities and which have occurred in various places in the State of Maharashtra recently and also on account of unrestricted and unregulated breaking and cutting of the hills resulting in accidents endangering human life and safety that these supplemental directions have been issued. If they are for efficient administration of the Act and if they subserve larger public interest, then no fault can be found with the Government Resolution. Each of the operative directions, namely, serial Nos. 1, 2 and 3 of this Government Resolution subserve this object and purpose. If the Government Resolution has been issued after the attention of the Government has been invited to an accident in Katraj Ghat occurring due to unauthorized and illegal cutting of hills, then, it is not as if the State Government has construed it as a command or a binding order and issued the subject Government Resolution. The attention of the State Government being invited to such illegal and unauthorized so also uncontrolled, unregulated and unrestricted hill-cutting, that in order to prevent the same, the Government stepped in. It took recourse to its power conferred by section 154 of the MRTF Act in order to prevent future occurrences of this nature. If accidents and calamities can be prevented by timely intervention of the State Government in this manner, then, we do not think that on the specious and unsubstantiated pleas of the petitioners, we should strike down the Government Resolution."

17. The NHA in its appeal contends that the NGT fell into error in issuing sweeping directions against it without considering that was no evidence to establish that it was in any way responsible for the degradation of the environment, which led to the tragedy. It is urged by Senior Counsel Mr. P.S. Narasimha that the NGT's findings are contrary to

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established facts and have also resulted in grave miscarriage of justice. He highlighted that there was no material on record to establish that the NHAI was in any way culpable or had failed to perform a public duty or neglected to avert a foreseeable calamity. Elaborating on this, it was urged that the illegal mining activity was not carried on within the right-of-way or the carriageway of the highway. What occurred was the result of an act of God, i.e. extremely heavy rains, which resulted in flooding on the highway caused entirely on account of the debris collected which acted to obstruct the smooth flow of water.

18. It was highlighted that in any case, the NHAI could not be held responsible or made liable for the occurrence which led to the tragedy. Mr. Narasimha also argued that the NGT did not return any finding that the construction of the highway was in any way contrary to environmental clearances or permissions secured by the NHAI. Therefore, the findings of the Tribunal in so far as they pertained to the neglect or alleged omission of the NHAI, were contrary to law. He urged that the findings were illogical and irrational, and deserve to be set aside.

19. The NHAI also highlights that it wrote letters to the local administration on 24.04.2011 and 15.07.2011, seeking its intervention on account of the illegal mining and activities and hill destruction, for which Rathod was responsible. However, the State government did not take any action. Likewise, Rathod did not take any remedial steps or cease the activity. The resultant tragedy entirely on account of the omissions of the state's authorities to take action and the neglect and culpable negligence on the part of Rathod, was the cause of the tragedy and the events which led to the loss of two lives. It was also emphasized that the direction to pay compensation was contrary to legal principles and undermined the law. It was argued that neither the NHAI nor its concessionaire had any control over the activities of the state, which granted the mining licences. Rathod, the licensee, had continued illegal mining in the vicinity causing the accumulation of debris. This in turn, resulted in the obstruction of a culvert which resulted in collection of a large volume of water. A huge sheet of water gushed out into the highway, sweeping away the car, tragically resulting in the death of two individuals. It was argued that in these circumstances, the NHAI could not be saddled with the responsibility of either paying damages to the dependents and legal representatives of the deceased nor could it be made liable to restore the environment through the payment of Rs. 50 lakhs or any part of it.

20. Rathod urges that the NGT's findings against him are contrary to law. He argues that the NGT did not implead those who had standing, i.e. the legal representatives of the deceased; in fact, they had filed a civil suit, claiming compensation against him, as well as the NHAI and the state, for alleged negligence and tortious liability. In those proceedings, the court is bound to record evidence and render findings based on the facts. The NGT could not thus have unilaterally, based on a one-sided view of the materials, held that he was liable.

21. It was submitted that the allegation that Rathod was primarily responsible for degradation of the hill, which clogged the culverts and water channels, resulting in the tragedy, was contrary to the facts. Mr. Vijay Verma, counsel for Rathod, relied on some portions of the magisterial report to say that the NHAI had the report of an independent engineer, who had pointed to certain deficiencies on the part of the concessionaire. Therefore, to hold him responsible for the tragedy, and direct him to pay a huge sum of Rs. 15 lakh and further pay amounts towards environmental damage, was unwarranted.

22. It was argued that the NGT could not have issued directions with respect to payment of any sums, in the absence of any application by the legal representatives of the deceased. It is further argued in Rathod's appeal that apart from issuing notice for recovery of amounts towards alleged illegal mining, neither the state authorities nor the NHAI took any positive remedial action for strengthening the culvert and the catch water drains which were in disrepair, and constructed on the hill above the tunnel for drainage of rainwater. The masonry on the culvert for draining water was choked due to lack of maintenance. Such maintenance was the sole responsibility of the concessionaire and for that, the NHAI had to be held liable. It is also highlighted that Section 18 of the NGT Act mandates that the procedure established by the statute to exercise jurisdiction had to be followed. Since the

legal heirs of the deceased had not applied to the NGT for any relief and had instead approached the civil court claiming compensation on account of wilful neglect and culpable inaction on the part of NHAI, the NGT ought to have left the matter for proper decision in accordance with the evidence led. Instead the NGT took upon itself the task of a judging the appellant as one of those responsible for the incident. It is emphasised that the mining activity carried on was in accordance with the license and if there was any irregularity that was cured on payment of fine. So far as the collection of debris which ultimately led to the overflow of water and the deaths of two individuals goes, it is argued that the proper functioning of the drainage system would have ensured that such collection of vast quantities of water would not have occurred. Therefore, the inaction of the NHAI in taking timely action and intervening with the state authorities, led to the tragic incident. The responsibility for this incident could not have been placed at the doorstep of Rathod. The actions of Rathod, it is stated were too remote and could not have been the subject of damages at all.

23. In the appeals (by special leave as well as the statutory appeals by third parties), where the grievance is on account of the directions issued by the State of Maharashtra under Section 154 of the MRTP Act, the third party appellants challenge the order of the NGT arguing that the provisions of the NGT Act, especially sections 14, and 19 do not authorise that tribunal to issue sweeping and unilateral directions requiring stoppage and cessation of all manner of building activity or developments within hundred feet of hill slopes. It is highlighted that such sweeping directions are illogical and are not based on any scientific study or analysis. It is argued that the NGT has issued general directions couched in a vague manner in para 17(e) of its order.

24. These appellants argue that the Bombay High Court also fell into error and did not appreciate that the entire basis of the Directions/Resolution of 14.11.2017 by the State of Maharashtra were the directions issued by the NGT. Highlighting various provisions of the MRTP Act, learned counsel argued that wherever development codes were formulated, they were in accordance with established principles, after following the prescribed procedure. Based upon these codes and the building regulations framed by various town planning departments, clearances and permissions/approval for development and construction were issued. It was argued that the mandatory and sweeping nature of the directions in para 17 (e) by the NGT has resulted in these directions being embodied in the impugned resolution, which has a catastrophic effect on those clearances.

25. Learned senior counsel, Mr. Shyam Divan, highlights that apart from the fact that the definition of 'hill' is vague, and even the regulations under the MRTP Act are silent in this regard, the NGT failed to consider that the impact of its directions and the impugned notification, in hilly terrains where the population is concentrated in particular areas, in small towns, semi urban and rural areas would be devastating inasmuch as all nature of buildings would be banned. It is pointed out that hill development is based upon consideration of individual local soil conditions, the stability of the surrounding terrain, etc. All these are taken into account by individual local town planning authorities when they permit or refuse permission to individual development or construction projects. The uniform adoption of the "no construction within the hundred feet area" rule, it is submitted, is completely contrary to well-established principles of town planning.

26. It is argued that the directions issued by the state government impugned in the writ petitions before the Bombay High Court, are contrary to the provisions of the MRTP Act inasmuch as they amount to supplanting provisions of the existing master plan and other development codes, which have the force of law and were framed after widespread consultations. It is pointed out that the provisions of the MRTP Act require that any change in such codes or master plans would have to be made after mandatory due consideration of objections, which are to be preceded by publication of the proposals. By directing the state government to follow the order in paragraph 17(e), the NGT in fact made directions contrary to law. It is argued that the state also acted contrary to the express provisions of the MRTP Act inasmuch as it did not follow the procedure required by the Act to change the master plan and the development codes.

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27. It is further submitted that the NGT's directions were the basis of the state government's notification. It was argued that the state government's blind adherence to these directions amounted to abdication of its duties, was in contravention of express provisions of the MRTP Act and also amounted to acting on the dictates of another authority. It was submitted that for these reasons, the impugned notification cannot be sustained. Counsel relied on the decision of this court in *Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd.*² to highlight that the NGT has a narrow and circumscribed jurisdiction in regard to issuing directions as well as ordering compensation.

28. The Lokmanch justified the order of the NGT and blamed the NHAI, the concessionaire, Rathod and the state government for not taking adequate and timely measures in public interest. It is alleged that proper channels were not created and maintained alongside the highway to avoid water clogging on the main carriageway. It is argued that existing water channels were extremely narrow and were incapable of handling significant volumes, and that even those channels were clogged due to construction debris which had fallen on the sides. It is pointed out that under Section 4 of the National Highways Act, 1956 (hereafter "Highways Act") "highways" include lands appurtenant thereto, all bridges, culverts, tunnels, causeways and other structures constructed on or over the highway and all fences, trees, posts, etc. The duty of keeping them in good repair, clearly was that of the NHAI and the concessionaire.

29. So far as the Rathod's role is concerned, learned counsel, Ms. Shilpa Chohan, submitted that the NGT acted well within its rights and acted within its jurisdiction in entertaining and proceeding with the application, under Sections 14 read with 16 and 18 of the NGT Act. The Lokmanch sought mandatory injunction to restore the natural contour at the foot base of the hills, particularly the hill that was destroyed by the private respondents. It was submitted that apart from the enquiry report of the magistrate/sub-divisional officer, a report was also commissioned by the NGT through the local *tehsildar*; that report dated 15.09.2014 disclosed that unauthorised hill destruction under the pretext of minor mineral extraction was widespread during 2011-2013. This report showed that as many as 62 cases of hill destruction (mostly indulged in by developers), came to light. Many of these occurred without obtaining any permit or authorisation and were plainly illegal.

30. It is argued further that the private respondents were permitted to extract minor minerals only for a short period. However, they exceeded not only the permit, but also went further and destroyed the hill for the purpose of mining minerals. This over-mining as well as hill destruction was not within the permission or the terms of the license. It is highlighted that "hill cutting" or hill destruction causes shortening of hills, poses a potential danger of soil erosion and reduces vegetation, forestry, flora and fauna, and deprives natural support to the earth, therefore ultimately posing an environmental hazard to nearby areas, including residential areas. It is argued that the destruction of hills results in the distortion of the flow of streams and rivers, which change their courses resulting in heavy loss to human life and also to flora and fauna, besides at times, destruction of property. It is submitted that the NGT's decision requiring payment of compensation was within its jurisdiction; to support this, learned counsel relied upon the provisions of Schedule II to the NGT Act, particularly referring to the heads of compensation relief for damages that can be claimed and granted, i.e. death, permanent, temporary, or total, or partial disability or other injury, damages to private property, expenses incurred by the government for any administrative or legal action, or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of the environment. It was submitted that the statutory basis for calculating these damages under Schedule II to the NGT Act is provided by Section 15, which empowers the NGT to provide relief and compensation to victims of pollution in terms of Schedule I for restitution of property, restitution of environment, and also importantly Section 17, which empowers the NGT to direct the payment of compensation on account of death of or injury to any person or damage to property, under all any of the heads specified in Schedule II, which is the result of any accident or is an adverse impact of any activity or operational process. It is submitted that there is nothing in the enactment which confines the jurisdiction of the NGT

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to adjudicate complaints, especially those relating to fatalities caused by environmental damage, to applications initiated by legal representatives or persons directly affected. It is submitted that if a particular accident or incident is so widespread as to affect an entire area, it would be well within the jurisdiction of the NGT to entertain an application made by anyone. Learned counsel highlighted the difference in phraseology between Sections 15 and 17 on the one hand, and Section 18 on the other. It is submitted that Section 18(2) clearly is without prejudice to the provisions contained in Section 16 and primary jurisdiction can be invoked by the Tribunal upon being moved by anyone in this regard.

31. Ms. Chopan cited the decision of this court in *Mantri Technoze Pvt. Ltd. v. Forward Foundation*³ to say that the NGT could legitimately issue directions which are binding on all other statutory authorities. She also relied on Section 33 of the NGT Act, emphasizing that the enactment overrides all other enactments. Reliance was also placed on the decision in *Hanuman Laxman Aroskar v. Union of India*.⁴

32. The State of Maharashtra supported the arguments made on behalf of the Lokmanch. It was pointed out that the jurisdiction to issue general directions to preserve and protect the environment, through restitution orders is found in Section 15(1)(c) of the NGT Act. It is also submitted that the power and jurisdiction to order compensation in the case of death, is independent and can be invoked in case of fatal accidents, as is evident from the provisions of Schedule II. The state further argues that the judgment of the Bombay High Court too is unexceptionable, inasmuch as it correctly appreciated and upheld the exercise of regulatory power under Section 154 of the MRTP Act. Counsel urged that the said provision was amended in 2015 and in the absence of any challenge to it, the exercise of power after due consideration of relevant factors, could not be countenanced.

The Issues

33. Four issues arise for consideration. Firstly, the jurisdiction of the NGT to award compensation; secondly the merits and soundness of the NGT's decision to award compensation and the legal principles applicable; thirdly, the NGT's wide directions with respect to the ban on construction in and around foothills and lastly, the *vires* of the directions/notifications issued under Section 154, MRTP Act.

I. Jurisdiction of the NGT

34. The relevant provisions of the NGT Act are extracted below:

"2. Definitions. — (1) In this Act, unless the context otherwise requires

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(m) "substantial question relating to environment" shall include an instance where—

(i) there is a direct violation of a specific statutory environmental obligation by a person by which—

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

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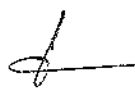
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14. Tribunal to settle disputes.—(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed



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within a further period not exceeding sixty days."

15. Relief, compensation and restitution.—(1) The Tribunal may, by an order, provide,—

- (a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);
- (b) for restitution of property damaged;
- (c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority."

"16. Tribunal to have appellate jurisdiction.—Any person aggrieved by,

- (a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under Section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under Section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);
- (e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under Section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);
- (f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986);
- (h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);
- (i) an order made, on or after the commencement of the National Green Tribunal Act,

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2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

- (j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003),

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. Liability to pay relief or compensation in certain cases.

- (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.
- (2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.
- (3) The Tribunal shall, in case of an accident, apply the principle of no fault

18. Application or appeal to Tribunal.

- (1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.
- (2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by--
- (a) the person, who has sustained the injury; or
- (b) the owner of the property to which the damage has been caused; or
- (c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or
- (d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or
- (e) any person aggrieved, including any representative body or organisation; or
- (f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 (29 of 1986) or any other law for the time being in force:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

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(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

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29. Bar of jurisdiction.—(1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court."

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"33. Act to have overriding effect.—The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

35. A plain reading of the above provisions of the NGT Act would reveal that the tribunal possesses two kinds of power and jurisdiction: one, primary jurisdiction on under Sections 14-15, and appellate jurisdiction under Section 16. Under Section 14, the NGT has the power to adjudicate upon disputes relating to "civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved" relating to the implementation of "the enactments specified in Schedule I" [Section 14 (1)]. The other provisions [Sections 14(2) and (3)] are incidental to the primary jurisdiction under Section 14(1). Section 15, on the other hand, is couched in wide terms. Section 15 (1) provides that compensation or damages can be given by the NGT to "victims of pollution and other environmental damage arising under the enactments specified in the Schedule I" [Section 15 (1)(a)]; for restitution of property damaged [Section 15(1)(b)] and for restitution of the environment for such area or areas [Section 15(1)(c)]. Section 15(2) is procedural; Section 15(3) prescribes the period of limitation for applications. Section 15(4) enables the NGT to, having regard to the damage to public health, property and environment,

"divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit."

36. The enactments specified under Schedule I are the Water (Prevention and Control of Pollution) Act, 1974; the Water (Prevention and Control of Pollution) Cess Act, 1977; the Forest (Conservation) Act, 1980; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986; the Public Liability Insurance Act, 1991; and the Biological Diversity Act, 2002.

37. Schedule II reads as follows:

"**SCHEDULE II** [See sections 15(4) and 17(1)] **HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED**

- (a) Death;
- (b) Permanent, temporary, total or partial disability or other injury or sickness;
- (c) Loss of wages due to total or partial disability or permanent or temporary disability;
- (d) Medical expenses incurred for treatment of injuries or sickness;
- (e) Damages to private property;

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- (f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- (g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- (h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- (i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- (j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- (k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- (l) Loss and destruction of any property other than private property;
- (m) Loss of business or employment or both;
- (n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance."

38. A conjoint reading of Sections 14, 15 and the Schedules would lead one to infer that the NGT has circumscribed jurisdiction to deal with, adjudicate, and wherever needed, direct measures such as payment of compensation, or make restitutionary directions in cases where the violation (i.e. harm caused due to pollution or exposure to hazards, etc.) are the result of infraction of any enactment listed in the first schedule. Yet, that, interpretation, in the opinion of this court, is not warranted.

39. The reference to Schedule II, in Section 15(4) is not merely by way of events which are actionable in relation to harm caused due to the acts resulting in violation of any enactment under Schedule I. The wide language of that provision enables the tribunal (NGT) to direct, *inter alia*, payment of compensation, "having regard to the damage to public health, property and environment". This interpretation is borne out by a reading of Section 17(2) regarding the apportionment of liability for payment of compensation.

40. In the decision of this court reported as *Hinch Lal Tiwari v. Kamala Devi*¹, this court held that ponds constituted public utility and were meant for common use. The court held that ponds could not be allotted or commercialised, and that filling up of ponds was illegal. Recently, in *Jitendra Singh v. Ministry of Environment*², the Court quoted and applied the observations in *Hinch Lal* (supra), in the context of an appeal directed against an order of the NGT which had summarily dismissed an application under Sections 14 and 15 of the NGT Act seeking directions to cease the filling up of ponds in the Greater Noida Industrial Development Area.

41. Long ago, in *State of Tamil Nadu v. Hind Stone*³, this court made following observations:

"6. Rivers, Forests, Minerals and such other resources constitute a Nation's natural wealth. These resources are not to be frittered away and exhausted by any one generation. Every generation owes a duty to all succeeding generations to develop and conserve the natural resources of the nation in the best possible way. It is in the interest of mankind. It is in the interest of the nation. It is recognised by Parliament. Parliament has declared that it is expedient in the public interest that the Union should take under its control the Regulation of mines and the development of minerals. It has enacted the Mines and Minerals (Regulation and Development) Act, 1957 ..."

42. Likewise, in *Lafarge Umiam Mining (Pvt.) Ltd. v. Union of India*⁴ these pertinent observations were made:

"75. Universal human dependence on the use of environmental resources for the most basic needs renders it impossible to refrain from altering the environment. As a result, environmental conflicts are ineradicable and environmental protection is always a matter of degree, inescapably requiring choices as to the appropriate level of environmental protection and the risks which are to be regulated. This aspect is recognised by the

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concepts of "sustainable development". It is equally well settled by the decision of this Court in *Narmada Bachao Andolan v. Union of India* that environment has different facets and care of the environment is an ongoing process. These concepts Rule out the formulation of an across-the-board principle as it would depend on the facts of each case whether diversion in a given case should be permitted or not, barring "no go" areas (whose identification would again depend on undertaking of due diligence exercise). In such cases, the margin of appreciation doctrine would apply."

43. Recently, in *State of Meghalaya v. All Dimas Students Union, Dima-Hasao District Committee*² this court had affirmed a part of the decision of the NGT issuing directions in respect of large-scale mining in the state of Meghalaya, on the ground that it had an adverse impact on the environment. This was despite the fact that mining and the subject of mines is not specified in the list of enactments under the first schedule. The court also approved the NGT's directions, appointing experts, to assess the impact of such mining on the environment.

44. The legal position and jurisdiction of NGT was considered by this court in *Mantri Techzone* (supra) where it was held that the NGT has "special jurisdiction" for "enforcement of environmental rights." It was held that:

"41. The jurisdiction of the Tribunal is provided under Sections 14, 15 and 16 of the Act. Section 14 provides the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved. However, such question should arise out of implementation of the enactments specified in Schedule I.

42. The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.

43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.

44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See *Kishore Lal v. Chairman, Employees' State Insurance Corpn.* (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.

45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self-contained jurisdictions.

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46. Further, Section 18 of the Act recognizes the right to file applications each under Sections 14 as well as 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. As stated supra the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

47. Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, Planning Act, Karnataka Municipal Corporations Act, 1976 ("KMC Act"); and the Revised Master Plan of Bengaluru, 2015 ("RMP"). A Central legislation enacted under Entry 13 of List I Schedule VII of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes & water bodies in contradiction with zoning regulations under these statutes or the RMP."

45. It is noteworthy that this court clearly held that under Section 15(1)(b) and 15(1)(c), the NGT has the power to make directions and provide for "restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act." Though a direction for compensation under Section 15(1)(a) is relatable to violation of enactments specified under the first schedule, the power under Section 17 appears to be cast in wider terms.

46. As noticed earlier, Section 17 (1) refers to first schedule enactments; it talks of death of, or injury to, any person "or damage to any property or environment" which "has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment" in Schedule I. One of the enactments is the Environment Protection Act, 1986 (hereafter "EPA").

47. The definition of "environment" under the EPA is wide and is an inclusive one: "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property".¹² Similarly, "environmental pollutant" and "environmental pollution" are defined as follows:

"environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;¹³

"environmental pollution" means the presence in the environment of any environmental pollutant;¹⁴

48. Section 3(1) of the EPA confers upon the Central Government, wide power in relation to protection of the environment:

"3. POWER OF CENTRAL GOVERNMENT TO TAKE MEASURES TO PROTECT AND IMPROVE ENVIRONMENT.- (1) Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution."

49. Long back, in *M.C. Mehta v. Union of India*¹⁵ this court recognized the potential harm to the environment caused by mining operations:

"Legal parameters

45. The natural sources of air, water and soil cannot be utilised if the utilisation results in irreversible damage to environment. There has been accelerated degradation of environment primarily on account of lack of effective enforcement of environmental laws and non-compliance of the statutory norms. This Court has repeatedly said that the right to live is a fundamental right under Article 21 of the Constitution and it includes the

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right to enjoyment of pollution-free water and air for full enjoyment of life. (See Subhash Kumar v. State of Bihar [(1991) 1 SCC 598].)

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47. The mining operation is hazardous in nature. It impairs ecology and people's right to natural resources. The entire process of setting up and functioning of mining operation requires utmost good faith and honesty on the part of the intending entrepreneur. For carrying on any mining activity close to township which has tendency to degrade environment and is likely to affect air, water and soil and impair the quality of life of inhabitants of the area, there would be greater responsibility on the part of the entrepreneur. The fullest disclosures including the potential for increased burdens on the environment consequent upon possible increase in the quantum and degree of pollution, has to be made at the outset so that the public and all those concerned including authorities may decide whether the permission can at all be granted for carrying on mining activity. The regulatory authorities have to act with utmost care in ensuring compliance of safeguards, norms and standards to be observed by such entrepreneurs. When questioned, the regulatory authorities have to show that the said authorities acted in the manner enjoined upon them. Where the regulatory authorities, either connive or act negligently by not taking prompt action to prevent, avoid or control the damage to environment, natural resources and people's life, health and property, the principles of accountability for restoration and compensation have to be applied."

50. Acting under the provisions of the EPA, the Central Government had issued a notification on 14.09.2006, mandating Environmental Impact Assessment (EIA) in exercise of its power under Section 3(2) of the EPA read with Rule 5 of the rules framed thereunder. In terms of this notification, environment impact assessment and clearance was necessary for different processes and industries. Mining too, was included as part of the notification; the only exception was that minor mineral leases for an area below five hectares were exempted. Clearly, therefore, the Central Government included within the purview of the EPA, major and minor mineral extraction.

51. Several irregularities were noticed over a period of time, with regard to minor mineral extraction, including sand, and there was need for introducing stringent regulations for those activities. A report of the then Ministry of Environment and Forests (MoEF, now MoEF&CC) submitted in 2010 was critical of the prevailing norms. As a result, this court and the NGT issued orders and directives making ECs compulsory for projects less than five hectares. The Central Government too initiated measures.

52. The following observations of this court were made in *Deepak Kumar v. State of Haryana*¹²:

"18. Comments and inputs from various States and experts were also invited so as to prepare a report for consideration of MoEF. Based on the discussion held and subsequent inputs received, a draft report was prepared and circulated to all members for their further inputs. The report was further discussed on 29-1-2010 for its finalisation. The observations/comments made during the meeting were incorporated in the report and it was again circulated to all members for their consideration. The report so circulated was ultimately finalised. The decision taken by MoEF affects generally the mining of minor minerals including the riverbed mining throughout the country.

19. For an easy reference, we may extract the issues and recommendations made by MoEF, which are as follows:

"4.0. Issues and recommendations

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It may thus be observed that minerals have been classified into major and minor minerals based on their end use rather than level of production, level of mechanisation, export and import, etc. There do exist some minor mineral mines of silica sand and limestone where the scale of mechanisation and level of production is much higher than those of industrial mineral mines. Further, in terms of the economic cost and revenue, it has been estimated that the total value of minor minerals constitutes about 10% of the total value of mineral production whereas the value of non-metallic minerals comprises

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only 3%. It is, therefore, evident that the operation of mines of minor minerals need to be subject to some regulatory parameters as that of mines of major minerals.

Further, unlike India there does not exist any such system based on end usage in other countries for classifying minerals into major and minor categories. Thus, there is a need to relook at the definition of 'minor minerals' per se.

It is, therefore, recommended that the Ministry of Mines along with Indian Bureau of Mines, in consultation with the State Governments may re-examine the classification of minerals into major and minor categories so that the regulatory aspects and environment mitigation measures are appropriately integrated for ensuring sustainable and scientific mining with least impacts on environment.

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4.5. Requirement of mine plan for minor minerals

At present, most of the State Governments have not made it mandatory for preparation of mining plan in respect of minor minerals. In some States like Rajasthan, eco-friendly mining plans are prepared, which are approved by the State Mining Department. The eco-friendly mining plans so prepared, though conceptually welcome, are observed to be deficient and need to be made comprehensive in a manner as is being done for major minerals. Besides, the aspects of reclamation and rehabilitation of mined out areas, progressive mine closure plan, as in vogue for major minerals could be introduced for minor minerals as well.

It is recommended that provision for preparation and approval of mine plan, as in the case of major minerals may appropriately be provided in the rules governing the mining of minor minerals by the respective State Governments. These should specifically include the provision for reclamation and rehabilitation of mined out area, progressive mine closure plan and post mine land use.

4.6. Creation of separate corpus for reclamation/rehabilitation of mines of minor minerals

Mining of minor minerals, in our country, is by and large an unorganised sector and is practised in haphazard and unscientific manner. At times, the size of the leasehold is also too small to address the issue of reclamation and rehabilitation of mined out areas. It may, therefore, be desirable that before the concept of mine closure plan for minor minerals is adopted, the existing abandoned mines may be reclaimed and rehabilitated with the involvement of the State Government. There is thus, a need to create a separate corpus, which may be utilised for reclamation and rehabilitation of mined out areas. The respective State Governments may work out a suitable mechanism for creation of such corpus on the 'polluter pays' principle. An organisational structure may also need to be created for undertaking and monitoring these activities.

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4.8. Uniform minor mineral concession rules

The economic value of the minor minerals excavated in the country is estimated to contribute to about 9% of the total value of the minerals whereas the non-metallic minerals contribute to about 2.8%. Keeping in view the large extent of mining of minor minerals and its significant potential to adversely affect the environment, it is recommended that model mineral concession rules may be framed for minor minerals as well and the minor minerals may be subjected to a simpler regulatory regime, which is, however, similar to major minerals regime.

4.9. Riverbed mining

4.9.1. Environment damage being caused by unregulated riverbed mining of sand, bazzari and boulders is attracting considerable attention including in the courts. The following recommendations are therefore made for the riverbed mining:

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5.0. Conclusion

Mining of minor minerals, though individually, because of smaller size of mine leases is perceived to have lesser impact as compared to mining of major minerals. However,

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the activity as a whole is seen to have significant adverse impacts on environment. It is, therefore, necessary that the mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of the mined out areas. Further, while granting mining leases by the respective State Governments location of any eco-fragile zone(s) within the impact zone of the proposed mining area, the linked rules/notifications governing such zones and the judicial pronouncements, if any, need be duly noted. The Union Ministry of Mines along with the Indian Bureau of Mines and respective State Governments should therefore make necessary provisions in this regard under the Mines and Minerals (Development and Regulation) Act, 1957, Mineral Concession Rules, 1960 and adopt model guidelines to be followed by all States."

(emphasis supplied)

20. The Report clearly indicates that operation of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a relook to the definition of "minor minerals" per se. The necessity of the preparation of "comprehensive mines plan" for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.

21. Further, it was also recommended that the States, Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of mined out areas. Mining plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, the number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in the 2010 Rules. A proper framework has also to be evolved on cluster of mining of minor minerals for which there must be a Regional Environmental Management Plan. Another important decision taken was that while granting of mining leases by the respective State Governments, location of any eco-fragile zone(s) within the impact zone of the proposed mining area, the linked rules/notifications governing such zones and the judicial pronouncements, if any, need to be duly noted.

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28. The Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules, 2010 at the earliest. The State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. Communicate the copy of this order to MoEF, Secretary, Ministry of Mines, New Delhi; Ministry of Water Resources, Central Government Water Authority; the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned.

29. We, in the meanwhile, order that leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from MoEF. Ordered accordingly."

53. By virtue of a notification,¹² environmental clearance is necessary even for minor mineral extraction where the area of operation is less than 5 hectares; the procedure has been outlined under Appendix XI of that notification. Clearly, therefore, mining of even minor minerals, when resorted to on a large scale (i.e. where more than a few leases or permits are granted), has a potential impact on the environment. In the facts of this case, the state had granted no less than 62 minor mineral permits in the vicinity; unauthorized activity (in the form *inter alia*, of over-mining and piling of debris) had resulted in the imposition of the penalty. Clearly, there was violation of the EPA in the present case, because Rathod's mining lease covered an area in excess of 5 hectares; it fell within the regulatory notification of 2006. There is nothing on record to show that the relevant

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clearance was obtained by Rathod. Plainly, therefore, the facts of the present case disclosed violation of the EPA—an enactment listed in Schedule I of the NGT Act. This meant that the NGT's jurisdiction under Section 15(1)(a) and Section 17 could not have been disputed.

54. This court is of the considered opinion that the expression "environment" and "environmental pollution" have to be given a broader meaning, having regard to Parliamentary intent to ensure the objective of the EPA. It effectuates the principles underlying Article 48A of the Constitution of India. The EPA is in essence, an umbrella legislation enacting a broad framework for the central government to coordinate the activities of various central and state authorities established under other laws, such as the Water Act and Air Act. The EPA also effectively enunciates the critical legislative policy for environment protection. It changes the narrative and emphasis from a narrow concept of pollution control to a wider facet of environment protection. The expansive definition of environment that includes water, air and land *"and the interrelation which exist among and between water, air and land, other human creatures, plants, micro-organisms and property"* give an indication of the wide powers conferred on the Central Government. A wide net is cast over the environment related laws. The EPA also empowers the central government to comprehensively control environmental pollution by industrial and related activities. For these reasons, and in view of the above discussion, it is held that the NGT correctly assumed jurisdiction, having regard to the nature of the accident in the facts of this case.

II. Was the direction to pay compensation towards death, and damages towards restitution justified?

55. In the present case, the deceased were concededly travelling on the highway. The incident of flooding occurred, and was caused due to clogging of the water channels. The report of the sub divisional magistrate indicated that the Inspecting Engineer (Arvi Associates, a firm) had given a report after inspection. On behalf of the independent engineering firm appointed by the NHAI, an oral deposition was given before the sub-divisional officer. It was stated that the roadside channel and culvert from where water is disposed of, had been rendered screen blinded and a pipeline of 1.2 m diameter existed there for disposal of water. The necessity of remedial action was communicated to the concessionaire, before the occurrence of the accident. It was also stated that in terms of the instructions of the NHAI, the concessionaire was informed about the deficiency on 15.05.2013 and by a further letter dated 04.06.2013. An action plan for completing pre-monsoon work was sought from the concessionaire. However, the concessionaire did not submit an action plan despite lapse of one month.

56. The SDO's report noted that the culvert had been constructed from the new tunnel and was existing from 2004. Apparently a 1m diameter pipe was positioned in the culvert and had made a causeway. One hotel also had constructed an approach road and placed a 950 MM pipe. The existing drainage capacity of the octroi post and the hotel was insufficient due to heavy rains as a result of which rainwater was not totally drained. This water started accumulating on the road. Certain ramps were also constructed by Tata Motors for its convenience; they were removed by the concessionaire; nevertheless, the ramps were prepared again. The existing cross drainage provision was of a sub-culvert-type structure and the size at the time of the old highway was 1m x 1 m. The report further observed that the natural drainage and sides of hills of the highway was adversely affected and had been tampered with. The disposal of water on the right side overhead of the tunnel through the cross train on the old highway via the catch drain and subsequently the channels for the water flow were choked due to development work and adversely affected the clearance of rain water. The report indicates that after the accident on 06.06.2013, the local administration cleared the debris which had created obstacles, to facilitate the free flow of water into the catch drain culvert and further flow of water.

57. The legal position regarding highways is outlined in two enactments, i.e. the National Highways Act, 1956 ("the Highways Act") and the NHAI Act. The provisions of the Highways Act, to the extent they are relevant are as follows:

"4. National highways to vest in the Union. — All national highways shall vest in the Union, and for the purposes of this Act "highways" include—

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- (i) all lands appurtenant thereto, whether demarcated or not;
- (ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such highways; and
- (iii) all fences, trees, posts and boundary, furlong and milestones of such highways or any land appurtenant to such highways.

5. Responsibility for development and maintenance of national highways.—It shall be the responsibility of the Central Government to develop and maintain in proper repair all national highways; but the Central Government may, by notification in the Official Gazette, direct that any function in relation to the development or maintenance of any national highway shall, subject to such conditions, if any, as may be specified in the notification, also be exercisable by the Government of the State within which the national highway is situated or by any officer or authority subordinate to the Central Government or to the State Government.

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8A. Power of Central Government to enter into agreements for development and maintenance of national highways — (1) Notwithstanding anything contained in this Act, the Central Government may enter into an agreement with any person in relation to the development and maintenance of the whole or any part of a national highway.

(2) Notwithstanding anything contained in section 7, the person referred to in sub-section (1) is entitled to collect and retain fees at such rate, for services or benefits rendered by him as the Central Government may, by notification in the Official Gazette, specify having regard to the expenditure involved in building, maintenance, management and operation of the whole or part of such national highway, interest on the capital invested, reasonable return, the volume of traffic and the period of such agreement.

(3) A person referred to in sub-section (1) shall have powers to regulate and control the traffic in accordance with the provisions contained in Chapter VIII of the Motor Vehicles Act, 1988 (59 of 1988) on the national highway forming subject-matter of such agreement, for proper management thereof."

58. Section 16 of the NHA I Act spells out the functions of the NHA I; it reads as follows:

"16. Functions of the Authority.— (1) Subject to the rules made by the Central Government in this behalf, it shall be the function of the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government. rules made by the Central Government in this behalf, it shall be the function of the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government."

59. Acting in furtherance of its powers, the NHA I entered into an agreement with the concessionaire for the construction, operation and maintenance of the highway in question (i.e. the stretch of 140 kms on which the accident occurred). The question is whether the NHA I, which indisputably owns and controls the highway, and on whose behalf it was constructed, and for which the maintenance and operation agreement was entered into, led to a duty of care, to the users (of the highway).

60. This issue had arisen in *Rajkot Municipal Corpn. v. Manjuben Jayantilal Nakum*¹⁵ in the context of certain facts. The deceased used to travel on a railway season ticket to Rajkot to attend to his office work. One day whilst he was on the footpath on the way to his office, a roadside tree suddenly fell on him, resulting in serious injuries on the head and other parts of the body, and later died in the hospital. The High Court allowed the writ petition. This court noted the distinction between a common law duty of care owed to members of the public, and whether liability could be imposed upon a local authority for breach of its statutory duty. The court noticed previous English decisions¹² and stated that:

"18. The question emerges as to when would the breach of statutory duty under a particular enactment give rise to tortious liability? The statutory duty gives rise to civil action. The statutory negligence is sui generis and independent of any other form of

tortious liability. It would, therefore, be of necessity to find out from the construction of each statutory duty whether the particular duty is general duty in public law or private law duty towards the plaintiff. The plaintiff must show that (a) the injury suffered is within the ambit of statute; (b) statutory duty imposes a liability for civil action; (c) the statutory duty was not fulfilled; and (d) the breach of duty has caused him injury. These essentials are required to be considered in each case. The action for breach of statutory duty may belong to the category of either strict or absolute liability which is required, therefore, to be considered in the nature of statutory duty the defendant owes to the plaintiff; whether or not the duty is absolute; and the public policy underlying the duty. In most cases, the statute may not give rise to cause of action unless it is breached and it has caused damage to the plaintiff, though occasionally the statute may make breach of duty actionable per se. The burden, therefore, is on the plaintiff to prove on balance of probabilities that the defendant owes that duty of care to the plaintiff or class of persons to whom he belongs, that defendant was negligent in the performance or omission of that duty and breach of duty caused or materially contributed to his injury and that duty of care is owed on the defendant. If the statute requires certain protection on the principle of *volenti non fit injuria*, the liability stands excluded. The breach of duty created by a statute, if it results in damage to an individual *prima facie*, is tort for which the action for damages will lie in the suit. One would often take the Act, as a whole, to find out the object of the law and to find out whether one has a right and remedy provided for breach of duty. It would, therefore, be of necessity in every case to find the intention of legislature in creating duty and the resultant consequences suffered from the action or omission thereof, which are required to be considered. No action for damages lies if on proper construction of statute, the intention is that some other remedy is available. One of the tests in determining the intention of the statute is to ascertain whether the duty is owed primarily to the general public or community and only incidentally to an individual or primarily to the individual or class of individuals and only incidentally to the general public or the community. If the statute aims at duty to protect a particular citizen or particular class of citizens to which the plaintiff belongs, it *prima facie* creates at the same time correlative right vested in those citizens of which plaintiff is one; he has remedy for enforcement, namely, the action for damages for any loss occasioned due to negligence or for failure of it. But this test is not always conclusive.

19. Duty may be of such paramount importance that it is owed to all the public. It would be wrong to think that on an action, the duty could be enforced by way of damages when duty is owed to a section of public and cannot be enforced if an individual sustains damages to whom the Corporation owes no duty and no private interest is infringed. Breach of statutory duty, therefore, requires to be examined in the context in which the duty is created not towards the individual, but has its effect on the right of individual *vis-à-vis* the society. Statutory duty generally is towards public at large and not towards an individual or individuals and the correlative right is vested in the public and not in private person, even though they may suffer damages. The duty in such a case is to be enforced by way of criminal prosecution or by way of injunction at the suit under Section 192 of CPC or with leave of court under Order 1, Rule 8 CPC by public-spirited person or in any appropriate manner to enforce the right and not by way of private action for damages. In that situation, the legislature, while recognising the private right vested in an injured individual, may intend that it shall be maintained solely by some special remedy provided for a particular case and not by ordinary method of an action for damages as penalty or compensation.

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24. Generally, a public authority entrusted with no statutory obligation to exercise a power, does not come under common law duty of care to do so but by conduct the public authority may place itself in such a situation that it attracts the duty of care which calls for exercise of the power. Common illustration is provided by an action in which an authority in the exercise of its functions, if it had created a danger, thereby subjecting itself to a duty of care for the safety of others which must be discharged by an exercise of its statutory power or by giving necessary warnings. It is the conduct of the authority

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in creating the danger that attracts the duty of care as envisaged in *Sheppard v. Borough of Glossop* [(1921) 3 KB 132; 1921 All ER Rep 61, CA]. The statute does not by itself give rise to a civil action but it forms the formulation on which the common law can build a cause of action....

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39. It can be seen that ordinarily the principle of the law of negligence applies to public authorities also. They are liable to damages because by a negligent act or failure to act when they are under a duty to act or for a failure to consider whether to exercise a power conferred on them with the intention that it would be exercised if and when public interest requires it. Where the public authority has decided to exercise a power and has done it negligently a person who has acted in reliance on what the public authority has done, may have no difficulty in proving that the damages which he has suffered have been caused by the negligence. Where the damage has resulted from a negligent failure to act there may be greater difficulty in proving causation and requires examination in greater detail. ..."

61. In the UK, the duty of a highway authority was described by Diplock L.J. in *Griffiths v. Liverpool Corporation*¹² as follows:

"The duty at common law to maintain, which includes a duty to repair a highway, was not based in negligence but in nuisance. It was an absolute duty to maintain, not merely a duty to take reasonable care to maintain, and the statutory duty which replaced it was also absolute."

62. Again, Diplock, LJ stated in *Burnside v. Emerson*¹³ described the duty as follows:

"In such good repair as renders it reasonably passable for the ordinary traffic of the neighbourhood at all seasons of the year without danger caused by its physical condition."

63. Later, in *Haydon v. Kent County Council*¹⁴ Lord Denning M.R. explained that while the duty to maintain the highway meant an absolute duty to ensure that it was in a condition to be used as a highway and to ensure safety, it did not include the duty to ensure at all times that the road surface was kept clean. It was clarified however, that the issue had to be considered in each case, and it was to be considered whether the authority had taken reasonable steps to keep it in good repair after being notified about obstruction:

"If section 41 is to be construed as capable of imposing a duty to take remedial measures to deal with ice and snow on a highway, or footway, which is in good physical repair, so that whether in particular circumstances that duty has arisen is to be decided 'as a question of fact and degree,' it would seem that the facts relevant to determining whether the duty has arisen would be essentially similar to those relevant to deciding whether a breach of the duty has been proved and whether the statutory defence under section 58 has been made out. Parliament did not define those facts for the purpose of section 41. The concept of the passing of sufficient time to make it *prima facie* unreasonable for the highway authority to have failed to take remedial measures must presuppose some idea of the amount and nature of the resources for dealing with snow and ice which are or ought to be available to the authority, and of the order of priority among different carriageways and footways which guides or which ought to guide the authority; and of the necessary degree of urgency in using those resources. No such guidance is given in the statute with reference to proof of the arising of the duty."

64. In *Stovin v. Wise*¹⁵, the defendant emerged from a side road and ran down the plaintiff, because she was not keeping a proper look-out. When she was sued for damages, the defendant joined the County Council as a third party because the visibility at the intersection was poor and they said that the Council, which had the duty to maintain the road should have done something to improve it. The council had statutory powers which would have enabled the necessary work to be done and there was evidence that the relevant officers had decided in principle that it should be done, but they had not taken steps to do it. The House of Lords held that there was no duty of care in private law based on the statutory duty, and that "Drivers of vehicles must take the highway network as they find it". It was held that statutory power could not be converted into a common law duty.

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The council had done nothing which, apart from statute, would have attracted a common law duty of care. It had done nothing at all. The only basis on which it was a candidate for liability was that Parliament had entrusted it with general responsibility for the highways and given it the power to improve them and take other measures for the safety of their users. Lord Hoffmann observed,

"In summary, therefore, I think that the minimum preconditions for basing a duty of care upon the existence of a statutory power, if it can be done at all, are, first, that it would in the circumstances have been irrational not to have exercised the power, so that there was in effect a public law duty to act, and secondly, that there are exceptional grounds for holding that the policy of the statute requires compensation to be paid to persons who suffer loss because the power was not exercised."

65. *Stovin* (supra) and its enunciation that the existence of a public duty did not *per se* extend to a private duty of care to take special measures, unless exceptional features were proved, was followed in *Gorringe v. Calderdale Metropolitan Borough Council*²². The entire law was re-examined and the correct position, restated in a recent judgment by the UK Supreme Court in *Robinson v. Chief Constable of West Yorkshire Police*²³, which observed as follows:

"32 At common law, public authorities are generally subject to the same liabilities in tort as private individuals and bodies: see, for example, Entick v. Carrington (1765) 2 Wils KB 275 and Mersey Docks and Harbour Board v. Gibbs (1866) LR 1 HL 93. Dicey famously stated that "every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen": The Law of the Constitution, 3rd ed (1889), p 181. An important exception at common law was the Crown, but that exception was addressed by the Crown Proceedings Act 1947, section 2.

33. Accordingly, if conduct would be tortious if committed by a private person or body, it is generally equally tortious if committed by a public authority: see, for example, Dorset Yacht Co. Ltd. v. Home Office [1970] AC 1004, as explained in Gorringe's case 2004 (1) WLR 1057, para 39. That general principle is subject to the possibility that the common law or statute may provide otherwise, for example by authorising the conduct in question: Geddis v. Proprietors of Bann Reservoir (1878) 3 App Cas 430. It follows that public authorities are generally under a duty of care to avoid causing actionable harm in situations where a duty of care would arise under ordinary principles of the law of negligence, unless the law provides otherwise.

34. On the other hand, public authorities, like private individuals and bodies, are generally under no duty of care to prevent the occurrence of harm: as Lord Toulson JSC stated in Michael's case [2015] AC 1732, para 97, "the common law does not generally impose liability for pure omissions". This "omissions principle" has been helpfully summarised by Tofaris and Steel, "Negligence Liability for Omissions and the Police" [2016] CLJ 128:

"In the tort of negligence, a person A is not under a duty to take care to prevent harm occurring to person B through a source of danger not created by A unless (i) A has assumed a responsibility to protect B from that danger, (ii) A has done something which prevents another from protecting B from that danger, (iii) A has a special level of control over that source of danger, or (iv) A's status creates an obligation to protect B from that danger."

35. As that summary makes clear, there are certain circumstances in which public authorities, like private individuals and bodies, can come under a duty of care to prevent the occurrence of harm: see, for example,

Barrett v. Enfield London Borough Council [2001] 2 AC 550 and Phelps v. Hillingdon London Borough Council [2001] 2 AC 619, as explained in Gorringe's case 2004 (1) WLR 1057, paras 39-40. In the absence of such circumstances, however, public authorities generally owe no duty of care towards individuals to confer a benefit upon them by protecting them from harm, any more than would a private individual or body: see, for example, Smith v. Littlewoods Organisation Ltd. [1987] AC 241, concerning a private

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body, applied in *Mitchell v. Glasgow City Council* [2009] AC 874, concerning a public authority.

36 That is so, notwithstanding that a public authority may have statutory powers or duties enabling or requiring it to prevent the harm in question. A well known illustration of that principle is the decision of the House of Lords in *East Suffolk Rivers Catchment Board v. Kent* [1941] AC 74. The position is different if, on its true construction, the statutory power or duty is intended to give rise to a duty to individual members of the public which is enforceable by means of a private right of action. If, however, the statute does not create a private right of action, then "it would be, to say the least, unusual if the mere existence of the statutory duty [or, a fortiori, a statutory power] could generate a common law duty of care": Gorrings's case 2004 (1) WLR 1057, para 23.

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40 However, until the reasoning in the *Anns* case was repudiated, it was not possible to justify a rejection of liability, where a *prima facie* duty of care arose at the first stage of the analysis from the foreseeability of harm, on the basis that public bodies are not generally liable for failing to exercise their statutory powers or duties so as to confer the benefit of protection from harm. Instead, it was necessary to have recourse to public policy in order to justify the rejection of liability at the second stage. That was accordingly the approach adopted by the House of Lords and the Court of Appeal in a series of judgments, including *Hill's case* [1989] AC 53. The need to have recourse to public policy for that purpose has been superseded by the return to orthodoxy in Gorrings's case. Since that case, a public authority's non-liability for the consequences of an omission can generally be justified on the basis that the omissions principle is a general principle of the law of negligence, and the law of negligence generally applies to public authorities in the same way that it applies to private individuals and bodies.

41 Equally, concerns about public policy cannot in themselves override a liability which would arise at common law for a positive act carried out in the course of performing a statutory function: the true question is whether, properly construed, the statute excludes the liability which would otherwise arise: see Gorrings's case 2004 (1) WLR 1057, para 38, per Lord Hoffmann.

42 That is not to deny that what might be described as policy considerations sometimes have a role to play in the law of negligence. As explained earlier, where established principles do not provide a clear answer to the question whether a duty of care should be recognised in a novel situation, the court will have to consider whether its recognition would be just and reasonable."

66. In *Yetkin v. Mahmood*²⁴, where injury was caused to a highway user by shrubs which had overgrown and impeded visibility, the court upheld the claim for damages. The court observed as follows:

"...The planting of vegetation in the raised beds of the central reservation is obviously a reasonable exercise of the authority's powers but to plant shrubs which will grow so large as to obscure the view and then not to ensure that they are trimmed back is a negligent exercise of those powers. The judge held that that failure was a cause of this accident. It is not suggested that he was not right so to hold. I have no doubt that, in the circumstances of this case, the local authority had a common law duty of care towards the claimant, notwithstanding her own negligence, that that duty was breached and that the breach was a cause of the accident. There was no need for the judge to consider whether the danger created by the bushes amounted to a trap or enticement. It follows in my judgment that the judge erred in dismissing the claim. He should have held that primary liability was established."

67. A similar approach was indicated by this court in *Municipal Corpn. of Delhi v. Sushila Devi*²⁵ (where a tree fell on a passer-by causing injury) the court upheld the findings that the municipal corporation was liable, stating that:

"13. By a catena of decisions, the law is well settled that if there is a tree standing on the defendant's land which is dried or dead and for that reason may fall and the defect is one which is either known or should have been known to the defendant, then the


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defendant is liable for any injury caused by the fall of the tree (see *Brown v. Harrison* [1947 WN 191 : 63 TLR 484], *Quinn v. Scott* [(1965) 1 WLR 1004 : (1965) 2 All ER 588] and *Mackie v. Dumbartonshire County Council* [1927 WN 247]). The duty of the owner/occupier of the premises by the side of the road whereon persons lawfully pass by, extends to guarding against what may happen just by the side of the premises on account of anything dangerous on the premises. The premises must be maintained in a safe state of repair. The owner/occupier cannot escape the liability for injury caused by any dangerous thing existing on the premises by pleading that he had employed a competent person to keep the premises in safe repairs. In *Municipal Corpn. of Delhi v. Subhagwanti* [AIR 1966 SC 1750] a clock tower which was 80 years' old collapsed in Chandni Chowk, Delhi causing the death of a number of persons. Their Lordships held that the owner could not be permitted to take a defence that he neither knew nor ought to have known the danger. "[T]he owner is legally responsible irrespective of whether the damage is caused by a patent or a latent defect", — said their Lordships. In our opinion the same principle is applicable to the owner of a tree standing by the side of a road. If the tree is dangerous in the sense that on account of any disease or being dead the tree or its branch is likely to fall and thereby injure any passer-by then such a tree or branch must be removed so as to avert the danger to life. It is pertinent to note that it is not the defence of the Municipal Corporation that vis major or an act of God such as a storm, tempest, lightning or extraordinary heavy rain had occurred causing the fall of the branch of the tree and hence the Corporation was not liable."

68. This approach that a statutory corporation or local authority can be held liable in tort for injury occasioned on account of omission to oversee, or defective supervision of its activities contracted out to another agency, was also followed in *Vadodara Municipal Corporation v. Purshottam V. Muranjilal*.

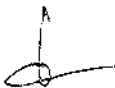
69. The terms of the agreement which the NHAI entered into with the concessionaire clearly contemplated the safety of highway users (Clause 18.1.1) and an elaborate highway monitoring mechanism (Clause 19.1). The agreement also required any unusual occurrences to be reported; an independent engineer was required to, and did inspect the highway. The reports of the inspecting engineer reveal that the deficiencies by way of narrowing of water channels, and the unusual collection of debris, were noted. Even before the incident, the NHAI was alive to this; it had separately written to Rathod, and later to the local administration about it through its letter dated 15.04.2011. That letter is revealing; it *inter alia*, states that:

"During pre-monsoon rains all the excavated muck has been carried to NH4 alongwith rain water and block Satara bound traffic lane for quite some time. The problem will be severe during heavy rains of July and August.

As such safety of highway and tunnel is completely at stake due to indiscriminate cutting of hills on upper side of tunnel and both the end."

70. Having regard to the duty imposed on the NHAI by virtue of Sections 4 and 5 of the Highways Act, read with Section 16 of the NHAI Act, there can be no manner of doubt that the NHAI was responsible for the maintenance of the highway, including the stretch upon which the accident occurred. The report of the sub-divisional officer clearly shows that inspection reports were furnished to the NHAI shortly before the incident, highlighting the deficiencies; also, the NHAI's correspondence with Rathod, and the local administration, reveal that it was aware of the danger and likelihood of risk to human life, and the foreseeability of the event that actually occurred later. Further, letters addressed by the local administration and the NHAI to Rathod similarly show that it was incumbent upon him to take remedial action. The failure of the NHAI to ensure remedial action, and likewise the failure by Rathod to take measures to prevent the accident, *prima facie*, disclose their liability.

71. The absence of legal representatives or heirs of the deceased in the proceedings, or the fact that they had initiated independent civil action, in the opinion of this court, was not an impediment, nor could it have precluded the NGT from exercising its jurisdiction, given the gravity of the matter and the danger posed to the members of the public. The initiation



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of civil action did not mean that the NGT had to either reject the application (as far as it claimed relief for the accident), or await the outcome of the civil suit. This position is clear from the proviso to Section 18(1) which reads as follows:

"Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application."

72. The above provision clearly implies that an application without impleading the legal heirs cannot be rejected. At the most, the tribunal has to implead all legal heirs. In the present case, that procedure was not followed. However, the legal heirs have instituted a suit. The ends of justice would be served if that suit (Special Civil Suit No. 890 of 2014 before the Court of the Civil Judge Senior Division, Pune) is directed to revive and continue it; a direction is issued to the concerned court (Court of the Civil Judge Senior Division, Pune). The directions in this regard by the NGT, towards payment of compensation are to be regarded as indicative of a *prima facie* determination. Consequently, the direction to the NHA and Rathod, jointly making them liable to pay Rs. 15 lakhs is justified. It is clarified that the civil suit will now proceed, and based on evidence, the court would finally decide the issue of liability, and make such further consequential orders or decrees as may be found necessary in this regard, towards apportioning of liability of the NHA, Rathod, the state or any other party (including the concessionaire). This court's order shall not be treated as conclusive; the trial court shall independently proceed to evaluate the evidence and hear the parties on the merits of their submissions. The restitutionary order by the NGT, directing payment by Rathod and NHA of Rs. 10 lakhs too, in this court's opinion, cannot be found to be at fault. It is upheld. The NHA and Rathod shall comply with the directions of the NGT and deposit the sum of Rs. 15 lakhs with the said court within four weeks, in equal proportion. The sum Rs. 10 lakhs shall be deposited in the same proportion, in court, to be disbursed to the state government for restoring the environment and carrying out afforestation/planting of trees etc.

Point Nos III and IV: Correctness of NGT's directions contained in Para 17 (e) of its impugned order, and the legality of the order/notification of the state of Maharashtra, issued under Section 154, MRTP Act

73. As to the third point, two issues arise for consideration - firstly, the power of the NGT to issue directions banning development and building activities of the kind contained in Para 17(e) of its impugned order, and secondly, the correctness of the procedure adopted while issuing such directions, in this case.

74. In the *All Dimas Student Union case*²², this court considered the nature of powers and jurisdiction of NGT. The relevant discussion is as follows:

"156. What are the powers and jurisdiction of the Tribunal given under the National Green Tribunal Act, 2010 has to be looked into to consider the above submission? Insofar as jurisdiction of the Tribunal is concerned, we have already noticed Sections 14, 15 and 16 of the Act. Section 19 of the Act deals with procedure and powers of the Tribunal. Section 19 which is relevant for the present case is as follows²³:

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157. Sub-section (1) of Section 19 provides that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure but shall be guided by the principles of natural justice. What subsection (1) meant to convey is that the Tribunal is not shackled with the procedure laid down by CPC for conducting its proceedings. Subsection (2) of Section 19 empowers the Tribunal with powers to regulate its own procedure. Section 19(2) confers wide powers on the Tribunal insofar as its procedure is concerned. Section 19(4) vests some powers as are vested in the civil court, while trying a suit, in respect of matters enumerated therein. The use of the expression "shall not be bound by the procedure laid down by CPC" is not akin to saying that procedure as laid down by CPC is in no manner relevant to the Tribunal. Further, Section 19(1) also does not mean that the Tribunal cannot follow any procedure given in CPC. One provision of

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CPC inserted by Act 104 of 1976 with effect from 1-2-1977 is Order 26, which is relevant for present inquiry. Order 26 Rule 10-A provides as follows:

"10-A. Commission for scientific investigations.—(1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of Rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this Rule as they apply in relation to a Commissioner appointed under Rule 9."

158. Rule 10-A provides that where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court. Rule 10-A is enabling power to the courts to obtain report from such persons as it thinks fit when any question involves with the scientific investigation. The powers under Rule 10-A which are to be exercised by the Court can very well be used by NGT to obtain reports by experts. NGT as per the statutory scheme of NGT has to decide several complex questions pertaining to pollution and environment. The scientific investigation and report by experts are necessary requirements in appropriate cases to come to correct conclusion to find out measures to remedy the pollution and environment. We do not, thus, find any dearth of jurisdiction in NGT to appoint a committee to submit a report. We may further say that while asking an expert to give a report, NGT is not confined to the four corners of Rule 10-A rather its jurisdiction is not shackled by strict terms of Order 26 Rule 10-A as per Section 19(1) as noticed above."

75. The court also took note of Rule 24 of the National Green Tribunal (Practice and Procedure) Rules, 2011 (framed under Sections 4(4) and 35 of the NGT Act).²² This court then held as follows:

"160. Rule 24 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends of justice. Rule 24 gives wide powers to the Tribunal to secure the ends of justice. Rule 24 vests special power to the Tribunal to pass orders and issue directions to secure the ends of justice. Use of words "may", "such orders", "gives such directions", "as may be necessary or expedient", "to give effect to its orders", "order to prevent abuse of process", are words which enable the Tribunal to pass orders and the above words confer wide discretion.

163. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. In this regard reference is made to the judgment of this Court in *L. Hirday Narain v. CIT* [*L. Hirday Narain v. CIT*, (1970) 2 SCC 355], wherein this Court was examining provision empowering authority to do something. This Court laid down in para 14: (SCC p. 359)

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164. We, thus, are of the considered opinion that there is no lack of jurisdiction in NGT to direct for appointment of committee or to obtain a report from a committee in the given facts of the case."

76. The power and jurisdiction of the NGT under Sections 15(1)(b) and (c) are not restitutionary, in the sense of restoring the environment to the position it was before the practise impugned, or before the incident occurred. The NGT's jurisdiction in one sense is a remedial one, based on a reflexive exercise of its powers. In another sense, based on the

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nature of the abusive practice, its powers can also be preventive.

77. As a quasi-judicial body exercising both appellate jurisdiction over regulatory bodies' orders and directions (under Section 16) and its original jurisdiction under Sections 14, 15 and 17 of the NGT Act, the tribunal, based on the cases and applications made before it, is an expert regulatory body. Its personnel include technically qualified and experienced members. The powers it exercises and directions it can potentially issue, impact not merely those before it, but also state agencies and state departments whose views are heard, after which general directions to prevent the future occurrence of incidents that impact the environment, are issued.

78. Courts in the US, notably the US Supreme Court, have been faced with problems arising from regulatory adjudication. The scope of such decision making which resembles an adjudicatory outcome by courts, was considered in *Securities Exchange Commission v. Chenery Corp.*²⁰ This case arose from an order of the Securities Exchange Commission (SEC) refusing to approve a utility company's bankruptcy reorganization plan, due to that plan's favourable treatment of management's stock purchases during the reorganization period. The SEC originally had based its disapproval on its understanding of general corporation law principles. The Supreme Court initially struck down that decision as a misreading of the principles. On remand, the SEC reaffirmed its rejection of the reorganization plan. But this time, the SEC relied on its interpretation of the standards of the Public Utility Holding Company Act of 1935. When the Supreme Court decided the appeal for the second time, it affirmed the SEC's order. The court clarified that SEC would be allowed to establish such an interpretation by means of a particularized order rather than a general regulation and observed that:

"Not every principle essential to the effective administration of a statute can or should be cast immediately into the mold of a general rule. Some principles must await their own development, while others must be adjusted to meet particular, unforeseeable situations. In performing its important functions in these respects, therefore, an administrative agency must be equipped to act either by general rule or by individual order. To insist upon one form of action to the exclusion of the other is to exalt form over necessity. In other words, problems may arise in a case which the administrative agency could not reasonably foresee, problems which must be solved despite the absence of a relevant general rule. Or the agency may not have had sufficient experience with a particular problem to warrant rigidifying its tentative judgment into a hard and fast rule. Or the problem may be so specialized and varying in nature as to be impossible of capture within the boundaries of a general rule. In those situations, the agency must retain power to deal with the problems on a case-to-case basis if the administrative process is to be effective. There is thus a very definite place for the case by case evolution of statutory standards. And the choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primary in the informed discretion of the administrative agency."

79. Similar observations were made by this court in *PTC India v. Central Electricity Regulatory Commission*²¹. The court stated as follows, after analysing the provisions of the Electricity Act 2003:

"49. On the above analysis of various sections of the 2003 Act, we find that the decision-making and regulation-making functions are both assigned to CERC. Law comes into existence not only through legislation but also by regulation and litigation. Laws from all three sources are binding. According to Professor Wade, "between legislative and administrative functions we have regulatory functions". A statutory instrument, such as a rule or regulation, emanates from the exercise of delegated legislative power which is a part of administrative process resembling enactment of law by the legislature whereas a quasi-judicial order comes from adjudication which is also a part of administrative process resembling a judicial decision by a court of law.

50. Applying the above test, price fixation exercise is really legislative in character, unless by the terms of a particular statute it is made quasi-judicial as in the case of tariff fixation under Section 62 made appealable under Section 111 of the 2003 Act, though

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Section 61 is an enabling provision for the framing of regulations by CERC. If one takes "tariff" as a subject-matter, one finds that under Part VII of the 2003 Act actual determination/fixation of tariff is done by the appropriate Commission under Section 62 whereas Section 61 is the enabling provision for framing of regulations containing generic propositions in accordance with which the appropriate Commission has to fix the tariff. This basic scheme equally applies to the subject-matter "trading margin" in a different statutory context as will be demonstrated by discussion hereinbelow."

80. The NGT's directions, though placed in the context of its adjudicatory role, have a wider ramification in the sense that its rulings constitute the appropriate norm which are to be followed by all those engaging in similar activities. Therefore, its orders, contextually in the course of adjudication, also establish and direct behaviour appropriate for future guidance. In these circumstances, given the panoply of the NGT's powers under the NGT Act, which include considering regulatory directions issued by expert regulatory bodies under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Biodiversity Act, 2002 it has to be held that general directions for future guidance, to avoid or prevent injury to the environment for appropriate assimilation in relevant rules, can be given by the NGT.

81. Turning next to the question of the correctness of the general directions contained in Para 17(e) of the NGT's order, this court has no manner of doubt that such directions were improper and not justified in the facts of this case. What the NGT had before it, was the report of the SDM and a report commissioned about the nature of the incident. Based on these limited inputs, the tribunal concluded-without any *rationale* and based on no scientific or technical evidence, or experts' opinion, that development and construction should not be carried out within 100 feet of a "lowest slope i.e. incline of any hill within its territorial limits, as well as hill-tops". The decisions of this court, including the *All Dimasa Students Union case* (f.n. 9); *Mantri Technoze Pvt. Ltd. case* (f.n.3); the *Hanuman Laxman Aroskar case* (f.n. 4) and the *Tamil Nadu Pollution Control Board case* (f.n. 2) all show that the NGT resorted to the appointment of technical and scientific experts in the relevant field, who studied the issue, made site inspections and furnished reports. Such reports were subjected to discussion by the parties before the NGT, who were also given the opportunity of objecting to or making representations against such reports. Based on a final consideration of all these materials, and the submissions of parties before it, the NGT proceeded to issue directions. This procedure was wholly overlooked by the NGT in the present case. As a result, it is held that the said tribunal's directions were improper and are procedurally indefensible. The directions contained in Para 17(e) are therefore set aside.

82. To consider the last issue, i.e. validity of the notification/direction issued by the state government, it is necessary to briefly outline provisions of the MRTP Act. The MRTP Act was framed and enacted for the purpose of use, planning and development in the regions (of Maharashtra). This was through the establishment of Regional Planning Boards, New Town Development Authorities and Special Planning Authorities, as the case may be, for specified "notified areas". The Act provides for the preparation of development plans, appointment of Special Planning Authorities for notified areas, and creation of new towns for designated areas by means of development authorities. The MRTP Act also enables compulsory acquisition of land for public purposes in respect of the plans and for purposes connected therewith. The Act provides for an elaborate procedure for preparation of the regional plan by a Regional Planning Board ("the board") and development plan by any planning authority. The board has to follow the procedure contained in Chapter II(C). Section 16 provides the procedure - the regional boards have to (after necessary survey) prepare land-use maps for the region, and prepare a draft regional plan, after which they have to publish a notice about the plan in the Official Gazette, inviting objections and suggestions from any person with respect to the draft plan. The board has to refer the objections, suggestions and representations received by it to the Regional Planning Committee ("the committee" hereafter) appointed under Section 10 for consideration and report. The committee, after giving a reasonable opportunity of being heard to the affected persons has to submit its report to the board, after which the board has to prepare the regional plan after considering the suggestions, objections and representations and the report of the committee. This is to

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be submitted to the State Government for approval. On approval of the plan by the State Government under Section 15, the final regional plan has to be published under Section 17.

83. Chapter III deals with the procedure for preparation of development plans by a planning authority. Section 23 provides that the planning authority should make a declaration of its intent to prepare such a plan and publish the same in the Official Gazette, inviting suggestions or objections from the public within a period of not less than sixty days from the publication of the notice in the Official Gazette. Thereafter under Section 26, the planning authority has to prepare a draft development plan, not later than two years from the date of notice published under Section 23, and publish the notice in the Official Gazette stating that the development plan has been prepared, once again inviting objections or suggestions from any person with respect to the draft plan within a period of sixty days from the notice. Section 27 provides that the planning authority having regard to, and guided by the proposals made in the regional plan, shall not carry out any modification therein without prior concurrence of the Regional Planning Board. Section 28 mandates the planning authority to consider suggestions or objections received by it under Section 26(1) and provide a reasonable opportunity of being heard to any person including the representatives of the Government who may have filed any objections or suggestions, and thereafter modify or change the plan in such manner, as provided under Section 28(4). Section 29 further provides for modification of the draft development plan, which is of substantial nature. By this, a planning authority or the Town Planning Officer is required to publish a notice in the Official Gazette inviting objections and suggestions from any person with respect to the proposed modification not later than sixty days from the date of such notice. The section then requires the authority concerned to consider all objections and suggestions received by it and give a reasonable opportunity of being heard to any person including representatives of government departments who may have filed any objections or made any suggestions in respect of the draft development plan before making such modifications or changes in the draft development plan. Section 30 requires the planning authority to submit the draft plan to the State Government for approval, within twelve months from the date of publication of the notice under Section 26 that the draft plan has been prepared. Section 31 provides that the State Government may, after consulting the Director of Town Planning by notification in the Official Gazette, sanction the draft development plan submitted to it for the whole area, or separately for any part thereof, either without modification, or subject to such modifications as it may consider proper, or return the draft development plan to the planning authority for modifying the plan as it may direct, or refuse to accord sanction. It further provides that where the modifications proposed to be made by the State Government are of a substantial nature, the State Government has to follow the procedure contemplated under Section 28 to give a reasonable opportunity of hearing to the objectors before finalizing the modification.

84. Section 37 confers powers on a planning authority to carry out such modification in a final development plan as will not change its character. This power could be exercised by a planning authority after publishing a notice in the Official Gazette and in such other manner as may be determined by it inviting objections and suggestions from any person with respect to the proposed modification, not later than one month from the date of such notice. This section also enjoins the planning authority to serve notice on all persons affected by the proposed modification and, after giving a hearing to any such persons, submit the proposed modification (with amendments, if any) to the State Government for sanction. Section 40 provides for appointment of a Special Planning Authority for developing certain notified areas, and Section 40(1)(c) provides that the State Government may, by notification in the Official Gazette appoint Bombay Metropolitan Region Development Authority (BMRDA) established under the Bombay Metropolitan Region Development Authority Act, 1974 to be the Special Planning Authority for developing any undeveloped area specified in the notification as a notified area. Section 116 then lays down that a Special Planning Authority shall have all the powers of a planning authority as provided in Chapter VII of the MRTP Act for the special purpose of acquisition of such land in the notified area either by agreement or under the Land Acquisition Act.

85. So far as plans and developments that were approved before the impugned

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notification was issued, this court is of the opinion that they cannot be disturbed and the right of the applicants, be they developers, builders or owners of land or plots, cannot be prejudiced or adversely affected. This is evident from a ruling of this court in *T. Vijayalakshmi v. Town Planning Member*²². This court stated that town planning legislations (like the MRTP Act) are regulatory; and that when a development plan is in force during the proposal for its amendment, courts should not interfere with them on the assumption that the approved plan for building or development, would not be eventually permitted. It was held that:

"Whether the amendments to the said comprehensive development plan as proposed by the Authority would ultimately be accepted by the State or not is uncertain. It is yet to apply its mind. Amendments to a development plan must conform to the provisions of the Act. As noticed hereinbefore, the State has called for objection from the citizens. Ecological balance no doubt is required to be maintained and the courts while interpreting a statute should bestow serious consideration in this behalf, but ecological aspects, it is trite, are ordinarily a part of the town planning legislation. If in the legislation itself or in the statute governing the field, ecological aspects have not been taken into consideration keeping in view the future need, the State and the Authority must take the blame therefor. We must assume that these aspects of the matter were taken into consideration by the Authority and the State. But the rights of the parties cannot be intermeddled with so long as an appropriate amendment in the legislation is not brought into force."

86. This court has ruled, that even modification to an existing development plan, under the MRTP Act, under Section 37, is in the nature of a legislative function. This court had observed under *Pune Municipal Corpn. v. Promoters and Builders Assn*²³ speaking of Section 37 (1) that:

"4. Reading of this provision reveals that under clause (1), the Planning Authority after inviting objections and suggestions regarding the proposed amendment and after giving notice to all affected persons shall submit the proposed modification for sanction to the Government. Deliberation with the public before making the amendment is over at this stage. The Government, thereafter, under clause (2) is given absolute liberty to make or not to make necessary inquiry before granting sanction. Again, while according sanction, the Government may do so with or without modifications. The Government could impose such conditions as it deems fit. It is also permissible for the Government to refuse the sanction. This is the true meaning of clause (2). It is difficult to uphold the contrary interpretation given by the High Court. The main limitation for the Government is made under clause (1) that no authority can propose an amendment so as to change the basic character of the development plan. The proposed amendment could only be minor within the limits of the development plan. And for such minor changes it is only normal for the Government to exercise a wide discretion, by keeping various relevant factors in mind. Again, if it is arbitrary or unreasonable the same could be challenged. It is not the case of the respondents herein that the proposed change is arbitrary or unreasonable. They challenged the same citing the reason that the Government is not empowered under the Act to make such changes to the modification."

5. Making of DCR or amendments thereof are legislative functions. Therefore, Section 37 has to be viewed as repository of legislative powers for effecting amendments to DCR. That legislative power of amending DCR is delegated to the State Government. As we have already pointed out, the true interpretation of Section 37(2) permits the State Government to make necessary modifications or put conditions while granting sanction. In Section 37(2), the legislature has not intended to provide for a public hearing before according sanction. The procedure for making such amendment is provided in Section 37. Delegated legislation cannot be questioned for violating the principles of natural justice in its making except when the statute itself provides for that requirement. Where the legislature has not chosen to provide for any notice or hearing, no one can insist upon it and it is not permissible to read natural justice into such legislative activity. Moreover, a provision for "such inquiry as it may consider necessary" by a subordinate

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legislating body is generally an enabling provision to facilitate the subordinate legislating body to obtain relevant information from any source and it is not intended to vest any right in anybody. (Union of India v. Cynamide India Ltd. [(1987) 2 SCC 720], SCC paras 5 and 27. See generally H.S.S.K. Niyami v. Union of India [(1990) 4 SCC 516] and Canara Bank v. Debasis Das [(2003) 4 SCC 557 : 2003 SCC (L&S) 507].) While exercising legislative functions, unless unreasonableness or arbitrariness is pointed out, it is not open for the Court to interfere. (See generally ONGC v. Assn. of Natural Gas Consuming Industries of Gujarat [1990 Supp SCC 397].) Therefore, the view adopted by the High Court does not appear to be correct.

87. This issue was again underscored by this court in *Machavarapu Srinivasa Rao v. Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority*,³⁴ where it was held as follows, in respect of provisions of the Andhra Pradesh (Urban Areas) Development Act, 1975:

"20. An analysis of the above-noted provisions shows that once the master plan or the zonal development plan is approved by the State Government, no one including the State Government/Development Authority can use land for any purpose other than the one specified therein. There is no provision in the Act under which the Development Authority can sanction construction of a building, etc. or use of land for a purpose other than the one specified in the master plan/zonal development plan. The power vested in the Development Authority to make modification in the development plan is also not unlimited. It cannot make important alterations in the character of the plan. Such modification can be made only by the State Government and that too after following the procedure prescribed under Section 12(3)."

88. In a decision which concerned change in development plan under the MRTP Act, this court observed that any changes in a development or master plan involve consultations and a high degree of expertise, in *MIG Cricket Club v. Abhinav Sahakar Education Society*³⁵:

"28. It is well settled that the user of the land is to be decided by the authority empowered to take such a decision and this Court in exercise of its power of judicial review would not interfere with the same unless the change in the user is found to be arbitrary. The process involves consideration of competing claims and requirements of the inhabitants in present and future so as to make their lives happy, healthy and comfortable. We are of the opinion that town planning requires high degree of expertise and that is best left to the decision of the State Government to which the advice of the expert body is available. In the facts of the present case, we find that the power has been exercised in accordance with law and there is no arbitrariness in the same."

89. Now, under the provisions of the MRTP Act³⁶, regional plans and development plans have to take into account features such as soil conservation, preservation of natural features, prevention of flooding etc, while factoring planning for each city or area concerned. In turn, such regional and development plans would constitute the blueprint for local town planning authorities to grant or refuse permission to individual applicants. In these circumstances, the use of Section 154 of the MRTP Act, in the present case, in fact amounted to a modification of all plans - regional, development, etc. Such modification (by way of absolute prohibition in construction) was not preceded by any manner of public consultation, much less previous invitation of objections or consideration of the views of affected parties. It is in this background that one has to consider the argument of the state, which found favour with the High Court, that such notification was issued in public interest.

90. The unamended Section 154 of the MRTP Act read as follows:

"154 Control by the State Government

- (1) Every Regional Board, Planning Authority and Development Authority shall carry out such directions or instructions as may be issued from time to time by the State Government for the efficient administration of this Act.
- (2) If in, or his connection with, the exercise of its powers and discharge of its functions by the Regional Board, Planning Authority or Development Authority under this Act, any dispute arises between the Regional Board, Planning Authority or Development Authority, and the State Government, the decision of the State

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Government on such dispute shall be final."

91. Section 154 (1) was amendment by a substitution (with effect from 22.04.2015). The new provision [Section 154 (1)] reads as follows:

"154. (1) Notwithstanding anything contained in this Act or the rules or regulations made thereunder, the State Government may, for implementing or bringing into effect the Central or the State Government programmes, policies or projects or for the efficient administration of this Act or in the larger public interest, issue, from time to time, such directions or instructions as may be necessary, to any Regional Board, Planning Authority or Development Authority and it shall be the duty of such authorities to carry out such directions or instructions within the time-limit, if any, specified in such directions or instructions."

92. Directions can be issued "notwithstanding" any other provisions of the Act, "for implementing or bringing into effect the Central or the State Government programmes, policies or projects or for the efficient administration of this Act or in the larger public interest, issue, from time to time." No doubt, the non-obstante clause has an overriding effect on other provisions of the Act. However, if one keeps in mind that the preparations of regional and development plans are in terms of specific provisions which outline detailed procedures that have to be necessarily followed, in the absence of which, time and again courts have intervened and held that such modifications (without following prescribed procedure or without prescribed consultations) are illegal, the power has to be resorted to for good and adequate reasons. The direction, impugned in the present case, on the face of it, is not premised on any central or state government programmes, policies or projects. The impugned notification reads as follows:

GOVERNMENT OF MAHARASHTRA
 URBAN DEVELOPMENT DEPARTMENT
 Madam Cama Road
 Hutatma Rajguru Chowk
 Mantralaya, Mumbai 400032
 Government Resolution No. TPS-1817/ANS-90/97/UD-13
 dated 14 November 2017

The Development schemes are prepared for area in jurisdiction of planning authorities under the Maharashtra Regional Development and Town Planning Act, 1966. In the context of unauthorised constructions undertaken by hill cutting, at Katraj Ghat District Pune, the Hon'ble National Green Tribunal, Pune has, by order dated 19 May 2015 in Application Number 4/2014, issued orders and instructed to inform all Mahanagar Palik/Nagarpalika in the state not to give any development permission for constructions on the hilltop and 100 feet distance from the hill slopes. A provision already exists in development control regulations that no development is permissible on the hilltop and no hill slopes having a gradient of more than 1:5. Considering the order dated 19 May 2015 of the Hon'ble National Green Tribunal in exercise of powers under section 154 of the Maharashtra Regional Town Development and Town Planning Act 1966 the following the directions were issued to all planning authorities in the state:

DIRECTIONS

1. *The planning authorities while preparing development plan for area in their jurisdiction or amending them in respect of undeveloped portion abutting the hills upto 100 feet should be shown as No development/Open space Reservation.*
2. *In the event the 100 area abutting hills, has already been developed, in that area no permission be granted for additional FSI or TDR.*
3. *In the event the 100 feet area abutting hills is under No Development Zone as per sanctioned Development plan, then while granting permission for Development for further 100 feet area abutting/contiguous thereto should be permitted only for nonbuildable purposes such as open space, road et cetera.*

In the name of and by order of the Hon'ble Governor State of Maharashtra"

93. There are several authorities for the proposition that though an administrative order

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need not necessarily comply with principles of natural justice such as granting hearing, yet, administrative decisions or orders have to be based on some reasons. In *Shri. Sitaram Sugar Mills Company v. Union of India*,³² (which concerned the zoning regulations for the purpose of levy sugar under the relevant statutory order, in terms of the Essential Commodities Act), the Supreme Court held as follows:

"Power delegated by statute is limited by its terms and subordinate to its objects. The delegate must act in good faith, reasonably, intra vires the power granted, and on relevant consideration of material facts. All his decisions, whether characterised as legislative or administrative or quasi-judicial, must be in harmony with the Constitution and other laws of the land. They must be 'reasonably related to the purposes of the enabling legislation'. If they are manifestly unjust or oppressive or outrageous or directed to an unauthorised end or do not tend in some degree to the accomplishment of the objects of delegation, court might well say, 'Parliament never intended to give authority to make such rules; they are unreasonable ultra vires.

A repository of power acts ultra vires either when he acts in excess of his power in the narrow sense or when he abuses his power by acting in bad faith or for an inadmissible purpose or on irrelevant grounds or without regard to relevant considerations or with gross unreasonableness."

94. In *Ceilar Operators Association v. Telecom Regulatory Authority of India*,³³ this court held that subordinate regulatory legislation, can be set aside in judicial review, if they show no rationale or are arbitrary:

"62. In view of the aforesaid, it is clear that the Quality of Service Regulations and the Consumer Regulations must be read together as part of a single scheme in order to test the reasonableness thereof. The countervailing advantage to service providers by way of the allowance of 2% average call drops per month, which has been granted under the 2009 Quality of Service Regulations, could not have been ignored by the impugned Regulation so as to affect the fundamental rights of the appellants, and having been so ignored, would render the impugned Regulation manifestly arbitrary and unreasonable.

63. Secondly, no facts have been shown to us which would indicate that a particular area would be filled with call drops thanks to the fault on the part of the service providers in which consumers would be severely inconvenienced. The mere ipse dixit of the learned Attorney General, without any facts being pleaded to this effect, cannot possibly make an unconstitutional regulation constitutional. We, therefore, hold that a strict penal liability laid down on the erroneous basis that the fault is entirely with the service provider is manifestly arbitrary and unreasonable. Also, the payment of such penalty to a consumer who may himself be at fault, and which gives an unjustifiable windfall to such consumer, is also manifestly arbitrary and unreasonable. In the circumstances, it is not necessary to go into the appellants' submissions that call drops take place because of four reasons, three of which are not attributable to the fault of the service provider, which includes sealing and shutting down towers by municipal authorities over which they have no control, or whether they are attributable to only two causes, as suggested by the Attorney General, being network-related causes or user-related causes. Equally, it is not necessary to determine finally as to whether the reason for a call drop can technologically be found out and whether it is a network-related reason or a user-related reason.

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66. The reason given in the Explanatory Memorandum for compensating the consumer is that the compensation given is only notional. The very notion that only notional compensation is awarded, is also entirely without basis. A consumer may well suffer a call drop after 3 or 4 seconds in a voice call. Whereas the consumer is charged only 4 or 5 paise for such dropped call, the service provider has to pay a sum of rupee one to the said consumer.

This cannot be called notional at all. It is also not clear as to why the Authority decided to limit compensation to three call drops per day or how it arrived at the figure of Re 1 to compensate inconvenience caused to the consumer. It is equally unclear as to



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why the calling party alone is provided compensation because, according to the Explanatory Memorandum, inconvenience is suffered due to the interruption of a call, and such inconvenience is suffered both by the calling party and the person who receives the call. The receiving party can legitimately claim that his inconvenience when a call drops, is as great as that of the calling party. And the receiving party may need to make the second call, in which case he receives nothing, and the calling party receives Re 1 for the additional expense made by the receiving party. All this betrays a complete lack of intelligent care and deliberation in framing such a regulation by the Authority, rendering the impugned Regulation manifestly arbitrary and unreasonable."

95. In the present case, the State of Maharashtra has not shown any material or file containing the reasons behind the directive of 14.11.2017. It is not in dispute that the direction was consequential to, and solely based on the directions of the NGT in Para 17(e). As noticed earlier, those directions were not based on any scientific evidence or report of any technical expert. Furthermore, even the impugned notification does not specify what constitutes "hills", and how they can be applied in towns and communities set in undulating areas and hilly terrain. This is not only vague, but makes the directions arbitrary as they can be applied at will by the concerned authorities. More importantly, they amount to a blanket change of all regional and development plans. While such directions can be issued, if situations so warrant, such as in extraordinary or emergent circumstances, the complete absence of any reasons why the state issued them, coupled with the lack of any supporting expert report or input, renders it an arbitrary exercise. That they are based only on the NGT's orders, only underlines the lack of any application of mind on the part of the State, while issuing them.

96. For the above reasons, we hold that the impugned judgment of the Bombay High Court cannot be sustained; it is set aside. Consequently, the directions in the notification under Section 154 (dated 14.11.2017) are hereby quashed.

97. In view of the above discussions, CA 6932/2015 and CA 5971/2019 are hereby disposed of in terms of the directions in this judgment. The other appeals by special leave by third parties, against the NGT's order, and the order of the NGT, are partly allowed in the above terms. There shall be no order on costs.

¹ In terms of Clause 19.4.2, the measure of damages which NHAI could recover was calculable in terms of each days delay in complying with the remedial measures suggested by the engineer, based on the "higher (a) 0.5% of the Average Daily Fee and (b) 0.1% of the cost of such repair or repair estimated by the Independent Engineer" The same clause (17.8.1) stated that:

"Notwithstanding anything contained in this agreement, should the actual traffic exceed the design capacity during any year or part thereof and the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this agreement and the Authority shall be entitled from such date to recover damages, to be calculated and paid for each day of the delay until the breach is cured, at the higher of (a) 5% (five percent) of Average daily fee and 1% (one percent) of the cost of such repair or rectification as estimated by the Independent Engineer, for the balance period of the concession. The recovery of such damages shall be without prejudice to the rights of the Authority under this agreement, including the right of termination thereof."

² 2019 SCC OnLine SC 221.

³ (2019) 18 SCC 494

⁴ (2019) 15 SCC 401

⁵ (2001) 6 SCC 496

⁶ 2019 SCC OnLine SC 1510

⁷ (1981) 2 SCC 205

⁸ (2011) 7 SCC 338

⁹ (2019) 8 SCC 177

¹⁰ Section 2(a) EPA

¹¹ Section 2(b) EPA

¹² Section 2(c) EPA

¹³ (2004) 12 SCC 118

¹⁴ (2012) 4 SCC 629

¹⁵ No. 3181 dated 14 August, 2018, published by the Government of India, in the Official Gazette

¹⁶ (1997) 9 SCC 532

¹⁷ *Gorris v. Scott* [(1874) 9 Exch 125] and *Kilgollan v. William Cooke & Co. Ltd.* (1956) 2 All ER 294, CA]

¹⁸ [1967] 1 Q.B. 374

¹⁹ [1968] 1 W.L.R. 1490

²⁰ [1978] Q.B. 343

²¹ 1996 (3) All ER 801

²² 2004 (1) WLR 1057

²³ 2019 (2) All ER 1041

²⁴ 2011 QB 827

²⁵ (1999) 4 SCC 317 at page 323

²⁶ (2014) 16 SCC 14

²⁷ See f.n.9 (supra).

²⁸ "19. **Procedure and powers of Tribunal.**—(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of Sections 193, 219 and 228 for the purposes of Section 196 of the Penal Code, 1860 and the Tribunal shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973."

²⁹ The said rule reads as follows:

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"24. Order and directions in certain cases. — The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

²⁴ 332 U.S. 194 (1947)

²⁵ (2010) 4 SCC 633

²⁶ (2006) 8 SCC 532

²⁷ (2004) 10 SCC 796

²⁸ (2011) 12 SCC 154

²⁹ (2011) 9 SCC 97

³⁰ Section 14 and 22

³¹ (1990) 3 SCC 223

³² (2016) 7 SCC 703

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SUPREME COURT CASES

(2020) 2 SCC

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2019
Dec. 3

(BEFORE DR D.Y. CHANDRACHUD AND AJAY RASTOGI, JJ.)

KEYSTONE REALTORS PRIVATE LIMITED

.. Appellant;

Versus

2-Judge
Bench

ANIL V. THARTHARE AND OTHERS

.. Respondents.

Civil Appeal No. 2435 of 2019[†], decided on December 3, 2019

Environment Law — Development Projects — Environment Impact Assessment Notification 2006, bearing S.O. 1533 — Paras 2 and 7 — Interpretation of — Objectives of EIA Notification, clarified

— Amendment of environmental clearance (EC) which had already been granted, for expansion of projects — Impermissibility of — Fresh clearance can be obtained from authorities for expansion, held, only by following procedure laid down under Para 7(ii) — Mandatory nature thereof, emphasised

— On facts held, amendment of EC for expansion of the project was impermissible — NGT direction of imposition of Rs One crore towards compensatory costs, affirmed — Expert committee to evaluate environmental impact and to suggest total compensatory costs to be imposed

— Held, EIA Notification seeks to ensure protection and preservation of environment during execution of new projects and expansion or modernisation of existing projects — It imposes restrictions on execution of new projects and on expansion of existing projects, until their potential environmental impact has been assessed and approved by grant of EC

— In a case where text of provisions require interpretation, court must adopt an interpretation which is in consonance with object and purpose of legislation or delegated legislation as a whole — EIA Notification was adopted with intention of restricting new projects and expansion of new projects until their environmental impact could be evaluated and understood — It cannot be disputed that as size of project increases, so does magnitude of project's environmental impact — Interpretation lending meaning that EIA Notification which would permit, incrementally or otherwise, project proponents to increase construction area of project without oversight from Expert Appraisal Committee or State Level Expert Appraisal Committee (SEAC), as applicable — It is not for courts to lay down bright-line test as to what constitutes marginal increase and what constitutes material increase — As EIA Notification currently stands, expansion within limits prescribed by Schedule is subject to procedure set out in Para 7(ii)

— Plain reading of second half of Para 2(ii) would indicate that it applies to cases where project was initially below threshold limits stipulated in Schedule but after the proposed expansion, would breach threshold limits — Therefore, it does not cover a case where project had already crossed lower threshold limit set out in Schedule and expansion does not cross upper limit stipulated by Schedule

[†] Arising from the Judgment and Order in *Anil Tharthare v. State of Maharashtra*, 2019 SCC OnLine NGT 876 [National Green Tribunal, Principal Bench at New Delhi, Appeal No. 122 of 2018 (Earlier Appeal No. 9 of 2014), dt. 11-2-2019]

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KEYSTONE REALTORS (P) LTD. v. ANIL
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- a — Para 2(ii) must be r/w Para 7(ii) — Para 7(ii) lays down exact procedure to be followed by project proponent in case of expansion — Two crucial aspects of Para 7(ii) are: (A) it uses phrase “expansion with increase in production capacity beyond the capacity for which prior environment clearance has been granted”; and (B) qualifying language referring to breaching threshold limits “after expansion” is absent — “Expansion” can occur even after grant of EC when project first crossed the lower limit stipulated in threshold — It is not necessary for project to breach upper limit after expansion — Therefore close reading of Para 7(ii) would mean that even after obtaining EC if project is expanded beyond limits for which the prior EC was obtained, fresh application would need to be made even if expansion is within upper limit prescribed in Schedule
- c — If Para 2(ii) does not cover a case where expansion is within limits stipulated by Schedule, project proponent may incrementally keep increasing size of project area over time — This would result in significant increase in project size without assessment EIA resulting from expansion — Such outcome would defeat entire scheme of EIA Notification which is to ensure that any new or additional environmental impact is assessed and certified by relevant regulatory authorities
- d — There is considerable merit in observations of Committee constituted by MoEF that requirement of an EC at time of expansion forms a critical step in environmental clearance regime — It assists officials not just in evaluating and mitigating any adverse impact caused by expansion but also in assessing whether project proponent is in compliance with their existing obligations —
- e Crucially, any form of expansion necessarily puts a strain on local environment and infrastructure and needs to be carefully evaluated in holistic manner
- f — Lower limit of Entry 8(a) of Schedule is built-up area of 20,000 sq m and upper limit is 1,50,000 sq m — Environmental impact of construction of 1,50,000 sq m is drastically more than 20,000 sq m — At the time of second increase in present case, total construction area of appellant’s project enlarged from 32,395.17 sq m to 40,480.88 sq m — As result of such expansion, appellant constructed 16 addition flats which were sold at prevailing market rate — Appellant did not comply with procedure set under Para 7(ii) — It rather sought amendment to EC — Amendment to EC dated 13-3-2014 did not discuss potential environmental impact of increase in construction area — But merely records that construction area now stands at 40,480.88 sq m
- g — Procedure set out under Para 7(ii) exists to ensure that where project is expanded in size, environmental impact on surrounding area is evaluated holistically considering all relevant factors including air and water availability and pollution, management of solid and wet waste and the urban carrying capacity of the area — This was not done in case of appellant’s project — Held, it was not open to authorities to grant amendment of EC without following
- h procedure set out in Para 7(ii)

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SUPREME COURT CASES

(2020) 2 SCC

— As appellant had completed construction, authorities were denied ability to evaluate environmental impact and suggest methods to mitigate any environmental damage — Therefore, only remedial measures may be taken
— Hence, direction of NGT to appellant to deposit Rs One crore affirmed
— Expert committee constituted by NGT directed to continue its evaluation of project so as to bring environmental impact as close as possible to that contemplated in EC dt. 2-5-2013 and also suggest compensatory exaction to be imposed on appellant — Housing and Real Estate — Building/Planning Norms — Development Permission/Occupancy Certificate/NOC/Environmental NOC
— Interpretation of Statutes — Basic Rules — Purposive construction/interpretation/Mischief rule/Heydon's rule — Polluter Pays Principle and Remedial/Compensatory/Punitive Measures — Remedial action/Reclamation/Rehabilitation measures/Compensation/Disgorgement of gains of wrongdoer
— Restitution — Disgorgement of Gains of Wrongdoer (Paras 6 and 13 to 21)

Anil Tharthare v. State of Maharashtra, 2019 SCC OnLine NGT 876, affirmed

Keystone Realtors (P) Ltd. v. Environment Department, 2016 SCC OnLine Bom 9340, cited

The appellant, a project proponent of residential redevelopment, received commencement certificate. When project commenced, area was 8720.32 sq m. As area of construction was increased to 32,395.17 sq m, the appellant applied for Environmental Clearance (EC) under Environment Impact Assessment (EIA). The State Level Expert Appraisal Committee for Maharashtra (SEAC) recommended the grant of an EC for the project. On 2-5-2013 the third respondent, the State Level Environment Impact Assessment Authority for Maharashtra (SEIAA), based on the recommendations of SEAC granted an EC for total construction of 32,395.17 sq m. The appellant increased total construction area by 40,480.88 sq m. Therefore, in environmental clearance given on 2-5-2013, the appellant sought amendment. Accordingly, amendment was granted to EC dated 2-5-2013.

Respondent 1 challenged grant of amended environmental clearance before the National Green Tribunal (NGT). The appellant raised several grounds questioning maintainability of petition before NGT. The contentions raised by the appellant were rejected. The appellant approached the High Court, which held that appeal on behalf of Respondent 1 not maintainable and challenge to the environmental clearance barred by limitation. However, this dispute was transferred to Principal Bench of NGT and decided against the appellant, which is challenged in this appeal. While dismissing the appeal, the Supreme Court held as above.

G-D/63343/C

Advocates who appeared in this case :

Mukul Rohatgi, Senior Advocate (Kunal Tandan, Pranaya Goyal, Aman Raj Gandhi, Nikhil Rohatgi, Abhishek Sharma, Ms Sanjana Arora, Ms Richa Sandilya and Ms Narayani Bhattacharyya, Advocates) for the Appellant;
Aditya Pratap, Munawwar Naseem, Chirag M. Shroff, Ms Mahima C. Shroff, Ms Yashika Verma and Riya Thomas, Advocates) for the Respondents.

Chronological list of cases cited

1. 2019 SCC OnLine NGT 876, *Anil Tharthare v. State of Maharashtra*
2. 2016 SCC OnLine Bom 9340, *Keystone Realtors (P) Ltd. v. Environment Department*

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The Judgment of the Court was delivered by

a **DR D.Y. CHANDRACHUD, J.**— The present civil appeal arises from an order dated 11-2-2019¹ of the Principal Bench of the National Green Tribunal (NGT). In its order, NGT held that the increase in the total construction area of the appellant's project was an "expansion" under a Notification (bearing number S.O. 1533) dated 14-9-2006 (EIA Notification) of the Ministry of Environment and Forests. NGT found that the appellant had undertaken an
b "expansion" as set out in Para 2 of the EIA Notification without complying with the regulatory procedure prescribed. The appellant was directed to deposit an amount of rupees one crore with the Central Pollution Control Board (CPCB). Noting that the construction at the project site had been completed, NGT appointed a five-member expert committee to study the impact of the appellant's expanded project and to suggest remedial measures.

c *The facts*

d 2. The appellant is the project proponent of a residential redevelopment, called "Oriana Residential Project" situated at CTS No. 646, 646 (Pt) Gandhinagar, Bandra (East), Mumbai 400 050. On 8-6-2010 the appellant received a commencement certificate to carry out the development and erect a building situated at the project property. The appellant began construction. When the construction commenced, the total construction area was 8720.32 sq m. The ambit of the project was expanded, and the constructed area was increased to 32,395.17 sq m. Under the EIA Notification, an Environmental Clearance (EC) was necessary if the total construction area exceeded 20,000 sq m. Hence, the appellant applied for an EC under the EIA Notification.

e 3. The fourth respondent, the State Level Expert Appraisal Committee for Maharashtra (SEAC) recommended the grant of an EC for the project. On 2-5-2013 the third respondent, the State Level Environment Impact Assessment Authority for Maharashtra (SEIAA), based on the recommendations of SEAC granted an EC. It is not in dispute that at the time when EC dated 2-5-2013 was granted, the total construction area of the project was 32,395.17 sq m. The grant of EC was conditional on the appellant obtaining a "consent for establishment" from the Maharashtra Pollution Control Board under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.

g 4. By a letter dated 24-9-2013, the appellant informed the Environment Department of the Government of Maharashtra, the second respondent, that the construction area was being further increased by 8085.71 sq m, as a result of which the total construction area of the project would stand enhanced to 40,480.88 sq m. In its letter, the appellant sought an "amendment" to EC dated 2-5-2013 by the third respondent to reflect the increase in the total construction area. On 13-3-2014, the third respondent granted an "amendment" to EC dated 2-5-2013 on the ground that there was only a "marginal increase

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¹ *Anil Tharthare v. State of Maharashtra*, 2019 SCC OnLine NGT 876

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in built-up and construction area". The third respondent noted the changes in the specification of the project as follows:

Description	As per EC dated 2-5-2013		Amendment	
FSI area	16,346.32 sq m		21,365.54 sq m	
Non-FSI area	16,048.85 sq m		19,115.34 sq m	
Total construction area	32,395.17 sq m		40,480.88 sq m	
Nos. of tenements	Members 64	Sale 61	Members 64	Sale 77
Building configuration	Member	2 Basement	Member	2 Basement

5. The first respondent, claiming to be a resident of MIG Colony, Gandhinagar, Bandra East, Mumbai, challenged the grant of the amended EC dated 13-3-2014 before the Pune Bench of NGT. In response, the appellant filed two applications, challenging the standing of the first respondent and contending that the challenge was barred by limitation. By an order dated 4-5-2016, the Pune Bench of NGT rejected the applications questioning the maintainability of the proceedings and setting up the bar of limitation. The appellant filed a writ petition before the High Court of Judicature at Bombay to challenge the decision of the Pune Bench of NGT. The Bombay High Court, allowing the writ petition held by an order dated 23-8-2016², that the appeal was not maintainable at the behest of the first respondent, and the challenge against the grant of the amended EC dated 13-3-2014 was barred by limitation. By an administrative order dated 31-7-2018, the dispute was transferred from the Pune Bench of NGT to the Principal Bench which heard the parties and delivered the impugned order.

Relevant clauses of the EIA Notification

6. The present dispute raises important questions regarding the interpretation of the EIA Notification. The EIA Notification seeks to ensure the protection and preservation of the environment during the execution of new projects and the expansion or modernisation of existing projects. It imposes restrictions on the execution of new projects and on the expansion of existing projects, until their potential environmental impact has been assessed and approved by the grant of an EC. Para 2 of the EIA Notification reads thus:

"2. Requirement for prior Environmental Clearance (EC): The following projects or activities shall require prior environmental clearance from the regulatory authority concerned, which shall hereinafter be referred to as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

² *Keystone Realtors (P) Ltd. v. Environment Department*, 2016 SCC OnLine Bom 9340



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(i) All new projects or activities listed in the Schedule to this notification;

(ii) *Expansion and modernisation of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the sector concerned, that is, projects or activities which cross the threshold limits given in the Schedule after expansion or modernisation;*

(iii) Any change in product — mix in an existing manufacturing unit included in Schedule beyond the specified range." (emphasis supplied)

7. The Schedule to the EIA Notification classifies potential projects into Category 'A' and Category 'B' based on their size and potential environmental impact. Category 'A' projects require project proponents to secure an EC from the Ministry of Environment, Forests and Climate Change. Category 'B' projects require project proponents to secure an EC from the SEIAA, based on the recommendations of SEAC. Where a project falls within the parameters stipulated in the Schedule, Para 2 of the EIA Notification provides that no construction work shall begin unless an EC is granted in regard to three types of activity: (i) new projects or activities provided in the Schedule, (ii) expansion or modernisation of existing projects or activities provided in the Schedule, and (iii) changes in the product mix in existing manufacturing units provided in the Schedule beyond the specified range. The present dispute raises questions as to how the second type of activity, the "expansion" of existing projects, should be construed under the EIA Notification.

8. In order to secure an EC, the project proponent must submit an application in the manner set out in Form 1 and Supplementary Form 1-A (if applicable) of the EIA Notification. Under Para 7(i) of the EIA Notification, the project proponent must also submit a pre-feasibility report. However, in the case of projects under Item 8 of the Schedule, only a conceptual plan is required to be submitted. Para 7(ii) of the EIA Notification states that:

"7(ii) *Prior Environmental Clearance (EC) process for expansion or modernisation of change of product mix in existing projects:*

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernisation of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product mix shall be made in Form 1 and they shall be considered by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultation and the application shall be appraised accordingly for grant of environmental clearance." (emphasis supplied)

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Clause (ii) of Para 2 of the EIA Notification requires the project proponent to secure an EC from the relevant regulatory authority prior to undertaking any "expansion" of an existing project. Para 7(ii) further stipulates that all applications for an EC in cases of "expansion" resulting in the increase of production capacity or lease area beyond the capacity/area stipulated in the previous EC shall be made in the manner set out in Form 1 or 1-A (as applicable).

9. The appellant's application in Form 1 acknowledges that the project fell under Entry 8(a) of Schedule 1 of the EIA Notification. Entry 8 deals with "Building and Construction projects having a built-up area of or greater than 20,000 sq m but less than 1,50,000 sq m". Entry 8 of the Schedule to the EIA Notification is as follows:

8 — Building/Construction projects/Area Development projects and Townships			
8(a)	Building and construction projects	and $\geq 20,000$ sq m and $< 1,50,000$ sq m of built-up area	Built-up area for covered construction: in the case of facilities open to the sky, it will be the activity area
8(b)	Townships and area development projects	Covering an area ≥ 50 ha and or built-up area $\geq 1,50,000$ sq m	All projects under Item 8(b) shall be appraised as Category B1

Issue

10. In applying for the original EC, the appellant submitted an application in Form 1 as required under the provisions of the EIA Notification. The total construction area identified in the appellant's Form 1 was 32,395.17 sq m. However, in September 2013 the appellant informed the second respondent of an increase by 8085.71 sq m as a result of which the total construction area of the project would be 40,480.88 sq m. In seeking an "amendment" to EC dated 2-5-2013 the appellant did not submit an updated Form 1. Further, the "amendment" to EC was granted by the SEIAA without the recommendations of SEAC. The issue before this Court is whether the "amended" EC dated 13-3-2014 granted by the SEIAA without following the procedure stipulated in Para 7(ii) of the EIA Notification is valid.

Submissions

11. Mr Mukul Rohatgi, learned Senior Counsel appearing on behalf of the appellant submitted that:

11.1. When construction began, the total construction area of the appellant's project was 8720.32 sq m. As the EIA Notification requires projects with a total built-up area of or more than 20,000 sq m to procure an EC prior to the start of construction, no EC was required before construction of the appellant's project commenced;

11.2. Pursuant to the first increase, when the appellant's project crossed the 20,000 sq m threshold provided for in the EIA Notification, the appellant submitted Form 1 and was granted a valid EC dated 2-5-2013 by the third respondent;

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- a 11.3. Pursuant to the second increase, the built-up area of the appellant's project only marginally increased by 8085.71 sq m to a total construction area of 40,480.88 sq m, which is within the upper limit of 1,50,000 sq m prescribed by Entry 8(a) of the Schedule to the EIA Notification. Therefore, the second increase was not an "expansion" within the meaning of clause (ii) of Para 2 of the EIA Notification and no fresh Form 1 or EC was required at the time of the second increase;
- b 11.4. Clause (ii) of Para 2 only applies to situations where the project crosses the lower or upper threshold limits stipulated in the Schedule. Any increase in production capacity or construction area *within the limits* set out in the Schedule would not constitute an "expansion" within the meaning of Clause (ii) of Para 2 and does not require compliance with the procedure under Para 7(ii) of the EIA Notification;
- c 11.5. The increase in the appellant's project is only marginal and does not have an adverse impact on the environment;
- d 11.6. The SEIAA applied its mind to the appellant's request for an "amendment"; noted that the increase in construction area was only marginal and issued an amendment to the original EC dated 2-5-2013; and
- d 11.7. NGT had no basis to impose the fine of rupees one crore on the appellant.
- d 12. Joining issue with the above submissions, Mr Aditya Pratap, learned counsel appearing on behalf of the first respondent submitted that:
- e 12.1. Under clause (ii) of Para 2 read with Para 7(ii) of the EIA Notification, any expansion beyond the "threshold limit" requires a fresh EC. The appellant's project had crossed the threshold limit of 20,000 sq m and the second increase of 8085.71 sq m constituted an "expansion beyond the threshold limit" and hence required a fresh EC;
- e 12.2. Once a project breaches the lower threshold limit set out in the Schedule to the EIA Notification, any expansion or modernisation, even within the upper threshold set out in the Schedule, will require the submission of a fresh Form 1 and the matter to be placed before the Expert Appraisal Committee or SEAC, as applicable in accordance with Para 7(ii) of the EIA Notification;
- f 12.3. Adopting the appellant's interpretation of Clause (ii) of Para 2 would defeat the object and purpose of the EIA Notification as a whole. It would allow project proponents to incrementally increase the construction area and over time significantly impinge on the environmental impact of the project without seeking a fresh EC;
- g 12.4. If the law prescribes an act to be done in a particular manner, it must be done only in that manner and no other. Under Para 7(ii) of the EIA Notification, it was incumbent on the SEIAA to place the matter before SEAC for appraisal and recommendations; and
- h 12.5. The EIA Notification is an operationalisation of the precautionary principle, which forms a part of the environmental law of India. The EIA Notification must be read in a manner which gives effect to the precautionary principle.

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Interpreting Paras 2 and 7

13. The central controversy between the parties to the present dispute is the manner in which Paras 2 and 7 of the EIA Notification should be interpreted. Clause (ii) of Para 2 of the EIA Notification stipulates that a project proponent shall require an EC prior to the start of construction in the case of an "expansion". Clause (ii) uses the phrase "expansion...beyond the limits specified for the sector concerned". The first respondent sought to lay emphasis on this construction to argue that any expansion beyond the lower limit stipulated in the Schedule would attract the requirement of a prior EC under Para 2. However, the above language in Clause (ii) is further qualified by the phrase "that is, projects or activities which cross the threshold limits given in the Schedule *after* expansion or modernisation". A plain reading of the second half of Clause (ii) would indicate that it applies to cases where a project was initially below the threshold limits stipulated in the Schedule but after the proposed expansion, would breach the threshold limits. Clause (ii) of Para 2 of the EIA Notification therefore would not appear to cover a case where a project had already crossed the lower threshold limit set out in the Schedule and the expansion does not cross the upper limit stipulated by the Schedule.

14. However, Clause (ii) of Para 2 must be read with Para 7(ii) of the EIA Notification. Para 7(ii) lays down the exact procedure to be followed by a project proponent in the case of an expansion. Two crucial points must be noted with respect to Para 7(ii). First, it uses the phrase, "expansion with increase in production capacity *beyond the capacity for which prior environment clearance has been granted*". Second, the qualifying language referring to breaching the threshold limits "after expansion" is absent. An "expansion" can occur even after the grant of an EC when the project first crossed the lower limit stipulated in the threshold and it is not necessary for the project to breach the upper limit after the expansion. Therefore, a close reading of Para 7(ii) would support the interpretation put forth by the first respondent — that even after obtaining an EC if the project is expanded beyond the limits for which the prior EC was obtained, a fresh application would need to be made even if the expansion is within the upper limit prescribed in the Schedule.

15. The dangers effectively articulated by the learned counsel for the first respondent are real. If Clause (ii) of Para 2 does not cover a case where the expansion is within the limits stipulated by the Schedule, a project proponent may incrementally keep increasing the size of the project area over time resulting in a significant increase in the project size without an assessment of the environmental impact resulting from the expansion. Such an outcome would defeat the entire scheme of the EIA Notification which is to ensure that any new or additional environmental impact is assessed and certified by the relevant regulatory authorities. In the present case, the lower limit of Entry 8(a) of the Schedule is a built-up area of 20,000 sq m and the upper limit is 1,50,000 sq m. It cannot be doubted that the environmental impact of a construction of 1,50,000 sq m is drastically more than construction of 20,000 sq m. If the appellant's argument is accepted in totality, a project proponent could potentially secure an EC for constructing 20,000 sq m and by

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"amendment" steadily increase the area of construction up to 1,50,000 sq m without submitting an updated Form 1 or any substantive review by SEAC.

16. We note that subsequent to the EIA Notification being published in 2006, a draft notification was issued on 19-1-2009³. The draft notification proposed the following amendment:

"In Para 2 [of the EIA Notification], after sub-para (iii), the following shall be inserted; namely:

However modernisation or expansion proposals without any increase in pollution load, and, or without any additional water and or land requirement are exempted from the provisions of this Notification:

Provided that, a self-certification, stating that the proposals shall not involve any additional pollution load, waste generation or water requirement, be submitted to the regulatory authority by the project proponent."

17. Prior to adopting the draft notification, hearings were conducted and written comments were solicited from various stakeholders including: (i) Central Ministries and Departments, (ii) State Governments and their Agencies, (iii) Industries and their Associations, and (iv) Civil Society including NGOs. A committee was constituted by the Ministry of Environment and Forests, Government of India which published a report in October 2009. The committee specifically recommended against the adoption of the above amendment, noting:

"The amendments propose to exempt modernisation and expansion of projects based on a self-certification by project authorities that there is no increase in pollution load. *It is totally unacceptable that the modernisation and expansion of projects be removed from the environmental clearance regime, with or without the requirement of self-certification.* There are several industries operating in critically polluted areas or are in violation of their environmental clearance conditions, which need to be considered before the expansion of a project is considered. What is to be considered is not just whether there is an increase in pollution load but also the current impact of the project and its compliance with environmental clearance conditions. We can provide clear examples wherein the non-compliance of the clearance conditions has not been considered while granting clearance for expansion which includes adding new components to the existing industrial operations, etc. This has allowed several projects to continue their activities and expand despite blatant non-compliance. Finally, it is only with industrial, thermal power and other such related operations that one can decide on parameters of pollution. *Development projects like highways, airports and other infrastructure projects which seek to expand might have a detrimental impact due to factors such as change in land use (i.e. construction over a wetland, grassland or agricultural land, etc.).* Despite this, the project proponent can certify that there is no change in pollution

³ Notification S.O. 195 (E) dated 19-1-2009.

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load and hence expansion is to be allowed. *The current process seeks a detailed EIA report to determine whether impacts can be mitigated. If the amendment is brought into force, it will simply do away with this critical and necessary step in the environmental clearance process. Therefore, this amendment should not be allowed.*

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The draft notification takes a myopic view of environmental and social impact of modernisation and expansion. *Any modernisation/expansion projects will necessarily entail increase in production, increase in transportation, increase in pressure on the local infrastructure and local natural resources and increase in the pollution load during the construction phase. So, even if a modernisation/expansion does not lead to an increase in the pollution load or water or land requirement within the factory premises during the operation phase, it will lead to an increase in environmental and social impact outside the premise.* (emphasis supplied)

18. The draft amendment was not adopted in subsequent amendments to the EIA Notification. We find considerable merit in the observations of the committee that the requirement of an EC at the time of expansion forms a critical step in the environmental clearance regime. According to the committee, it assists officials not just in evaluating and mitigating any adverse impact caused by the expansion but also in assessing whether the project proponent is in compliance with their existing obligations. Crucially, any form of expansion necessarily puts a strain on the local environment and infrastructure and needs to be carefully evaluated in a holistic manner.

19. In a case where the text of the provisions requires interpretation, this Court must adopt an interpretation which is in consonance with the object and purpose of the legislation or delegated legislation as a whole. The EIA Notification was adopted with the intention of restricting new projects and the expansion of new projects until their environmental impact could be evaluated and understood. It cannot be disputed that as the size of the project increases, so does the magnitude of the project's environmental impact. This Court cannot adopt an interpretation of the EIA Notification which would permit, incrementally or otherwise, project proponents to increase the construction area of a project without any oversight from the Expert Appraisal Committee or SEAC, as applicable. It is true that there may exist certain situations where the expansion sought by a project proponent is truly marginal or the environmental impact of such expansion is non-existent. However, it is not for this Court to lay down a bright-line test as to what constitutes a "marginal" increase and what constitutes a material increase warranting a fresh Form 1 and scrutiny by the Expert Appraisal Committee. If the Government in its wisdom were to prescribe that a one-time "marginal" increase (e.g. 5% or 10%) in project size, within the threshold limit stipulated in the Schedule, could be subject to a lower standard of scrutiny without diluting the urgent need for environmental protection, conceivably this Court may give effect to such a provision. This would be subject to any challenge on the ground of there being a violation of

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a the precautionary principle. However, as the EIA Notification currently stands, an expansion within the limits prescribed by the Schedules would be subject to the procedure set out in Para 7(ii).

b 20. At the time of the second increase, the total construction area of the appellant's project was enlarged from 32,395.17 sq m to 40,480.88 sq m. As a result of the expansion, the appellant constructed sixteen additional flats which were sold at the prevailing market rate. The appellant did not comply with the procedure set out under Para 7(ii) of the EIA Notification but rather sought an "amendment" to EC. The third respondent did not require the appellant to submit an updated Form 1 nor was the proposal processed and evaluated by the fourth respondent. The "amendment" to EC dated 13-3-2014 does not discuss the potential environmental impact of the increase in construction area, but merely records that the construction area now stands at 40,480.88 sq m. c The procedure set out under Para 7(ii) of the EIA Notification exists to ensure that where a project is expanded in size, the environmental impact on the surrounding area is evaluated holistically considering all the relevant factors including air and water availability and pollution, management of solid and wet waste and the urban carrying capacity of the area. This was not done in the case of the appellant's project. It was not open to the third respondent to grant an "amendment" to EC without following the procedure set out in Para 7(ii) of d the EIA Notification.

e 21. We further note that as on the date of the impugned order construction at the project site had already been completed. A core tenet underlying the entire scheme of the EIA Notification is that construction should not be executed until ample scientific evidence has been compiled so as to understand the true environmental impact of a project. By completing the construction of the project, the appellant denied the third and fourth respondents the ability to evaluate the environmental impact and suggest methods to mitigate any environmental damage. At this stage, only remedial measures may be taken. NGT has already directed the appellant to deposit rupees one crore and has set up an expert committee to evaluate the impact of the appellant's project and suggest remedial measures. In view of these circumstances, we uphold the f directions of NGT and direct that the committee continue its evaluation of the appellant's project so as to bring its environmental impact as close as possible to that contemplated in EC dated 2-5-2013 and also suggest the compensatory exaction to be imposed on the appellant.

g 22. The appeal is dismissed. There shall be no order as to costs. Pending application(s), if any, shall stand disposed of.

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ANNEXURE D 263

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MANU/GT/0075/2016

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

Original Application No. 222 of 2014

Decided On: 04.05.2016

**Appellants: The Forward Foundation, A Charitable Trust and Ors.
Vs.**

Respondent: State of Karnataka and Ors.

Hon'ble Judges/Coram:

Swatanter Kumar, J. (Chairperson), M.S. Nambiar, J. (Member (1)), Dr. D.K. Agrawal, Member (E), A.R. Yousuf, Member (E) and Bikram Singh Sajwan, Member (E)

Counsels:

For Appellant/Petitioner/Plaintiff: Raj Pajwani, Sr. Adv., Megha Mehta Agrawal and Rishabh Parikh, Advs.

For Respondents/Defendant: Devraj Ashok, Adv.

Case Note:

Environment - Clearance - Violation of - Compensation - Section 20 of the National Green Tribunal Act - Present applications filed with a prayer to issue direction to Respondent No. 1, to take cognizance of reports prepared by Respondent No. 2 and 6 respectively, to take coercive and punitive action including restoration of ecological sensitive land and that valley land is to be maintained as a sensitive area with no development of any sort to keep ecologically balance of area undisturbed, which were earlier disposed with certain directions - Held, as per Section 20 of Act, it is mandates that while passing any order or decision or award Tribunal, shall apply Principles of sustainable development, precautionary principles and polluter pays principles - Therefore while applying above, Respondent No. 9 and 10 who caused environmental degradation are liable to pay environmental compensation - Considering fact that compared to Respondent No. 9, Respondent No. 10 has not commenced actual construction activity - But they have carried out various preparatory work including excavation and depositing huge quantity of earth, creating a hillock at premises and thereby caused environmental degradation - In the interest of justice Court reduce the compensation originally fixed in Main judgment and direct Respondent No. 10 to pay an environmental compensation of 3% of cost of project instead of 5% imposed - Both Respondents (Project Proponents) shall submit an appropriate plan in view of conditions imposed in present judgment and amended Environmental Clearance that would be issued. [1], [47],[60],[61],[62] and[63]

ORDER

Swatanter Kumar, J. (Chairperson)

1. The three applicants filed the application with a prayer to issue direction to Respondent No. 1, the State of Karnataka, to take cognizance of the reports dated

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12th June, 2013 and 14th August, 2013 prepared by Respondent No. 2 and 6 respectively, to take coercive and punitive action including restoration of ecological sensitive land and that the valley land is to be maintained as a sensitive area with no development of any sort to keep the ecological balance of the area undisturbed, were disposed, vide the common Judgment dated 07th May, 2015, issuing the following directions:--

"1. We decline to pass any direction or order to stop further progress and/or demolition of the project or any part thereof at this stage. However, we constitute the following Committee to inspect the projects in question and submit a report to the Tribunal inter alia but specifically on the issues stated herein after.

- a. Advisor in the Ministry of Environment and Forest dealing with the subject of wetlands.
 - b. CEO of the Lake Development Authority, Karnataka State.
 - c. Chief Town Planner of BBMP, Bangalore.
 - d. Chairman of SEAC which recommended the grant of Environmental Clearance to the projects in question.
 - e. Sr. Scientist (Ecology) from the Indian Institute of Sciences, Bangalore.
 - f Dr. Siddharth Kaul, former Advisor to MoEF.
 - g. An Senior Officer from the National Institute of Hydrology, Roorkee.
2. Member Secretary of the Karnataka State Pollution Control Board shall act as the Convenor of the Committee and would submit the final report to the Tribunal.
3. The Committee shall inspect not only the sites where the projects in question are located but even other areas of Bangalore which the Committee in its wisdom may consider appropriate, in order to examine the interconnectivity of lakes and impact of such activities upon the water bodies, with particular reference to lakes.
4. The Committee shall submit whether the projects in question have encroached upon or are constructed on the wetlands and Rajakaluves. If so, are there any adverse environmental and ecological impact of these projects on the lake particularly, Bellandur Lake and Agara Lake, as well the Rajakaluves. The report should specify if any Rajakaluves have been covered by the construction activities of respondent Nos. 9 and 10 or by any of the projects in the area in question.
5. Committee should submit in its report if these projects have any adverse impacts upon the surrounding ecology and environment, with particular reference to lakes and wetlands. If yes, then whether any part of the project is required to be demolished. If so, details thereof along with reasons.
6. The Committee shall substantially notice if any of the conditions of the

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Environmental Clearance order in each case of respondent Nos. 9 and 10 have been violated. If so, to what extent and suggest remedial measures in that behalf to restore the ecology of the area.

7. The Committee would also recommend what should be the buffer zone around the lake(s) and interconnecting passages and wetlands. The committee shall also report whether activities of multipurpose projects which have serious repercussions on traffic, air pollution, environment and allied subjects should be permitted any further or not, particularly, in wetlands and catchment areas of water bodies.

8. Recommendations should be made with regard to the steps and measures that should be taken for restoration of lakes, particularly, in the city of Bangalore.

9. The Committee shall also find out that whether the construction of the projects is in accordance with the sanctioned drawings and bye-laws in accordance with the letter dated 4th July, 2007 and 22nd April, 2008 respectively. Further, the Committee would also report whether both respondent Nos. 9 and 10 have installed ETP/STP and have taken full measures for recycling of used water for washing and flushing etc., in terms of letters dated 11th October, 2013 and 3rd January, 2013, issued by the Karnataka Industrial Area Development Board to respondent Nos. 9 and 10 respectively.

10. In the event, the Committee is of the opinion that the adverse impacts noticed are redeemable, then what directions need to be issued in that behalf and the cost involved for achieving the said conservation and restoration of lakes and water bodies.

11. Till the submission of the report by the Committee and directions passed by the Tribunal in that regard, both respondent Nos. 9 and 10 are hereby restrained from creating any 3rd party interests or part with the possession of the property in question or any part thereof, in favour of any person.

12. The committee shall submit its report to MoEF and to this Tribunal as expeditiously as possible and in any case not later than three months from today. During that period we restrain MoEF, SEIAA and/or any public authority from sanctioning any construction project on the wetlands and catchment areas of the water bodies in the city of Bangalore.

13. The Committee shall report if the project proponents are proposing to discharge their trade or domestic effluents into the lake or any of the water bodies in and around of the area in question.

14. For the reasons stated in the judgment respondent No. 9 is liable and shall pay a sum of Rs. 117.35 Crores, while respondent No. 10 shall pay a sum of Rs. 22.5 Crores respectively being 5 per cent of the project value, within two weeks from today. The said amount would be paid to the KSPCB, which shall maintain a separate account for the same and would spend this amount for environmental and ecological restoration, restitution and other measures to be taken to rectify the damage resulting from default and noncompliance to law by the Project Proponent in that area, after taking approval of the Tribunal.

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15. We make it clear that the said respondents would not be entitled to pass on the amount in terms of direction 14, onto the purchasers because this liability accrues as a result of their own intentional defaults, disobedience of law in force and carrying on project activities and construction illegally and unauthorizedly."

2. Respondent No. 9 and 10 challenged the Judgment before the Hon'ble Supreme Court of India in Civil Appeal No. 4829 of 2014 and 4832 of 2015 respectively. The appeals were disposed by the Hon'ble Supreme Court of India on 20th May, 2015 holding that it would be more appropriate for the Appellants to file application before the Tribunal with a prayer to recall the order and decide afresh on merits after hearing the parties, as the Tribunal knows better as to what transpired at the time of hearing. Their Lordship held as follows:--

"One of the main contentions raised by the appellants in these appeals is that though the Tribunal had heard the matter only on preliminary issues and no arguments on merit were advanced, final judgment decides the merits of the disputes as well and above all a penalty of Rs. 117.35 crores against original respondent No. 9 (the appellant in C.A. No. 4832 of 2015) and Rs. 22.5 crores against Original respondent No. 10 (the appellant in C.A. No. 4829/2015) is imposed. On the aforesaid averment, we feel that it would be more appropriate for the appellant to file an application before the Tribunal with the prayer to recall the order on merits and decide the matter afresh after hearing the counsel for the parties, as the Tribunal knows better as to what transpired at the time of hearing.

With the aforesaid liberty granted to the petitioners, the appeals are disposed of. Certain preliminary issues are decided against the appellants which are also the subject matter of challenge. However, it is not necessary to deal with the same at this stage. We make it clear that in case the said application is decided against the appellants or if ultimately on merits, it would be open to the appellants to challenge those orders by filing the appeal and in that appeal all the issues which are decided in the impugned judgment can also be raised.

The counsel for the appellants state that they would file the requisite application within one week. Till the said application is decided by the Tribunal, there shall be stay of the direction pertaining the payment of aforesaid penalty.

Mr. Raj Panjwani points out that the Tribunal has allowed the appellants to proceed with the construction only on the payment of the aforesaid fine/penalty. We leave it to the Tribunal to pass whatever orders it deems fit in this behalf, after hearing the parties."

3. The Respondent No. 9 and 10 therein filed M.A. No. 596 of 2015 and M.A. No. 603 of 2015 respectively before the Tribunal. Relevant prayer in M.A. No. 603 of 2015 was to recall the Judgment dated 07th May, 2015 "to the limited extent of findings returned and direction issued under issue No. 5 as framed in para 19 of the Judgment and to grant an opportunity of hearing to Respondent No. 10 on the merits of the Original Application. The prayer in M.A. 596 of 2015 was also to recall the order dated 07th May, 2015, 'reconsidering and review the aforesaid order after hearing the matter afresh in the manner indicated and observations made in the order dated 20th

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May, 2015 by the Hon'ble Supreme Court of India in Civil Appeal No. 4832 of 2015. The crux of the case of Respondent No. 9 and 10 in their applications is that arguments were addressed only in respect of maintainability and limitation and not on the reliefs granted. The grievance of Respondent No. 9 and 10 was that they could not address arguments either on, their liability to pay the environmental compensation or the quantum of the compensation, if any, to be awarded. Both the applications were disposed vide order dated 06th April, 2016 as follows:--

"Without prejudice to the rights and contentions of the parties and subject to just exception we would hear the parties in terms of the order of the Hon'ble Supreme Court of India primarily on the question of imposition of Environmental Compensation and merits attached in relation thereto. Parties are given liberty to address their submissions on that behalf"

4. Karnataka Industrial Area Development Board (for short 'KIADB'), the Respondent No. 7, allotted the land to Respondent No. 9 and 10 vide Notification dated 23rd April, 2004 and 07th May, 2004 respectively for setting up of Software Technology Park, Commercial and Residential complex, hotel and Multi Level Car Parks. The Master Plan formulated by the Bangalore Development Authority (for short the 'BDA'), the respondent No. 8, identifies the allotted land as 'Residential Sensitive', though the same land was identified in the draft Master Plan as 'Protected Zone'. According to the Applicant the Revenue Map in respect of properties as referred in the land lease Agreements has multiple Rajakaluves. According to the Applicant the development projects in question are on the catchment and wetland areas which feed the Rajakaluves, which in turn drain rain water into Bellandur Lake. It was alleged that the project would thus encroach two Rajakaluves of 1.38 acres and 1.23 acres each. The State Level Expert Appraisal Committee (for short the 'SEAC') in its various meetings examined the project. It required respondent No. 9 to submit a revised NOC from the Bangalore Water Supply and Sewerage Board (for short the 'BWSSB'), Respondent No. 5. It also observed that the project lies between the above stated two lakes. Respondent No. 9 was also directed to take protective measures to spare the buffer zone around Rajakaluves and also to commit that no construction would be carried out in the buffer zone. In the meeting of 11th November, 2011, it was recorded that the project proposes car parking facility for 14,438 cars in that environmentally sensitive area. The Applicant would allege that Respondent No. 9 obtained NOC from Respondent No. 5 by concealing material facts and by misrepresenting that NOC is required only for residential units, which forms a very minuscule part of the total project. Respondent No. 9 had approached the Karnataka State Pollution Control Board (for short the 'KSPCB'), Respondent No. 4 herein, for obtaining clearance which was granted on 4th September, 2012, subject to the fulfillment of the conditions stated in the consent order which included leaving the buffer zone all along the valley and towards the lake. The applicant contends that the grant of consent provided with the condition that Environmental Clearance shall be obtained from the Competent Authority and no construction shall be commenced until such clearance was granted.

5. The case is that Respondent No. 9 has violated such conditions and commenced construction of the project. There was also violation of the stipulations in relation to buffer zone and construction over Rajakaluves was commenced over the ecologically sensitive area of the Lake catchment area and valley, in utter disregard to the statutory compliances. The conversion of the land from 'Protected Zone' to 'Residential Sensitive' area is violative of the law. The Project is right in the midst of a fragile wetland area which ought not to have been disturbed by the development

activity. The fragile environment of the catchment area has been exposed to grave and irreparable damage. It has severely disturbed and damaged the Rajakaluves. The Respondent Nos. 9 and 10 started leveling the land by filling it with debris, causing damage to the drains. The conditions with regard to no-disturbance to the Storm Water Drains, natural valleys and buffer area in and around the Rajakaluves have been violated and it affected the ground water table and bore wells which are the only source of water for thousands of households. Fishing and agriculture also depends on the Bellandur Lake. The construction over the wetland between the two lakes is also in violation of Rule 4 of Wetlands (Conservation and Management) Rules, 2010 (for short Rules of 2010). Though in its meeting dated 29th September, 2012, State Environment Impact Assessment Authority decided to close the file pertaining to Respondent No. 9, for non-submission of requisite information and rejected the application in November, 2012; Respondent No. 10 commenced construction on the project in full swing. The applicants have also relied on the findings of the Joint Legislative Committee, constituted under the chairmanship of Sh. A.T. Ramaswamy which stated that there were 262 water bodies in Bangalore city in 1961, which drastically came down because of trespass and encroachments. It was also affirmed that about 840 Kms. of Rajakaluves have been encroached upon in several places and now are mere sewage channels. The Hon'ble High Court appointed a Committee under the Chairmanship of Hon'ble Mr. Justice N.K. Patil in Writ Petition No. 817/2008 (Environment Support Group and Another v. State of Karnataka) to suggest immediate remedial action to remove encroachments on the lake area and the Rajakaluves and preservation of the lakes in and around Bangalore city. Other Expert Committees, including Lakshman Rau Expert Committee had also submitted proposals for preservation, restoration or otherwise of the existing tanks in Bangalore Metropolitan Area which recommended to maintain good water surface in Bellandur tank and also to ensure that the water is not polluted. Even the Central Government in August 2013 had issued an advisory on conservation and restoration of water bodies in the urban areas. The Applicant sought the reliefs contending that the construction of respective projects by Respondents No. 9 and 10 respectively, besides having commenced without permission from the authorities and being in violation of the conditions imposed for grant of permission/consent, is bound to damage the environment, resulting in change in topography of the area, posing potential threat of extinction of the Bellandur lake, causing traffic congestion, shortening and wiping out the wetlands, extinction of Rajakaluves and causing serious and potential threat of flooding and massive scarcity of water in the city of Bangalore, particularly the areas located near the water bodies.

6. The Respondent No. 9 in the reply contended that the respondent corporation was incorporated with the objective of establishing an Information Technology Park and R&D Centre with facilities such as residential complexes, parks, education centers and other allied infrastructure within a single compound. This respondent had submitted the proposal to establish such Information Technology Park and other facilities and requested the State Government to allot land for the project. It was considered in the 78th High Level Committee meeting held on 21st June, 2000 and it was approved by the government on 06th July, 2000. Before the State High Level Committee, the Respondent had mentioned that it would require 110 acres of land, 25MW of power and 4 lakh litres of water/day. The lands for the project were initially notified by the BDA, later on the lands were de-notified, vide Notification dated 10th February, 2004. Subsequently, the lands were allotted to the respondent vide letter dated 28th June, 2007. Considering the overall development of the State, respondents proposed a "Mixed Use Development Project" consisting of an Information Technology Park, residential apartments, retail, hotel and office buildings with a total built up area of

13,50,454.98 Sq Mtrs. The Project was conceived as a zero waste discharge project. The project is located at the Southern side of the Bellandur Lake. Towards the North, adjacent to the Project site lies vast stretch of lands belonging to the Defence. Towards the East, which is completely developed lies, the Project of Respondent No. 10 and another developer is also developing a project on the western side. The Respondent No. 9 obtained sanction plan on 4th July, 2007 which was being renewed from time to time. They obtained NOC from Airport Authority of India on 09th April, 2010, certificate from Dr. Ambedkar Institute of Technology on 15th April, 2010 and from Bharat Sanchar Nigam Ltd. (BSNL) on 16th April, 2010. Bangalore Water Supply and Sewerage Board (for short the 'BWSSB'), issued NOC on 26th April, 2011 for portion of the proposed construction to be built. Bangalore Electricity Supply Company Limited granted NOC for arranging power supply to the proposed residential and commercial building. Environmental Clearance was granted by State Environment Impact Assessment Authority; vide communication dated 17th February, 2012. NOC was issued by Director General of Police on 04th September, 2012. After grant of the Environmental Clearance the same was published in the leading newspapers "Kannada Prabha" and the "Indian Express" on 12th and 14th March, 2012 respectively.

7. The Respondent No. 9 later on modified the building plan which was approved by Respondent No. 7, vide letter dated 30th August, 2012, which was valid up to 10th August, 2014. They started the construction of the project in November, 2012, taking all precautions as per terms and conditions of the orders issued by the competent authorities. The constructions were raised in accordance with the plans and conditions of the Environmental Clearance and consent orders. The Respondent No. 9 has not violated any of the conditions and has not caused any adverse impact on the ecology and environment. The allegation covering and blocking the Rajakaluves, drying the wetland and raising of the constructions thereupon adversely affecting the lake, are specifically disputed and denied. It was contended that the Respondent No. 9 has spent Rs. 306.73 crores on the project towards procurement of men and materials, machinery, infrastructure, etc. and they have availed financial assistance from various banks and financial institutions. Namma Bengaluru Foundation, Citizen's Action Forum, Koramangala Residents Association and others, on the basis of a report prepared by Professor T.V. Ramachandra, filed a Public Interest Litigation in the High Court of Karnataka (Writ Petition No. 36567-36574/2013), raising allegation that project would adversely affect the Bellandur Lake and prayed for stay of the construction activity. The Hon'ble High Court did not grant any interim order as prayed. It is still pending. Meanwhile, Bruhat Bengaluru Mahanagara Palike (for short the 'BBMP') issued a show cause notice to respondents. The Respondent No. 9 challenged the same before the Hon'ble High Court in Writ Petition No. 366-367 of 2014 and 530-625/2014. The Hon'ble High Court stayed the operation of the show cause notice. Another notice was also issued by Respondent No. 7 directing stoppage of work on 02nd January, 2014. It was challenged by the Respondent No. 9 in Writ Petition No. 792 of 2014 and vide order dated 07th January, 2014 operation of the stay order was also stayed. In view of the pendency of the Writ Petition before the Hon'ble High Court the original application is not maintainable. They have also contended that the petition filed before the Tribunal is barred by time and as the Environmental Clearance granted was published in the newspaper on 03rd June, 2013. There is no jurisdiction to condone the delay. It was also contended that the Applicants have suppressed the facts and made mis-representation of material facts and therefore they are not entitled for any relief.

8. The Respondent No. 10 has also raised a similar plea with regard to the

maintainability of the Application. It was also contended that the conversion of land use from 'Protected Zone' to 'Residential Sensitive' in the Master Plan does not fall within the jurisdiction of the Tribunal. Respondent No. 9 submitted a proposal for developing of a Software Technology Park with an investment of 48.75 crores in 25 acres of land around the outer ring road in Bangalore. The clearance certificate was issued on 27th March, 2004. Respondent No. 10 submitted a revised proposal for fresh clearance in respect of the same project on 31st August, 2007. The revised proposal was with the investment of Rs. 179.22 crores. The State High Level Committee had cleared the project and communicated to the respondent on 25th January, 2008. The properties are located in between Bellandur Lake and Agara Lake, but there are no primary storm water drain and secondary storm water drains that exist in the above properties. The application of the respondent seeking sanction of development and building plan in respect of the properties was allowed and as directed by Respondent No. 7, respondent deposited Rs. 1,28,56,830/-. Respondent No. 10 also obtained clearance from various authorities including NOC from Airport Services Centre, Hindustan Aeronautics Limited on 17th March, 2010, NOC from Bharat Shanchar Nigam Ltd. on 30th March, 2011, NOC was obtained from Karnataka Power Transmission Corporation Ltd. on 22nd May, 2012, NOC from Karnataka State Fire & Emergency Services on 03rd August, 2012, NOC certificate from Bangalore Water Supply & Sewerage Board, Karnataka State Pollution Control Board and State Level Environment Impact Assessment Authority were respectively obtained on 04th April, 2013, 03rd June, 2013 and 30th September, 2013.

9. The Hon'ble High Court of Karnataka did not grant any interim relief in Writ Petition No. 18119 of 2014 earlier. The respondent averred that they are entitled to develop the projects, having received all clearances. The Bellandur Lake does not support fishing activity and the source of water is for domestic purpose. No agricultural activity is carried out in such area. There is no wetland existing on the site in question. The project carried out by Respondent No. 10 in the property belonging to it has no adverse impact on environment. The ENVIS report relied upon by the applicant were prepared by persons interested in opposing the project. In any case, the said report stood superseded by the Environmental Clearance granted on 30th September, 2013 wherein Respondent No. 3 was accorded consent, after considering all the actual facts and on due application of mind. Other respondents have also raised their respective contentions.

10. On these pleadings the following issues were formulated for consideration and determination in the original judgment of the Tribunal:

- "1. Whether the application filed by the applicants and supported by respondent Nos. 11 and 12, is barred by time and thus, not maintainable?
2. Whether the petition as framed and reliefs claimed therein, disclose a cause of action over which this Tribunal has jurisdiction to entertain and decide the application, under the provisions of NGT Act, 2010?
3. Whether the present application is barred by the principle of res judicata and/or constructive res judicata?
4. Whether the application filed by the applicants should not be entertained or it is not maintainable before the Tribunal, in view of the pendency of the Writ Petition 36567-74 of 2013 before the Hon'ble High Court of Karnataka?
5. What relief, if any, are the applicants entitled to? Should or not the

Tribunal, in the interest of environment and ecology issue any directions and if so, to what effect?"

11. Question No. 1, Whether the application filed by the applicants is barred by time and thus, not maintainable, was answered that it is not barred by time and the application is maintainable. Question No. 2: whether the petition as framed and reliefs claimed therein, disclose a cause of action and whether the Tribunal has jurisdiction to entertain and decide the application was answered that the application does disclose a cause of action which squarely falls within the ambit of Section 14 and 15 of National Green Tribunal, Act. Question No. 3: Whether the present application is barred by the principle of res judicata and/or constructive res judicata was answered as it is not barred. Question No. 4: Whether the application is maintainable in view of the pendency of the application before the Hon'ble High Court of Karnataka was answered that the culmination of proceedings before the Tribunal into a judgment would not offend the principle of judicial propriety, because of the pendency of the writ petition before the Hon'ble High Court and that the Tribunal should entertain and decide the application, despite the pendency of the Application before the Hon'ble High Court.

12. Though these findings rendered in the Judgment were challenged before the Hon'ble Supreme Court of India, Respondent Nos. 9 & 10 have no case that they were not heard on these questions. In fact their very case is that they addressed arguments only on these issues. Moreover in the Applications M.A. No. 596 of 2015 and M.A. No. 603 of 2015 respondents 9 and 10 did not have a case that further arguments need to be addressed on these issues. On the facts and materials placed before us, we find no reason to take a different view on these questions. Therefore, we reiterate the earlier findings on these questions.

13. The proposed Mixed Use Development Project (MUDP) is located at Agara Village and Jakkasandra Villages of BEGUR/OBLI, Bangalore, South. Special Economic Zone (SEZ) is located between Agara Lake and Bellandur Lake. The Mixed Use Development Project is proposed along Sarajapur road in the catchment of lakes Bellandur and Agara lakes. Agara lake is located at the other side of 40 Meters wide road, while Bellandur lake is 50 Meters away from the project boundary. Rajakaluves (natural drain) is running of along the project site. Proposal envisages construction of residential apartment with (Block-1 (Block A: 2B+G+ 14UF; Block B: 2b+G+10 UF) + Block 2 (2B+G+14UF), retail, hotel & office building with 3B+G+11 UF, SEZ with 3B+G+11UF +Terrace and Non-SEZ 3B+G+12UF+Terrace on the plot area of 2,92,636.03 sq.m. The total built-up area is 11,50,454.98 sq.m. The total water requirement is 4587 KLD and the investment is of Rs. 2347 crores based on the materials and the records the cumulative adverse effect of the activities undertaken by the Respondents were summed up in the main Judgment as follows:

"1. The construction of both the projects had started prior to the grant to Environmental Clearance.

2. The EIA Notification of 2006 requires that without grant of Environmental Clearance, no project can commence its activity. This restriction applies not only to operationalization of the project but even for the purposes of establishment.

3. Revenue Map images shows multiple Rajakaluves flowing through the project(s) in question. The images further show encroachment on

Rajakaluves.

4. Digital images of the land available on Google satellite images showing encroachment on two major Rajakaluves.

5. Google Satellite images retrieved from Google archives clearly reflect two distinct features. Firstly, change in the wetland area between the period of 13th November, 2000 and 23rd November, 2010. Secondly, it reveals the excavation work carried out by Respondent Nos. 9 and 10 commenced prior to obtaining Environmental Clearance.

6. Restriction in regard to extraction of ground water was not strictly complied with as permission of Central Ground Water Authority was not obtained before construction.

7. The conditions with regard to the natural slopping pattern of the project site to remain unaltered and natural hydrology of the area to be maintained as it is, to ensure natural flow of storm water as well as in relation to Lakes and other water bodies within and/or at the vicinity of the project area to be protected and conserved: The inspection report by the MoEF clearly notes that condition Nos. (xxxix) and (xl) in the Environmental Clearance of respondent No. 9 cannot be complied with as it will necessarily result in some alteration of the natural slopping pattern of the project site and the natural hydrology of the area. It noted that the project area is located in the catchment area of the Bellandur Lake and the project authorities have informed that they will take all precautionary measures to ensure that the lake will not be affected by project activities either during construction or operation phase."

14. It was also noticed that the contents of the report submitted by the Committee, Chaired by Justice N.K. Patil, were neither denied nor admitted by Respondent No. 9, though in their reply to the application it was expected to respond to the report. The report of Justice N.K. Patil is to the effect that the lakes and the wetland should be protected in the city of Bangalore and message ought to be taken to protect them and also to remove the encroachment in the lake area as well as Rajakaluves. It was also noticed that large construction activities prejudicial to environment is being attempted in those areas. The report prepared by ENVIS, Centre for Ecology Science, Indian Institute of Science, Bangalore focused on the possible consequences of setting up of SEZ in Bellandur lake area and recommends restoration of these land in the area. Finding that Respondent No. 9 though termed it as speculative based on presumption and Respondent No. 10 brushed it aside contending that it was frivolous and tailor made to support the case of the Applicants and also attacked the report on the ground that Dr. T.V. Ramachandra who prepared the report is a party to another Writ Petition before the Hon'ble High Court of Karnataka and therefore the report is biased as Dr. T.V. Ramachandra was also a member of the Committee which prepared the report, it was found that the objections are untenable. It was also found that Environmental Clearance was granted to Respondent No. 9 on 17th February, 2012 and Respondent No. 10 on 30th September, 2013, but the construction activities were carried out by the Project Proponents much prior to the grant of Environmental Clearance. It was therefore found that Respondent Nos. 9 and 10 are defaulters of statutory provisions, as they could not have started construction of the project before getting the Environmental Clearance. Though it was found that the compensation payable on various counts by the Project Proponent for the environmental

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degradation cannot be determined on exactitude, they are liable to pay for violation of law, raising construction unauthorizedly and illegally, for restoration of environment and ecology. A committee was constituted with the Advisor in the Ministry of Environment, Forests and Climate Change dealing with the subject of wetlands, CEO of Lake Development Authority, State of Karnataka, Chief Town Planner of BBMP, Bangalore, the Chairman of SEAC which recommended the grant of Environmental Clearance to the projects, Senior Scientist (Ecology) from the Indian Institute of Sciences, Bangalore, Dr. Siddharth Kaul, former Advisor to Ministry of Environment, Forests and Climate Change and a Senior Officer from the National Institute of Hydrology, Roorkee as members, to submit report on whether the projects in questions have encroached on the wetland and Rajakaluves for construction and if so the adverse environmental and ecological impacts of these projects on the Bellandur Lake, Agara Lake as well as Rajakaluves. The committee was also directed to specify in the report whether any Rajakaluves have been covered by the construction activities of Respondent No. 9 or Respondent No. 10 or by any other projects in the area and the adverse impacts on the surrounding ecology and environment with particular reference to lakes and wetlands and if so the details thereof with reasons. The committee was also directed to report whether any of the conditions of the Environmental Clearances was violated by either Respondent No. 9 or by Respondent No. 10 or both. The committee, as directed, submitted the report and after going through the report, we noticed several deficiencies and noncompliance of directions in the report. Therefore the following order was passed on 10th September, 2015.

"Vide our Judgment dated 07th May, 2015, we have constituted a High Power Committee to comply with the directions contained in Paragraph 85 of the judgment. The judgment passed by the Tribunal was in the nature of preliminary decree and final judgment/decreed on behalf of that was passed after receiving report of the High Powered Committee. The High Powered Committee firstly did not file the report within the stipulated time and now when the report has been filed before the Tribunal, we have no hesitation in observing that the report does not comply with the directions of the Tribunal in its true spirit and substance. Inter-alia, but primarily, we would point out the following deficiencies and non-compliance of the directions issued by the Tribunal in its judgment:--

1. We may notice that the report is not comprehensive and non-compliant in all its major aspects. The stand taken by the Lake Development Authority of Bangalore before the Tribunal is different than the one on the basis of which now the report has been submitted. The committee has also not mentioned the factors relevant for determination of environmental compensation.
2. It is stated in the report that there is unauthorized encroachment and possession taken by the builders of nearly 3 acres and 10 guntas. However, as it appears from the records, the State had allotted 63 acres and 37 guntas of lands to the builders. The builders are in possession of practically of 72 Acres of land which they have covered, including the wetlands and have also raised boundary walls and other constructions. It will be obvious that area occupied would be nearly 12.47 guntas and not 3 Acres and 9 guntas as mentioned in the report. The committee has nowhere referred as to what action is required to be taken and what measures should be adopted to

remedy this very serious wrong committed by the builders.

3. Catchment area and inter-connectivity of the lakes had just been mentioned in the report but without any comments and recommendations as to what steps are required to be taken and what is the extent of damage done by these builders to the ecology and environment, particularly the wetlands of the area in question.

4. The Report does not state categorically as to which of the conditions of the environmental clearance order have been complied with and which have not been complied with. It is completely silent on the consequences and remedial measures on that behalf.

5. The report has vaguely stated that there should be compliance to the statutory regulations for health and sanitation. It was expected to inform the Tribunal as to the existing or proposed projects of STP/ETP as may be required with regard to their capacity, technology to be adopted, etc. The report is completely silent as to what is the point of discharge of sewage and other effluents from the project in question, what remedial measures are required to be taken for ensuring compliance of the law in that behalf, source of water for construction activity and otherwise and its utilization; whether the water will be recycled and to what extent, as it would be evident that the NOC which the Project Proponent has, is only for 18 flats. We are informed by the Committee members who are present, that the builder is expected to construct around 13.5 Lakh Sq. Mtrs. of area. Unfortunately this aspect did not receive the attention of the Committee members.

6. There is no specific recommendation or observation made in relation to compliance to the conditions of the Environmental Clearance, particularly with regard to Buffer Zone and air pollution.

7. (a) It was expected from the Committee to inform the Tribunal as to the measures required to be taken under the sanctioned plans, the various NOCs and clearances granted in relation of air and water pollution and particularly in relation to sewage.

(b) Identification of the 'kharab land' and whether the builder is raising any construction on that land and was such construction at all permissible under the conditions imposed upon the builder and in accordance with law in force?

(c) The Committee should have also examined whether there was violation of the condition, that no leveling and dumping particularly on the Rajakaluves is permitted and if the builder had covered any wetlands and Rajakaluves or was interconnectivity adversely affected and what action has been taken for removal of the dumped material?

(d) What was the status of the show cause notice issued by the Pollution Control Board to the builders and what steps were required to be taken?

Non-providing of such information/recommendation by the Committee has

made it very difficult for the Tribunal to pass final directions and dispose of the matter in accordance with law.

The Tribunal had very high expectations from the Committee constituted of such Senior Officers and who are experts in their respective fields. It cannot be disputed that Bangalore was a city of lake and at one point of time, it had 261 lakes out of which only 68 remains as of today. The Members of the Committee present submit that there are even more water bodies but some of them have dried up as of now.

Be that as it may, this is a fit case where the Hon'ble Expert Members of the Tribunal need to visit the site themselves. Having considered the various aspects of the case and to dispose of this matter expeditiously and in accordance with law, it is necessary that the Hon'ble Expert Members of the Tribunal themselves may visit the site and ensure that there should be meaningful interpretation of facts and the correct position as existing at the site should be placed before the Tribunal in regard to the directions of Tribunal.

The Tribunal at this stage will make a reference to the judgment of the Hon'ble Supreme Court of India in the case of "Ministry of Environment v. Nirma Pvt. Ltd." Appeals No. 8781 - 8783 of 2013, decided by the Hon'ble Supreme Court of India vide its order dated 4th August, 2014. Vide this judgment, the Hon'ble Supreme Court of India upheld the order passed by this Tribunal in that case for inspection of the site by the Hon'ble Expert Members of the Tribunal. The dictum of the Hon'ble Supreme Court of India clearly enunciated that the said order was squarely covered under the provisions of the Order XVIII, Rule-18 of the CPC. Such an approach is not generally adopted by the Tribunal and is adopted by the Tribunal only in exceptional cases and the present case happens to be falling in that class of cases.

In view of the above discussions and to have the complete and comprehensive information necessary for passing the final judgment, we direct as follows:

(a) All the Members of the High Powered Committee constituted vide our order dated 7th May, 2015 would be present at the site tomorrow i.e. 11th September, 2015 at 11:00 A.M.

(b) Complete records by all concerned authorities shall be produced before that Committee.

(c) Hon'ble Dr. D.K. Agrawal and Hon'ble Prof. A.R. Yousof Expert Members of the Tribunal, would be present and entire further proceedings would be taken in their presence. It shall be ensured that queries mentioned in this order are completely and fully answered.

(d) We direct the State of Karnataka, all the concerned departments, authorities, Corporations to be present and fully co-operate with the High Powered Committee and to provide all assistance and help to the Hon'ble Expert Members and the Committee.

Let the report be submitted to the Tribunal."

15. Pursuant to the said order the two Expert Members inspected the project area and prepared the Inspection Note copy of which was furnished to all the parties.

16. The Learned Senior Counsel appearing for the Applicants, Respondent Nos. 9 and 10, Respondent Nos. 11 and 12 and the MoEF and other respondents were heard.

17. The Learned Counsel appearing for Respondent Nos. 11 and 12 and the Applicants argued that though Respondent No. 9 and 10 had preferred Appeals challenging the main judgment, they were withdrawn with liberty to approach the Tribunal, and as the Judgment was not interfered by the Hon'ble Supreme Court, Respondent Nos. 9 and 10 are not entitled to challenge the findings in the main Judgment. The Learned Counsel relied on the observations made in the order dated 10th September, 2015 that the main judgment "was in the nature of a preliminary decree and a final judgment has to be passed after receiving the report of the High Power Committee" and argued that when the findings in the preliminary decree cannot be challenged in the subsequent application for passing final decree, Respondent Nos. 9 and 10 are not entitled to challenge any of the findings in the main judgment and therefore they could only address the Tribunal on the quantum of compensation and not the liability to pay compensation. As rightly pointed out by the Respondent Nos. 9 and 10, though in the order dated 10th September 2015 while considering the procedure to be adopted on submission of the report by the High Power Committee, it was observed that the main judgment is similar to a preliminary decree passed and based on the report submitted by the High Power Committee a final decree and judgment have to be passed. The main judgment does not show that it was passed as a preliminary decree. Moreover, the Respondent No. 9 and 10 have challenged the correctness of the said judgment, before the Hon'ble Supreme Court and the Hon'ble Supreme Court granted liberty to approach the Tribunal for hearing on the disputed questions. In such circumstances it cannot be said that when Respondent Nos. 9 and 10 were permitted to address the Tribunal on these aspects, they are not entitled to argue the correctness of the findings on the liability, based on the materials on the record. Moreover, it is not the law that once a preliminary decree is passed, before the final decree is passed, another supplementary preliminary decree cannot be passed. The law has been settled in *Ganduri Koteswaramma and Another v. Chakiri Yanadi and Another* (MANU/SC/1216/2011 : (2011) 9 SCC 788) by the Hon'ble Supreme Court as follows:

"20. Section 97 of C. P.C. that provides that where any party aggrieved by a preliminary decree passed after the commencement of the Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree does not create any hindrance or obstruction in the power of the court to modify, amend or alter the preliminary decree or pass another preliminary decree if the changed circumstances so require.

21. It is true that final decree is always required to be in conformity with the preliminary decree. But that does not mean that a preliminary decree, before the final decree is passed, cannot be altered or amended or modified by the trial court in the event of changed or supervening circumstances even if no appeal has been preferred from such preliminary decree."

18. Moreover the High Power Committee submitted the Report and objections were

raised on their findings. The Expert Members had inspected the sites and submitted an Inspection Note, copy of which was made available to all the parties. In such circumstances necessarily the said materials have to be considered and Respondent Nos. 9 and 10 are definitely entitled to address the Tribunal on these material aspects which are necessarily to be considered by the Tribunal. Therefore we cannot accept the objection raised by the Appellants and Respondent Nos. 11 and 12 that Respondents No. 9 and 10 cannot be heard on the question of their liability to pay environmental compensation as well as the factum of environmental degradation caused by proceedings with the construction of the projects.

19. The Learned Senior Counsel Mr. R. Venkatramani argued that on the materials available on record, it is clear that Respondent No. 9 did not start the construction work, prior to the granting of Environmental Clearance for the project, and therefore, on that basis Respondent No. 9 cannot be found liable for payment of damages or environmental compensation. It was argued that there is no mention of Valley, catchment or sensitive zone in the revenue records and the Revised Master Plan 2015 (in short 'RMP 2015') does not record the disputed lands as industrial land, though the Project Proponent has intimated objections to the draft Master Plan. The lands having been permitted by HLCC of the Government of Karnataka to be notified for industrial use as early as 2000 and the subsequent action of KIADB in acquiring and allotting the land for the projects shows that classification of certain land as "sensitive" does not apply to the disputed lands. It was argued that the Zonal Regulations for the City of Bangalore published along with RMP 2015 reveals the correct position and, therefore, the State cannot be asked to undertake reconsideration of all clearances and sanctions. It was pointed out that in terms of the Zonal Regulations a buffer zone of 30 meters is to be set aside around lakes and in respect of permissible land usage within the buffer zone, permission of the planning authority will be required and, therefore, outside the buffer zone, developmental activities is not within the domain of the planning authority. The Learned Senior Counsel also argued that both the Planning Authority and Sensitive Zone Committee are bound by the Zonal Regulations and have no statutory authority to deal with the developmental activities outside the buffer zone. The argument is that statutory permission regarding use of property are required to be decided in accordance with the law applicable at that time when the permission was granted and the law includes master plans drawn in exercise of statutory powers. As the land in question was brought under KIADB Act in 2001 and notification was issued under Section 28 (4) of the said Act for acquisition the land in question in April 2004, as per Section 47 of the said Act the Authority is competent to deal with the land placed at its disposal, notwithstanding anything inconsistent under any other law. The Master Plan for the period 1995 to 2005, though extended upto 22nd June, 2007, it was superseded by the RMP 2015 and, therefore, long prior to the revised master plan, the land was not only set apart for industrial purpose but also stood acquired by KIADB. The State Government had approved the project on the land in question on 21st June, 2000 much prior to the coming into force of RMP 2015. RMP 2015 would not apply to statutory process finalized prior thereto. The learned counsel pointed out that the inspection note prepared by the Hon'ble Expert Members (in short 'the Inspection Note') noted the status and nature of the land in question from 1992 onwards as set apart for housing development and the other purposes. Therefore, there is no illegality with regard to the location of the project or on environmental angle. The learned senior counsel also argued that Kharab land is a non issue, as it does not emerge from any record that any portion of the project site stood designated as Kharab lands. As the land was always under cultivation and no record exists indicating any class of Kharab, enquiry on the matter is only academic. The

learned counsel also argued that when the project site was handed over to the respondents, there was no trace of any specified classes of Kharab land to be protected. As the land in question was acquired by BDA in 1991 for public purposes and was declared as industrial area by the Government in 2001, the statements in the revenue map of 1904 lose their significance. As the entire land was acquired by the KIABD without any portion being 'A' or 'B' category land, project proponent is entitled to use the said land without any further reference to the classification. The Learned Senior Counsel argued that the findings in the main judgement that Respondent No. 9 commenced construction before obtaining the Environmental Clearance is factually incorrect. Relying on the inspection report prepared by the Chairman KSPCB dated 11th January, 2012, it was argued that construction was not commenced on 11th January, 2012, as it was recorded that "The proposed site is vacant and is yet to take up construction work". It was also pointed out that the report of the High Power Committee reveals that "M/s. Mantri Technozone Private Ltd." (Formerly called Manipal ETA Pvt. Ltd.) had started construction after obtaining clearances" and in the reply the respondent has specifically pleaded that they commenced construction only during November, 2012 and there is no material to show that any construction had commenced before 17th February, 2012, the date of granting of Environmental Clearance. The learned counsel also argued that the relevant records like tax return, vouchers for the works done and agreement for earth works, all relates to the period subsequent to 17th February, 2012. It was therefore vehemently argued that based on google satellite images, a contrary finding cannot be entered into. The learned Senior Counsel also argued that Respondent No. 9 obtained NOC from Respondent No. 5, only with regard to the residential units and not for the entire project and therefore the case that Environmental Clearance obtained by the Respondent No. 9 is based upon the partial NOC is misconceived. The High Level Committee of the Government of Karnataka had cleared the project on 21st June, 2000 which includes the total water requirement of the entire project being 4 lakh liters per day. The facilities and concessions granted by the State include 4 lakh liters of water per day to be supplied by the Respondent No. 5. The object was to avoid duplication of process of consideration at multiple levels and avoidance of delay. The clearance by the High Level Committee is understood to be a clearance in all aspects. The SEIAA in the 47th meeting recorded that the proponent and Environmental Consultant explained the queries raised by the SEAC during the meeting held on 07th July, 2011 and the project proponent had informed that the project has obtained approval from Single Level Window Clearance Committee of the State and hence separate NOC from the WSSCB is not required. Therefore, it was argued that SEIAA not only noticed the water requirement, but also that all the queries were duly answered. It was also argued that though Appellants had contended that the respondent severely damaged and disturbed Rajakaluves, no material was produced to substantiate the same and digital images though submitted were not duly explained and the observations in the report submitted by the High Power Committee that the excavated soil has been dumped on Rajakaluves resulting in reduction of their width, that conclusion was drawn on the basis of the Notice dated 02nd January, 2014 issued by the KSPCB without adverting to the reply submitted by the respondent to the notice on 27th January, 2014. It was also argued that digital images available to the public are poor aids in drawing any conclusion that any construction debris has been wantonly let loose on the Rajakaluves. The Learned Senior Counsel argued that huge amount of untreated sewage water and storm water flow into Bellandur lake and it would have been humanly impossible to block Rajakaluves without exposing to inundation and flooding of the project land and in any case Respondent No. 9 is willing to take any remedial measures. It was also argued that though imposition of condition No. 39 in

the Environmental Clearance was inappropriate, Respondent No. 9 has not done anything with an intention to commit any wrong. The Learned Senior Counsel pointed out that the inspection note reveals that the said condition that no alteration to the existing topography, is practically impossible to implement considering the type and extent of construction. It was argued that a reasonable interpretation of this condition would lead to a meaning that upon completion of the construction, the sloping pattern and topography of the land should not be altered in such a way that water flow in the direction as it existed earlier shall not be changed or altered, so that the neighboring areas are not inundated. It was further argued that substantial requirement of the construction would ultimately ensure that there is no problem of storm water affecting the lake. The Learned Senior Counsel strenuously argued that the allegation of encroachment of 3 Acres and 10 guntas of lake area in survey No. 43 is baseless as Respondent No. 9 has not raised boundary wall enclosing the said part of the lake. The High Power Committee only noticed that muck was found deposited in the said area. Respondent No. 9 has not dumped the muck in the lake and in any case the problem can be resolved by erection of the boundary wall excluding the said area. The case of encroachment was built based only on the dumping of muck found deposited therein. The Committee had relied on the letter dated 14th August, 2015 issued by KIADB in Kannada language, due to the mistake in the translation and the letter does not disclose any encroachment but only reveals dumping of muck. No part of the said land was enclosed by the Respondent No. 9 either temporarily or permanently. As Respondent No. 9 has not dumped any muck he cannot be penalized and made liable for the same. In any case there is no material to show that the muck was dumped with an intention to encroach the said area. The entire area was opened to the public access prior to 2012. The department of Defence which is occupying the neighbouring land, disputed the boundary identified by KIADB and wanted the respondent to give up their own lands. It was done and identification of the boundary on the northern side of the project is under finalization. It was also argued that the construction would be carried out only as per the sanctioned plan which does not in any way include 3 Acres and 10 Guntas. It was pointed out that outstanding disputes exist with regard to 6 Acres and 19 guntas of private land, which are not part of any sanctioned plan and there is no amalgamation of the said private land with the land allotted to the respondents by KIADB. The sanctioned plan of Respondent No. 9 is confined only to the extent of 63 acres 37 guntas. It was therefore argued that there is no basis for the allegation raised against the Respondent No. 9.

The Learned Senior Counsel therefore argued that the materials on record clearly show that Respondent No. 9 has not caused to any environmental damage or degradation. The Learned Senior Counsel argued that the earlier findings on the violation committed by Respondent No. 9 as well as the liability to pay an environmental compensation of Rs. 117.35 Crores are to be modified.

20. The Learned Senior Counsel Mr. Raju Ramachandran appearing for Respondent No. 10 argued that if the allegations raised against Respondent No. 10 are separately considered, without clubbing the same with the allegations raised against Respondent No. 9, it can only be found that Respondent No. 10 did not commit any violation or environmental degradation and therefore Respondent No. 10 is not liable to pay any damages. The Learned Senior Counsel argued that though the inspection note shows that the lands falls under category 'C' Kharab land and the Kharab lands are required to be classified by the revenue authorities no Kharab land is situated in the project area of Respondent No. 10 as is clear from the lease deed, the possession certificate and the allotment. The project has been classified as industrial land. RMP 2015 does

not indicate existence of any Kharab land in the said area. The Major Storm Water Drains of Bengaluru, August 2010 prepared by the Bruhat Bengaluru Mahanagar Palika (in short 'BBMP') establishes that there are no Kharab/Primary Storm Water drain/Secondary Storm water drain that exist in the property belonging to Respondent No. 10. The Bengaluru Guide Map prepared by the Survey of India also does not indicate any Kharab/Storm Water Drain/Rajakaluves in the said property. On the allegation of violation of buffer zone and dumping of muck in close proximity of Rajakaluves, it was argued that though they were answered in the Inspection Note affirmatively, as per the RMP 2015, 30 meters buffer zone is required to be maintained from the lakes and 50 meters buffer zone from Rajakaluves. The distance of the lake from the proposed building of the respondent No. 10, in the buffer zone of Agara lake is 61 meters and from the buffer zone of Bellandur it is far away. The Learned Senior Counsel also argued that on the Western side the proposed building of Respondent No. 10 is 50 meters away from the Centre of Rajakaluves and on the North Western side there is a unmetalled road, some area reserved park, open spaces and therefore buffer zone of 50 meters will be maintained and on the other side the property is separated by an unmetalled road, a proposed CDP/RMP road and hence buffer zone of 50 meters will be maintained. It was also argued that as Respondent No. 10 has not initiated the construction work, there is no question of dumping any waste or causing any damage to the environment. It was also argued that the land in question originally belonged to private parties and were later acquired by Respondent No. 7 and allotted to Respondent No. 10 by letter dated 17th March, 2008 and when the land was allotted there was no Rajakaluves passing through the said property. It was also argued by the Learned Senior Counsel that High Court of Karnataka in WP 44277 of 2011 (Shobha Developers Ltd. v. BBMP and Others.) already held that the village map will be superseded by the RMP and therefore it can only be found that there did not exist any Rajakaluves within the land belonging to Respondent No. 10 and they did not cause any damage or environmental degradation. The Learned Senior Counsel also argued that BDA constructed roads around Agara lake and one among the road is a ring road and the other is a major arterial road and both roads are abutting Agara lake and they are in between Agara lake and the properties belonging to the Respondent No. 10 and the ring road would be widened from its present width of 22 meters to 45 meters and for that purpose Respondent No. 10 has already agreed to give part of their property required for road formation. It was also argued that the source of water is as sanctioned by NOC dated 04th April, 2013 and a full fledged sewage treatment plant shall be constructed. The Learned Senior Counsel therefore argued that the basis for awarding payment of environmental compensation for commencement of the construction prior to the granting of Environmental Clearance is not true as against Respondent No. 10 as the construction is yet to be commenced. The inspection note would only reveal that Respondent No. 10 has only done the preparatory excavation work and no construction was commenced. Though it was found that Respondent No. 10 is a defaulter of statutory provisions and violated the law, in view of the PIL filed before the High Court of Karnataka and the stay order passed on 16th April, 2014, Respondent No. 10 did not proceed with the construction and he had not committed any violation. Therefore Respondent No. 10 is not liable for any compensation or damage for environment degradation.

21. The Learned Counsel appearing for the Appellants vehemently argued that the earlier findings in the judgment, the facts reported by the High Power Committee appointed by the Tribunal and the Inspection Note submitted by the Expert Members establish that both Respondent No. 9 and 10 caused environmental degradation and hence are liable to pay the damages. The Learned Senior Counsel Mr. Raj Panjwani argued that the Polluter Pays Principle mandates restoration of environment and

invoking the polluter pays principle, Respondent No. 9 and 10 are liable to pay the damages, both general and special. The Learned Senior Counsel argued that the report relied on in the main judgment, the report submitted by the HPC and the Inspection Note, all establish the environmental damages caused by respondents 9 and 10. It was argued that Respondent No. 9 has encroached upon a portion of the Agara lake by dumping the muck, with the intention to treat it as part of their land and the fact that the encroached land has been put into their illegal possession is established from the materials placed on record. The Learned Senior Counsel also argued that Respondent No. 10 has also put the muck on the adjacent Rajakaluves and thereby caused irretrievable damage to the environment. The Learned Senior Counsel argued that the commencement of the construction does not mean construction of the building per se but also include the preparatory work for the construction including excavation of soil for construction of the foundation and the fact that soil has been excavated is not only not disputed but is admitted. It was argued that the damage caused to the lake, the Rajakaluves and the environment is amply clear from the various reports submitted and in such circumstances, there is no reason to vary the findings in the main judgement as claimed by Respondent No. 9 and 10. The Learned Senior Counsel pointed out that as per the Environmental Clearance granted to Respondent No. 9 on 17th February, 2012, the total plot area is 292636.03 Square meters which works out to 72.22 Acres and the land allotted to Respondent No. 9 as per the allotment dated 28th June, 2007 is admittedly only 63 Acres and 37.5 guntas which works out to be 63.94 Acres. It was pointed out that it is admitted by the Respondent No. 9 that 1 Acres and 36.5 guntas, which works out to be 1.91 Acres, could not be taken possession due to the dispute with the Defence and their case is that an extent of 6 Acres and 19 guntas, which works out to be 6.47 Acres, was acquired by Respondent No. 9 through private negotiation. Therefore, the total land which could legally be claimed by Respondent No. 9 is only 71.74 Acres and out of the said land, due to the dispute with the Defence, 1.91 Acres cannot be claimed by Respondent No. 9 and the total land with Respondent No. 9 could therefore be only far less than 72.22 Acres, for which the Environmental Clearance was obtained and if that be so the Environmental Clearance granted warrants modification and with the faulted Environmental Clearance Respondent No. 9 is not entitled to proceed with the construction.

22. Learned Senior counsel Mr. Sajan Poovayya appearing for Respondent Nos. 11 and 12, while supporting the submissions made by the Appellants, pointed out that the findings in the report of the High Power Committee supports the findings rendered in the main judgment that the project proponents are constructing their project on a land classified as sensitive zone as per RMP 2015 and that they have not obtained mandatory clearance from the Sensitive Zone Committee, that the lands allotted to the Project Proponents include lands earmarked for public utilities, garbage facilities, treatment plant, parks and open space in the RMP 2015, that the Project Proponent has dumped the excavated soils on the Rajakaluves causing reduction of their width, that Respondent No. 9 illegally occupied 3 Acre and 10 guntas of land which is part of the lake and only 63 Acres and 37.5 guntas of land was transferred in favour of Respondent No. 9 and without obtaining requisite permissions and clearance the 6 Acres and 19 guntas of private land was illegally amalgamated with the leased land and it vitiates the sanctioned plan for 72 Acres which include the land leased by KIADB, the private land acquired and the unauthorizedly encroached 3 Acres 10 guntas of lake portion and they are not entitled to use Kharab land except for maintaining it as green belt. It was also argued that the Inspection Note establishes that all the leased land, privately acquired land and the encroached land from the lake are parts of the land claimed by Respondent No. 9 and

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the conditions in the Environmental Clearance that the topography shall not be changed has been breached, there are multiple violations by the Project Proponents with regard to the filling of low lying area, discharge of sludge to Rajakaluves, violations of buffer zone, dumping of excess soil in close proximity of Rajakaluves and non-identification of Kharab land which ought to be done before construction of the building. Clearance from BWSSB was received by respondent no 9 only for 18 residential flats and that the developmental project would cause traffic problems and therefore the earlier findings rendered in the main judgment warrants no interference. It was also argued that stringent action is to be taken to protect the lake and waterbodies in the city of Bengaluru and omnibus directions are necessary as developmental activities being undertaken in the vicinity and around the lakes and waterbodies in the city of Bengaluru is increasing day-by-day. The High Power Committee inspected not only the disputed sites but also several other areas. It was argued that apart from the general condition which was part of Environmental Clearance, it is necessary to specify and stipulate detailed protocol of specific and general conditions to be followed by projects of similar constructions so as to preserve and protect the environment and ecology of Bengaluru.

23. Based on the arguments and the materials placed on record the following points arise for consideration.

"1. Whether Respondent No. 9 has commenced the construction of the project before the granting of Environmental Clearance?

2. Whether Respondent No. 9 has encroached any part of the Agara lake and thereby caused environmental degradation?

3. Whether Respondent No. 9 has violated any of the conditions of the Environmental Clearance granted?

4. Whether the Environmental Clearance granted to the project of Respondent No. 9 is to be reviewed?

5. Whether Respondent No. 10 has commenced construction activities before granting of Environmental Clearance?

6. Whether Respondent No. 10 has dumped muck on the adjacent Rajakaluves and thereby reduced its width and caused any environmental damage?

7. Whether Respondent No. 9 and 10 are liable to pay environmental compensation and if so the quantum?"

24. Keeping in view the order of the Hon'ble Supreme Court of India, the peculiar facts and circumstances and more particularly the fact that one of the Hon'ble Expert Member (Dr. D.K. Agrawal) would be demitting the office on 05th May, 2016, we passed the operative part of the Judgment with holding that the reasons would be recorded in the later part of the day. The reasons are recorded below:--

Discussions on Point Nos. 1 to 4:

25. Based on the materials, in the main judgement it was found that Respondent No. 9 commenced the construction work of the project before obtaining the Environmental Clearance, has dumped the muck into a portion of the lake adjacent to

their properties and thereby encroached upon 3 Acres and 10 guntas of land from the lake, violated the conditions in the Environmental Clearance and caused environmental degradation. The argument of the Learned Senior Counsel Mr. Venkataramani is that though a portion of the muck was dumped on a portion of the lake it was not done by the Respondent No. 9 and Respondent No. 9 has not encroached any portion of the lake and in fact has no intention to encroach upon any portion of the lake. The Learned Senior Counsel also argued that the alleged encroached land could always be protected by putting up a boundary wall excluding the alleged encroached land and Respondent No. 9 has no objection for measuring and demarcating the said land and therefore based on that alleged encroachment, it cannot be found that Respondent No. 9 has committed any environmental degradation.

26. Before considering the argument, it is necessary to bear in mind the background of the case. Respondent No. 9 obtained the Environmental Clearance on 17th February, 2012. The relevant portion of the Environmental Clearance reads

"2. It is, inter-alia, noted that M/s. Manipal BTA Infotech Ltd., Bangalore have proposed for construction of mixed use development with residential, retail, hotel, office, SEZ & Non-SEZ on a plot area 2,92,636.03 Sqm out of which net plot area is 2,76,070.75 Sqm. The total built up area is 13,50,454.98 Sqm (Residential Block 1 & 2 -2,91,909.44 Sqm. Retail, Hotel & Office: 3,78,502.13 Sqm. Office SEZ: 6,23,570.87 Sqm. Office Non-SEZ 56,422.54 Sqm). The mixed use development consists of Residential with 748 dwelling units in 2 blocks (Block 1 consists of Block A with 2B+G+14 UF & Block B with 2B+G+10UF and Block 2 consists of 2B+G+14UF), Retail, Hotel (five star & two star hotel consists of 636 rooms) and office building consists of 3B+G+12UF. Total parking space proposed is for 14,675 cars. Total water consumption is 4587 MLD (Fresh water 3259 KLD + Recycling water 1328 KLD) out of which 960 KLD is for retail building, 254 KLD is for Office building, 1718 KLD is for SEZ 239 KLD is for residential block 1, 647 KLD is for residential block 2, 577 KLD is for five star hotel and 191 KLD is for two star hotel. The wastewater discharge is 3869 KLD out of which 816 KLD from retail building, 216 KLD from office building, 1460 KLD from SEZ, 201 KLD from residential block 1, 543 KLD from residential block 2, 475 KLD from five star hotel and 158 KLD from two star hotel. It is proposed to construct 7 Sewage Treatment Plants with a capacity of 625 KLD (Retail), 225 KLD (Office), 1475 KLD (SEZ), 205 KLD (Residential Block 1), 550 KLD (Residential Block 2), 480 KLD (Five Star Hotel) and 160 KLD (Two Star Hotel). The project cost is Rs. 2347 Crores."

27. It is thus clear that the net plot area for which the Environmental Clearance was granted is 292636.03 Sq.m. It is not disputed that the said square meters area when converted to Acres would be 72.22 Acres (i.e 1 Acre is 4052 Sq.m). The land which was allotted to Respondent No. 9 is admittedly 63 Acres 37.5 guntas. (10 guntas is 0.24 Acres). The said land therefore works out as 63.94 Acres. This fact was also not disputed. Even according to Respondent No. 9 the land acquired through private negotiation was 6 Acres 19 guntas which works out to be 6.47 Acres. Even out of the said lands Respondent No. 9 admits that there is dispute with the Defence on the boundary and ultimately Respondent No. 9 was prepared to give up the said disputed land to the Defence. The fact that the said disputed land is 1 Acre and 36.5 guntas, which works out to be 1.91 Acres, is also not disputed. These are the only lands available with Respondent No. 9. If that be, so the total area including the land



obtained on allotment and on private negotiation would come to 70.41 Acres. If that be so, Respondent No. 9 could not have legally obtained an Environmental Clearance for a net plot area of 292636.03 Sq.m. which works out to be 72.22 Acres. It is more so, when out of 70.41 Acres, due to the boundary dispute with the Defence, Respondent No. 9 was prepared to give up 1.91 Acres. If that extent is also excluded from the lands available with the Respondent No. 9, the balance land legally available is only 68.50 Acres as against the net plot area of 72.22 acres covered by the Environmental Clearance. The case of the encroachment of the portion of the lake disputed by Respondent no 9 is to be appreciated in that background. The encroached area, which is disputed by the Respondent No. 9, is 3 Acres and 10 guntas which works out to be 3.24 Acres. If that area is also added to the land which Respondent No. 9 is otherwise legally entitled to, it would be 71.74 Acres. If Respondent No. 9 had no intention to encroach upon a portion of the lake, one is not expected to apply for and obtain an Environmental Clearance for an extent of 72.22 Acres, when Respondent No. 9 had obtained only 70.41 Acres, i.e. 63.94 Acres being the land obtained under allotment and 6.47 Acres being the land obtained on private negotiation. Moreover litigation is pending on the 6.47 acres of land and another extend of 1.97 acres of land, though covered under the allotment was disputed by the Defence and Respondent No. 9 was prepared to give up. If the facts are so appreciated, one cannot accept the submissions of the Respondent No. 9 that portion of the lake was not encroached upon.

28. The High Power Committee was specifically directed to report whether the projects in question have encroached upon or are constructing on wetland and Rajakaluves and if so are there any adverse environmental and ecological impacts on the lakes particularly Bellandur lake and Agara lake as well as Rajakaluves. Based on the inspection and verification of records the High Power Committee reported as follows:--

"Further, from the records the area of M/s. MantriTechzone Pvt. Ltd., has increased from 63 acres 37.5 guntas (allotted by KIADB) to 72 acres 12.47 guntas (2,92,636.03 Sq.m as per details submitted to SEAC and KSPCB). Any amalgamation due to addition of land to the project site (allotted by KIADB) requires approval of the High Level Clearance Committee (HLCC) of Government of Karnataka chaired by Hon'ble Chief Minister. However, no such clearance has been obtained by M/s. MantriTechzone Pvt. Ltd."

29. The Committee felt that a detailed field survey of the land pertaining to Respondent No. 9 is necessary, for verifying the encroachment of the lake and Rajakaluves. Based on the directions of the High Power Committee, a joint survey was undertaken by the surveyors and development officers of the Board and prepared a survey sketch. The relevant portion of the report appended to the survey sketch was annexed to the report submitted by the High Power Committee. The English translation of the same reads as follows:

"As per the sketch, an extent of 6-19 Acres is included along with 63-37 1/2 acres of land, which is already handed over. In the land already handed over, 0.02 guntas in Survey No. 15/24, 0-06 1/2 guntas in Survey No. 42, 0.04 guntas in Sy. No. 47, 0-38 guntas in Survey No. 48, 0-26 guntas in Survey No. 50, totaling 1-36 1/2 acres of land, even though included in the 63-37 1/2 acres of land acquired and handed over to M/s. Manipal ETA (presently M/s. Mantri Tech Zone) and same are outside the compound wall constructed by the said project authorities. Further, it is reported that in the adjacent Survey

No. 43, government lake land, muck is dumped in an extent of 3-10 Acres.

1	Final Notification extent for acquisition	75 acres - 16 ½ guntas
2	Land handed over to the Board	63 acres - 37 ½ guntas
3	Land allotted but falling outside the compound wall	1 acres - 36 ½ guntas
4	The land in actual possession	62 acres - 01 guntas
5	Extent of land not handed over due to filing of Writ Petition in the Hon'ble High Court regarding cancellation of land acquisition notification.	6 acres - 19 guntas
	Total area	68 acres - 20 guntas
6	Extent of muck dumping in Government lake in Survey No. 43	3 acres 10 guntas
	Total	71 acres 30 guntas

30. Based on the said report and the survey sketch the High Power Committee has reported as follows:

"The details provided by KIADB vide their letter mentioned above are listed below.

I. Land transferred by KIADB to M/s. Mantri - 63 acres 37.5 guntas

II. Land transferred but not secured by M/s. Mantri (presently outside their boundary wall) - 1 acres 36.5 guntas

III. Transferred land with M/s. Mantri {(I)-(II)}=62 acres 1 guntas

IV. Land not transferred but under litigation within the boundary wall of M/s. Mantri - 6 acres 19 guntas.

V. Survey No. 43, unauthorized occupation of lake area (within the boundary wall of M/s. Mantri) - 3 acres 10 guntas

VI. Total land within the boundary wall of M/s. Mantri {(III)+(IV)+(V)}=71 acres 30 guntas

Therefore, as per KIADB survey, 3 acres 10 guntas (shown in green color in the sketch) is unauthorized occupation of Lake area by M/s. Mantri."

31. It is thus clear that an extent of 3 Acres and 10 guntas in survey No. 43 is dumped with muck and that area is actually part of the lake. Though Respondent No. 9 contended that it was not enclosed within any boundary wall or fencing, the report of the High Power Committee reveals a different picture. As stated earlier, the encroached area of 3 Acre and 10 guntas is described as "Survey No. 43, unauthorized occupation of lake area (within the boundary wall of M/s. Mantri) and total land within the boundary of M/s. Mantri is 71 Acres and 30 guntas". The report further shows that as per the survey, the said 3 Acres and 10 guntas is in the unauthorized occupation of Respondent No. 9. The Inspection Note prepared by the

Expert Members considered this aspect and stated as follows:

"1 The records show that the area allotted to the project comprised of 63 acres 37.5 guntas, whereas, owing to boundary disputes with the adjoining Military Area, they could not take actual possession of 1 acrs 36.6 guntas, thus out of the originally allotted land by KIADB, they are in possession of 62 acres 1 gunta land. According to the records placed, certain plots that were encircled within the above piece of land, have been acquired by them through private negotiations. Such land amounts to 6 acres 19 guntas. As per details furnished by the Revenue department, Survey No. 43 admeasuring 3 acres 10 guntas has neither been allotted by KIADB nor has been acquired by the project proponent, and as such the land in the revenue records as lake area, is unauthorizedly encroached upon by the project propnent and boundary wall has been raised around the entire land admeasuring 71 acres 30 guntas. Thus, unauthorized encroached land needs to be restored."

32. In the light of these materials it can only be found that Respondent No. 9 encroached 3.24 Acres (3 Acres and 10 guntas) of the lake in survey No. 43 and annexed the same with the land allotted to them as well as the land obtained on private negotiations. The modus-operandi of the encroachment is clear viz. dumped the muck first and thereby fill up that portion of the lake and thereafter annex the same with the remaining property. If the intention of dumping the muck was not to encroach and annex that portion of the lake, with their property obtained on allotment and private negotiations, an application for Environmental Clearance along with the approved plan for a net total area 72.22 Acres could not have been made when the total land available was only 70.41 Acres including the land obtained on allotment and private negotiations and that too when possession of 1.91 Acres of the allotted land was not obtained and that was admittedly kept out of the boundary wall constructed by the Respondent No. 9. The plan and proposal for 72.22 acres could have been made only with the intention of making up the difference and extend it by encroaching the portion of land from the nearby lake.

33. Though the High Power Committee reported that Respondent No. 9 had started construction after obtaining clearances and relying on the said observation, the Learned Senior Counsel argued that the inspection report prepared by the Chairman KSPCB supports the said conclusion, on the available materials, we cannot agree.

34. Construction does not mean construction of only the building. Construction envisages different processes starting from clearing the land, excavating the land for the foundation, building the foundation and the work till the entire construction is completed. The inspection report relied on by Respondent No. 9 is the one prepared by Mr. A.S. Sadashivaiah, Chairman of KSPCB based on his inspection dated 11th January, 2012. The relevant portion of the report that "the subject of issue of consent for establishment is discussed in the consent committee meeting held on 18th November, 2011 and the committee recommended for visit of the site by the Chairman and Member Secretary and to call the Project Proponent for technical presentation. Accordingly the proposed site was inspected on 11th January, 2012 and the following observations were made

"The subject of issue of consent for establishment was discussed in the Consent Committee meeting held on 18.11.2011 and the committee recommended for visit of the site by the Chairman and Member Secretary and to call the project proponent for technical presentation. Accordingly the

proposed site was inspected on 11.01.2012 and the following observations were made

1. The proposed site is bounded by natural valley (Raja Canal) in the North.
2. The proposed site is bounded by Sarjapura main Road and there after Agara lake (Agara lake is about 50 meters) on South side.
3. The proposed site is bounded by private property, natural valley and Jakkasandra area on West side and
4. The proposed site is bounded by private property and defense road on East side.
5. Some part of the proposed land is filled up with soil and debris. Most of the proposed area is low lying and water logged area.
6. A creek of Bellandur tank back water is with in the proposed land and filled up with water.
7. The proposed land has not been clearly demarcated from the boundary of the Bellandur tank bed area and natural valley (raja canal) leads to Bellandur tank.
8. The proposed site is vacant and yet to take up construction work."

35. Even the said report establishes that some part of the proposed land was filled up with soil and debris and most of the proposed area is low lying and water logged. It also establishes that a creek of Bellandur Lake backwater is within the proposed land and is filled with water. It is also clear from the report that the proposed site then was not clearly demarcated from the boundary of Bellandur Tank bed area and the natural valley leads to the Bellandur Tank. True, the report shows that the site was then vacant and construction work was yet to take up. When this report is appreciated in the light of the report submitted by the High Power Committee and the Inspection Note prepared by the Expert Members, it is clear that the low lying area was filled up and excavation work for the construction was undertaken. The relevant portion of the Inspection Note reads:

"a. General topography and physical features seen at the site indicate that huge alterations to the topographic features of the area have been made for the project activities of Respondent No. 9.

b. As per the details collected, cumulative quantity of excavation upto of 3 Meters is 254168.82 cubic meters, excavation upto in the range of 3 to 6 Meters is 136346 Cubic Meters, excavation in the range of 6 to 9 Meters is 21222 Cubic Meters and excavation in the range of 9 to 12 Meters is 8212 Cubic Meters.

c. during the course of site visit, reference to the inspection made by the KSPCB on 2nd January 2014 was made. Subsequently, upon enquiry, original records of the same were perused and it was felt that the report provides valuable insights and photographic evidence to various observations made in the report. A copy of the same is placed at page Nos. K-1375 to K-1384. The Inspection Report of Pollution Control Board in para 3 noted that excess soil from construction was being used within project area for filling low lying

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area. In para 5, issue of construction water supply is dealt, Issue of large number of labourers and labour camps and absence of STP in para 6 whereas para 7 records discharge of sullage from labour camp to the Raj kalewas. In para 8b, issue of buffer one violation was noticed and in para 9, dumping of excess soil in close proximity to the Raj Kalewas was noticed. For the various observations, photographic evidence with corresponding indexing on the project layout map has also been annexed to. These photographs with the current photographs indicate the state of affairs that prevailed at the site."

36. Therefore it can only be found that, Respondent No. 9 had commenced the construction much before 17th February, 2012, the date when the Environment Clearance was granted.

37. The Inspection Note reveals that as per the revenue records major portion of the land allotted to Respondent No. 9 was paddy field and the cadastral map of 1956 indicates that irrigation canal/Rajakaluves taking of from upstream Agara tank passed through the area of Respondent No. 9. However, after inclusion of the area in Bangalore Mahanagar Palika and construction of Sarajapur road abutting Agara lake, the area was not under cultivation and the outlets from the Agara Tank for supplying water for irrigation purposes was blocked and at present no evidence is available about the existence of irrigation canal/Rajakaluves. Therefore, though it was not possible to locate the exact location of the Rajakaluves irrigation canal which were in existence in the lands now belonging to Respondent No. 9, it is clear that there originally existed Rajakaluves which were later got obliterated. The report of the High Power Committee also shows that in the case of Respondent No. 9, "the excavated soil has been dumped into Rajakaluves and part of lake bed". Therefore it is clear that Respondent No. 9 had also tampered with the Rajakaluves.

38. The fact that the properties acquired and later allotted to Respondent No. 9 and 10 were agricultural land and they include Kharab lands also was not disputed. Condition No. 38 of the Environmental Clearance granted to Respondent No. 9 which is identical to condition No. 41 of the Environmental Clearance granted to Respondent No. 10 provides that Kharab land cannot be used for any other purpose except for maintaining as green belt area. Condition No. 38 reads

"the project authorities shall not use Kharab land (if any) for any purpose and keep available to the general public duly displaying a board as public property no structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only."

39. Though the Learned Senior Counsel appearing for Respondent No. 9 argued that as the land was acquired in 2000 for industrial use and notified for industrial use and therefore when the land was taken by KIADB in 2004 it did not emerge from any record that any portion of the project site stood designated as any class of Kharab lands and when the project site was handed over to the respondents there were no traces of any specified classes of Kharab land that deserved protection, the Inspection Note on Kharab land reads as follows:

"5. Kharab Land details: As per the details furnished by the Revenue Department, one acre and 2 guntas of the land allocated to Respondent No. 9 - M/s. Mantri Tech. Zone falls in 'C' Kharab land which means that it is yet to be classified under 'A' Kharab or 'B' Kharab land. With the present level of alteration to the topography and partial constructions already raised, the



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demarcation of especially 'B' Kharab land is crucial to identify the structures that are illegal, however, for this first revenue department has to classify the 'C' Kharab land into Category 'A' and 'B' first."

40. In the light of the materials on record we cannot agree with the submission that no Kharab land is involved. Condition No. 38 of the Environmental Clearance granted shows that it was specifically provided that "The project authorities shall not use kharab land, if any, for any purpose and keep available to the general public duly displaying a board showing as public property. No structure of any kind be put up in the kharab land and shall be afforested and maintained as green belt only."

41. It is clear that Respondent No. 9 did encroach a portion of the lake and caused environmental degradation by putting debris, muck and excavated soil into the lake and Rajakaluves and even filled up the creek of the lake, which originally existed in the property and is therefore guilty of the environmental damage and degradation.

Discussion on Point No. 5 and 6:

42. Based on the materials it was found in the main judgement that Respondent No. 10 had also started construction prior to the grant of Environmental Clearance, there is encroachment on Rajakaluves and Respondent No. 10 has also caused environmental degradation. The report submitted by the High Power Committee shows that Respondent No. 10 has not started any construction activity. The inspection note prepared by the Expert Members shows that in the case of Respondent No. 10 it was noted as follows.

43. "So far construction has not been raised. Only preparatory excavation work has been carried out. However as far as the issue of Kharab land, proximity to Rajakaluves, presence of irrigation channels on originally allotted agricultural land etc. was common as in the case of Respondent No. 9".

44. On traffic congestion which is common to Respondent No. 9 and 10 the inspection report reads

"the traffic density on Sarjapur road falls in category 'C' i.e. overloaded, whereas with the proposed SEZ, it is expected that the traffic in the area will become very poor performance in terms of level of service. As per the lease agreement with KIADB, the project proponent is to upgrade 2 Kms. of this stretch of road to 6 lane road and build an under-pass and over-bridge to reduce the traffic congestion; however, in the meantime, a flyover has already been raised by the Government, thus, the entire issue requires a fresh look."

45. The fact that Respondent No. 10 has also started preparatory excavation work and excavated soil was dumped on the Rajakaluves is absolutely clear from the available materials. Materials on record establishes that Respondent No. 10 commenced the construction work before the Environmental Clearance granted as they have already excavated the soil, levelled the low lying area and levelled the plot. Though the Learned Senior Counsel appearing for Respondent No. 10 argued that the lake is far away from the land belonging to Respondent No. 10, and therefore it cannot be said that Respondent No. 10 caused any environmental degradation or damage to the lake, it is clear that the Rajakaluves is abutting the property of Respondent No. 10. It is also clear that after excavation of the soil the muck were dumped on the Rajakaluves and thereby reduced the width of the Rajakaluves and

consequently caused environmental degradation, though to a lesser extent than committed by Respondent No. 9. The Environmental Clearance was granted to Respondent No. 10 only on 03rd June, 2013. The case of the Respondent No. 10 is that after obtaining the Environmental Clearance, in view of the PIL filed before the High Court of Karnataka and grant of order of stay on 16th April, 2014, Respondent No. 10 did not proceed with the further construction of work. As excavation of soil forms part of the construction work and it was commenced prior to 03rd June, 2013 it is clear that Respondent No. 10 has also illegally commenced the construction work before obtaining Environmental Clearance.

46. The learned senior counsel appearing for Respondent No. 10 argued that as per RMP 2015 the buffer zone required to be maintained from the lake is 50 meters from the edge of the lake and from the Rajakaluves it is 30 meters from the centre of the Rajakaluves and therefore there is no violation of dumping of excess soil in close proximity of Rajakaluves. In the Inspection Note, based on the inspection report of the Pollution Control Board it was stated that the said inspection report established dumping of excess soil in close proximity to the Rajakaluves. Though Learned Senior Counsel would argue that as construction was not started, there cannot be dumping of soil, we have already found that there was excavation of the soil a fact which was not disputed. It is, therefore, clear that the excavated soil was dumped on the Rajakaluves. It is thus clear that Respondent No. 10 is also equally guilty as Respondent No. 9, though it was of a lesser degree compared to that of Respondent No. 9.

Discussion on Point No. 8

47. We have already found that Respondent No. 9 and 10 had commenced construction of their projects prior to the grant of Environmental Clearance. No project activity could have been commenced without grant of an Environmental Clearance as provided under EIA Notification of 2006. It is also established that multiple Rajakaluves were flowing through the project sites and there was encroachment on the Rajakaluves. The condition No. 39 on natural sloping pattern of the project site was to maintain the natural hydrology of the area so as to ensure natural flow of storm water, which is to be protected and conserved was violated. As far as the Respondent No. 9 is concerned, they dumped muck and excavated soil on a portion of the lake with an intention to annex that portion to lake as part of their property. We have already discussed in detail the consequences of such activities on the environment and ecology, in the main judgement and therefore it is not necessary to reiterate the same once again.

48. The Hon'ble Supreme Court in *M.C. Mehta v. Kamal Nath* MANU/SC/2107/1998 : (1999) 1 SCC 702 considered the liability for causing pollution and health:

"24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender. The powers of this Court under Article 32 are not restricted and it can award damages in a PIL or a writ petition as has been held in a series of decisions. In addition to damages aforesaid, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner. Unfortunately, notice for exemplary damages

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was not issued to M/s. Span Motels although it ought to have been issued. The considerations for which 'fine' can be imposed upon a person guilty of committing an offence are different from those on the basis of which exemplary damages can be awarded. While withdrawing the notice for payment of pollution fine, we direct a fresh notice be issued to M/s. Span Motel to show cause why in addition to damages, exemplary damages be not awarded for having committed the acts set out and detailed in the main judgement. This notice shall be returnable within six weeks. This question shall be heard at the time of quantification of damages under the main judgement."

49. The same matter again came up before the Hon'ble Supreme Court and then it was held in MANU/SC/0189/2002 : (2002) 3 SCC 653 as follows:

"8. Even in the judgement of this Court, since reported in Kamal Nath while accepting the claim of the Motels that the sine qua non for punishment of imprisonment and fine is a fair trial in a competent court and that such punishment of imprisonment or fine can be imposed only after the person is found guilty by the competent court, a general and passing reference has also been made to the earlier findings and as a consequence of which only it has been again held that though no fine as such can be imposed and the notice issued by this Court earlier be withdrawn, a fresh notice was directed to be issued to Span Motels Pvt. Ltd. As to why in addition to damages, as directed in the main judgement, exemplary damages cannot be awarded against them "for having committed the acts set out and detailed in the main judgement". Equally, the object and purpose of such levy of exemplary damages was also indicated to serve as "a deterrent for other not to cause pollution in any manner". Having regard to what has been stated supra, the question as to the imposition of exemplary damages and the liability of Span Motels Pvt. Ltd. In this regard has to necessarily depend upon the earlier findings of this Court that the Motel by constructing walls and bunds on the river banks and in the river bed as detailed in the judgement has interfered with the flow of the river and their liability to pay the damages on the principle of "polluter pays" and also as an inevitable consequences thereof. The specification in the NEERI report regarding details of the activities of M/s. Span Motels Pvt. Ltd. and the nature of constructions made in 1993 in Figure 2 that (a) "in 1993, to protect the newly acquired land as also the main resort land, SMPL constructed concrete studs, stepped wall and concrete bars as depicted in Figure 2"; (b) "blocked the mouth of the natural relief/spill channel by dumping of boulders" resulting in the levelling of the leased area; and (c) "at the downstream of M/s. SMPL, a private property-owner has blocked the relief/spill channel by constructing a stonewall across the channel (E and F)" also confirms and only reinforces the need and justification for the indictment already made. The basis for their liability to be saddled with the exemplary costs has been firmly and irreversibly already laid down in the main judgement itself and there is no escape for Span Motels Pvt. Ltd. in this regard. We have to necessarily proceed further only on those bases of facts and position of law, found and declared."

50. The damages that can be awarded in an action based on tort may be nominal, ordinary or exemplary. While the primary object of award of damage is to compensate victim for the harm done to him, secondary object is to punish the offender for his conduct in inflicting the harm. In addition to the normal

compensatory damages which are variously called exemplary damages, punitive damages, vindictive damage or retributory damages could also be awarded. Such damages are awarded where it is found that the conduct of the offender is outrageous and discloses malice, cruelty or the like.

51. In Halsbury Laws of India Volume 9 Page 16

General and Special damages are explained as follows:

"General and special damages - A distinction is frequently drawn between the terms 'general' and 'special' damages, which are used. In the context of liability for loss (usually in contract), general damages are those which arise naturally and in the normal course of events, whereas special damages are those which do not arise naturally out of the defendant's breach and are recoverable only where they were not beyond the reasonable contemplation of the parties (for example, where the plaintiff communicated to the defendant prior to the breach the likely consequences of the breach). Special damages do not mean serious damage in the sense of irreparable loss but damage affecting the plaintiff individually or damage peculiar to the plaintiff or beyond what is suffered by him in common with others. In particular actions, for example, slander and public nuisance, all damages are special damages.

Indiscriminate use of the terms 'general damages' and 'special damages' in varying contexts has blurred the distinction between them. However the difference can be better elucidated in the context of three distinct issues which arise in the award of damages in an action by a plaintiff.

The first distinction between these terms is underscored in issues relating to liability. 'General damages' is usually the term which relates to damages arising in the normal course of things, principally in cases of breach of contract. 'Special damages', however, covers the category of damages arising out of special and extraordinary circumstances beyond the reasonable contemplation of the parties.

The second contrast arises in issues relating to proof of damage. General damages are those losses, usually but not exclusively non-pecuniary, which are not capable of precise quantification in monetary terms, for example, damages for harm to reputation in actions for defamation and damages for pain and suffering in actions relating to personal injury. In comparison, special damages, in this context, are those losses which can be calculated in financial terms; these are generally pecuniary losses calculable at the time of trial, for example, claims for loss of earnings, whether past or future, or the cost of care in personal injury actions.

The third context in which the distinction arises relates to pleadings. Special damage refers to those losses which must be proved by evidence, and particulars of the special damage claimed must be specified in the plaint, whereas general damage is that which will be presumed to be the natural or probable consequences of the wrong complained of, with the result that the plaintiff is required only to assert that such damage has been suffered and quantification is left to the court."

52. Compensatory damage is to compensate the plaintiff in terms of money for the

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damages caused to him by the defendant. The plaintiff is thus compensated for the actual loss suffered by him by the award of compensatory damages, either for breach of contract or for tort whether for pecuniary or non-pecuniary loss. Noncompensatory damages are damages over and above compensatory damages and are based on a different scale. The court may award non-compensatory damages either because there is no injury or damage caused or to punish the defendant for his conduct in inflicting harm to the plaintiff, in addition to the normal compensatory damages. Pecuniary damages are damages paid in respect of damage which can be estimated in and compensated by money. They are damages for all such loss, deprivation or injury as can be made the subject to calculation and of recompense in money and may include loss of earnings, loss of future earning, loss due to damage to goods, loss on breach of contract for sale of goods, loss of profits, expenses of medical treatment or cost of repair or replacement. Non-pecuniary damages are damages for loss or injury, which is not assessable arithmetically by and are generally awarded in actions for tort. This may include damages for personal injuries including pain and sufferings, loss of amenities, physical inconvenience and discomfort, damage to the reputation or damages on account of social discredit or interference with enjoyment of property or mental distress. Consequential damages are damages which do not flow directly and immediately from the act of the party but as a consequence of a wrongful act which are so proximate as to be recoverable. Only such damages that are sufficiently proximate to the course of action as to be the natural consequence of the wrongful act, though even of an interim nature, are recoverable. Normal losses are the losses which every plaintiff will suffer such as general damage, while consequential losses are anything above the normal losses such as profits lost or expenses incurred through the breach and are recoverable if they are not remote. Nominal damages have been defined as a sum of money that may be spoken of but that has no existence in point of quantity or a mere peg on which to hang costs. The plaintiff is entitled to nominal damages where his rights have been infringed, though he has not sustained any actual damage from the infringement or he fails to prove that he has suffered damage or although actual damages has been caused, it arises from the plaintiff's conduct and not from the wrongful act of the defendant or the plaintiff bringing an action only to establish his right and he is not concerned to raise question of actual loss or damage. Nominal damages can be awarded in cases of breach of contract and in torts actionable per se. A small amount of money is awarded as nominal damages. The other class of damages is aggravated, exemplary or punitive damages.

53. In the Halsbury's Laws of India (Supra) at Page 23 they are explained as follows:--

"Aggravated, exemplary or punitive damages - In certain circumstances the court may award more than the normal measures of damages, taking into account the defendant's motives or conduct. Such damages may be 'aggravated' damages' or 'exemplary damages'.

Aggravated damages are compensatory in nature, in that they compensate the victim of a wrong for mental distress, or injury to feelings, in circumstances in which that injury has been caused or increased by the manner in which the defendant committed the wrong, or by the defendant's conduct subsequent to the wrong.

Exemplary damages are punitive in nature and are awarded to punish the wrong doer and not to compensate the plaintiff for any loss.

The Indian courts have been reluctant to award punitive damages and the view taken is that if the offender has to be punished then recourse must be had to the penal law. However, exemplary damages have been awarded by courts in cases of breach of duty by public functionaries, to protect the fundamental rights of the citizen, or for misfeasance in public office because it is an accepted principle and oppressive, arbitrary or un-constitutional action by the government or its servants calls for exemplary damages. Awards of exemplary damages must, however, be made sparingly. If official power has been exercised in a bona fide manner, exemplary damages should not be awarded despite the fact that unintended injury is caused to someone.

Exemplary damages may also be awarded in cases where the defendant has calculated to make a profit for himself which may exceed the compensation payable to the plaintiff, and this extends to cases where the defendant is seeking to gain some object at the plaintiff's expense."

54. The Constitutional Bench of the Hon'ble Supreme Court in *M.C. Mehta and Another v. Union of Indian and Others* MANU/SC/0092/1986 : (1987) 1 SCC 395, considered the environmental damage caused and held that the enterprises must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of the such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that harm occurred without any negligence on its part. It was also held that the quantum of compensation must be co-related to the magnitude and capacity of the enterprises because such compensation must have a deterrent effect. Their Lordship held:

"32. We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise."

55. The Hon'ble Supreme Court in *M/s. Sterlite Industries India Limited v. Union of India* (MANU/SC/0284/2013 : (2013) 4 SCC 575) following the said Constitution Bench decision held:

"47 In the Annual Report 2011 of the appellant Company, at pp. 20 and 21, the performance of its copper project is given. We extract hereinbelow the paragraph titled "Financial Performance":

"PBDIT for the financial year 2010-2011 was Rs. 1043 crores, 40% higher than PBDIT of Rs. 744 crores for the financial year 2009-2010. This was primarily due to higher LME prices and lower unit costs at Copper India and with the improved by-product realisation."

Considering the magnitude, capacity and prosperity of the appellant Company, we are of the view that the appellant Company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and

according to us, any less amount, would not have the desired deterrent effect on the appellant Company."

56. In the *Deepak Nitrite Limited v. State of Gujarat and Others* (MANU/SC/0482/2004 : (2004) 6 SCC 402) the Hon'ble Supreme Court held:

"6. The fact that the industrial units in question have not conformed with the standards prescribed by GPCB, cannot be seriously disputed in these cases. But the question is whether that circumstances by itself can lead to the conclusion that such lapse has caused damage to environment. No finding is given on that aspect which is necessary to be ascertained because compensation to be awarded must have some broad correlation not only with the magnitude and capacity of the enterprise but also with the harm caused by it. May be, in a given case the percentage of the turnover itself may be a proper measure because the method to be adopted in awarding damages on the basis of "polluter-to-pay" principle has got to be practical, simple and easy in application. The appellants also do not contest the legal position that if there is a finding that there has been degradation of environment or any damage caused to any of the victims by the activities of the industrial units certainly damages have to be paid."

57. The Hon'ble Supreme Court in *Goa Foundation v. Union of India and Others* (MANU/SC/0388/2014 : (2014) 6 SCC 590) directed to deposit 10% of the cost of the project at the first instance as environmental damage. What was directed was to deposit 10% of the value of the mineral extracted.

58. Following polluter pays principle and the guidelines settled in the above decisions this Tribunal in *Sarang Yadwadkar & Ors. v. Commissioner, Pune Municipal Corporation and Others*, MANU/GT/0051/2013 : 2013 All (1) NGT Reporter (Delhi) 299 directed to pay the environmental damages. In *Krishan Kant Singh v. National Ganga River Basin Authority* 2014 All (1) NGT Reporter 3 (Delhi) 1, the Tribunal directed the Sugar Mills which had operated without consent of the Pollution Control Board and polluted the environment, to pay a compensation of Rs. 5 Crore. That decision was confirmed by the Hon'ble Supreme Court by order dated 21st January, 2015 in Civil Appeal No. 10434 of 2014.

59. Section 20 of the National Green Tribunal Act, mandates that while passing any order or decision or award the Tribunal, shall apply the Principles of Sustainable Development, the Precautionary Principles and the Polluter Pays Principles.

60. Therefore applying Polluter Pays Principle and the settled guidelines settled in the decisions of the Hon'ble Supreme Court and that of the this Tribunal referred to earlier, Respondent No. 9 and 10 who caused environmental degradation are liable to pay the environmental compensation as have been already found in the main judgement.

61. Then the question is on the quantum of compensation Respondent No. 9 was directed to pay 5% of the cost of the project as compensation by the Main Judgment. It was found to be a sum of Rs. 117.35 Crores. We find no reason to vary, reduce or modify the same considering the nature of the environmental degradation caused by the Respondent No. 9 in magnitude and capacity of the project proponents and also the necessity to have a deterrent effect.

62. As far as Respondent No. 10 is concerned he was directed to pay a compensation

of Rs. 22.5 Crores being 5% of the cost of the project in Main Judgement. Considering the fact that compared to Respondent No. 9, Respondent No. 10 has not commenced the actual construction activity. But they have carried out various preparatory work including excavation and depositing huge quantity of earth, creating a hellock at the premises and thereby caused environmental degradation. In the interest of justice we reduce the compensation originally fixed in the Main judgment and direct Respondent No. 10 to pay an environmental compensation of 3% of the cost of the project instead of 5% imposed. Respondent No. 10 is therefore directed to pay an environmental compensation of Rs. 13.5 Crores.

63. On the facts and in the light of the materials on record we find that it is absolutely necessary to issue the following general and specific directions.

"General Conditions or directions:

1. In view of our discussion in the main Judgment, we are of the considered view that the fixation of distance from water bodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP - 2015 provides 50m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25m in the case of secondary Rajkulewas and 15m in the tertiary Rajkulewas in contradiction to the 30m in the case of lake which is certainly much bigger water body and its utility as a water body/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents Nos. 9 and 10 from Rajkulewas, Waterbodies and wetlands shall be maintained as below:--

- (i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.
- (ii) 50m from the edge of the primary Rajkulewas.
- (iii) 35m from the edges in the case of secondary Rajkulewas
- (iv) 25m from the edges in the case of tertiary Rajkulewas

This buffer/green zone would be treated as no construction zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

All the offending constructions raised by Respondents Nos. 9 and 10 of any kind including boundary wall shall be demolished which falls within such areas. Wherever necessary dredging operations are required, the same should be carried out to restore the original capacity of the water spread area and/or wetlands. Not only the existing construction would be removed but also none of these Respondents - Project Proponent would be permitted to raise any construction in this zone.

All authorities particularly Lake development Authority shall carry out this operation in respect of all the water bodies/lakes of Bangalore.

2. The capacity of the existing STPs to treat sewage is 729 MLD, whereas another 500 MLD sewage is proposed to be treated in 10 upcoming STPs. In

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this context, all the STPs operating in the area whether Government or privately owned, should meet the revised standards notified by CPCB/MoEF.

3. Bangalore city receives treated potable water of 1360 MLD from river Cauvery whereas the requirement is for another 750 MLD and the entire area falls in critical zone in terms of ground water exploitation. Information reveals that only one million litre per month of STP treated water is used by builders for construction purposes. For this reason, the BWSSB issues partial NOC to various residential and commercial projects in respect of supply of potable water. In this context, following directions need to be issued:

- i. At the time of grant of EC, the water requirement for the construction phase and operation phase should be considered separately. Due consideration should also be given for identification of source of supply of water and this should be a pre-requisite for grant of EC.
- ii. All the project proponents should necessarily use only treated sewage water for construction purpose and this should be reflected in EC as a condition for construction phase.
- iii. Wherever the quality of treated sewage water does not conform to the quality needed for construction, necessary upgradation in STP should be undertaken immediately.

Specific Conditions/Directions for Respondent 9;

In addition to the above directions which should be equally part of EC condition in respect of respondents Nos. 9 & 10, following specific conditions shall apply to respondent No. 9:

- i. Reclaimed area of the lake to the extent of 3 acres 10 guntas in survey No. 43 should be restored to its original condition at the cost of project proponent. The possession of this area should be restored by Respondent No. 9 to the concerned Authorities immediately. In addition, a buffer zone of 75 m should be provided between the lake and the project area and this should be maintained as green area.
- ii. In the remaining area, where primary Rajkalewa is abutting the project area, 50 m buffer zone on the side of the project area from the edge of the rajkalewa should be maintained as green belt.
- iii. Several irrigation canals or tertiary rajkalewas taking off from the Agara tank were passing through the area of respondent No. 9, and serve the dual purpose of irrigating paddy fields and disposal of surface run off (storm water drains) during rainy season. However on account of the activities of the project, these drains have been totally obliterated. For the purpose of proper disposal of storm runoff from the entire area falling between the Agaralake and the Belandur Lake, respondent No. 9 must provide required number of storm water drains based on proper hydrological study. These storm drains should have a buffer zone of 15 m on either bank maintained as green belt.

iv. The cumulative quantity of earth excavated for the construction of project is around 4 lakhs cubic meters in the depth range of 0 to 9 meters. This has created huge hillock like structure obstructing the natural flow pattern of surface runoff from Agara Lake side to Balendur Lake side or primary Rajkalewas. For this purpose, during construction phase garland drain should be constructed around the existing dumping site for safe disposal of runoff to the Rajkalewas. For the disposal of excavated material, a proper muck disposal plan duly approved by SIEAA shall be prepared. In any case the plan should ensure that no muck/sediment flows into Rajkalewas and/or Belandurlake.

v. The Kharab land identified by Revenue Dept. admeasuring 1 acre 2 guntas should be demarcated and maintained separately as green belt.

vi. The entire green belt created under the directions of this Tribunal should not to be considered as part of green belt of the project as part of EC condition and will be over and above the green belt as indicated in the EC.

vii. In view of the heavy traffic load in the adjoining Sarjapur road, a proper study on the basis of traffic density, foot falls expected, etc., a proper plan needs to be prepared and the concept of service road exclusively for the project needs to be worked out and additional parking space created within the project area and incorporated as a part of the overall project layout, within a period of 3 months.

10. Though, at the time of hearing prior to passing the Judgment, we had heard the parties on all aspects but still we have provided re-hearing to the parties on all issues with emphasis on imposition of environmental compensation including the quantum. Upon hearing, we are of the considered view that environmental compensation imposed upon Respondent No. 9 calls for no variation and the Respondent No. 9 should be called upon to pay the said amount of Rs. 117.35 Crores determined under the Judgment prior to commencement of any project activity at the site. Respondent No. 10 has not commenced any actual construction activity but has carried out various preparatory steps including excavation and deposition of huge earth by creating a hillock at the premises in question and a site office.

Thus, considering cumulative effect on environment and ecology due to various breaches in that behalf by Respondent No. 10 and the fact that the remedial measures can more effectively be taken by the Respondent No. 10, we reduce environmental compensation payable by Respondent No. 10 to Rs. 13.5 crores (3% of the stated project cost instead of 5% as imposed in the original judgment).

General Directions:

1. We direct SEIAA, Karnataka to issue amended order granting Environmental Clearance within four weeks from today incorporating all the conditions stated in this judgement and such other conditions as it may deem appropriate in light of this judgment and Inspection Note of the Expert Members. The Project Proponents would be


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permitted to commence activity only after issuance of amended Environmental Clearance order.

2. SEIAA Karnataka and MoEF shall ensure regular supervision and monitoring of the project and during the construction and even upon completion to ensure that activity is carried out strictly in accordance with the conditions of the order granting Environmental Clearance, this Judgment, Notification of 2006 and other laws in force.

3. The distances in respect of buffer zone specified in this judgment shall be made applicable to all the projects and all the Authorities concerned are directed to incorporate such conditions in the projects to whom Environmental Clearance and other permissions are now granted not only around Belandur Lake, Rajkulewas, Agara Lake, but also all other Lakes/wetlands in the city of Bengaluru.

4. We hereby direct the State of Karnataka to submit a proposal to the MoEF for demarcating wetlands in terms of Wetland Rules 2010 as revised from time to time. Such proposal shall be submitted by the State within four weeks from today and the MoEF shall consider the same in accordance with law and grant its approval or otherwise within four weeks thereafter. After such approval is granted by MoEF, the State would issue notification notifying such areas immediately thereafter in accordance with Rules and law. [

5. Both the Respondents Nos. 9 and 10 shall ensure that debris or any construction material that has been dumped into the Rajkulewas, or on their Banks and on the buffer zone of wetlands should be removed within four weeks from today. In the event they fail to do so, the same shall be removed by the Lake Development Authority along with the State Administration and recover charges thereof from the said Respondents.

6. There is a serious discrepancy even in regard to the measurement of land as far as Respondent No. 9 is concerned. Admittedly the Respondent has been allotted and is in possession of land admeasuring 63.94 acres, though Environmental Clearance has been granted for 2,92,636.03 Sq. Meters which is equivalent to 72.22 acres. For this reason alone, Environmental Clearance cannot be given effect to. While Issuing the amended Environmental Clearance, SEIAA Karnataka shall take into consideration all these aspects and, if necessary, would require Respondent No. 9 to submit a fresh layout plan and the entire project may be revised in accordance with law.

7. Both the Respondents (Project Proponents) shall submit an appropriate plan in view of the conditions imposed in this judgment and the amended Environmental Clearance that would be issued.

8. The amount of environmental compensation will be deposited prior to issuance of amended Environmental Clearance."

64. The Original Application No. 222 of 2014 and Miscellaneous Application Nos. 596/2016 and 603/2016 are finally disposed of. Parties to bear their own costs.

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Civil Appeal No. 5016 of 2016
Mantri Techzone Pvt. Ltd. v. Forward Foundation
2019 SCC OnLine SC 322

In the Supreme Court of India
(BEFORE A.K. SIKRI, S. ABDUL NAZEER AND M.R. SHAH, JJ.)

Civil Appeal No. 5016 of 2016
Mantri Techzone Pvt. Ltd. Appellants;
v.
Forward Foundation and Others Respondents.

With
Civil Appeal Nos. 8002-8003 of 2015
Civil Appeal No. 12326 of 2016
Civil Appeal No. 9227 of 2016
Civil Appeal No. 1343 of 2017
Civil Appeal No. 10995 of 2016
Civil Appeal No. 10993 of 2016
Civil Appeal No. 10994 of 2016
Civil Appeal No. 2246 of 2018
Civil Appeal No. 10992 of 2016
Civil Appeal No. 12157 of 2016
Civil Appeal No. 12152 of 2016
Civil Appeal No. 12156 of 2016
Civil Appeal No. 12158 of 2016
Civil Appeal No. 12160 of 2016
Civil Appeal No. 12159 of 2016
Civil Appeal Nos. 4923-4924 of 2017
Civil Appeal No. 14966 of 2017
Decided on March 5, 2019

The Judgment of the Court was delivered by

S. ABDUL NAZEER, J.:— These appeals have been preferred under Section 22 of the National Green Tribunal Act, 2010 (for brevity 'NGT Act') challenging the judgment and order dated 07.05.2015 and 04.05.2015 respectively passed by the Principal Bench of the National Green Tribunal, New Delhi (for short 'the Tribunal').

2. The appellants in Civil Appeal Nos. 5016 of 2016 and 8002-8003 of 2016 are respondent Nos. 9 and 10 in the Original Application No. 222 of 2014 (hereinafter referred to as 'the respondent Nos. 9 and 10'). The said Application was filed by respondent Nos. 1 to 3 herein (hereinafter referred to as 'the applicants'). Respondent Nos. 4 to 7 in these appeals are the State of Karnataka and other authorities. They were arrayed as respondent Nos. 1 to 4 in the application. Respondent Nos. 12 and 13 herein were subsequently impleaded in the application (for short 'the impleaded respondents').

3. The State of Karnataka has filed Civil Appeal Nos. 4923-4924 of 2017, challenging the general condition and direction No. (1) contained in the order of the Tribunal dated 04.05.2016. The other appeals have been filed by different entities,

who were not parties before the Tribunal challenging the order of the Tribunal dated 04.05.2016 insofar as it directs a buffer/green zone of 75 meters in respect of lakes, 50 meters in respect of primary Rajakaluves, 35 meters in case of secondary Rajakaluves and 25 meters in case of tertiary Rajakaluves with retrospective effect. According to them, they are adversely affected by the aforesaid condition in the impugned order.

4. The applicants filed O.A. No. 222 of 2014 by contending that ecologically sensitive land was allotted by the Karnataka Industrial Area Development Board (for short 'the KIADB') to respondent Nos. 9 and 10 vide Notifications dated 23.04.2004 and 07.05.2004 respectively for setting up of Software Technology Park, Commercial and Residential complex, hotel and Multi Level Car Parks. The Master Plan formulated by the Bangalore Development Authority (for short the 'BDA'), identifies the allotted land as 'Residential Sensitive', though the same land was identified in the Draft Master Plan as 'Protected Zone'. It was further contended that the Revenue Map in respect of properties as referred in the Land Lease Agreements has multiple Rajakaluves (Storm Water Drains). The development projects in question sit right on the catchment and wetland area which feeds the Rajakaluves, which in turn drains rain water into Bellandur Lake. The project will thus encroach two Rajakaluves of 1.38 acres and 1.23 acres each.

5. The Satellite Digital Images of the area from the year 2000 to 2012 show encroachment upon these Rajakaluves, as well as the manner in which they are covered by the construction. The State Level Expert Appraisal Committee (for short 'SEAC'), which was to assist the State Level Environment Impact Assessment Authority (for short 'SEIAA'), held its meetings on various dates to examine the project. It had required the appellant No. 9 to submit a revised NOC from the Bangalore Water Supply and Sewerage Board (for short 'BWSSB') for the project in question. It was also observed that the project lies between the Bellandur Lake and the Agara Lake. Respondent No. 9 was also directed to take protective measures to spare the buffer zone around Rajakaluves and also to commit that no construction would be carried out in the buffer zone. In the meeting of 11.11.2011, it was recorded that the project proposes car parking facility for 14,438 cars in that environmentally sensitive area.

6. It was alleged that NOC was issued covering an area of 17,404 sq. mtrs. whereas the built up area, as noted by SEAC, is 13,50,454.98 sq. mtrs. Respondent No. 9 obtained NOC from BWSSB by concealing material facts and by misrepresenting that NOC is required only for residential units which form a very minuscule part of the total project. Respondent No. 9 had approached the Karnataka State Pollution Control Board (for short 'the KSPCB') for obtaining clearance, which was granted on 04.09.2012 subject to the fulfillment of the conditions stated in the consent order which included leaving the buffer zone all along the valley and towards the lake. It is further contended that the grant of consent by the KSPCB to respondent No. 9 also contained a condition with regard to obtaining Environmental Clearance from the Competent Authority and no construction was to commence until such clearance was granted.

7. Applicants further contended that respondent No. 9 violated the conditions and commenced construction of the project. There was also violation of the stipulations stated in the approval of SEAC in relation to buffer zone and construction over Rajakaluves. The construction had been commenced over the ecologically sensitive area of the lake catchment area and valley, with utter disregard to the statutory compliances. Referring to these blatant irregularities, the applicant submitted that the conversion of land from 'Protected Zone' to 'Residential Sensitive Area' is violative of the law. The project is right in the midst of a fragile wetland area which ought not to have been disturbed by the development activity. The fragile environment of the catchment area has been exposed to grave and irreparable damage. It has severely

disturbed and damaged the Rajakaluves. Respondent Nos. 9 and 10 started to level the land by filling it with debris, thus causing damage to the drains. The conditions with regard to no-disturbance to the Storm Water Drains, natural valleys and buffer area in and around the Rajakaluves have been violated. It has in turn, affected the ground water table and bore wells which are the only source of water for thousands of households. Fishing and agriculture which depends on Bellandur Lake are also severely affected. The construction over the wetland between the two lakes is in violation of Wetlands (Conservation of Management) Rules, 2010 (for short 'Rules of 2010').

8. It was submitted that SEIAA in its meeting dated 29.09.2012, decided to close the file pertaining to respondent No. 10 due to non-submission of requisite information and the application thereof was rejected in November, 2012. Despite the rejection, respondent No. 10 commenced construction on the project in full swing.

9. The applicants also relied upon the findings of the Joint Legislative Committee, constituted under the Chairmanship of Shri A.T. Ramaswamy in the month of July 2005, which stated that there were 262 water bodies in the Bangalore city in 1961 which drastically came down because of trespass and encroachments. It was also affirmed that about 840 kms. of Rajakaluves have been encroached upon in several places and have become sewage channels. The applicants also relied on the Report of the Committee under the Chairmanship of Hon'ble Mr. Justice N.K. Patil suggesting immediate remedial action in order to remove encroachments on the lake area and the Rajakaluves and preservation of the lakes in and around Bangalore city. It was further contended that other Expert Committees, including Lakshman Rau Expert Committee had also submitted proposals for preservation, restoration or otherwise of the existing tanks in Bangalore Metropolitan Area which recommended to maintain good water surface in Bellandur tank and to ensure that the water in the tank is not polluted. The Central Government in August 2013 had issued an advisory on conservation and restoration of water bodies in the urban areas. The applicants claim to have obtained monitoring report of the project by respondent No. 5, Ministry of Environment and Forests, through RTI on 21.08.2013. The report dated 14.08.2013 revealed that the project proponents are in clear breach of their undertaking to carry out all precautionary measures to ensure that the Bellandur lake is not affected by the construction and operational phase of the project. This approach is particularly with regard to the major alteration in natural sloping pattern of the project site and natural hydrology of the area.

10. The Lake Development Authority (for short 'the LDA'), after inspection in the catchment area of the Bellandur Lake submitted its report dated 12.06.2013 which confirms that the project will have disastrous impact, including deleterious effect on the Bellandur Lake. This report was brought to the notice of KIADB. The LDA has also opined that the land should be classified and maintained as sensitive area. The KIADB called upon respondent No. 9 to comply with the rules of Ecology and Environment Department and to obtain necessary approval from KSPCB and LDA. Despite all this, respondent Nos. 9 and 10 have continued with their illegal constructions and have caused damage to the ecology and the environment by irreparably jeopardizing the ecological balance in this sensitive area. The applicants rely upon the Revised Master Plan, 2013 issued by BDA which specifically provides that 30 meters buffer zone is to be created around the lakes and 50 meters buffer zone to be created on either side of the Rajakaluves. It was also pleaded that respondent No. 9 had obtained the NOC from BWSSB only with regard to residential units and not for the entire project and that the Environmental Clearance obtained by respondent No. 9 is based upon the partial NOC issued by BWSSB which itself is a misrepresentation. It was contended that the projects are bound to create water scarcity as the requirement of the project of respondent No. 9 alone is approximately 4.5 million liters per day, i.e. 135 million

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liters per month, which is more than what the BWSSB supplies to the entire Agaram Ward. The construction of respective projects by respondent Nos. 9 and 10 respectively, besides having commenced without permission from the authorities and being in violation of the conditions imposed for grant of permission/consent, is bound to damage the environment, resulting in change in the topography of the area, posing potential threat of extinction of the Bellandur lake, causing traffic congestion, shortening and wiping out the wetlands, extinction of Rajakaluves and causing serious and potential threat of flooding and massive scarcity of water in the city of Bangalore, particularly the areas located near the water bodies.

11. Respondent No. 9 in its objections contended that it was incorporated with the objective of establishing an Information Technology Park and R & D Centre with facilities such as residential complexes, parks, education centres and other allied infrastructure within a single compound. It had submitted the proposal to establish such Information Technology Park and other facilities to the State Government and requested for allotment of land for the project. Its proposal was considered in 78th High Level Committee meeting held on 21.06.2000 and after examining the proposal, it was approved by the Government on 06.07.2000. Before the State High Level Committee, it had informed that its requirement was 110 acres of land, 25 MW of power from the Karnataka Power Transmission Corporation Limited (for short the 'KPTCL'), and four lakh litres of water per day from BWSSB. The lands for the project were initially notified vide Notification dated 10.02.2004. Subsequently, the lands were allotted vide letter dated 28.06.2007 for which Lease-cum-Sale Agreement was signed on 30.06.2007. Considering the overall development of the State of Bangalore, this respondent proposed a Mixed Use Development Project consisting of an Information Technology Park, residential apartments, retail, hotel and office buildings with a total built up area of 13,50,454.98 sq mtrs. The Project was conceived as a zero waste discharge project. The project is located one and a half kms. away from the southern-side of the Bellandur Lake. Towards the North, adjacent to the Project, lies vast stretches of lands belonging to the Defence and towards the East, lies the Project of respondent No. 10 and another developer is also developing a project on the western side. It has obtained sanction plan on 04.07.2007 which was renewed from time to time.

12. Respondent No. 9 claims that it has obtained NOC from Airport Authority of India on 09.04.2010. Bharat Sanchar Nigam Ltd, vide its communication dated 16.04.2010, granted clearance for the project construction. BWSSB, vide its communication dated 26.04.2011 issued NOC for portion of the proposed construction to be built. The Bangalore Electricity Supply Company Ltd. also granted NOC for arranging power supply to the proposed residential and commercial building in its favour. Environmental Clearance was granted by SEIAA vide communication dated 17.04.2012. The Director General of Police has issued NOC and KSPCB vide order dated 04.09.2012 accorded its consent for construction of the said project subject to the conditions stated therein. It was further stated that after grant of the Environmental Clearance on 17.09.2012, the same was published in the leading newspapers "Kannada Prabha" and "The Indian Express" on 12.03.2012 and 14.03.2014 respectively.

13. It submitted a modified the building plan which was approved by KIADB vide its letter dated 30.08.2012, which was valid up to 10.08.2014. It started the construction of the project in November 2012, taking all precautions as per terms and conditions of the orders issued by the competent authorities. It was also submitted that it has raised the constructions in accordance with the plans and conditions of the Environmental Clearance and consent orders and that it has not violated any of the conditions and has not caused any adverse impact on the ecology and environment of the area. It has denied the contention that its construction activity has blocked the


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Rajakaluves and has adversely affected the lake. It has already spent a sum of Rs. 306.73 crores on the project towards procurement of men and materials, machinery, infrastructure, medical and sanitary facilities, etc. and that it has availed financial assistance from various banks and financial institutions towards the construction and execution of the project and that various contracts have been signed with the third parties. It is specifically pleaded that the petition is barred by time and suffers from defects and laches.

14. Respondent No. 10 pleaded that the applicants raised multifarious proceedings against it which is an abuse of the process of law and *malafide*. It had submitted a revised proposal in respect of its project in question and to obtain fresh clearance on 31.08.2007 with an investment of Rs. 179.22 crores. The State High Level Committee had cleared the project which was communicated to it on 25.01.2008. Its properties are located in between Bellandur Lake and Agara Lake but there are no primary storm water drains and secondary storm water drains that exist in its properties. It has clearances from various authorities, including Environmental Clearance and consent for establishment.

15. KIADB stated that after possession of the land was handed over to respondent Nos. 9 and 10, one year time was granted for the implementation of the project which was extended from time to time. The building drawings were approved on 04.07.2007, and the modified building drawings were approved on 26.04.2011 and 30.08.2012 with specific conditions. In its meeting held on 16.07.2013, it was resolved to inform respondent No. 9 to fully comply with the Ecology and Environment Rules and to obtain approvals from the LDA and KSPCB. LDA vide its letter dated 24.09.2013, had informed KIADB that the construction activity in the catchment area in the Bellandur Lake could drastically impact the Lake with deleterious effects and asked it to stop construction activity of respondent Nos. 9 and 10. However, the validity of the building drawings was again extended up to 10.08.2014. The Lokayukta on 17.12.2013 had written a letter in respect of complaint filed by the South East Forum for Sustainable Development where it had been averred that the decision had been taken by the Board on 21.12.2013 to keep in abeyance the approval accorded and even the re-validations of plans. This was also informed to respondent No. 9. The Board took a decision which was communicated to respondent No. 9 on 02.01.2014, wherein it asked the respondent No. 9 to stop all construction activities on the allotted lands. The said communication was challenged by respondent No. 9 and on the stop-work notice, stay was granted by the High Court of Karnataka. The stop-work notice dated 23.12.2013 issued by Bruhat Bengaluru Mahanagara Palike (for short 'BEMP') was also stayed vide order dated 21.01.2014. The proposal submitted by respondent Nos. 9 and 10 had been approved by the State Government. The land allotted to respondent Nos. 9 and 10 does not consist of any Rajakaluves.

16. The LDA took a stand that it was not at all aware of the project initiated by KIADB. It came to know about the entire project only when certain newspaper reports surfaced during the month of June, 2013 and till that time it was in the dark. After the complaints, it inspected the Bellandur Lake and the Agara Lake on 12.06.2013 and prepared an inspection report. In the report, it was noticed that large scale construction activities were going on in the catchment area of Bellandur Lake and that there was a change in the land use, which in turn has directly affected the catchment of Bellandur Lake. The wetland area of Agara Lake had also shrunk, which originally formed the irrigation area for the adjoining agricultural lands. Therefore, it had questioned the decision of KIADB vide letter dated 06.07.2013 and even requested it to stop the construction activity and to re-classify the land as non-SEZ area. It was thereafter on 31.08.2013, that respondent No. 9 wrote a letter for according approval for the proposed development projects. However, vide its letter dated 23.09.2013, LDA informed KIADB that it had no authority to grant or deny construction projects, but it

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also communicated its objections to KIADB mentioning that construction activity would be in contravention of the directions of the Supreme Court. Despite these warnings, KIADB granted approval to the extension of the building drawings of the project in favour of the project proponents with certain conditions, like ensuring that all natural valleys, valley zone, irrigation tanks and existing roads leading to villages in the said land should not be disturbed. Further, the natural sloping pattern of the project site was not to be altered and the lakes and other water bodies within and/or at the vicinity of the project area should be protected and conserved. Despite the objections, the plans were approved and approvals were extended from time to time. It has taken a categorical stand that the projects as approved by the KIADB would have adverse impact on Bellandur and Agara Lakes.

17. On the basis of the pleadings of the parties, the Tribunal framed the following questions for consideration and determination:

1. Whether the application filed by the applicants and supported by respondent Nos. 11 and 12, is barred by time and thus, not maintainable?
2. Whether the petition as framed and reliefs claimed therein, disclose a cause of action over which this Tribunal has jurisdiction to entertain and decide the application under the provisions of the NGT Act, 2010?
3. Whether the present application is barred by the principle of *res judicata* and/or constructive *res judicata*?
4. Whether the application filed by the applicants should not be entertained or it is not maintainable before the Tribunal, in view of the pendency of the Writ Petitions 36567-74 of 2013, before the Hon'ble High Court of Karnataka? and
5. What relief, if any, are the applicants entitled to? Should or not the Tribunal, in the interest of environment and ecology issue any directions and if so, to what effect?

18. The Tribunal by its order dated 07.05.2015 at Annexure A-2, disposed of the applications with the following directions:

- 1) We decline to pass any direction or order to stop further progress and/or demolition of the project or any part thereof at this stage. However, we constitute the following Committee to inspect the projects in question and submit a report to the Tribunal *inter alia* but specifically on the issues stated hereinafter:
 - a) Advisor in the Ministry of Environment and Forest dealing with the subject of wetlands.
 - b) CEO of the Lake Development Authority, Karnataka State.
 - c) Chief Town Planner of BBMP, Bangalore.
 - d) Chairman of SEAC which recommended the grant of Environmental Clearance to the projects in question.
 - e) Sr. Scientist (Ecology) from the Indian Institute of Sciences, Bangalore.
 - f) Dr. Siddharth Kaul, former Advisor to MoEF.
 - g) A Senior Officer from the National Institute of Hydrology, Roorkee.
- 2) Member Secretary of the Karnataka State Pollution Control Board shall act as the Convener of the Committee and would submit the final report to the Tribunal.
- 3) The Committee shall inspect not only the sites where the projects in question are located but even other areas of Bangalore which the Committee in its wisdom may consider appropriate, in order to examine the interconnectivity of lakes and impact of such activities upon the water bodies with particular reference to lakes.
- 4) The Committee shall submit whether the projects in question have encroached upon or are constructed on the wetlands and Rajakaluves. If so, are there any adverse environmental and ecological impact of these projects on the lake,

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- particularly Bellandur Lake and Agara Lake, as well the Rajakaluves. The report should specify, if any Rajakaluves have been covered by the construction activities of respondent Nos. 9 and 10 or by any of the projects in the area in question.
- 5) Committee should submit in its report, if these projects have any adverse impacts upon the surrounding ecology and environment, with particular reference to lakes and wetlands. If yes, then whether any part of the project is required to be demolished. If so, details thereof along with reasons.
 - 6) The Committee shall substantially notice if any of the conditions of the Environmental Clearance order in each case of respondent Nos. 9 and 10 have been violated. If so, to what extent and suggest remedial measures in that behalf to restore the ecology of the area.
 - 7) The Committee would also recommend what should be the buffer zone around the lake(s) and interconnecting passages and wetlands. The Committee shall also report, whether activities of multipurpose projects which have serious repercussions on traffic, air pollution, environment and allied subjects should be permitted any further or not, particularly, in wetlands and catchment areas of water bodies.
 - 8) Recommendations should be made with regard to the steps and measures that should be taken for restoration of lakes, particularly in the city of Bangalore.
 - 9) The Committee shall also find out that whether the construction of the projects is in accordance with the sanctioned drawings and bye-laws in accordance with the letters dated 4th July, 2007 and 22nd April, 2008 respectively. Further, the Committee would also report whether both respondent Nos. 9 and 10 have installed ETP/STP and have taken full measures for recycling of used water for washing and flushing, etc. in terms of letters dated 11th October, 2013 and 3rd January, 2013, issued by the Karnataka Industrial Area Development Board to respondent Nos. 9 and 10 respectively.
 - 10) In the event, the Committee is of the opinion that the adverse impacts noticed are redeemable, then what directions need to be issued in that behalf and the cost involved for achieving the said conservation and restoration of lakes and water bodies.
 - 11) Till the submission of the report by the Committee and directions passed by the Tribunal in that regard, both respondent Nos. 9 and 10 are hereby restrained from creating any 3rd party interests or part with the possession of the property in question or any part thereof, in favour of any person.
 - 12) The Committee shall submit its report to MoEF and to this Tribunal as expeditiously as possible and in any case not later than three months from today. During that period we restrain MoEF, SEIAA and/or any public authority from sanctioning any construction project on the wetlands and catchment areas of the water bodies in the city of Bangalore.
 - 13) The Committee shall report if the project proponents are proposing to discharge their trade or domestic effluents into the lake or any of the water bodies in and around of the area in question.
 - 14) For the reasons stated in the judgment, respondent No. 9 is liable and shall pay a sum of Rs. 117.35 crores, while respondent No. 10 shall pay a sum of Rs. 22.5 crores respectively being 5 per cent of the project value, within two weeks from today. The said amount would be paid to the KSPCB, which shall maintain a separate account for the same and would spend this amount for environmental and ecological restoration, restitution and other measures to be taken to rectify the damage resulting from default and non-compliance to law by the Project Proponent in that area, after taking approval of the Tribunal.

15) We make it clear that the said respondents would not be entitled to pass on the amount in terms of direction 14, on to the purchasers because this liability accrues as a result of their own intentional defaults, disobedience of law in force and carrying on project activities and construction illegally and unauthorizedly.

19. Feeling aggrieved by the said order, respondent Nos. 9 and 10 filed Civil Appeal Nos. 4829 and 4823 of 2015 before this Court. This Court by its Order dated 20th May, 2015 passed the following order:

"One of the main contentions raised by the Appellants in these Appeals is that though the Tribunal had heard the matter only on preliminary issues and no arguments on merit were advanced, final judgment decides the merits of the disputes as well and above all a penalty of Rs. 117.35 crores against the original Respondent No. 9 (the Appellant in C.A. No. 4832 of 2015) and Rs. 22.5 crores against Original Respondent No. 10 (the appellant in C.A. No. 4829/2015) is imposed.

On the aforesaid averment, we feel that it would be more appropriate for the appellant to file an application before the Tribunal with the prayer to recall the order on merits and decide the matter afresh after hearing the counsel for the parties, as the Tribunal knows better as to what transpired at the time of hearing.

With the aforesaid liberty granted to the petitioners, the appeals are disposed of. Certain preliminary issues are decided against the appellants which are also the subject matter of challenge. However, it is not necessary to deal with the same this stage. We make it clear that in case the said application is decided against the appellants or if ultimately on merits, it would be open to the appellants to challenge those orders by filing the appeal and in that appeal all the issues which are decided in the impugned judgment can also be raised.

The counsel for the appellants state that they would file the requisite application within one week. Till the said application is decided by the Tribunal, there shall be stay of the direction pertaining the payment of aforesaid penalty. Mr. Raj Panjwani points out that the Tribunal has allowed the appellants to proceed with the construction only on the payment of the aforesaid fine/penalty. We leave it to the Tribunal to pass whatever orders it deems fit in this behalf, after hearing the parties."

20. In relation to Issue No. 5, an opportunity of hearing was granted to the respondents. The Tribunal passed order dated 06.04.2016 on these applications as under:

"M.A. No. 603 of 2015 and M.A. No. 596 of 2015"

These Applications have been filed on behalf of the Respondent 9 & 10 respectively. It is not necessary for us to refer to any details in view of the directions that we propose to issue in this case.

Without prejudice to the rights and contentions of the parties and subject to just exception we would hear the parties in terms of the order of the Hon'ble SUPREME COURT OF INDIA primarily on the question of imposition of Environmental Compensation and merits attached in relation thereto. Parties are given liberty to address their submissions on that behalf.

With the above directions the M.A. No. 603 of 2015 and M.A. No. 596 of 2015 stand disposed of without any order as to cost."

21. It is evident from the above orders that the Tribunal had granted opportunity to the parties to address it "limited question", as aforementioned. The Tribunal after hearing the parties passed an order dated 04.05.2016 as under:

"General Conditions or directions:

1. In view of our discussion in the main Judgment, we are of the considered view

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that the fixation of distance from water bodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP - 2015 provides 50m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25m in the case of secondary Rajkalewas and 15m in the tertiary Rajkalewas in contradiction to the 30m in the case of lake which is certainly much bigger water body and its utility as a water body/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents Nos. 9 and 10 from Rajkalewas, Waterbodies and wetlands shall be maintained as below:

- (i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.
- (ii) 50m from the edge of the primary Rajkalewas.
- (iii) 35m from the edges in the case of secondary Rajkalewas
- (iv) 25m from the edges in the case of tertiary Rajkalewas

This buffer/green zone would be treated as no construction zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

All the offending constructions raised by Respondents Nos. 9 and 10 of any kind including boundary wall shall be demolished which falls within such areas. Wherever necessary dredging operations are required, the same should be carried out to restore the original capacity of the water spread area and/or wetlands. Not only the existing construction would be removed but also none of these Respondents - Project Proponent would be permitted to raise any construction in this zone.

All authorities particularly Lake development Authority shall carry out this operation in respect of all the water bodies/lakes of Bangalore.

2. The capacity of the existing STPs to treat sewage is 729 MLD, whereas another 500 MLD sewage is proposed to be treated in 10 upcoming STPs. In this context, all the STPs operating in the area whether Government or privately owned, should meet the revised standards notified by CPCB/MoEF.

3. Bangalore city receives treated potable water of 1360 MLD from river Cauvery whereas the requirement is for another 750 MLD and the entire area falls in critical zone in terms of ground water exploitation. Information reveals that only one million litre per month of STP treated water is used by builders for construction purposes. For this reason, the BWSSB issues partial NOC to various residential and commercial projects in respect of supply of potable water. In this context, following directions need to be issued:

- i. At the time of grant of EC, the water requirement for the construction phase and operation phase should be considered separately. Due consideration should also be given for identification of source of supply of water and this should be a pre-requisite for grant of EC.
- ii. All the project proponents should necessarily use only treated sewage water for construction purpose and this should be reflected in EC as a condition for construction phase.
- iii. Wherever the quality of treated sewage water does not conform to the quality needed for construction, necessary upgradation in STP should be undertaken immediately.

Specific Conditions/Directions for Respondent 9:

In addition to the above directions which should be equally part of EC condition in respect of respondents nos. 9 & 10, following specific conditions shall apply to

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respondent no. 9:

- i. Reclaimed area of the lake to the extent of 3 acres 10 guntas in survey No. 43 should be restored to its original condition at the cost of project proponent. The possession of this area should be restored by Respondent No. 9 to the concerned Authorities immediately. In addition, a buffer zone of 75 m should be provided between the lake and the project area and this should be maintained as green area.
 - ii. In the remaining area, where primary Rajkalewa is abutting the project area, 50 m buffer zone on the side of the project area from the edge of the rajkalewa should be maintained as green belt.
 - iii. Several irrigation canals or tertiary rajkalewas taking off from the Agara tank were passing through the area of respondent No. 9, and serve the dual purpose of irrigating paddy fields and disposal of surface run off (storm water drains) during rainy season. However on account of the activities of the project, these drains have been totally obliterated. For the purpose of proper disposal of storm runoff from the entire area falling between the Agara lake and the Belandur Lake, respondent No. 9 must provide required number of storm water drains based on proper hydrological study. These storm drains should have a buffer zone of 15 m on either bank maintained as green belt.
 - iv. The cumulative quantity of earth excavated for the construction of project is around 4 lakhs cubic meters in the depth range of 0 to 9 meters. This has created huge hillock like structure obstructing the natural flow pattern of surface runoff from Agara Lake side to Balendur Lake side or primary Rajkalewas. For this purpose, during construction phase garland drain should be constructed around the existing dumping site for safe disposal of runoff to the Rajkalewas. For the disposal of excavated material, a proper muck disposal plan duly approved by SIEAA shall be prepared. In any case the plan should ensure that no muck/sediment flows into Rajkalewas and/or Belandur lake.
 - v. The Kharab land identified by Revenue Dept. admeasuring 1 acre 2 guntas should be demarcated and maintained separately as green belt.
 - vi. The entire green belt created under the directions of this Tribunal should not to be considered as part of green belt of the project as part of EC condition and will be over and above the green belt as indicated in the EC.
 - vii. In view of the heavy traffic load in the adjoining Sarjapur road, a proper study on the basis of traffic density, foot falls expected, etc., a proper plan needs to be prepared and the concept of service road exclusively for the project needs to be worked out and additional parking space created within the project area and incorporated as a part of the overall project layout, within a period of 3 months.
10. Though, at the time of hearing prior to passing the Judgment, we had heard the parties on all aspects but still we have provided re-hearing to the parties on all issues with emphasis on imposition of environmental compensation including the quantum. Upon hearing, we are of the considered view that environmental compensation imposed upon Respondent No. 9 calls for no variation and the Respondent No. 9 should be called upon to pay the said amount of Rs. 117.35 Crores determined under the Judgment prior to commencement of any project activity at the site. Respondent No. 10 has not commenced any actual construction activity but has carried out various preparatory steps including excavation and deposition of huge earth by creating a hillock at the premises in question and a site office.

Thus, considering cumulative effect on environment and ecology due to various

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breaches in that behalf by Respondent No. 10 and the fact that the remedial measures can more effectively be taken by the Respondent No. 10, we reduce environmental compensation payable by Respondent No. 10 to Rs. 13.5 crores (3% of the stated project cost instead of 5% as imposed in the original judgment).

General Directions:

1. We direct SEIAA, Karnataka to issue amended order granting Environmental Clearance within four weeks from today incorporating all the conditions stated in this judgment and such other conditions as it may deem appropriate in light of this judgment and Inspection Note of the Expert Members. The Project Proponents would be permitted to commence activity only after issuance of amended Environmental Clearance order.
2. SEIAA Karnataka and MoEF shall ensure regular supervision and monitoring of the project and during the construction and even upon completion to ensure that activity is carried out strictly in accordance with the conditions of the order granting Environmental Clearance, this Judgment, Notification of 2006 and other laws in force.
3. The distances in respect of buffer zone specified in this judgment shall be made applicable to all the projects and all the Authorities concerned are directed to incorporate such conditions in the projects to whom Environmental Clearance and other permissions are now granted not only around Belandur Lake, Rajkulewas, Agara Lake, but also all other Lakes/wetlands in the city of Bengaluru.
4. We hereby direct the State of Karnataka to submit a proposal to the MoEF for demarcating wetlands in terms of Wetland Rules 2010 as revised from time to time. Such proposal shall be submitted by the State within four weeks from today and the MoEF shall consider the same in accordance with law and grant its approval or otherwise within four weeks thereafter. After such approval is granted by MoEF, the State would issue notification notifying such areas immediately thereafter in accordance with Rules and law.
5. Both the Respondents Nos. 9 and 10 shall ensure that debris or any construction material that has been dumped into the Rajkulewas, or on their Banks and on the buffer zone of wetlands should be removed within four weeks from today. In the event they fail to do so, the same shall be removed by the Lake Development Authority along with the State Administration and recover charges thereof from the said Respondents.
6. There is a serious discrepancy even in regard to the measurement of land as far as Respondent No. 9 is concerned. Admittedly the Respondent has been allotted and is in possession of land admeasuring 63.94 acres, though Environmental Clearance has been granted for 2,92,636.03 Sq. Meters which is equivalent to 72.22 acres. For this reason alone, Environmental Clearance cannot be given effect to. While issuing the amended Environmental Clearance, SEIAA Karnataka shall take into consideration all these aspects and, if necessary, would require Respondent No. 9 to submit a fresh layout plan and the entire project may be revised in accordance with law.
7. Both the Respondents (Project Proponents) shall submit an appropriate plan in view of the conditions imposed in this judgment and the amended Environmental Clearance that would be issued.
8. The amount of environmental compensation will be deposited prior to issuance of amended Environmental Clearance.

With the above directions, the Original Application No. 222 of 2014 and Misc. Applications Nos. 596/2016 and 603/2016 are finally disposed of while leaving the parties to bear their own costs."

22. Appearing for the appellants in C.A. No. 5016 of 2016, Shri Mukul Rohatgi, learned senior counsel, has submitted that the State Government in exercise of the power conferred under the Karnataka Industrial Areas Development Act (for short 'KIAD Act') declared the land in question as an industrial area. Thereafter, the land in question has been acquired by the State Government in the year 2004. Following the acquisition, on 28.06.2007, the land was allotted to the appellant by the KIADB. The SEIAA granted environmental clearance which was followed by public notice concerning clearance on 14.03.2012. Neither the allotment of land nor the environmental clearance was challenged before the Tribunal. Thus, none of the statutory decisions or processes, are the cause of action for the purpose of the application. The averments made in the original application does not satisfy or meet the requirements of Section 14(1) and (3) of the NGT Act and the original application does not spell out the cause of action relevant for the purpose of said provision. Since the statutory processes and clearances could not have been challenged for being hit by Section 14(3), the construction activities which were the alleged cause of action could not have been challenged. Therefore, the Tribunal ought to have held that the application was not maintainable.

23. Further the application is barred by limitation. Though environmental clearance was granted on 17.02.2012 and it was published in two leading newspapers on 12.03.2012 and 14.03.2012, modified plan was approved by the KIADB on 30.08.2012, the application ought to have been filed within six months from the date on which cause of action for the dispute first arose in terms of Section 14 of the NGT Act. The present application has been filed in March, 2014 which was much beyond the prescribed period of limitation. No application seeking condonation of delay has been filed accompanying the application. Hence, the Tribunal ought to have dismissed the application on the ground that as it is barred by time.

24. It was also argued that buffer zone laid down by the NGT is substantially higher as compared to buffer zone which is required to be maintained as per the Revised Master Plan, 2015 issued on 22.06.2007. This is contrary to the Karnataka Town and Country Planning Act, 1961 (for short 'the Planning Act').

25. Shri Neeraj Kishan Kaul and Shri R. Venkataramani, learned senior counsel appearing for the appellants, in this case have also made similar submissions. It was argued that the direction imposing penalty/compensation is illegal on the ground that the applicants did not allege that the construction work of the project has caused environmental wrong. No wrong or injury either to Bellandur lake water body or to Bellandur lake area, has been alleged and established. As such, there is no question of any enquiry relating to imposition of penalty or any compensation.

26. Shri Maninder Singh, learned senior counsel appearing for the appellants, in C.A. Nos. 5016 and 10995 of 2016, while supporting the submissions made by Shri Rohatgi, has submitted that the appellant has obtained sanction and approvals for the project from the competent authorities. It could not start construction despite grant of all the permissions, including environmental clearance as early as possible i.e. 30.09.2013. Hence, imposing penalty/compensation is entirely unsustainable.

27. Learned Advocate General, Shri Udaya Holla, appearing for the appellant-State of Karnataka in C.A. Nos. 4923-4924 of 2017, has submitted that the State of Karnataka is also aggrieved by the order of the NGT to the extent of setting aside the buffer zone in respect of water bodies and drains specified in the Revised Master Plan, 2015, and enlargement of the buffer zone in respect of lakes and Rajakaluves. It is also aggrieved by the order of the NGT directing the authorities to demolish all the offending constructions raised/built in the buffer zone, which will result in demolition of 95% of the buildings in Bengaluru. It is submitted that the Revised Master Plan is statutory in nature and NGT has no power, competence or jurisdiction to consider the

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validity or *vires* of any statutory provision/regulation. Therefore, the order of the NGT to that extent is liable to be set aside.

28. Learned senior counsel appearing for the appellants in other cases, have also supported the arguments of the learned Advocate General. It was contended that the Revised Master Plan provides for a 30 meters buffer zone around the lakes and a buffer zone of 50 meters, 25 meters and 15 meters from the primary, secondary and tertiary drains, respectively to be measured from the centre of the drain. Vide the impugned judgment, the NGT has revised these buffer zones and has directed that the buffer zone be maintained for 75 meters around the lake and 50, 35 and 25 meters respectively from the primary, secondary and tertiary drain, respectively. Variation of buffer zone, as directed by the NGT is without any legal and scientific basis and has the effect of amending the Revised Master Plan, 2015, without there being any challenge to the same or any relief sought with respect to the said Revised Master Plan.

29. On the other hand, Shri Sajan Poovayya, learned senior counsel, appearing for the applicants, has fairly submitted that the applications were filed only against the appellants in C.A Nos. 5016 of 2016 and 8002-8003 of 2016 (respondent Nos. 9 & 10). He has no objection to set aside the order in so far as the appellants in other appeals including the State of Karnataka are concerned. He has also no objection to set aside the general conditions and directions of the NGT in paragraph (1) of the order dated 04.05.2016 except the directions issued against respondent Nos. 9 and 10. In view of the above, it is not necessary to examine the contentions of the learned Advocate General in Civil Appeal Nos. 4923-4924 of 2017. It is also not necessary to consider the contentions urged in the other civil appeals except the appeals filed by respondents Nos. 9 and 10.

30. Shri Poovayya has strongly opposed the submissions made by the learned senior counsel appearing for the appellants in C.A. No. 5016 of 2016 and C.A. Nos. 8002-8003 of 2016. It is submitted that the Tribunal is a specialized body for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment. The jurisdiction of the Tribunal is provided under Sections 14, 15 and 16 of the NGT Act. Section 14 provides for the jurisdiction over all civil cases where a substantial question relating to environment is involved. However, such question should arise out of implementation of the enactments specified in Schedule I. The Tribunal has the jurisdiction under Section 15(1)(a) of the NGT Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Under Sections 15(1)(b) and 15(1)(c), the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas, as the Tribunal may think fit. Sections 15(1)(b) and 15(1)(c) have not been made relatable to enactment specified in Schedule I of the Act. Section 15(1)(c) is an entire island of power and jurisdiction read with Section 21 of the Act. He submits that whenever ecology is being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of environment. The limitation provided in Section 14 is period of six months from the date on which cause of action first arose whereas in Section 15 it is five years. Therefore, the petition is not barred by time.

31. He has further submitted that the provisions of Section 33 shall have the effect notwithstanding anything inconsistent contained in any other law for the time being in force. This gives the Tribunal overriding powers over anything inconsistently contained in KIAD Act, Planning Act, Revised Master Plan of Bangalore, 2015 and Karnataka Municipal Corporation Act, 1976 (for short 'KMC Act'). Therefore, the Tribunal while providing for restoration of environment in an area can specify buffer zone around specific lakes and water bodies in contravention with zoning regulation.

32. Regarding limitation, he has submitted that the application filed by respondents 1 to 3 was not an application simplicitor under Section 14 of the Act. It was an application where a specific prayer has been made with reference to Lake Development Authority's report dated 12.06.2013 and the Ministry of Environment Forest and Climate Change Monitoring Committee report dated 14.08.2013 for restoration of ecologically sensitive land and for maintaining sensitive area in its natural condition so that ecological balance of the area is not disturbed. Therefore, the petition was under Section 15 of the Act and it can be filed within five years from the date on which the cause for such compensation or relief first arose.

33. It was further submitted that right to appeal under Section 22 is not a vested right unless provided by statute. Exercise of Appellate Jurisdiction without the fulfillment of statutory mandate would be without jurisdiction. Section 22 of the Act provides for an appeal on the ground specified in Section 100 of the Code of Civil Procedure, 1908 (for short 'the CPC'). Under Section 100 of the CPC, an appeal can be filed only on the ground that the case involves a substantial question of law as may be framed by the Appellate Court. In the instant case, the appeal does not involve any substantial question of law hence it has to be dismissed *in limine*. He has taken us through various materials placed on record in order to substantiate that the direction passed and penalty imposed by the Tribunal upon to project proponents are sustainable. He prays for dismissal of the appeals.

34. We have carefully considered the submissions of the learned counsel of the parties and perused the materials placed on record.

35. Before considering the other contentions of the learned counsel for the parties, let us first consider the scope of enquiry in appeals filed under Section 22, which is as under:

"22. Appeal to Supreme Court. - Any person aggrieved by any award, decision or order of the tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the Supreme Court may, entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal."

36. It is settled that there is no vested right of appeal unless the statute so provides. Further, if a statute provides for a condition subject to which the appropriate Appellate Court can exercise jurisdiction, the Court is under an obligation to satisfy itself whether the condition prescribed is fulfilled. Exercise of appellate jurisdiction without the fulfillment of statutory mandate would be without jurisdiction. Therefore, the right of appeal provided under Section 22 is to be read subject to the conditions provided therein.

37. Section 22 provides for an appeal to the Supreme Court on the grounds specified in Section 100 of the CPC. Under Section 100 CPC, an appeal can be filed only on the ground that the case involves a substantial question of law as may be framed by the Appellate Court. The scope of appeal under Section 22, therefore, is restricted to substantial question of law arising from the judgment of the Tribunal. The test to determine whether the question is substantial question of law or not was laid down by a Constitution Bench of this Court in *Sir Chunilal V. Mehta and Sons, Ltd. v. Century Spinning and Manufacturing*, 1962 Supp. (3) SCR 549. This Court has laid down the test as under:

"The proper test for determining whether a question of law raised in the case is substantial would, in our opinion, be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so

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whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council or by the Federal Court or is not free from difficulty or calls for discussion of alternative views. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or that the plea raised is palpably absurd the question would not be a substantial question of law."

38. It is equally settled that merely because the remedy of appeal is provided against the decision of the Tribunal on a substantial question of law alone, that does not *ipso facto* permit the appellants to agitate their appeal to seek re-appreciation of the factual matrix of the entire matter. The appellants cannot seek to re-argue their entire case to seek wholesale re-appreciation of evidence and the factual matrix that has been considered by the Tribunal is *ex facie* impermissible under Section 22. There cannot be fresh appreciation or re-appreciation of facts and evidence in a statutory appeal under this provision.

39. The first question raised by the learned counsel is in relation to the maintainability of the application before the Tribunal.

40. The Tribunal has been established under a constitutional mandate provided in Schedule VII List I Entry 13 of the Constitution of India, to implement the decision taken at the United Nations Conference on Environment and Development. The Tribunal is a specialized judicial body for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment. The right to healthy environment has been construed as a part of the right to life under Article 21 by way of judicial pronouncements. Therefore, the Tribunal has special jurisdiction for enforcement of environmental rights.

41. The jurisdiction of the Tribunal is provided under Sections 14, 15 and 16 of the Act. Section 14 provides the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved. However, such question should arise out of implementation of the enactments specified in Schedule I.

42. The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.

43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.

44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See *Kishore Lal v. Chairman, Employees' State Insurance Corpn.* (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental

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concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.

45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.

46. Further, Section 18 of the Act recognizes the right to file applications each under Sections 14 as well as 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. As stated *supra*, the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

47. Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, Planning Act, Karnataka Municipal Corporations Act, 1976 ("KMC Act"); and the Revised Master Plan of Bengaluru, 2015 ("RMP"). A Central legislation enacted under Entry 13 of List I Schedule VII of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes & water bodies in contradiction with zoning regulations under these statutes or the RMP.

48. The second question raised by the appellants is that the petition is barred by time. According to appellants, environmental clearance was granted to the respondent No. 9 on 17.02.2012 for which notice was published in the leading newspaper on 12.03.2012 and 14.03.2012. Modified building plan was approved on 30.08.2012, which was followed up to 10.08.2014. Similar events had taken place in regard to the project of respondent No. 10 who had been granted environmental clearance on 30.09.2013. The application had to be filed within a period of six months from the date on which cause of action for such dispute has first arisen in terms of Section 14 of the NGT Act. Admittedly, the present application has been filed in March, 2014 and according to them, it is much beyond the prescribed period of limitation. Also, there is no application for condonation of delay accompanying the main application. Therefore, the Tribunal will not have jurisdiction to condone the delay.

49. The OA No. 222 of 2014 was not an application *simpliciter* under Section 14 of the Act. It was an application where a specific prayer has been made with reference to Lake Development Authority's ("LDA") Report dated 12.06.2013 and the Ministry of Environment, Forest and Climate Change ("MoEF") Monitoring Committee Report dated 14.08.2013 for restoration of ecologically sensitive land and for maintaining the sensitive in its natural condition so that the ecological balance of the area is not disturbed. It is clear from the documentary evidence supported by data, that the project proponents have committed breaches and the implementation of the project is bound to have serious adverse impact on the ecology, hydrology and the environment in the catchment area of Bellandur Lake. The environmental degradation as

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established from the documents would give rise to an independent cause of action. Therefore, this was a petition under Section 15 of the Act and thus it could be filed within 5 years from the date on which the cause for such compensation or relief first arose.

50. In fact, in the original application before the Tribunal there was no mention of the provision under which it was being filed. It is well settled principle of law that non-mention of or erroneous mention of the provision of law would not be of any relevance, if the Court had the requisite jurisdiction to pass an order. It would be a mere irregularity and would not vitiate the application or the judicial order of the Tribunal.

51. Shri R. Venkataramani, learned senior counsel, appearing for the appellant in CA No. 5016 of 2016 has submitted that the constructions had not commenced before the grant of environment clearance. The inspection report dated 11.01.2012 of the Chairman of the KSPCB observes that "no construction" had commenced on the date of inspection. This report cannot be overlooked on the basis of some dumping of debris which could not be attributed to the appellant. He has pointed out the report of the Committee appointed by the Tribunal in the month of August 2015, wherein it was stated that "it started construction after obtaining clearance". In this regard he has also taken us through various documents placed on record and submits that there is absolutely no justification in imposing monitoring penalty/compensation without assessment of impact.

52. The Tribunal has pointed out on the basis of the Committee report of August 2015, that the appellant had encroached 3 acres 10 guntas of Bellandur Lake and a boundary wall has been raised around the said land. The Tribunal has also found that the project proponents have violated the Master Plan. They have not obtained the mandatory clearance from the Sensitive Zone Committee constituted by the Government of Karnataka. It is also clear from the materials on record that there are several other violations by the project proponents. The Tribunal has discussed all these issues from para 52 onwards. It is also clear from the materials on record that there is a definite possibility of environment, ecology, lakes, and wetland being adversely affected by these projects. That is why, the Tribunal has observed as under:

"72. In light of the above scope of the project and records before the Tribunal and the defaults on the part of the Project Proponents, the cumulative adverse effects of the activities undertaken by the respondents before us can be summed up as under:

- 1) The construction of both the projects had started prior to the grant to Environmental Clearance.
- 2) The EIA Notification of 2006 requires that without grant of Environmental Clearance, no project can commence its activity. This restriction applies not only to operationalization of the project but even for the purposes of establishment.
- 3) Revenue Map images shows multiple Rajakaluves flowing through the project (s) in question. The images further show encroachment on Rajakaluves.
- 4) Digital images of the land available on Google satellite images showing encroachment on two major Rajakaluves.
- 5) Google Satellite images retrieved from Google archives clearly reflect two distinct features. Firstly, change in the wetland area between the period of 13th November, 2000 and 23rd November, 2010. Secondly, it reveals the excavation work carried out by Respondent Nos. 9 and 10 commenced prior to obtaining Environmental Clearance.
- 6) Restriction in regard to extraction of ground water was not strictly complied with as permission of Central Ground Water Authority was not obtained before construction.

7) The conditions with regard to the natural slopping pattern of the project site to remain unaltered and natural hydrology of the area to be maintained as it is, to ensure natural flow of storm water as well as in relation to Lakes and other water bodies within and/or at the vicinity of the project area to be protected and conserved: The inspection report by the MoEF clearly notes that condition nos. (xxxix) and (xi) in the Environmental Clearance of respondent no. 9 cannot be complied with as it will necessarily result in some alteration of the natural slopping pattern of the project site and the natural hydrology of the area. It noted that the project area is located in the catchment area of the Bellandur Lake and the project authorities have informed that they will take all precautionary measures to ensure that the lake will not be affected by project activities either during construction or operation phase."

53. In paragraph 81, the Tribunal has observed as under:

"81. Another very important aspect which cannot be overlooked by the Tribunal is with regard to the respondent nos. 9 & 10 carrying on their project activity fully knowing that they were incapable of or it was not possible for them to comply with condition no. xxxix and xi (or alike conditions) in the order granting the Environmental Clearance. This has even been noticed by the MoEF in its monitoring report dated 14th August, 2013. These respondents never applied for variation or amendment of these conditions and continued with their construction activities. This renders these respondents entirely liable for environmental and ecological damage and the restoration and restitution thereof."

54. In our view, the findings arrived at by the Tribunal are not only based on the documents that were available on record but also on the pleadings that were made by the parties buttressed by the Committee's report and the inspection note of the Expert Members. Therefore, the directions passed and the penalty imposed by the Tribunal on both project proponents are valid and sustainable and do not suffer from any perversity.

55. We are also of the view that it is impermissible for the appellants to seek a factual review through the methodology of re-appreciation of factual matrix by this Court under Section 22 of the NGT Act.

56. Shri R. Venkataramani, learned senior counsel has also raised a subsidiary issue relating to *res judicata*. According to him, respondent Nos. 12 and 13 filed Writ Petition Nos. 3656-57/2013 seeking similar reliefs in a representative capacity. The issues raised therein are same as those canvassed in the application before the Tribunal. The reliefs sought for are essentially the same. Hence, the applications are barred by the principle of *res judicata*.

57. The Tribunal has answered this issue in paragraphs 47 to 51 of the order. There was no dispute in so far as filing of the writ petitions is concerned. However, the parties are not common nor the issues in application and the writ petitions are directly and substantially the same. After examination of the pleadings, the Tribunal has recorded a finding of fact that there is no commonality of a cause of action or likelihood of a conflict between the judgments. The prayers and the genesis of the respective proceedings are entirely distinct and different in their scope and relief. The issues before the Tribunal would essentially relate to environment ecology and its restoration while the proceedings before the High Court relate to entirely different issues with acquisition of land, its allotment and transfer to the third party. These issues in both the proceedings are neither substantial nor materially identical.

58. After elaborately considering this question, the Tribunal has concluded as under:

"51. For these reasons, we find no merit in this contention of respondent Nos. 9 and 10. The purpose of the doctrine of *res judicata* is to provide finality and


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conclusiveness to the judicial decisions as well as to avoid multiplicity of litigation. In the present case, the question of re-agitating the issues or agitating similar issues in two different proceedings does not arise. The ambit and scope of jurisdiction is clearly decipherable. The jurisdictions of the Hon'ble High Court of Karnataka and this Tribunal are operating in distinct fields and have no commonality in so far as the issues which are raised directly and substantially in these petitions, as well as the reliefs that have been prayed for before the Hon'ble High Court and the Tribunal are concerned. There is no commonality in parties before the Tribunal and the High Court. The 'cause of action' in both proceedings is different and distinct. The matters substantially and materially in issue in one proceedings are not the same in the other proceeding. There is hardly any likelihood of conflicting judgments being pronounced by the Tribunal on the one hand and the High Court on the other. Therefore, we are of the considered view that the present applications are neither hit by the principles of *res judicata* nor constructive *res judicata*. We also hold that culmination of proceedings before the Tribunal into a final judgment would not offend the principle of 'judicial propriety', because of the Writ Petitions pending before the Hon'ble High Court of Karnataka."

59. We do not find any error in the aforesaid conclusion of the Tribunal. We are of the view that the Tribunal was justified in holding that the objections taken by the respondent Nos. 9 and 10 do not satisfy the basic ingredients to attract the application of *res judicata* or *constructive res judicata*.

60. The State of Karnataka is aggrieved by the following offending portion of the order dated 04.05.2016:

"1. In view of our discussion in the main Judgment, we are of the considered view that the fixation of distance from water bodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP - 2015 provides 50m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25m in the case of secondary Rajkalewas and 15m in the tertiary Rajkalewas in contradiction to the 30m in the case of lake which is certainly much bigger water body and its utility as a water body/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents Nos. 9 and 10 from Rajkalewas, Waterbodies and wetlands shall be maintained as below:—

- (i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.
- (ii) 50m from the edge of the primary Rajkalewas.
- (iii) 35m from the edges in the case of secondary Rajkalewas
- (iv) 25m from the edges in the case of tertiary Rajkalewas

This buffer/green zone would be treated as no construction zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

All the offending constructions raised by Respondents Nos. 9 and 10 of any kind including boundary wall shall be demolished which falls within such areas. Wherever necessary dredging operations are required, the same should be carried out to restore the original capacity of the water spread area and/or wetlands. Not only the existing construction would be removed but also none of these Respondents - Project Proponent would be permitted to raise any construction in this zone.

All authorities particularly Lake development Authority shall carry out this operation in respect of all the water bodies/lakes of Bangalore."

61. We have already noticed that Shri Poovayya has no objection to set aside the

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aforesaid impugned portion of the order in so far as the appellants in all the appeals except the appeals filed by respondent Nos. 9 and 10. The aforesaid portion of the order contains not only general directions but also certain directions against respondent Nos. 9 and 10. Therefore, only that portion of the order which does not pertain to respondent Nos. 9 and 10 needs to be quashed.

62. In the light of the above discussion, we pass the following order:

- i) Civil Appeal No. 5016 of 2016 and Civil Appeal Nos. 8002-8003 of 2016 filed by the appellants/respondent nos. 9 and 10 are hereby dismissed. The impugned judgment and order in so far as appellants/respondent Nos. 9 and 10 are concerned is sustained.
- ii) All the other appeals are hereby allowed and the direction/condition No. (1) in the order dated 4.5.2016 is hereby set aside except the direction issued against respondent Nos. 9 and 10.

63. There will be no order as to costs.

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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short note submitted by the Project Proponent on 27.08.2020 (which is already on record)

Filed Through

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Venancio D'Costa/Astha
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vdcosta@luthra.com; asojha@luthra.com
Ph no.-9810232678; 9821396903

Place: New Delhi

Date: 04/9/2020

BEFORE THE HONBLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI

APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

SHORT NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12

MOST RESPECTFULLY SHOWETH:

That vide order dated 28.08.2020, this Hon'ble Tribunal had directed the parties to file a short note of submissions. That the present note may be read as part and parcel of the pleadings and written submissions as well as the written note submitted on 27.08.2020 filed by Respondent no. 11 and 12 (Project Proponent), in the present case. By way of the present written short note, the Project Proponent would answer the query put forth by this Hon'ble Tribunal in the last date of hearing held on 28.08.2020.

1. Whether the total Built up area (BuA) consisting of FSI and Non-FSI is within 1,50,000 sq. mtr.
 - I. It is submitted that the EC granted by SEIAA to the Project Proponent is for 1,28,193.9 sq. mtrs., the Project Proponent is however constructing only total Built-Up area (including the FSI and non-FSI area) of 1,25,663.06 sq. mtrs. which is less than the benchmark of 1,50,000 sq. mtrs. This fact has been also captured in the site plan approved by BBMP. Further the Project Proponent is also filing a report from their registered Architect on record, namely "Mindspace Architect" who has designed the Project supported by an Affidavit of the Project Proponent stating that the total built up area, after including both the FSI and Non-FSI area is 1,25,663.06 sq. mtrs. which does not breach the benchmark of 1,50,000 sq. mtrs. Affidavit filed by the Project Proponent along with the certificate of the Architect are annexed herewith as ANNEXURE F (Certificate of the Architect has been annexed as ANNEXURE R1 with the Affidavit).
 - II. It is submitted that BBMP sanctioned the Building plan for construction of Phase I of the Project on 30.08.2018. Subsequently, BBMP on 28.05.2019 sanctioned the Building Plan of the Project Proponent by merging the sanctions for both Block I and Block II. The sanctioned Building plans

further shows that the Project Proponent is constructing the Built up area of 1,25,663.06 sq. mtrs. In this regard the Project Proponent is also filing an enlarged copy of the Site Plan approved by BBMP to show the total Built Up area for both Block 1 and Block II does not exceed 1,50,000 sq. mtrs. True enlarged copy of the site plan along with enlarged copies of the area statement enclosed with the site plan showing that the total build-up area of Block-1 and Block-2 does not exceed 1,50,000 sq. mtrs. is annexed herewith as ANNEXURE G.

III. The Project Proponent is also filing recent photographs showing/ explaining the southern-eastern side of the Bund Line (which is located at the distance of about 83 metres away from the Project), further the land shown are the land abutting the lake and adjacent to the Project Land. The Bund, fencing of revenue Boundary of the project Land and the Lake Fencing as shown in the Photograph have been put up by the Lake Development Authority and not by the Project Proponent. Also attached photographs of the status of construction as ANNEXURE H.

2. Whether the Project Proponent has complied with Rule 4(1)(vi) of the Wetland (Conservation and Management) Rules, 2010 and the judgement of M.K. Balakrishnan Vs. UOI ?

I. In this regard it is submitted that in the 188th meeting of SEAC (the High powered Committee) held on 25.11.2017, the committee had considered the fact while appraising the proposal of the Project Proponent had observed that there is a lake on the northern side and also a Nala running across the land. The Project Proponent states that it has left 75mtrs buffer zone from the lake and 50 mtrs Buffer on either side of the Nala. The proceedings of the said meeting are available on the website of MoEF. Under these circumstances it cannot be said that there is any misrepresentation/ suppression of fact on the part of the Project Proponent. True copy of proceedings of the 188th meeting of SEAC as procured from the MoEF website is annexed herewith as ANNEXURE I.

II. It is further submitted that during the inquiry from various statutory authorities mainly Karnataka Minor Irrigation Department including the Karnataka Lake Conservation and Development Authority and the Karnataka Lake Development Authority the Project Proponent has given to understand that the mean high flood line will be well between the Bund and between periphery of the water. Further, the Project Proponent has been informed by the said authorities that the water outlet of the Kaikondarahalli lake is on the Northern side of the said Lake, whereas the project is on the south eastern side of the lake therefore under no circumstances there can be any overflow of Lake towards the project side as it will naturally flow towards Northern side .

Further, it is pertinent to note that the said Kaikondrahalli Lake is being maintained by BBMP and the Lake water has not breached the bund level on the South Eastern side of the Lake which is towards the project land for past 25 years. It is submitted that, embankment (including Bund) are the most popular method of flood protection and have been constructed extensively in the past. That from the view of the Lake, there exists the said manmade Bund, (as can be clearly seen in the Photographs) which is constructed. Further the project land is not prone to flood due to its high elevated location. In this regard the Project Proponent has written to the BBMP/ Lake Development Authority, seeking clarification, a reply to which may be received shortly as orally informed, clarifying whether the Bund Line or below constitutes the mean high Flood Line. True copy of the Letter is annexed as ANNEXURE J.

- III. Furthermore, taking the Bund into consideration the Project Proponent has left a buffer of approx. 83 mtrs. from the said Bund Line, which is well beyond 50 mts mark from the mean High Flood line. The Project Proponent further undertake not to put any concrete structure within 50 mtrs. from the high flood line (Bund Line). As such the Project Proponent is also in compliance of Rule 4 (1)(vi) of the Wetland Rules, 2010.
3. It is reiterated that BBMP on 20.10.2016 gave its approval for Registration of Khata. Thereafter, BBMP sanctioned the Building plan for construction of Phase I of the Project on 30.08.2018. Subsequently, BBMP filed its Objections before NGT on 05.09.2018. It is relevant to note that post filing the objections, BBMP on 28.05.2019 sanctioned the Building Plan of the Project Proponent by merging the sanctions for both Block I and Block II. As such the contradictory stand of BBMP is writ large in the present proceedings. In addition to the above the Project Proponent is also filing an enlarged copy of the Site Plan approved by BBMP to show the total Built Up area for both Block 1 and Block 2 does not exceed 1,50,000 sq. mtrs.
4. It is further submitted that the State/ Environmental Authorities being the custodian of this aspect have also looked into the matter before granting the approvals to the Project Proponent, as is evident from the Proceedings of the SEAC (high power committee) 188th meeting held on 25.11.2017 in respect of the project. The Project Proponent has completely abided by the guidelines given by this Hon'ble Tribunal in *Forward Foundation Vs. State of Karnataka (OA 222/2014)*. The Project Proponent has in no manner misrepresented suppressed any material fact. That all the statutory authorities have granted the requisite permissions/ approvals for construction after due deliberation and after following the due process of law.
5. Further, the Project proposed by the Project Proponent is also a Zero Discharge Project, which has also been submitted to MoEF.

while issuance of EC. As such the Project proponent is also in compliance of the directions passed by this Hon'ble Tribunal in the matter of *Court on its own motion vs. State of Karnataka with D. Kupendra Reddy vs. State of Karnataka* in OA 125 of 2017 with OA 217 of 2017.

6. The instant Appeal is nothing but a blatant abuse of law, wherein the Appellant is trying to prejudice the mind of this Tribunal by raising frivolous allegation under the sun, without any lawful basis.
7. By way of this note the Project Proponent has tried to put forth the actual and correct facts, however in case this Hon'ble Tribunal requires any further clarification or information the Project Proponent is willing to assist this Hon'ble Tribunal including a short appearance before this Hon'ble Tribunal for clarifying any further issues. The Project Proponent also reserves its right to file further document relevant to the present dispute. For the convenience of this Hon'ble Tribunal, the Project Proponent is also annexing the written note on arguments submitted by the Project Proponent on 27.08.2020 (which is already on record) along with the present short note as ANNEXURE K.

Filed Through

ASTHA

Venancio D'Costa/Astha
Counsel for Respondent No. 11 and 12
L&L Partners
First Floor, Ashoka Estate, Barakhamba Road
vdcosta@luthra.com; asoilha@luthra.com
Ph no.-9810232678; 9821396903

Place: New Delhi

Date: 04/09/2020

327 ANNEXURE-F

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

... APPELLANT/APPLICANT

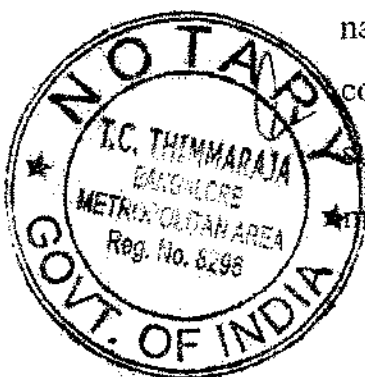
VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

I, Nisha Mohan, W/o Mr. Mohan Kumar N., aged about 33 years, working with the Respondent No. 11 and 12 Company, having its office at Prestige Obelisk, Level 10, No. 3 Kasturba Road, Bangalore-560001, do hereby solemnly affirm and state as under:-

1. That I am the Authorized Representative of the Respondent no. 11 and 12 (hereinafter referred to as Project Proponent) and I am well acquainted with all the facts and circumstances of the case based on the documents available with the Project proponent Company and as such I am competent to swear this affidavit.
2. That on 28.08.2020, during the course of arguments, it was portrayed by the Appellant that upon inclusion of the FSI and non-FSI area, the total built up area, of the Project Proponent goes beyond 1,50,000 sq meters., and as such the same falls under B-1 category, thereby requiring EIA certification.
3. I say that the aforesaid allegations are completely baseless and meritless. The Project Proponent's total built up area is below 1,50,000 sq meters. In this regard the Project Proponent has also obtained a certificate from a recognized and qualified Architect namely Mindspace Architects, certifying that the total built up after considering both FSI and non-FSI is 125,653.06 sq meters. As such the said project is within the threshold limit of 1,50,000 sq meters. and has, therefore, been rightly appraised by SELAA. The



No. of Corrections



Certificate of built-up area statement for the project is annexed herewith as ANNEXURE R1.

[Signature]


DEPONENT

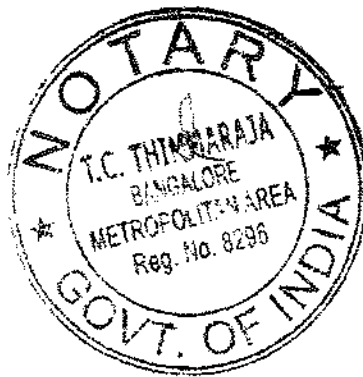
VERIFICATION:

I, the abovenamed deponent do hereby verify that the contents of my above Affidavit are true to my knowledge and belief and based on the records available with the Project Proponent Company, no part of it is false and nothing material has been concealed therefrom.

Verified at Bengaluru on this the 1st day of September 2020.

[Signature]


DEPONENT



SWORN TO BEFORE ME

T.C. THIMMARAJA
 ADVOCATE
 City Civil Court Chamber Premises
 BANGALORE - 560 009.

No of Corrections

1. 9. 2020




mindspace
architect + engineers + interior designers

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ANNEXURE-21

Partners
N.D.Mone
V.Suryanarayana
P.N.Medappa
Amit Swain
Swetha A

We (MindSpace Architects), registered architects under Council of Architecture and into this field for the last 16 years, hereby certify that the total Net built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed by Wonder Projects Development Private Limited, in their Project i.e. Godrej Reflections and Godrej Lake Gardens (being developed in Survey number 61/2, 62 and 63/2 of Kasavanahalli village, Varthur Hobli, Bangalore East Taluk, Bangalore), is 1,25,663.06 SQ Meters.

Definitions:

Gross BuA: The total covered floor area including external walls and without any deductions.

Deductions: Parts of the floor where there are cut-outs/voids in the floor/slab (e.g ducts, shafts etc)

Net BuA: This is the Gross BuA (as defined above) after the exclusion of any deductions/cut-outs/voids in the floor (Net BuA = Gross BuA – Deductions)

FSI/FAR: FSI stands for Floor Space Index and it is also known as Floor Area Ratio (FAR). FSI and FAR are both computed as the ratio between the area of a covered floor (Built up Area) to the area of the plot (land) on which a building stands. FAR or FSI is computed as per zonal regulations or local authority guidelines. FAR is expressed as a number whereas FSI is expressed as a percentage.

The Net BuA can be split into 2 parts, namely:

- a. FSI/FAR Area: This is the portion of the Net BuA which is counted as part of FSI/FAR as per prevailing regulations. This includes all built-up/covered habitable areas (apartment including balconies and walls), built-up/covered common circulation areas leading to these habitable areas (lobbies, corridors, staircases) and built-up/covered common amenities (clubhouse).
- b. Non-FSI/Non-FAR Area: This is the portion of the Net BuA which is exempted and not counted as part of the FAR/FSI as per prevailing regulations. These exempted areas include area used for the purpose of parking spaces, main stair case room, lift shaft, lift wells, lift machine rooms, ramps, ventilation ducts, sanitary ducts and overhead tanks



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BuA details of Godrej Reflections (Phase I):

BuA details of Godrej Reflections (Phase I)						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-2	5,688.07	24.61	5,663.46	419.22	5,244.24
2	Basement-1	5,688.07	359.63	5,328.44	417.85	4,910.58
3	Ground Floor	5,202.76	235.51	4,967.25	397.42	4,569.83
4	1st Floor	2,503.07	74.29	2,428.78	2,398.00	30.78
5	2nd Floor	1,979.15	74.29	1,904.86	1,874.03	30.78
6	3rd Floor	1,979.15	74.29	1,904.86	1,874.03	30.78
7	4th Floor	2,639.96	83.42	2,556.54	2,359.28	197.26
8	5th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
9	6th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
10	7th Floor	2,650.03	82.67	2,567.36	2,536.58	30.78
11	8th Floor	2,644.16	82.67	2,561.49	2,530.71	30.78
12	9th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
13	10th Floor	2,483.55	82.67	2,400.88	2,370.10	30.78
14	11th Floor	2,477.68	82.67	2,395.01	2,364.23	30.78
15	12th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
16	13th Floor	2,473.48	83.42	2,390.06	2,359.28	30.78
17	14th Floor	2,428.51	82.67	2,345.84	2,315.06	30.78
18	15th Floor	2,422.64	82.67	2,339.97	2,309.19	30.78
19	16th Floor	2,359.06	84.34	2,274.72	2,243.94	30.78
20	17th Floor	2,352.44	98.14	2,254.30	2,223.52	30.78
21	18th Floor	2,306.04	62.68	2,243.36	2,212.58	30.78
22	19th Floor	1,697.29	114.12	1,583.17	1,552.39	30.78
23	20th floor	955.19	64.68	890.51	545.35	345.16
24	Terrace	857.62	0.00	857.62		857.62
25	TOTAL	63,681.84	2,263.12	61,418.72	44,739.99	16,678.73



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BuA details of Godrej Lake Gardens (Phase II):

BuA details of Godrej Lake Gardens (Phase II):						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-1	6,964.14	18.75	6,945.39	316.33	6,629.06
2	Ground Floor	5,622.84	83.37	5,539.47	344.05	5,195.42
3	1st Floor	5,525.44	44.09	5,481.35	403.30	5,078.05
4	2nd Floor	2,335.90	72.10	2,263.80	2,217.63	46.17
5	3rd Floor	2,321.38	72.10	2,249.28	2,203.11	46.17
6	4th Floor	2,321.38	72.10	2,249.28	2,203.11	46.17
7	5th Floor	2,907.33	74.73	2,832.60	2,613.20	219.40
8	6th Floor	2,734.71	77.94	2,656.77	2,437.37	219.40
9	7th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
10	8th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
11	9th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
12	10th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
13	11th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
14	12th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
15	13th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
16	14th Floor	2,734.71	77.94	2,656.77	2,610.60	46.17
17	15th Floor	2,736.13	77.94	2,658.19	2,612.02	46.17
18	16th Floor	2,736.13	77.94	2,658.19	2,612.02	46.17
19	17th Floor	2,671.53	77.94	2,593.59	2,547.42	46.17
20	18th Floor	2,084.62	92.62	1,992.00	1,945.83	46.17
21	19th Floor	2,014.68	76.90	1,937.78	1,907.00	30.78
22	20th floor	1,021.67	299.79	721.88	691.10	30.78
23	Terrace	210.61		210.61		210.61
24	TOTAL	66,086.17	1,841.83	64,244.34	45,938.29	18,306.05



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Total BuA for the project (Phase I + Phase II):

Total BuA for the project (Phase I + Phase II):						
		A	B	C	D	E
				C = A - B	The below columns show the split of FAR and Non-FAR area in the Net BuA	
				C = D + E		
Sl No	Floors	Gross BuA	Deductions	Net BuA	FAR Area	Non-FAR Area
		(Sqm)	(Sqm)	(Sqm)	(Sqm)	(Sqm)
1	Basement-2	5,688.07	24.61	5,663.46	412.99	5,244.24
2	Basement-1	12,652.21	378.38	12,273.83	731.19	11,539.64
3	Ground Floor	10,825.60	318.88	10,506.72	741.47	9,765.25
4	1st Floor	8,028.51	118.38	7,910.13	2,801.30	5,108.83
5	2nd Floor	4,315.05	146.39	4,168.66	4,091.71	76.95
6	3rd Floor	4,300.53	146.39	4,154.14	4,077.19	76.95
7	4th Floor	4,961.34	155.52	4,805.82	4,562.39	243.43
8	5th Floor	5,380.81	158.15	5,222.66	4,972.48	250.18
9	6th Floor	5,208.19	161.36	5,046.83	4,796.65	250.18
10	7th Floor	5,384.74	160.61	5,224.13	5,147.18	76.95
11	8th Floor	5,378.87	160.61	5,218.26	5,141.31	76.95
12	9th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
13	10th Floor	5,218.26	160.61	5,057.65	4,980.70	76.95
14	11th Floor	5,212.39	160.61	5,051.78	4,974.83	76.95
15	12th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
16	13th Floor	5,208.19	161.36	5,046.83	4,969.88	76.95
17	14th Floor	5,163.22	160.61	5,002.61	4,925.66	76.95
18	15th Floor	5,158.77	160.61	5,058.16	4,921.21	76.95
19	16th Floor	5,095.19	162.28	4,932.91	4,855.96	76.95
20	17th Floor	5,023.97	176.08	4,847.89	4,770.94	76.95
21	18th Floor	4,390.66	155.30	4,235.36	4,158.41	76.95
22	19th Floor	3,711.97	191.02	3,520.95	3,459.39	61.56
23	20th floor	1,976.86	364.47	1,612.39	1,236.45	375.94
24	Terrace	1,068.23	0.00	1,068.23	0.00	1,068.23
25	Total	1,29,768.01	4,104.95	1,25,663.06	90,678.28	34,984.78



mindspace
architect+engineers+interior designers

333

Partners
V.Suryanarayanan
P.N.Medappa
Amit Swain
Swetha.A

In conclusion, we hereby certify that the total Net BuA (FAR and Non-FAR area) of the project is
1,25,663.06. SQM

Thanking you,

Your Sincerely,

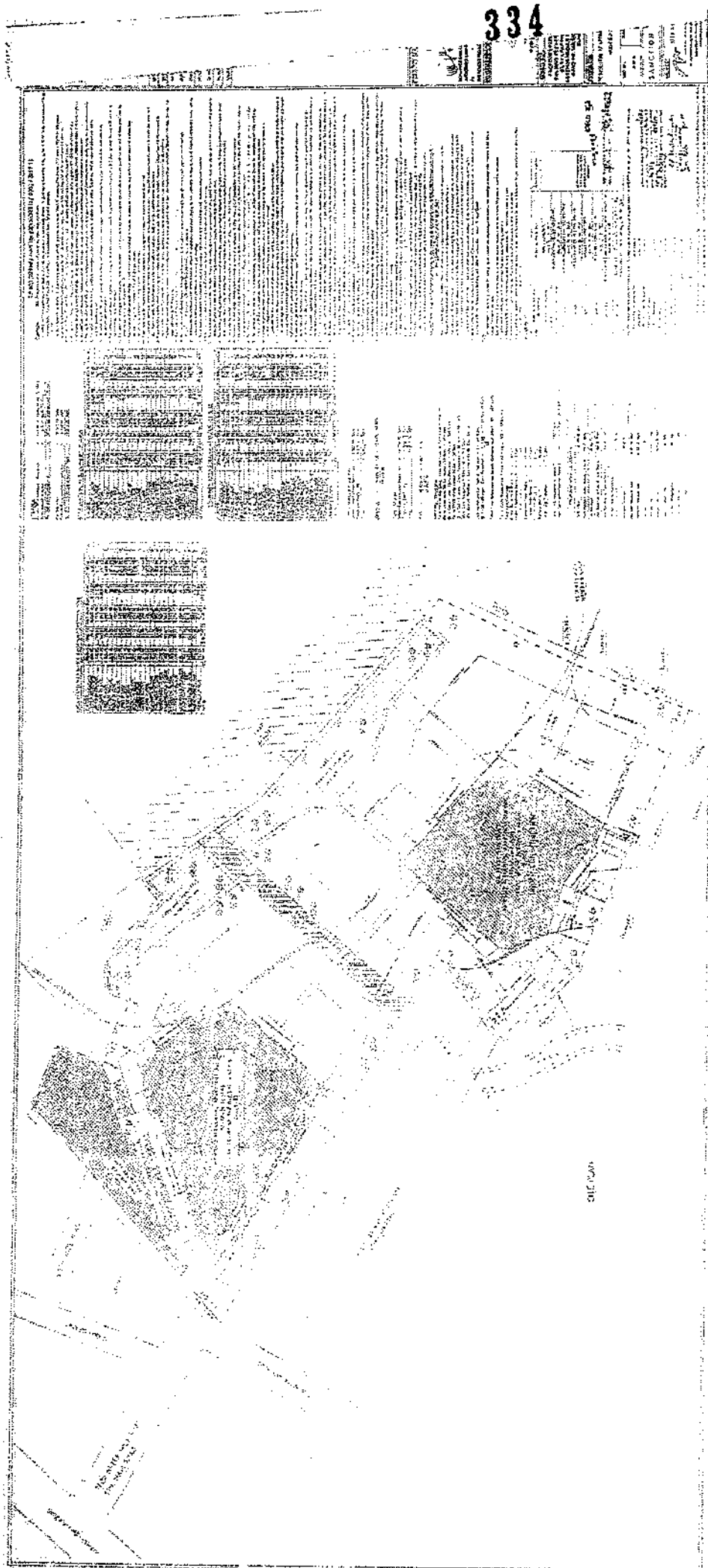
P.N.Medappa

COA License No.: CA / 93 / 16013

Bangalore corporation No.: BCC/BL-3.6/A-2887/2018-19

For Mindspace Architects

ANNEXURE. 67



AREA STATEMENT BLOCK-1 UNDER CONSTRUCTION

FLOORS	GRGSS FLOORS	DUOTS	NET BUA	FAR PERM	FAR AREA	UNITS
LOWER BASEMENT	5,388.62	26.47	5,388.62	5,388.62	419.22	-
UPPER BASEMENT	5,388.62	26.47	5,388.62	5,388.62	419.22	-
GROUND FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	-
FIRST FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
SECOND FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
THIRD FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
FOURTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
FIFTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
SIXTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
SEVENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
EIGHTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
NINTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
TENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
ELEVENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
TWELFTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
THIRTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
FOURTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
FIFTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
SIXTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
SEVENTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
EIGHTEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
NINETEENTH FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	12
TERACE FLOOR	5,388.62	26.47	5,388.62	5,388.62	419.22	0
TOTAL	94,534.34	2,263.12	94,534.34	94,534.34	44,719.35	168

SITE AREA

As per DP Approved, Site Area	=	51,458.16 Sqm (12.00 Ac. 31 Gals)
Deduct Kurat Area	=	1,318.21 Sqm (3.00 Gals)
Net Site Area Considered	=	50,139.95 Sqm (11.50 Ac. 31 Gals)

Net Site Area	=	50,139.95 Sqm
Deduct Curc amandias area 5%	=	2,506.99 Sqm
Net Site Area for Development	=	47,632.96 Sqm

AREA STATEMENT BLOCK-2/PROPOSED

FLOORS	GRGSS FLOORS	DUOTS	NET BUA	FAR PERM	FAR AREA	UNITS
BASEMENT FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	-
GROUND FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	-
FIRST FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
SECOND FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
THIRD FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
FOURTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
FIFTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
SIXTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
SEVENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
EIGHTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
NINTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
TENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
ELEVENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
TWELFTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
THIRTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
FOURTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
FIFTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
SIXTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
SEVENTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
EIGHTEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
NINETEENTH FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	12
TERACE FLOOR	6,334.14	18.25	6,334.14	6,334.14	511.31	0
TOTAL	68,068.17	1,641.85	68,068.17	68,068.17	45,808.29	160

COMBINED AREA STATEMENT BLOCK-01 & 02

FLOORS	GRGSS FLOORS	DUOTS	NET BUA	FAR PERM	FAR AREA	UNITS
LOWER BASEMENT	24.5	24.51	5,663.48	5,663.48	419.22	-
UPPER BASEMENT	12.5	12.51	2,727.62	2,727.62	214.15	-
GROUND FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	-
FIRST FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
SECOND FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
THIRD FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
FOURTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
FIFTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
SIXTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
SEVENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
EIGHTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
NINTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
TENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
ELEVENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
TWELFTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
THIRTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
FOURTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
FIFTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
SIXTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
SEVENTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
EIGHTEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
NINETEENTH FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	12
TERACE FLOOR	72.2	72.18	10,502.72	10,502.72	744.42	0
TOTAL	2,263.12	2,263.12	2,263.12	2,263.12	2,263.12	625

Total Ground Coverage Area:

Under Construction Block - 01	= 5,202.76 Sqm.
Proposed Block - 02	= 5,622.24 Sqm.
Total	= 10,825.00 Sqm.

336

$$\text{COVERAGE} = \frac{10,825.00}{47,842.23} \times 100 = 22.63\% < 50.00\%$$

Total FAR Area:

Under Construction Block - 01	= 44,729.90 Sqm.
Proposed Block - 02	= 45,912.29 Sqm.
Total	= 90,642.19 Sqm.

$$\text{FAR} = \frac{90,642.19}{47,842.23} = 1.895 < 2.25$$

PARKING : (Block-02)

Total Residential Units from 2nd Floor to 21st Floor = 124 Nos.

No. of Units over 50 Sq. below 225 Sqm. = 124 Nos

@ 1 Car / 1 Unit, Cars Required = 124 x 1 = 124 Cars

No. of EWS Units below 50 Sq = 35 Nos

@ 1 Car / 2 Units, Cars Required = 35 / 2 = 17.50 Cars

Total Cars Required = 124 + 17 = 142 Cars

15% Visitors Parking = 142 / 10 = 14.20 Say 15 cars

Club house area in 13th & 14th floor = 711.89 Sqm.

@ 1 Car / 50 sqm. Cars Required = $\frac{711.89}{50} = 14.24$ Say 15 Cars

Total Cars Required for Under Construction Block - 01 = 142 Cars

Total Cars Required = 142 + 35 + 15 + 252 = 574 Cars

Total cars Provided:

Lower Basement Block - 1	= 185 cars
Upper Basement Block - 1	= 113 cars
Ground Floor Block - 1	= 90 cars
Basement Floor Block - 2	= 141 cars
Ground Floor Block - 2	= 111 cars
First Floor Block - 2	= 124 cars
Surface Block - 2	= 20 cars
Total Cars Provided	= 775 cars

Total Cars required for Block 2

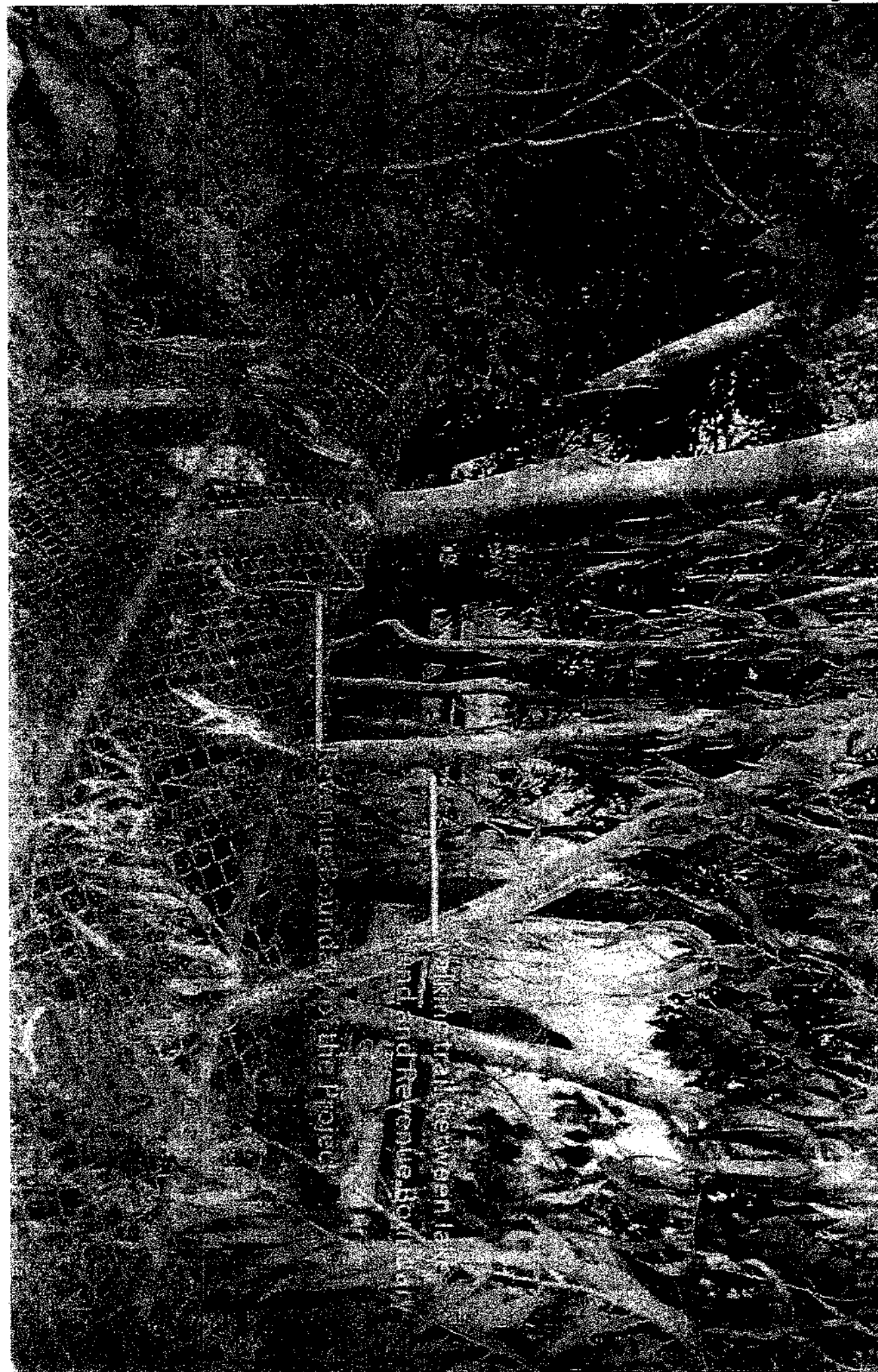
192 Cars

Total Cars provided for Block 2

141 + 111 + 124 + 20 = 406 Cars

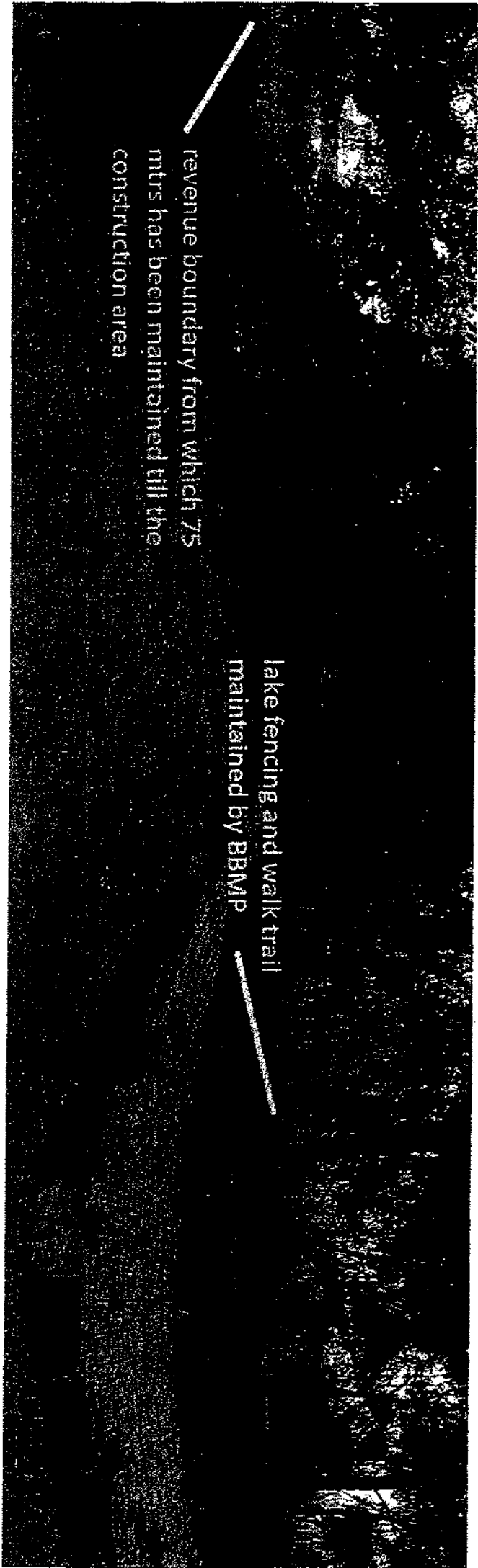
PROPOSED AREA CALCULATION

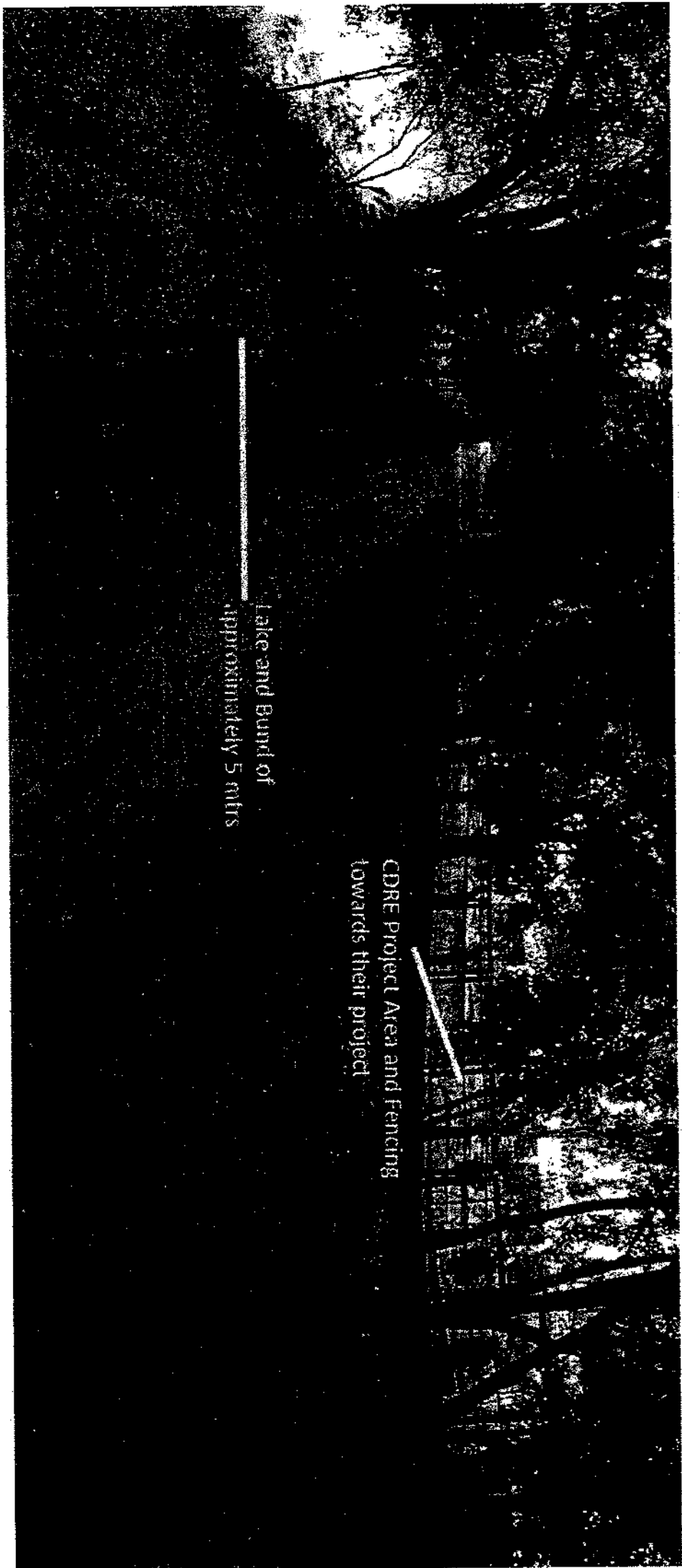
SITE AREA	= 50,156.16 Sqm.
Area Deducted Under Khanna (19 Car)	= 1,115.21 Sqm.
Net Site Area	= 50,192.45 Sqm.
Area Reserved for Park & Open Spaces	= 5,193.87 Sqm.
Area Reserved for Club Amenities	= 1,541.56 Sqm.
Net Site Area for Residential Development 25.00%	= 43,422.29 Sqm.
Allowable Coverage	= 50.00 %
Allowable Coverage Area	= 21,721.15 Sqm.
Additional Coverage Area	= 16,825.00 Sqm.
Allowable FAR	= 2.25
Allowable FAR Area	= 1,09,845.15 Sqm.
Actual FAR Area	= 50,642.19 Sqm.
Height of Building Block - 01 & 02	= 50.00m
Total No. of Residential Units	= 124 Nos.
Total Cars Required	= 142 Cars
Total Cars Provided	= 775 Cars



revenue boundary from which 75
mtr has been maintained till the
construction area

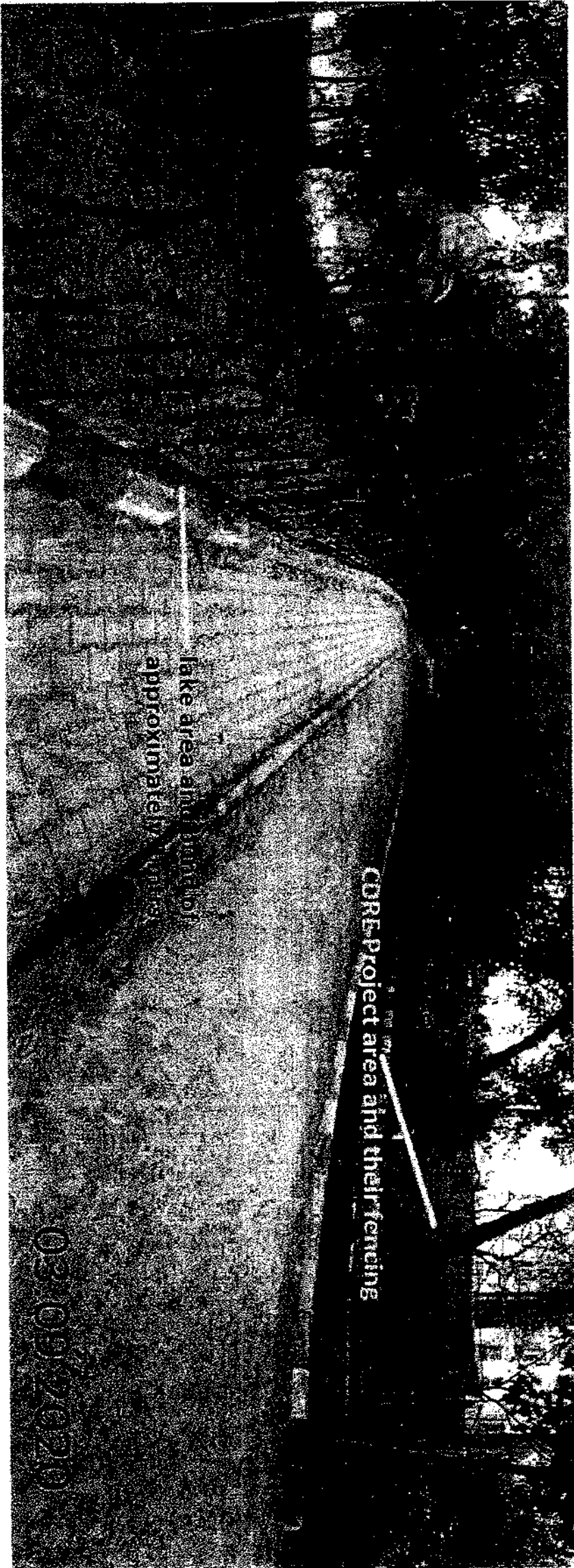
lake fencing and walk trail
maintained by BBMP





Lake and Bund of
approximately 5 mtrs

CDRE Project Area and Fencing
towards their project



CDRE-Project area and their fencing

lake area and (unfilled)
approximately 1/2 mile

08/09/2020

revenue boundary and Walk
Authority

who area covered and the
from the revenue boundary of the
Project

DE 01 1991



ANNEXURE. IProceedings for 188th Meeting of SEAC held on 25th November 201725th November 2017

Members present in the meeting:

11-8/12/2017
H/S SEIAA

Shri. N. Naganna	-	Chairman
Shri. B. Chikkappaiah	-	Member
Dr. N. Krishnamurthy	-	Member
Dr. M.I. Hussain	-	Member
Shri. G.T. Chandrashekarappa	-	Member
Dr. Vinod Kumar C.S	-	Member
Sri. Vyshak V. Anand	-	Member
Sri. J.G. Kaveriappa	-	Member
Sri. D. Raju	-	Member
Sri. Vijaya Kumar, JFS	-	Secretary

The Chairman, SEAC, Karnataka welcomed the members of the Committee and others present. The following proposals listed in the agenda were appraised in accordance with the provisions of EIA Notification 2006. The observation and decision of the Committee are recorded under each of the agenda items.

Confirmation of the proceedings of 187th SEAC meeting held on 20th and 21st November 2017.

The State Expert Appraisal Committee, Karnataka perused the proceedings of 187th SEAC meeting held on 20th and 21st November 2017 and confirmed the same.

Deferred subjects - EIA Proposals:

- 188.1 Formation of Housing Layout at Raichur, Growth Centre, Raichur District of CEO & Executive Member, Karnataka Industrial Area Development Board (KIADB), Khanija Bhavana, 4th & 5th Floor, East Wing, No. 49, Race Course Road, Bangalore - 560001. (SEIAA 49 CON 2013)

Name of the Applicant:	Development Officer & Executive Engineer, KIADB, Gulbarga.
Name of the Consultancy Firm:	M/s. ABC Techno Labs India (P) Ltd., Chennai

KIADB have applied for Environmental Clearance from SEIAA for their new proposed formation of housing layout with residential & commercial building at Sy. No. listed at Raichur Taluk & District under 8(b) of Schedule of EIA Notification, 2006 under Category-B. Total project cost is Rs. 123 Crores.

Project Details: Land: Total Plot Area: 1030228.37 Sqm (254.33 Acres or 102.88 hectares) (plain); The Project consists of 3069 plots; Water Requirement: Total water requirement is 2 MLD and is sourced from Raichur Corporation. Excavated Wastewater generated will be treated in proposed STP of design capacity 1.6 MLD KLD; Municipal Solid Waste

Management: Total waste generated: 9787 kg/day. Power: Total Power requirement: 7500 KVA supplied from BESCOM; Backup Power proposed: DG sets of 9 X 250 KVA; Details surrounding the Project: Srisaillam Reservoir: 95 kms. Other details: Rain Water Harvesting is proposed.

1. Land details: notified under KIADB, 1966 28 (3) issued on 24.9.1996.
Geotechnical investigation report submitted.

2. Proposed land use details (Sqm)

a. Residential:	4,59,275.7 (44.57%)
b. Parks, open space:	1,08,174.23 (10.50%)
c. Traffic & transportation:	3,35,757.32 (32.61%)
d. Civic amenities:	6,23,318 (6.055)
e. Commercial area:	64,688.92 (6.27%)

Total area: 1030228.37 (100%)

The proponent and environmental consultant present explained the proposed ToRs in the 102nd meeting of SEAC held on 26th April 2013. The Committee after deliberation had decided to issue the model ToRs along with the following additional ToRs:

1. Land ownership documents.
2. Details of buffer zone proposed.
3. Commitment letter from the Raichur Corporation for water supply.
4. Four seasons data for ambient air quality monitoring with predominant wind direction.

Accordingly ToRs were issued vide letter dated 22.05.2013.

The proponent vide letter dated 19.03.2016 have requested for extension of validity of ToR for one more year to complete the EIA report, as they are not able to finalize the draft EIA report due to delay in finalizing certain design details. The Authority perused the representation of the proponent in its 116th meeting held on 31st March 2016 and had decided to extend the validity period for further period of one year i.e., till 21.05.2017.

The proponent has submitted the EIA report vide letter dated 21.04.2017 which was received on 11.05.2017.

The proposal is therefore placed before the committee for EIA appraisal.

The proponent and Environmental Consultant from M/s. ABC Techno Labs India (P) Ltd attended the meeting of SEAC to provide required information/clarification.

The committee noted that the Environment consultant present in the meeting is not the EIA coordinator and has come without freezing the project boundary.

The committee therefore decided to defer the proposal providing one more opportunity to the proponent to present the proposal in the next meeting. The committee also asked the proponent to submit the village map duly marking the project site, details of nala/water bodies within the project site and required buffer zone provided as per the norms.

The proponent was invited to provide required clarification/additional information.

While appraising the proposal the committee observed that the Layout proposed is in the land belonging to Potagal and Yaramarus villages of Raichur Taluk. The Proponent has stated that there is no kharab land in the entire extent. He has also stated that in the survey no 269 of Potagal village the water pond shown is a private one and not reflected in any of the revenue records, except the village survey map.

While appraising the proponent has accepted to have a relook on the extent of kharab land and he has stated that if there is any discrepancies in survey numbers made out in the application and appraisal material, he will submit the revised application. The committee observed that the TOR for the project was issued in the year 2013 and further extended up to 21st May 2017 and hence the extended period is also lapsed. The proponent was suggested to get the extension from the Authority and come for the appraisal for which the proponent has agreed.

In view of the above the committee decided to defer the subject and give one more opportunity to the proponent to present the proposal with required information.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

- 188.2 Establishment of EPIP Industrial Area II Phase, Ganjimutt Village, Mangalore Taluk, Dakshina Kannada District. 38.87 Ha (96.05 Acres) of CEO & Executive Member, Karnataka Industrial Areas Development Board (KIADB), 14/3, 2nd floor, Rashtrothana Parishat (RP) Building, Nrupathunga Road, Bangalore (SEIAA 8 IND2013)

Name of the Applicant: Sri. Onkar Murthy, Development Officer,
KIADB.
Name of the Consultancy Firm: M/s ABC Consultants.

KIADB has proposed to develop EPIP Industrial Area 2nd phase in an area of 96.05 acres near Ganjimutt Village, Mangalore Taluk, Dakshina Kannada District. The project site is located within 500 meters from Ganjimutt Village, Mangalore Taluk, and Dakshina Kannada District. The area lies in the northern latitude of 12°58'31.6" and eastern longitude of 74°57'24.1". Site is well connected by road, rail and air port. Site is well connected with the State Highway, SH 70 north direction and Site is also connected with National Highway 169 north direction, Mangalore International Airport is around 6.8 Km west direction away from the project site. Mangalore Railway Station is about 18 Km from the project site.

Once the industrial plots are completely sold expected establishments are interlinked/interdependent projects such as Garment Industries, I.T/B.T & Electronics, Agro Based Industries, Pharmaceutical industries and general industries.

Following information are furnished in the application:

Presently the land is with shrub in most of the area. KIADB has proposed to acquire lands required for development of Industrial estate and the amenities. KIADB has acquired land from the village near Gunjimutt.

Phalguni(gurupura) river - 3.2 km (S)

Nethravathi river-11.0 km (S)

3.78 MLD of water will be drawn from Phalguni (Gurupura)River for the proposed industrial area .

The power requirement for the proposed development is 6.95 MW and the source of power will be from Mangalore Electricity Supply Company Limited (MESCOM)/KPTCL.

Provision of plots for Police Station, STP, Canteen, electric grid, public transport & solid waste management etc., will be made.

There is a Court case (5837/2011) in High Court Bangalore pertaining to develop industrial area.

The project proponent presented PFR and proposed ToR before the Committee during the 100th meeting of SEAC held on 16th March 2013. Following additional ToRs are to be considered by the project proponent for the preparation of the EIA:

Demarcation of land use within the proposed industrial area.

Impact due to changed land use

Proposal of CETP

Accordingly ToRs were issued vide letter dated 22.05.2013.

The proponent vide letter dated 19.03.2016 have requested for extension of validity of ToR for one more year to complete the EIA report, as they are not able to finalize the draft EIA report due to delay in finalizing certain design details. The Authority perused the representation of the proponent in its 116th meeting held on 31st March 2016 and had decided to extend the validity period for further period of one year i.e., till 05.04.2017.

The proponent has submitted the EIA report vide letter dated 13.03.2017 which was received on 15.04.2017.

The proposal is therefore placed before the committee for EIA appraisal.

The proponent and Environmental Consultant from M/s. ABC Tecinc Labs India (P) Ltd attended the meeting of SEAC to provide required information/clarification.

The committee noted that the Environment consultant present in the meeting is not the EIA coordinator and has come without freezing the project boundary.

The committee therefore decided to defer the proposal providing one more opportunity to the proponent to present the proposal in the next meeting. The committee also asked the proponent to submit the village map duly marking the project site, details of nala /waterbodies within the project site and required buffer zone provided as per the norms.

The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee observed that the original application made out earlier is to an extent of 38.88 hectares, but now the appraisal material states that the extent involved is 42.16 hectares. Also the ToR for this proposal has been issued in the year 2013, and further extended up to 5th April 2017. Hence it needs further extension which has not been obtained so far. The proponent has agreed to comply with the above basic lacunas and come for the appraisal for which the proponent has agreed.

In view of the above the committee decided to defer the subject and to give the proponent one more opportunity to submit the information sought by the committee including the information asked in the earlier meeting.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

- 188.3 Ammendment in Environmental Clearance to include Red Category Industries at Dobaspeth 4th Phase Industrial Area in the Villages of Yedehalli, Chandana Hosahalli, Honnenahalli, Kengal Kempohalli, Avverahalli, K.G.Srinivasapura, Billanakote, Nelamangala Taluk, Bangalore Rural District by KIADB-DABASPETH-NELAMANGALA (SEIAA 20 IND 2017)

The Proponent has obtained Environmental Clearance for the above said proposal on 27-08-2015, and is seeking ammendment to EC to include Red category industries at Dobaspeth 4th phase Industrial Area. As per the TGR Notification, Dated:18-11-2003, the entire area of Dobaspeth 4th phase falls under Zone-I.

In this regard, the Proponent has applied for EC ammendment. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

While appraising the proposal the proponent has stated that the lands for this project have been acquired beyond 100 meters from the habitat as per the guidelines of C&I Department. The proponent has also stated that in case of water bodies the lands have been acquired up to the edge of water bodies and while preparing the development plan, he has left buffer as per NGT order of dated: 4th May 2016. The committee deliberated on the siting guidelines for setting up of Red category industries and found that the proponent has failed to furnish the required information.

The proponent also submitted that while allotting land to the industries they will impose conditions to compulsorily install effluent treatment plant with zero liquid discharge, to maintain the air emission within the prescribed standards of the Central Pollution Control Board and to dispose the hazardous waste such as ETP sludge etc., to the authorised processing agencies.

In the light of the above observations, the committee decided to recall the proponent after submission of the following information.

- 1) To furnish the information to meet the siting guidelines for setting up of Red category industries as stipulated by MoEF & CC/CPCB.
- 2) The actual distance between the habitat(minimum/maximum distance) and the acquired lands is to be assessed properly and submitted.
- 3) If any expansion of the village beyond the gramathana limits has taken place, the same has to be reported citing maximum and minimum distances from the expanded portion.
- 4) The list and nature of industries for which the land has been allotted with the pollution potential is to be submitted.
- 5) Baseline studies should be made afresh and to be submitted.
- 6) Submit the compliance to the earlier EC issued.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

2:30 PM to 4:00 PM

Fresh proposals:

- 188.4 Proposed Commercial Building Project at Sy.Nos.58/2 & 59/2 of Doddanekundi Village, Bengaluru East Taluk, Bangalore District by M/s. Bagmane Developers Pvt. Ltd. (SEIAA 113 CON 2017)

M/s Bagmane Developers Pvt. Ltd., have applied for Environmental clearance from SEIAA for their proposed Commercial building project "Bagmane Taurus 3" in survey Nos.58/2 & 59/2, Doddanekkundi village, K. R Puram Hobli, Bangalore East Taluk, over a plot area of 20,224.00 sqm with the following details:

Total Built-up area	84,956.02 sqm
Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	2Basements + 1Ground floor + 12 Upper floors
Total Landscape Area	8273.0 sqm
FAR Area	59,654.98 sqm
Ground coverage area	5536.83 sqm
Car Parking	1195 Nos
Source of Power	BESCOM
Power requirement	5200 KVA
Backup DG sets	5 x 1500 KVA
Source of water	BWSSB
Water requirements	Construction phase : 20 KLD Operational phase : 350 KLD
Sewage Treatment Plant	350 KLD
Use of STP treated water	Utilization for urban reuse, viz., flushing, Gardening & HVAC
Total Project Cost	208 crores

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee while appraising the proposal, observed that the in original application made out in Form-1A, it is mentioned that the building is of two basements, one ground floor and 12 upper floors. Whereas in the concept plan uploaded to E portal along with the application, it is mentioned that the project is for two basements, one ground floor and 11 upper floors excluding terrace for which the proponent stated it is due to typographical error.

The committee after discussion and deliberation decided to reconsider the proposal after obtaining following information:

- 1) The proponent to submit the revised Form 1A after correcting the typographical error and to upload to E portal.
- 2) As far as traffic study is concerned the status of the connecting road moves from D category to F category at the end of three years. The proponent to submit the detailed mitigative measures to improve the status.
- 3) The proponent to relook into the storm water management plan within the site keeping in view the carrying capacity of the drain.

- 4) The proponent to monitor and submit the air quality data for 24 hours.
- 5) The proponent to submit the detailed energy conservation measures adopted in selection of the building material.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

188.5 Proposed construction of Residential Building Project at Sy.Nos.61/2, 62 & 63/2 of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru Urban District by M/s. Wonder Projects Development Pvt. Ltd. (SEIAA 114 CON 2017)

M/s Wonder Projects Development Pvt Ltd., has proposed to develop a residential apartment buildings project at Survey Nos.61/2, 62, & 63/2 of kasavanahalli village, Varthur Hobli, Bengaluru East Taluk, Bengaluru. The proposed project will be developed on a plot covering a land area of 50,382.91 sqm(12.45 acres) with following details:

Name of the Project	Proposed Residential Building Apartment project by M/s Wonder Projects Development Pvt Ltd.,
Total Built-up area	1,28,193.9 Sqm
Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	2 Blocks with 2 Basements + Ground Floor+20 upper floors
Total Landscape Area	21667.7 sqm(45.2%)
FAR Area	39,423.70 sqm
Ground coverage area	5536.83 sqm
Car Parking	877 Nos
Source of Power	BESCOM
Power requirement	Construction Phase : 500 KVA Operational Phase 3499 KW
Backup DG sets	1x320 KVA & 1x500 KVA DG sets : Block 1 1x380 KVA & 1x500 KVA DG sets : block 2
Source of water	BWSSB & borewells
Water requirements	Operational phase : 594 KLD
Sewage Treatment Plant	210 KLD and 280 KLD of SBR technology
Use of STP treated water	Utilization for flushing & Gardening purpose

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee appraised the proposal considering the information provided by the proponent and while appraising the proposal, the committee observed that there is a lake on the northern side and also a nala running across the land. The proponent has

stated that they have left 75 meter buffer zone for the lake and 50 meter buffer on either side of the nala. The committee also observed that there is a variation in the traffic study details between the original application and the presentation material. The proponent has stated that it is due to the error while calculating the details and submitted that the LOS will remain as "C" (towards Sarjapur) and "D" (towards outer ring road) even after the completion of the project. The committee advised the proponent to submit the revised traffic study details accordingly. The proponent also stated that they are planning to get LEED certificate and complying with IGBC norms.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

1. The proponent shall submit the revised traffic study details.
2. Point recharging to the existing borewell shall be done by using harvested rainwater.
3. Budget Provision shall be made for greenery development.
4. The proponent shall adopt disinfection instead of chlorination as the chloride content in the nearby lake is found to be exceeding the limits.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

188.6 Proposed construction of Residential Development Project at Khata No.423, 17 & 30, Sy.Nos.98/2, 100 & 101 of Nagasandra Village, Yashwanthpur Hobli, Bengaluru North Taluk, Bengaluru District by M/s. ARVIND INFRACON LLP (SEIAA 115 CON 2017)

M/s Arvind Infracon LLP has submitted a proposal to develop a Residential Apartment with 470 units having a total built-up area of 70,019.71 sqm at Khata No.423,17 and 30, in sy nos.98/2, 100 and 101, Nagasandra village, Yeshwanthpur village, Yeshwanthpur Hobli, Bengaluru North Taluk, Bengaluru with following details:

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mr. Deepak Manchanda- Authorized signatory, M/s. Arvind Infracon LLP, No-17/2-6, 3rd Floor, Raheja Point, Commissariat Road , Ward no -76, Richmond Town , Bangalore - 560 025.
2	Name & Location of the Project	M/s. Arvind Infracon LLP, No-17/2-6, 3rd Floor, Raheja Point, Commissariat Road , Ward no -76, Richmond Town , Bangalore - 560 025.

3	Co-ordinates of the Project Site	13.045874, 77.502015
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.,)	Not Applicable
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A 222 of 2014 dated 04.05.2016, if Applicable.	Not Applicable
5	Type of Development	
a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital / other	Residential Apartment
b.	Residential Township/ Area Development Projects	
6	Plot Area (Sqm)	15,630.92 Sq m
7	Built Up area (Sqm)	70,019.71 Sq m
8	Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Easements and Upper Floors]	2 Basement + Ground + 19 upper Floors + Terrace
9	Number of units in case of Construction Projects	Number of Units: 470 No's
10	Number of Plots in case of Residential Township/ Area Development Projects	NA
11	Project Cost (Rs. In Crores)	113 Crores
12	Recreational Area in case of Residential Projects / Townships	
13	Details of Land Use (Sqm)	
a.	Ground Coverage Area	2,883.09 Sq m
b.	Kharab Land	859.95 Sq m
c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of the EIA notification, 2006	4,874.42 Sq m
d.	Internal Roads	-
e.	Paved area	-
f.	Others Specify	-
g.	Parks and Open space in case of Residential Township/ Area Development Projects	7013.46 Sq m
h.	Total	15,630.92 Sq m
14	Details of demolition debris and / or Excavated earth	
a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	
b.	Total quantity of Excavated earth (in	17,298.54 m3

	cubic meter)							
c.	Quantity of Excavated earth propose to be used in the Project site (in cubic meter)	The 949.59 m3 excavated earth will be used for landscaping of gardens						
d.	Excess excavated earth (in cubic meter)	Rest of 2,437.21 m3 of excavated earth will be used within the project site etc.						
e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	NA						
15	WATER							
I.	Construction Phase							
a.	Source of water	Tankers						
b.	Quantity of water for Construction in KLD	20 KLD						
c.	Quantity of water for Domestic Purpose in KLD	5 KLD						
d.	Waste water generation in KLD	4 KLD						
e.	Treatment facility proposed and scheme of disposal of treated water	There will be no treatment in the construction phase.						
II.	Operational Phase							
a.	Total Requirement of Water in KLD	<table><tr><td>Fresh</td><td>278.5 KLD</td></tr><tr><td>Recycled</td><td>70.5 KLD</td></tr><tr><td>Total</td><td>349 KLD</td></tr></table>	Fresh	278.5 KLD	Recycled	70.5 KLD	Total	349 KLD
Fresh	278.5 KLD							
Recycled	70.5 KLD							
Total	349 KLD							
b.	Source of water	BWSSB						
c.	Waste water generation in KLD	314 KLD						
d.	STP capacity	350 KLD						
e.	Technology employed for Treatment	Sequential Batch Reactor						
f.	Scheme of disposal of excess treated water if any	NA						
16	Infrastructure for Rain water harvesting							
a.	Capacity of sump tank to store Roof run off	100 cum						
b.	No's of Ground water recharge pits	15 No's						
17	Storm water management plan	Enclosed.						
18	WASTE MANAGEMENT							
I.	Construction Phase							
a.	Quantity of Solid waste generation and mode of Disposal as per norms							
II.	Operational Phase							
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	705 Kg/day Will be treated in Organic Waste Converter.						
b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	470 Kg/day Will be handed over to Authorized vendors.						
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	NA						
d.	Quantity of E waste generation waste generation and mode of Disposal as per norms	NA						
19	POWER							

a.	Total Power Requirement -Operational Phase	1920 KVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	500 KVA – 2 No's
c.	Details of Fuel used for DG Set	2 Litres per Hour
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	NA
20	PARKING	
a.	Parking Requirement as per norms	529 No's
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	
c.	Internal Road width (RoW)	

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee while appraising the proposal observed that the information submitted is incomplete and after deliberation and discussion decided to reconsider the proposal after submission of the following information:

- 1) To upload the additional information submitted dated : 18-11-2017 to E portal
- 2) To submit Baseline data.
- 3) To conduct surface water analysis of the nearest downstream lake and to submit the report.
- 4) To submit the details of number of recharge pits, their dimension and location.
- 5) To mark and submit the location of Environmental sensitive points within the five kilometre radius.
- 6) To submit the EMP budget details.
- 7) To submit the detailed energy conservation measures adopted in selection of the building materials.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

188.7 Proposed Residential Apartment project at 8/2 of Allasandra village, Yelahanka Hobli, Bangalore North Taluk, Bangalore Urban District by M/s. Axis Concepts Capstone Pvt. Ltd. (SEIAA 116 CON 2017)

M/s Axis Concepts Capstone Pvt Ltd., have applied for Environmental Clearance form SEIAA for their proposed Residential Apartments at Survey number 8/2, of Allasandra Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore Urban district over a plot area of 10,642.22 sqmts with the following details .

1.	Name of the project	Proposed Residential Apartment by M/s. Axis

		Concepts Capstone Pvt Ltd.,
2.	Location of the project	Sy No 8/2 of Allalasandra Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore urban District.
3.	Land use as per CDP	Residential Zone.
4.	Name & Address of the project proponent	Mr Prasanna S K, CEO M/s Axis Concepts Capstone Pvt Ltd # 38, Maini Sadan, 2 nd Floor, 7 th Cross, Lavelle Road, Bangalore-560 001
5.	New/ Expansion/Modification.	New
6.	Site Area in Sqmt	10,642.22 Sq mt
7.	Total Built up area in Sqmt	26,595.40 Sqmt
8.	Configuration of the Building (No. of blocks, floors, No. of units)	2 Basements + Ground floor + 15 Upper floors. 142 Units.
	Height of the building	50.70 meters
9.	Land use details (Ground coverage area, park & open space etc.)	Permissible Ground Coverage area is 65%. Proposed Ground coverage area 15.84%. Landscape area of 4322.00 Sqmt.
10.	Source of water & NCC from the competent authority	Source of water from BWSSB. (In process)
11.	Water requirement in KLD	123 KLD
12.	Wastewater generation in KLD	110 KLD
13.	STP capacity in KLD & technology	110 KLD & Sequential Batch Reactor (SBR) Technology
14.	Rain water harvesting implementation, Recharge pits, Storage capacity	Storm water collection Sump - 35.00 Cum with 16 No's Recharge pits
15.	Energy savings	22.1 %
16.	Parking facility provided	Total Car Parking provided is 162 No's
17.	Traffic : nearest road - LOS - Existing & modification	Allalasandra Approach Road; LOS- Existing- A; Modification - A
18.	Cost of the Project	56.05 crore

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

The committee appraised the proposal considering the information provided by the proponent and while appraising the proposal, the committee observed that the project is located in Survey number 8/2 of Allalasandra. In the northern side of the site there is a lake and on the western side beyond the boundary of this project there is a tertiary nala. The proponent has stated that he has left 75 meter buffer for the lake and a buffer zone of 25 meter has been maintained for the tertiary nala which is about 8 to 9 meters away from the boundary of this site. A BBMP road which is the approach road for this project has been formed on the northern side in this proposed land. The 75 meter buffer left for the lake includes the width of this road. The BBMP road which is

constructed in this land is the only approach road for this site. Hence the proponent has agreed to take the approach from this road to the building through elevated road leaving the buffer zone intact except putting up some columns. The proponent has also stated that the fire driveway on the western side is also running in buffer zone and he has agreed to take this also at the elevated level leaving the buffer zone intact except for putting up some columns.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

- 1) The proponent shall submit the revised concept plan by making changes for providing elevated road.
- 2) The proponent shall provide alternate sewage treatment facility instead of septic tank during construction.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

4:00 PM to 5:30 PM

188.8 Proposed Construction of Residential Apartment Project at Sy.No.87/3 of Thanisandra Village, K.R.Puram Hobli, Bangalore East Taluk, Bengaluru District by M/s. AMIGOESTELLA INDIA LLP (SEIAA 117 CON 20.7)

Sl.No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Sri. Mohammed Hamza Ali Partner M/s Amigoestella India LLP, No.37/10, 1st floor, Meance Avenue Tank Road, Opp: Lake Side Hospital Ulsoor, Bangalore - 560042
2	Name & Location of the Project	Proposed Residential Apartment project at Sy. No 87/3, of Thanisandra Village, K.R. Puram Hobli, Bangalore East Taluk, Bangalore Urban District
3	Co-ordinates of the Project Site	Longitude: 77°44'08.72"E Latitude: 12° 58'07.13"N
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.,)	Rachenahalli Lake is 1.61 Kms to the Southwest. Tertiary nala is inside site for which 25 m buffer has been left.
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A 222 of 2014 dated 04.05.2016, if Applicable.	Tertiary nala is inside the site for which 25 m buffer has been left. There are no Lakes within 75 m from the site boundary.
5	Type of Development	

	a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital /other	Residential Building
	b.	Residential Township/ Area Development Projects	No
6		Plot Area (Sq.m)	7485.70 sq.m.
7		Built Up area (Sq.m)	28,075.05 sq.m
8		Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	Basement + Ground Floor + 4 Upper Floor + Terrace Floor with total of 168 units
9		Number of units in case of Construction Projects	Total Number of Units is 158 Nos.
10		Number of Plots in case of Residential Township/ Area Development Projects	-
11		Project Cost (Rs. In Crores)	30
12		Recreational Area in case of Residential Projects / Townships	Playground area – 300 sq.m, Senior Citizen allocated area – 150 sq.m. Cycling track area – 81 sq.m. Total recreational ground area = 561.4 sq.m (7.5% of plot area); Gym and Indoor games on Ground floor: 561.4 sq.m.(7.5% of plot area. Total recreational area = 1122.8.m. (15% of plot area)
13		Details of Land Use (Sq.m)	
	a.	Ground Coverage Area	3,548.60 sq.m (47.41%)
	b.	Kharab Land	-
	c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of the EIA notification, 2006	2,927.79 sq.m (39.11%)
	d.	Internal Roads	1009.31 sq.m. (13.48%)
	e.	Services	-
	f.	Others Specify	-
	g.	Parks and Open space in case of Residential Township/ Area Development Projects	NA
	h.	Total Net Site area	7485.70 sq.m
14		Details of demolition debris and / or Excavated earth	
	a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	No demolition is involved.
	b.	Total quantity of Excavated earth (in cubic meter)	27,668.70cu.m.
	c.	Quantity of Excavated earth propose to be used in the Project site (in	27,668.70cu.m.

	cubic meter)							
d.	Excess excavated earth (in cubic meter)	Nil						
e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	No disposal						
15	WATER							
I.	Construction Phase							
a.	Source of water	From Nearby treated water suppliers (MoU will be submitted)						
b.	Quantity of water for Construction in KLD	25 KLD						
c.	Quantity of water for Domestic Purpose in KLD	5 KLD						
d.	Waste water generation in KLD	4 KLD						
e.	Treatment facility proposed and scheme of disposal of treated water	The sewage generated during the construction phase will be treated in the Septic Tank and Soak pit						
II.	Operational Phase							
a.	Total Requirement of Water in KLD	<table><tr><td>Fresh</td><td>43.47</td></tr><tr><td>Recycled</td><td>35.91+37.80 = 73.71</td></tr><tr><td>Total</td><td>117.18</td></tr></table>	Fresh	43.47	Recycled	35.91+37.80 = 73.71	Total	117.18
Fresh	43.47							
Recycled	35.91+37.80 = 73.71							
Total	117.18							
b.	Source of water	BWSSB						
c.	Waste water generation in KLD	111.32 KLD						
d.	STP capacity	115 KLD						
e.	Technology employed for Treatment	SBR Technology						
f.	Scheme of disposal of excess treated water if any	No Disposal. The treated water will be reused for toilet flushing, car washing and landscaping in the project site.						
16	Infrastructure for Rain water harvesting							
a.	Capacity of sump tank to store Roof run off	70 cu.m.						
b.	No's of Ground water recharge pits	4 Nos.						
17	Storm water management plan	The storm water from the site will be collected by rainwater harvesting system and will be used for recharging the ground water						
18	WASTE MANAGEMENT							
I.	Construction Phase							
a.	Quantity of Solid waste generation and mode of Disposal as per norms	No of labours = 75 Nos. Per capita of waste generated = 0.2 kg/day 15 kg/day of waste will be generated. Separate collection bins will be used for organic and inorganic waste. Organic waste will be converted in organic convertor. Inorganic solid waste will be handed over to authorized recyclers.						
II.	Operational Phase							
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	201.6 kg/day. Biodegradable waste will be converted in organic convertor.						

b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	134.4 kg/day. Non- Biodegradable waste will be handed over to authorized recyclers
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	Nil
d.	Quantity of E waste generation and mode of Disposal as per norms	E – waste generation is very less.
19	POWER	
a.	Total Power Requirement - Operational Phase	1000 kVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	1 X 1000 kVA
c.	Details of Fuel used for DG Set	HSD
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	• Energy saved by using Solar water Heater : 25,000kWH/ Year.....(a) • Total SPV Power Generation in a year = 0.6 L kWH / Annum.....(b) • Total Solar Energy utilization (Energy saving using solar heater and solar PV) in a year = (a)+(b)= 0.25+0.6 L KWH = 0.85 L / Annum(c) • Total energy savings = 29.10%
20	PARKING	
a.	Parking Requirement as per norms	One car spacing for 1 unit Total units = 168 +10% visitors Parking required is 184 cars Parking Provided is 202 Ecs which is as Per NBC and MoEF Norms
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	R K NAGAR MAIN ROAD-LOS – C
c.	Internal Road width (RoW)	8 m

The proponent was invited to provide required clarification/information. The proponent remained absent.

The Committee decided to defer the subject providing one more opportunity to proponent with intimation that the proposal will be appraised based on merit in his absence, in case he remains absent.

Action: Secretary, SEAC to put up the proposal before SEAC in subsequent meetings.

188.9 Proposed Construction of Residential Apartment Project at Sy.Nos.6 2/4, 5, 6, 7 & 8 of Nallurahalli Village, K.R.Puram Hobli, Bangalore East Taluk, Bengaluru District by M/s. ANKURAA NITYA VENTURES (SEIAA 118 CON 2017)

M/s Ankura Nitya Ventures have applied for Environmental Clearance from SEIAA for their proposed Residential Apartment project at survey No.62/4, 5,6,7 & 8 of

Nallurahalli Village, K.R Puram hobli, Bangalore East Taluk, Bangalore Urban District
over a plot area of 7790.13 sqm with the following details:

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mr. P Balasubramanyam Managing Partner M/s. Ankura Sai Nitya Ventures No. 1057/49, Hagadur Village, K R Puram Hobli, Bangalore East Taluk
2	Name & Location of the Project	Proposed Residential Apartment project by M/s. Ankura Nitya Ventures, at Sy. No 62/4, 5, 6, 7 & 8, of Nallurahalli Village, K.R. Puram Hobli, Bangalore East Taluk, Bangalore Urban District.
3	Co-ordinates of the Project Site	Longitude: 77°44'08.72"E Latitude: 12° 58'07.13"N
4	Environmental Sensitivity	
a.	Distance from periphery of nearest Lake and other water bodies (Lake, Rajakaluve, Nala etc.)	Nallurahalli lake is 455 m to the North. Tertiary nala is inside the site for which 25 m buffer has been left.
b.	Type of water body at the vicinity of the project site and Details of Buffer provided as per NGT Direction in O.A. 222 of 2014 dated 04.05.2016, if Applicable.	Tertiary nala is inside the site for which 25 m buffer has been left. There are no Lakes within 75 m from the site boundary.
5	Type of Development	
a.	Residential Apartment / Villas / Row Houses / Vertical Development / Office / IT/ ITES/ Mall/ Hotel/ Hospital /other	Residential Building
b.	Residential Township/ Area Development Projects	No
6	Plot Area (Sq.m)	7790.13 sq.m.
7	Built Up area (Sq.m)	30,236.92 sq.m
8	Building Configuration [Number of Blocks / Towers / Wings etc., with Numbers of Basements and Upper Floors]	3 Wings, each having Basement + Ground Floor + 14 Upper Floor + Terrace Floor with tota. of 196 units.
9	Number of units in case of Construction Projects	Total Number of Units is 196 Nos.
10	Number of Plots in case of Residential Township/ Area Development Projects	-
11	Project Cost (Rs. In Crores)	30
12	Recreational Area in case of Residential Projects / Townships	Playground area - 300 sq.m, Senior Citizen allocated area - 150 sq.m. Cycling track area - 134 sq.m. Total recreational ground area = 584.25 sq.m. (7.5% of plot area); Gym and Indoor games on Ground floor: 584.25 sq.m.(7.5% of plot area. Total recreational area = 1168.5m. (15% of plot area)
13	Details of Land Use (Sq.m)	
a.	Ground Coverage Area	1,639.42 sq.m (21.04%)
b.	Kharab Land	-
c.	Total Green belt on Mother Earth for projects under 8(a) of the schedule of	2,656.84 sq.m (34.11%)

		the EIA notification, 2006	
	d.	Internal Roads	3,493.87sq.m. (44.85%)
	e.	Services	-
	f.	Others Specify	-
	g.	Parks and Open space in case of Residential Township/ Area Development Projects	NA
	h.	Total Net Site area	7,790.13
14		Details of demolition debris and / or Excavated earth	
	a.	Details of Debris (in cubic meter/MT) if it involves Demolition of existing structure and Plan for re use as per Construction and Demolition waste management Rules 2016, If Applicable	No demolition is involved.
	b.	Total quantity of Excavated earth (in cubic meter)	16003.58 cu.m.
	c.	Quantity of Excavated earth propose to be used in the Project site (in cubic meter)	16003.58 cu.m.
	d.	Excess excavated earth (in cubic meter)	Nil
	e.	Plan for scientific disposal of excess excavated earth along with Coordinate of the site proposed for such disposal	No disposal
15		WATER	
	I.	Construction Phase	
	a.	Source of water	From Nearby treated water suppliers (MoU will be submitted)
	b.	Quantity of water for Construction in KLD	25 KLD
	c.	Quantity of water for Domestic Purpose in KLD	5 KLD
	d.	Waste water generation in KLD	4 KLD
	e.	Treatment facility proposed and scheme of disposal of treated water	The sewage generated during the construction phase will be treated in the Septic Tank and Soak pit
	II.	Operational Phase	
	a.	Total Requirement of Water in KLD	Fresh 50.72 Recycled 41.89+44.10= 85.99 Total 136.71
	b.	Source of water	BWSSB
	c.	Waste water generation in KLD	129.87 KLD
	d.	STP capacity	130 KLD
	e.	Technology employed for Treatment	SBR Technology
	f.	Scheme of disposal of excess treated water if any	No Disposal. The treated water will be reused for toilet flushing, car washing and landscaping in the project site.
16		Infrastructure for Rain water harvesting	
	a.	Capacity of sump tank to store Roof run off	40 cum.
	b.	No's of Ground water recharge pits	12 Nos.
17		Storm water management plan	The storm water from the site will be collected by rainwater harvesting system and will be used for recharging the ground water
18		WASTE MANAGEMENT	
	I.	Construction Phase	

a.	Quantity of Solid waste generation and mode of Disposal as per norms	No of labours = 75 Nos. Per capita of waste generated = 0.2 kg/day 15 kg/day of waste will be generated. . . Separate collection bins will be used for organic and inorganic waste. Organic waste will be converted in organic convertor. Inorganic solid waste will be handed over to authorized recyclers.
II.	Operational Phase	
a.	Quantity of Biodegradable waste generation and mode of Disposal as per norms	235.20 kg/day. Biodegradable waste will be converted in organic convertor.
b.	Quantity of Non- Biodegradable waste generation and mode of Disposal as per norms	156.3 kg/day Non- Biodegradable waste will be handed over to authorized recyclers
c.	Quantity of Hazardous Waste generation and mode of Disposal as per norms	Nil
d.	Quantity of E waste generation waste generation and mode of Disposal as per norms	E - waste generation is very less
19	POWER	
a.	Total Power Requirement -Operational Phase	1000 kVA
b.	Numbers of DG set and capacity in KVA for Standby Power Supply	1 X 1000 kVA
c.	Details of Fuel used for DG Set	HSD
d.	Energy conservation plan and Percentage of savings including plan for utilization of solar energy as per ECBC 2007	• Energy saved by using Solar water Heater : 25,000kWH/ Year.....(a) • Total SPV Power Generation in a year = 0.6 L kWH / Annum.....(b) • Total Solar Energy utilization (Energy saving using solar heater and solar PV) in a year = (a)+(b)= 0.25+0.6 L KWH = 0.85 L / Annum(c) • Total energy savings = 29.10%
20	PARKING	
a.	Parking Requirement as per norms	One car spacing for 1 unit Total units = 196 +10% v.sitors Parking required is 215 cars Parking Provided is 231 Ecs which is as Per NBC and MoEF Norms
b.	Level of Service (LOS) of the connecting Roads as per the Traffic Study Report	ITPL Main Road -Towards Hoodi - LOS - D
c.	Internal Road width (RoW)	8 m

The proposal is placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting of SEAC to provide required clarification/additional information.

While appraising the proposal, the committee observed that there is a tertiary nala running on the southern side of the site for which the proponent has stated that he has left 25 meter buffer zone from the edge of the nala. A portion of fire driveway on the southern side is coming on the buffer zone for which the proponent has agreed to

take this portion of the fire drive way at the elevated level keeping the buffer zone intact except putting up some columns.

The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

- 1) The proponent shall make some alternate arrangement to reduce the traffic on the road by running shuttle service from the project to the nearest proposed metro station which is stated to be 400 meters from the site, for which a commitment in this regard shall be furnished.
- 2) During the construction period the required construction materials shall be transported in the wee hours when the traffic is less.
- 3) The proponent shall submit the revised concept plan by making changes for providing elevated road.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

188.10 Proposed Expansion of Residential Apartment Project at Sy.Nos.6/1B, 20/3, 20/4, 20/2 and 8/2 of Municipal No.3493, Doddanekundi Village, Varthur Hobli, Bengaluru East Taluk, Bangalore District by M/s. Durga Projects & Infrastructure Pvt. Ltd. (SEIAA 119 CON 2017)

M/s. Durga Projects & Infrastructure Pvt Ltd have applied for Environmental Clearance from SEIAA for their proposed Expansion of Residential Apartment with 504 flats with plot area of 19,728 sqm and builtup area of 79,743 sqm. Now the proponent intends to expand the project which consists of 848 flats Residential Apartment with a plot area of 32,931.02 sqmts. having a built up area of 1,44,705.14 sqm.

1	Name & location of the project with Colored Google map Enlarged CDP map Contour map with RLs Dated site photographs	Survey No's 6/1 B, 20/3, 20/4, 20/2 and 8/2, Municipal No. 3493, Doddanekundi, Varthur Hobli, Bengaluru East Taluk, Bengaluru. Submitted / Enclosed Submitted / Enclosed Submitted / Enclosed -
2	Name of project proponents & address	M/s. Durga Projects & Infrastructure Pvt. Ltd., G K Arcade, 1st Floor. Ashoka Pillar Road, Jayanagar 1st Block, Bangalore - 560011.
3	Name of the consultant and accreditation	M/s. SAMRAKSHAN, F-4, 1st Floor, Swastik Manandi Arcade, SC Road, Sheshadripuram, Bangalore - 560 020. Phone- 080 23460102.

4	Land use plan, previous land use and land conversion details	The project site is located in Residential Zone as per the Revised Master Plan 2015. (Conversions orders are submitted)			
5	Particulars of sensitive areas and water bodies with distance from the property	Water Bodies (Aerial distance): Doddanekundi lake at 0.75 Km (West), L B Sastry Nagar lake at 2.5 Km (South West), Chinnapanahalli lake at 1.5 Km (South), Whitefield lake at 1.8 Km (East) and Nakkundi lake at 1.30 Km (North) from the project site.			
6	New/Expansion/modernization	Expansion of Residential Apartment Project			
7	Status organization	Private Limited Company			
8	Documents submitted (mandatory):	Form I ----- Submitted Form I A ----- Submitted Conceptual Plan ----- Submitted			
9	Nature of project	Total no of flats	Building configuration	Total plot area (in sq m)	Total built up area (in sq m)
	Building and Construction project	EC obtained - 504 flats After expansion - 848 flats.	After expansion: Building configuration: Block A to H Consisting of Basement, Ground and 14 floors, Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M, consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. Club House block consisting of Basement, Ground and 2 floors.	EC obtained: 19,728.00 sq m (4 Acres 34.5 Guntas) Proposed addition: 13,203.02 sq m (3 Acres 11 Guntas) After expansion: 32,931.02 sq m (8 Acres 5.5 Guntas)	EC obtained : 79,743 sq m Proposed expansion: Addition of 64,962.14 sq m Total Project after Expansion: 1,44,705.14 sq m
	Township & Area development projects Other (Specify)	NA	NA	NA	NA
10	Height of the building (in meters)	44.95 m			
	Existing Road width in front of the project site (in meters)	50 m Fire station near Mahadevpura at about 6 Kms from			

	Distance to the nearest Fire Station (in km)	project site.	
11	Project cost Rs. (in Lakhs)	1,500 Lakhs	
12	Land records/ particulars submitted	Submitted	
13	Details of source of water	Construction Phase	Operation Phase
		Tertiary treated water will be used	BWSSB Sources.
14	If the source of water is other than BWS&SB, is scientific assessment report along with impact on competitive users enclosed? Does the project comes under grey area? If so status of CBWA permission.	Source of water for the project is from BWSSB Sources. NA	
15	Water requirement (KLD) along with water balance chart	Total water requirement: 602 KLD Wastewater generated: 542 KLD Water recycled for flushing: 191 KLD (Water balance Chart submitted)	
16	Submitted NOC from competent Authority for water supply?	Submitted	
17	Labourers details		
	Location of the laborer camp	Within the project site	
	No. of labourers	250 persons	
	No. of toilets provided for them	30 toilets with bathrocms will be provided	
	Methods of waste/sewage disposal	The liquid waste from workers camps is being disposed through Under Ground Drainage system.	
	Solid waste generated by labourers camp (Kg/day) and its disposal details	62.5 Kg/day - The domestic wastes will be disposed through BBMP.	
18	Excavated Earth: Quantity (in cum) and its disposal plan	The proposed project is residential apartment project having basement floor and earth excavation is necessary. Presently basement works is completed for Block A-H as per the EC obtained, the excavated earth is reuse for backfilling, paved arear formation. In the expansion proposal earth excavation details is presented for proposed blocks viz, J, K, L, M, N & P. The total quantity of excavated soil is about 25,500 cum. About 11,000 cum will be used for landscape development, 8,000 cum will be used for backfilling and 6,500 cum will be used for formation and hardscaping activities within the project site.	
19	If disposed off in others property, agreement for the same	NA as the excavated earth will be reused in the project.	
20	Construction debris	Construction debris is about 50 cum will be used for road formation within the site.	
21	Size of STP (KLD) and Technology adopted with flow diagram	600 KLD capacity STP proposed based on SBR technology	

22	Disposal of excess treated wastewater Is sewer line existing? If not, give the plan for disposal	Treated sewage in the project will be recycled for Toilet Flushing, reused for Landscape development etc.. NA		
23	Solid waste generated	Type	Quantity	Mode of Disposal
		Bio degradable	1018 Kgs/day	Organic solid waste will be treated in an organic converter and Inorganic waste will be sent for recycling.
		Non bio degradable	678 Kgs/day	
24	Hazardous waste generated	Type	Quantity (in Cum)	Mode of Disposal
		Waste Oil from DG Set	50 - 100 L/annum	Disposed through KSPCB approved and CPCB register waste oil re-processors.
25	Rain water harvesting proposed with details of recharge pits and collection sump	Roof top rain water will be stored in collection tank and reused for domestic purposed after pretreatment (Filtration). The Proponents shall also Provide Recharging Pits along the inner periphery of the boundary wall with recharging pit of size 1.2 m dia x 2.5 m deep spaced at 20 m center to center. These recharging pits are filled with graded media comprising of Boulder at bottom and with coarse aggregates to facilitate percolation of harvested rain water to Recharge Ground Water table.		
26	Power requirement (in kVA) with source	4250 kVA will be supplied from BESCO		
27	DG sets details with number and capacity:	EC obtained: 4 X 320 kVA capacity. After expansion: 3 X 500 kVA capacity DG sets are proposed as against EC obtained configuration.		
28	Energy conservation devices proposed in the project and savings in percentage	Low loss energy efficient transformers, CFL's, LED fittings, Ballasts and variable frequency drives for motors and solar street lighting are proposed.		
29	Landscape plan proposed (in sq m and percentage On natural earth: On podium: Number of trees cut & retained List of tree species proposed (with emphasis on local and fruit/flower bearing species & number	10,326.25 sq m (33.02 %) - Project site is barren land About 75 trees of native / indigerous species of trees will be planted at site List submitted		
30	Parking facilities provided Cars Two-Wheelers	EC obtained: 555 cars After expansion: 963 cars		
31	Traffic study details with dated peak hour traffic density photographs:	-		
32	Status of construction	Not Started		

33	Legal issues pending (if any)	None
34	Conceptual plan for your project to be submitted	Submitted
35	Any novel green building concept adopted?	The project is designed as per BDA.

PROJECT AT GLANCE:

PROPOSED PROJECT	Expansion of Residential Apartment Project. (Addition of plot area, floors, blocks, built up area and flats) Reference: Environmental Clearance obtained from SEIAA, Karnataka vide SEIAA letter No. SEIAA 6 CON 2014 dated 09.12.2014.
LOCATION	"Durga Petals" Survey No.s 6/1 B, 20/3, 20/4, 20/2 and 8/2, Municipal No. 3493, Doddanekundi, Varthur Hobli, Bengaluru East Taluk, Bangalore. (NOTE: The additional land of 3 Acres 11 Guntas is located in Survey No. 20/2 and 8/2)
TOTAL PLOT AREA	EC obtained: 19,728.00 sq m (4 Acres 34.5 Guntas) Proposed addition: 13,203.02 sq m (3 Acres 11 Guntas) After expansion: 32,931.02 sq m (8 Acres 5.5 Guntas)
TOTAL BUILT UP AREA	EC obtained: 79,743 sq m Proposed expansion: Addition of 64,962.14 sq m Total Project after Expansion: 1,44,705.14 sq m
TOTAL COST OF PROJECT TOWARDS EXPANSION	Rs. 150,00,00,000/- (Rupees One Hundred and Fifty Crores Only)
PROJECT PROFILE	<u>EC obtained:</u> Activity: Residential Apartment with 504 Flats Built up area: 79,743 sq m Total plot area: 19,728 sq m (4 Acres 34.5 Guntas) Number of blocks: 8 Blocks (A to H) Building configuration: Block A to G Consisting of Basement, Ground and 13 floors and Block H consisting of Basement, Ground and 2 floors and a club house. <u>Proposed Expansion:</u> Additional Flats: 344 Flats Additional Built up area: 64,962.14 sq m Additional Plot area: 13203.02 sq m (3 Acres 11 Guntas) Additional Blocks: Additional 6 Blocks (Namely J, K, L, M, N and P) Building configuration: Addition of 1 floors for Block A to G, addition of floors in Block H and addition of 6 new Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. <u>Scenario after expansion:</u> Activity: Residential Apartment 848 Flats

	Built up area: 1,44,705.14 sq m Total plot area: 32,931.02 sq m (8 Acres 5.5 Guntas) Number of blocks: Total 14 blocks Building configuration: Block A to H Consisting of Basement, Ground and 14 floors, Blocks J, K and L consisting of 2 Basements, Ground and 14 floors; Block M consisting of 2 Basements, Ground and 6 floors, Block N and P consisting of Basement, Ground and 14 floors. Club House block consisting of Basement, Ground and 2 floors.
CAR PARKING DETAILS	EC obtained: 555 cars After expansion: 963 cars
WATER SUPPLY	The water supply is from BWSSB sources
PROPOSED SANITATION	CFE is obtained for STP of 300 KLD Capacity. However, in the proposed expansion proposal Sewage Treatment Plant (STP) of 600 KLD capacity will be established as against EC obtained.
SOLID WASTE MANAGEMENT	Collection and Segregation at source of generation and the Organic waste will be treated in Organic Converter and the Inorganic Waste will be sent for recycling.
AIR POLLUTION/ NOISE GENERATION SOURCE	EC obtained: 4 X 320 kVA capacity. After expansion: 3 X 500 kVA capacity DG sets are proposed as against EC obtained configuration.

The proposal was placed before the committee for appraisal. The proponent and Environmental consultant attended the meeting to provide required clarification/additional information

While appraising the proposal the committee observed that the present proposal is for the expansion of the project for which EC has already been issued on 9th December 2014, i.e, before NGT order came into effect. In the earlier proposal the survey numbers provided were 6/1b, 20/3 and 20/4 to an extent of 4 acres 34.5 guntas i.e, 19,728 sqmts. Now, the proponent has acquired additional land in survey number 20/2 and 8/2 to an extent of 3 acres 11 guntas or 13,203 sqmts. In the earlier proposal there were 8 blocks i.e, from A to H, out of which 7 blocks have been tackled and under construction. Now the expansion proposal is for providing one additional floor for A to G blocks and remodelling the H block by providing additional 12 floors. Also the proponent has proposed additional 6 blocks i.e., J,K,L,M,N and P. In blocks J,K,L 2B+G+14UF have been proposed. In block M 2B+G+6UF and in Block N and P E+G+14UF have been proposed by increasing the built up area from 79,743 sqmts. to 1,44,705.14 sqmts. In the additional land acquired in survey No.20/2 there is no kharab land, whereas in 8/2 there is a 5 guntas of kharab land. As per the detailed report prepared by the Chief Engineer, SWD, BBMP there is only one live nala in the southern side of survey number 8/2, whereas the other nalas which are appearing in village survey map are irrigation nalas which are now defunct and development has taken place in the vicinity of this site. The proponent has stated that he has left 35 meter buffer for the nala running in the

southern side of survey No.8/2 and the kharab land which is in the form of defunct nala has been retained as it is and left 25 meter buffer in survey No.20/4 where the block No.H is proposed to be constructed.

The committee after detailed discussion/deliberation decided to reconsider the proposal after submission of the following information:

- 1) To submit traffic study details.
- 2) To submit the structural stability design details vetted by the 3rd party wherever the vertical expansion is proposed.
- 3) To correct and submit the water balance chart as per the presentation.
- 4) To redesign the rainwater storage sump tank to accommodate the storage of rainwater in two consecutive rainy days.
- 5) To submit the planting design with the tree species in the ratio of one plant for every 80 sqmts of the site area.
- 6) To workout and submit the scheme to provide hot water to each floor.
- 7) To rework and submit energy consumption analysis as per energy conservation building code 2009 of Bureau of energy efficiency.

Action: Secretary, SEAC to place the proposal before SEAC after submission of the above information

With the Permission of Chairman. (Reconsideration Proposal)

188.11 Proposed Hirebasuru sand Quarry project in Block No.28 in Tungabhadra River Bed at Sy Nos.1-6, 58 of Hirebasuru Village, Honnali Taluk, Davangere District (6.07 Ha) (15.0 Acres) by Sri Jyothi Chouhan (SEIAA 42 MIN 2017)

Sl. No	PARTICULARS	INFORMATION
1	Name & Address of the Project Proponent	Mrs. JYOTHI CHOUHAN # 439/1, Sri Sai Nivas 12th Cross, Bhuvaneshwari Nagara, Hebbal, Kempapura, Bangalore-78 Karnataka State, Ph No. : +91 9448129367/9482572509
2	Name & Location of the Project	"Hirebasuru Sand Block" (Block No.28) in Tungabhadra River Bed, opposite to Survey No. 1-6 & 58 Hirebasuru Village, Honnali Taluk, Davangere District, Karnataka.
3	Co-ordinates of the Project Site	Latitude : N 14°11' 23.2" to N 14°11' 51.4" Longitude: E 75°40' 07.5" to E 75°40' 26.2"
4	Type of Mineral	Sand

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5	New / Expansion / Modification / Renewal	New	
6	Type of Land [Forest, Government Revenue, Gomal, Private/Patta, Other]	Government Revenue	
7	Whether the project site fall within ESZ/ESA	No	
8	Area in Ha	6.07Ha.	
9	Actual Depth of sand in the lease area in case of River sand	1.5m	
10	Depth of Sand proposed to be removed	0.7m	
11	Annual Production Proposed (Metric Tons/ CUM) / Annum	5057Tons	
12	Quantity of Topsoil/Over burden in cubic meter	2974.6 m3 per annum	
13	Mineral Waste Handled (Metric Tons/ CUM)/ Annum	Nil	
14	Project Cost (Rs. In Crores)	0.15cr	
15	Environmental Sensitivity		
	a. Nearest Forest	-	
	b. Nearest Human Habitation	Hirebasuru village is at a distance of 350m.	
	c. Educational Institutes, Hospital	Honnali Taluk.	
	d. Water Bodies	The project lies in Tungabhadra river.	
	e. Other Specify	-	
16	Applicability of General Condition of the EIA Notification, 2006	No	
17	Details of Land Use in Ha		
	a. Area for Mining/ Quarrying	4.249	
	b. Waste Dumping Area	-	
	c. Top Soil Storage Area	-	
	d. Mineral Storage Area	-	
	e. Infrastructure Area	-	
	f. Road Area	-	
	g. Green Belt Area	1.821	
	h. Unexplored area	-	
	i. Others Specify	-	
18	Method of Mining/ Quarrying	Manual Method	
19	Water Requirement		
	a. Source of water	Drinking water & Domestic	
	b. Total Requirement of Water in KLD	Dust Suppuration	21
		Domestic	02
		Other	-
		Total	23
20	Storm water management plan	Nil	

The Project proponent and Environment Consultant attended the 184th meeting of SEAC held on 12th and 13th October 2017 to provide required information/clarification.

The committee appraised the proposal considering the information provided in the Statutory Application Form 1, pre-feasibility report, approved quarry plan, EMP and additional information provided during the meeting. The committee observed that the annual rate of replenishment calculation details is not reflected in the approved quarry plan.

The committee after discussion and deliberation had decided to reconsider the proposal after submission of the following information:

1. Revised quarry plan with replenishment calculation approved by the competent authority.
2. Details of stock yard.
3. Exact distance from the nearest habitat to the block is to be ascertained and its conformation to the norms is to be furnished.

The proponent has submitted revised quarry plan and annual replenishment data approved by the Dept. of Mines and Geology. On perusal of the approved quarry plan the committee has observed that there are inconsistencies in the year wise calculations production shown in table No.4.1 and statement made below the summary of the production and waste shown in table No.4.3. The committee has decided to reconsider the proposal and asked the proponent to set right these inconsistencies and get approved by the competent authority.

The committee after discussion and discussion decided to reconsider the proposal, after submission of the above information.

The proponent and Environmental consultant attended the meeting to provide required clarification/additional information.

The committee perused the replies submitted by the proponent and while appraising the proposal the proponent stated that the stock yard has been identified by the side of the river bank which is in the patta land and has entered into an MOU with the owner of the land. There is a connecting road starting from the river bank upto Hirebasur village which is about one kilometre and is a mud road. Beyond Hirebasur village there is a asphalted road connecting Hirebasur and Benākanahalli. It has been proposed to take up mining by sub dividing the entire block in to sub blocks. The depth of mining proposed is 0.7 meters per annum and total quantity proposed for mining is 26,765 tons for five years.

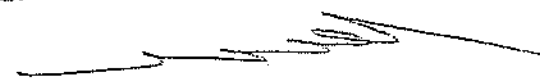
The committee after discussion/deliberation, decided to recommend the proposal to SEIAA for issue of Environmental clearance subject to the following conditions:

1. In case the replenishment is lower than the approved rate of production, then the mining activity / production levels shall be decreased / stopped accordingly till the replenishment is completed.
2. The Proponent shall submit the stockyard details with MOU.
3. The proponent shall stabilize the river bank with waste materials like pebbles and planting with khus grass and suitable plant species.

Action: Secretary, SEAC to forward the proposal to SEIAA for further necessary action.

The meeting concluded with thanks to the Chair.


Secretary, SEAC
Karnataka.


Chairman, SEAC
Karnataka.

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ANNEXURE J

Godrej Properties Ltd.
Level 10, Prestige Obelisk,
No 3, Kasturba Road,
Bengaluru - 560001, India
Tel: +91 -80-4635 7099
Fax: +91 -80-4635 7000
CIN : L74120MH1985PLC035308

Regd office : Godrej One
5th Floor, Pirojshanagar,
Eastern Express Highway,
Vikhroli (E), Mumbai - 400 079, India
Tel: +91 -22-6169 8500
Fax: +91 -22-6169 8688
Website : www.godrejproperties.com

Dated: 29.08.2020

EXECUTIVE ENGINEER-1,
The Lake Development BBMP
N.R. Square, Bangalore.

Dear Sir,

Sub : Request to issuance the following information with respect to Kalkondarahalli
and Kasavanahalli Lakes, situated at East Zone, Bangalore

In reference to the above, we state that we are the Owners and Developers of Land bearing
Sy No. 61/2, 62 and 63 of Kasavanahalli Village, Varthur Hobli, Bangalore East Taluk. Our
property is abutting South East Side of Kalkondarahalli Lake.

We state that in reference to the above, we request you to issue us the following information of
the Kalkondarahalli and Kasavanahalli Lake. The Information sought for is :

1. Inlet Level of Kalkondarahalli and Kasavanahalli Lakes
2. Outlet Level of Kalkondarahalli and Kasavanahalli Lakes
3. Height of the Bund around the Kalkondarahalli
4. Length and Breadth of the Kalkondarahalli and Kasavanahalli Lakes.
5. Distance of Bundh from the Periphery of the water of both the Lakes.
6. Maximum level of water collection Recorded till date in the Kalkondarahalli Lake
7. Whether the Water level reaches beyond the Bundh Level
8. What is the Water level of Kalkondarahalli and Kasavanahalli Lake
9. What is the requisite margin from the Lake Line to the Bund.
10. Lake / Tank Bund was constructed by which Department and which Department is
maintaining both the Lakes.
11. Whether the Bund wall can be considered as Flood line for measurement purpose.
12. What is the elevation of the Lake.
13. What is the water flow direction.
14. Where is Flood Level of the Lake and what is the measurement of the same from the
Kalkondarahalli Lake.

We request you to kindly show the above information with a sketch for our proper understanding.
We once again request you to provide the above information/details which will help us to have
proper understanding of both the Lakes.

Thanking You,
Yours Sincerely



Mohammed Samiulla
General Manager
Authorized Signatory


29/08/2020



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ANNEXURE. K

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:
H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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FILED THROUGH:

Astha

Venancio D'Costa / Astha

L & L Partners Law Offices

Counsel for the Respondent Nos. 11 & 12

103, Ashoka Estate, Barakhamba Road, New Delhi-110001

Email: vdcosta@luthra.com

Phone: +91 9810232578, +91 9821396903

Place: New Delhi;

Date: 26/08/2022

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:
H.P. RANJANNA

...APPELLANT/APPLICANT

UNION OF INDIA & ORS.

...RESPONDENTS

WRITTEN NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12

MOST RESPECTFULLY SHOWETH:

1. That Survey No. 61/2, 62 and 63/2 of Kasavanhalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru, pertains to the Project Proponent i.e. Respondent No. 11 and 12 herein (hereinafter referred to as 'the property'). Construction of the building "*Godrej Reflection*" started only after obtaining all the necessary approvals. The Project Proponent was granted the following permissions:

Sl No.	Approval required to be obtained	Authority/Board	Date of procurement
1.	Registration of Khata in the name of Wonder Projects Development Pvt Ltd.	BBMP	07.01.2016
2.	Amalgamated Khata	BBMP	20.10.2016
3.	NOC from Airport Authority of India	AAI	20.10.2016
4.	NOC from Bharat Sanchar Nigam Limited	BSNL	26.12.2016
5.	Government Order for Change of Land use from Industrial (Hi-Tech) to Residential As per the Revised Master Plan 2015 the Said Properties falls under Industrial (Hi-tech) zone	UDD - Urban Development Department	24.10.2017
6.	BDA Order- Change of Land Use for Change of Land use from Industrial (Hi-Tech) to Residential	Bangalore Development Authority (BDA)	08.12.2017
7.	Approval for Construction of Drain from Executive Engineer - post approval from Commissioner of BBMP	Storm Water Drain Department of BBMP	02.08.2017
8.	NOC from Fire and Emergency services - Phase -I (<i>Godrej Reflections</i>) (Pg 664 - 665 of the documents filed by Respondent No. 7)	Department of Fire and Emergency Services	22.12.2017
9.	Environmental Clearance from Ministry of Environment and Forests (EC) (Pg. 40-51 of the documents)	Ministry of Environment and Forests (MOEF)	10.01.2018

	filed by the Appellant, also at Pg. 463-472 of the documents filed by KSPCB)		
10.	NOC from Bangalore Electricity Supply Company	Bangalore Electricity Supply Company (BESCOM)	31.01.2018
11.	Relinquishment Deed for Block 1 and 2, relinquishing the Park and Open space Area	Bangalore Development Authority (BDA)	17.02.2018
12.	Development Plan approved by Bangalore Development Authority (Pg 270 of the documents filed by Project proponent on 19.05.2018)	Bangalore Development Authority (BDA)	07.03.2018
13.	Registration of RERA (Real Estate and Regulation Act) for Godrej Reflection as per Section 4(2)(d) of RERA Act, Sanction Plan approved from Competent Authority needs to be filed before obtaining RERA certification. Project Proponent have uploaded Development Plan dated 07.07.2017 to RERA for obtaining the approval, which was accordingly granted	Real Estate and Regulation Act (RERA)	29.03.2018
14.	NOC from Fire and Emergency services - Phase - I (Godrej Lake Gardens) (Pg 666 - 710 of the documents filed by Respondent no. 7)	Department of Fire and Emergency Services	30.04.2018
15.	Building Plan approval from Bruhat Bangalore Mahanagara Palike - Godrej Reflections - but <u>the application was made on 27.11.2017</u> (Pg 436 of the documents filed by Project proponent on 07.02.2019)	<u>Bruhat Bangalore Mahanagara Palike (BBMP)</u>	<u>30.05.2018</u>
16.	<u>Consent for Establishment from Karnataka Pollution Control Board, whereas the Project Proponent started construction of "Godrej Reflection" only in April 2019 and the construction of "Godrej Lake Gardens" has still not commenced.</u> Further, condition 46 of the building license provides that the NOC from KSPCB needs to be submitted by the Developer within 30 days from the date of sanction, which was done by Project Proponent. Hence CFE is not mandatory for obtaining building license. (Pg 429 of the documents filed by Project proponent on 07.02.2019 as well as Pg 495 of documents filed by KSPCB)	<u>Karnataka Pollution Control Board (KSPCB)</u>	<u>12.10.2018</u>

18.	NOC from Bangalore Water Supply and Sewerage Board (Pg 442 of the documents filed by Project proponent on 07.02.2019)	Bangalore Water Supply and Sewerage Board (BWSSB)	30.10.2018
19.	Registration of RERA (Real Estate and Regulation Act) for Godrej Lake Garden, Refer Section 4(2)(d) of RERA Act	Real Estate and Regulation Act (RERA)	25.05.2019
20.	Building Plan approval from Bruhat Bangalore Mahanagara Palike - Godrej Lake gardens	<u>Bruhat Bangalore Mahanagara Palike (BBMP)</u>	28.05.2019
21.	Civic Amenities Site Building Plan Approval	Bangalore Development Authority (BDA)	29.11.2019

2. Post obtaining all the approvals, the Project Proponent commenced construction on 24.04.2019. However, the Appellant herein, without any lawful grounds, and with the aim to harass and browbeat the Project Proponent, to further his mala fide intent, filed the captioned Appeal. In the captioned Appeal, all the State Authorities/ Environment Authorities supported the stand of the Project Proponent. However, it was only Respondent No. 5 i.e. BBMP, who contradicted its own action, wherein on one hand it granted all permissions to the Project as shown in Sr. No. 1, 2, 7, 15, 20, above, and on the other hand took a stand of objecting to the Project before this Hon'ble Tribunal. It is relevant to note that BBMP gave its first approval in 2016. Thereafter, BBMP filed its objections before NGT on 05.09.2018. It is relevant to note that post this BBMP on 28.05.2019 sanctioned the Building Plan to the Project Proponent. It is relevant to note that, every Department did due diligence and gave appropriate sanctions, post which they became functus officio. However, a perusal of the above would show that most the objections of BBMP are artificially created to harass the Project proponent, as despite objecting to the Project sanctions, BBMP has not withdrawn its sanctions, granted thus far.
3. During pendency of the Appeal two Original Applications (OA) were filed by i.e. OA No. 602/2019 pertaining to the property, and OA No. 281/2019 pertaining to a different property bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73 (hereinafter referred to as "another property") in the matter titled *Mahadevpura Parisraanarakshane Mattu Abhivrudhi Samiti vs UOI*, alleging environmental non-compliance by some other party near Kaikondrahalli Lake. It is relevant to note that the only commonality in both the OA's is that both the above properties are around the same lake called Kaikondrahalli Lake, in Bangalore City. This Hon'ble Tribunal had on 11.03.2019 appointed Joint Committee in

OA No. 281/2019 comprising of KSPCB, BBMP and BDA to survey another property/project bearing Survey No. 71/1, 72/1, 72/2, 74/5B and 73. Another Joint Committee came to be constituted by this Hon'ble Tribunal vide order dated 19.07.2019, in OA No. 602/2019 comprising of CPCB, SEIAA, KSPCB and MoEF & CC, specifically to survey 'the property'.

4. The Joint Committee in OA 281 of 2019, filed its report with this Hon'ble Tribunal, *which had no bearing or relevance with the property*. However, on 03.02.2020, Appeal No. 54/2018 and OA 602 of 2019 got listed along with OA 281 of 2019, before this Hon'ble Tribunal. *It is apparent from the records that no report of the Joint Committee constituted in OA No. 602/2019 qua the property, was filed before NGT*. A perusal of page 24 of the report filed in OA 281/2019, would show that "As there is a separate OA 602/2019 on this project, the same will be inspected by the Committee as per the Order dated 19.07.2019 and separate report will be submitted by the Committee." This inspection in OA 602 of 2019, was done by the Committee, on 05.02.2020 giving a separate report.
5. However, before the report in OA 602 could be filed, this Hon'ble Tribunal, while relying on the false representation of the Appellant and Respondent No. 5, passed an order on 03.02.2020, cancelling the Environment Clearance granted to the Project Proponent.
6. Aggrieved by the same the Project Proponent filed a Civil Appeal before Hon'ble Supreme Court bearing no. 1713/2020. On 02.03.2020, the Hon'ble Supreme Court issued notice on the Appeal and directed the Joint committee constituted in OA 602/2019, to file its report before the Registry of the Hon'ble Supreme Court. True copy of the order dated 02.03.2020 is annexed as ANNEXURE A.
7. It is interesting to note that the Joint Committee inspected the site on three occasions i.e. on 26.07.2019, 30.12.2019 as well as on 05.02.2020 (i.e. after passing of the order dated 03.02.2020), wherein the officials of BBMP (Respondent no. 5) were also present, for inspecting the project site, as is evident from a bare perusal of Pg. 15, 16 and 18 of the Report wherein BBMP cooperated with the Committee and did not raise any objections about the environmental compliance of the Project.
8. Finally, on 14.07.2020 the said Joint Expert Committee filed its report with the Hon'ble Supreme Court. The Report categorically and conclusively cleared 'the Project' as environmentally compliant and fulfilling all conditions of EC granted

on 10.01.2018. As such vide judgment dated 11.03.2020, the Hon'ble Supreme Court set aside the impugned order on the ground that this Hon'ble Commission never had the opportunity to go through the report, while passing the impugned order, and remanded the matter back to this Hon'ble Tribunal to decide the dispute upon taking into consideration the Joint Committee report submitted in OA 602/2019.

9. It is submitted that the Joint Committee of experts was constituted in OA 602 of 2019 for inspecting the property. Subsequently, by order dated 29.07.2019, the MoEF was also added to be a part of the Committee to give wider representation and credibility to the Committee. It is respectfully submitted that OA 281 of 2019 cannot be compared or brought within the ambit of analysis of the Committee report arising out of OA 602 of 2019. It is an undisputed and admitted position that OA 281 itself says that it does not cover the project in question and that the said project is covered by a separate committee, constituted and formed under OA 602. Therefore, OA 281 itself rules out its report from being evaluated while analyzing the report filed under OA 602. The report filed by the said Joint Committee is based on scientific and technical inputs/ evidence of environmental experts who studied the issue, made site inspections and only thereafter furnished its report. Thus, it cannot be said that the constitution and report of the experts in OA 281 of 2019 and OA 602 of 2019 are in conflict with each other. Reliance in this regard is placed on para 81 the judgment passed by the Hon'ble Supreme Court in "The Director General (Road Development) National Highways Authority of India vs. Aam Aadmi Lokmanch & Ors." [2020 SCC Online SC 572], which is annexed as ANNEXURE E.
10. A perusal of the Joint committee report (consisting of MoEF & CC, CPCB, KSPCB, BBMP-SWD Department, Assistant Director Land Records, as members who furnished their reports) would highlight the detailed nature in which the experts of environment matters/ State Authorities have dealt with every single allegation of the Appellant.

Report-page no.	Details as per Affidavit of Compliance filed by KSPCB before Hon'ble Supreme Court
page 3	- Residential Project have not encroached upon or have been constructed in wetlands or Rajakaluves - The construction is being carried out as per modified sanction plan of BBMP leaving Buffer Zones and Drains - The Construction is in accordance with the approved drawings - Adequate space is earmarked with green belt and holding surface run off rain as per EC condition stipulated in KSEIAA
page 9	Godrej has covered only 22.63% of the area against the max permissible

	<u>ure of 55%.</u> <u>Further page 35 (of the report) 53.26% of the land are is available for green belt which is more than the required 43%. Thus, complying with SEIAA condition.</u>
Page 11 & Page 33	All the approvals have been procured by Godrej. A list of the same can also be found from Pg 10-12 of the Report
page 14	Concludes that the land utilization is considered as residential use.
page 14	Godrej has obtained confirmation letter of Change in Land Use from BDA on 08.12.2017 for change of land use from Industrial (Hi-Tech) use to Residential use.
page 17	Mentions about the existence of a temporary structure of 2500 sq.ft. which is used as a site office
page 22 & 23	Gives a detailed chart of Godrej complying with the Buffer Zone norms not only as per the judgment of Forward Foundation vs. State but also as per Mantri Techzone vs. Forward Foundation.
page 24	Provides a table highlighting permitted activities in the buffer zone, as per RMP 2015, which includes the existence of 8 mtr driveway, and STP.
page 25 & page 34	States that BBMP has given approval to Godrej to construct U-type RCC drain
page 28	The property is not in Wetland in terms of the definition of International Union for the Conservation of Nature and Natural Resources (IUCN), as well as from the Ramsar Convention. The Report also states that property in question also does not fall under the category of Eco-sensitive Zone
page 31 and page 29	EC issued by SEIAA dated 10.01.2018 mentioned the total built up area as 1,28,193.9 sq. mtrs. sq. mtrs., the proposed project consists of 2 residential blocks. The report further records that the number of units have been reduced to 525 while comparing with EC. Now the total built up area is 1,25,663.06 sq. mtrs. sq. mtrs. Accordingly, the total built up area of the project is less than 150000 sq. mtrs. The Report further records that the EC approved by SEIAA is right as per the threshold limit. As per CPE granted by KSPCB the total built up area of the projects is 1,28,193.9 sq. mtrs. Even as per BBMP's sanction plan dated 28.05.2019 the net built up area is 1,25,663.06 which is much less than the permission granted under EC to construct sq. mtrs.
page 36 and page 37	The Joint Committee at Page 36 records that the Proponent is submitting compliance report on EC and CPE conditions to MoEF & CC and KSPCB. At Page 36 the Committee further records that Environmental Clearance and Consent for Establishment have been granted based on verification of information and documents available on records as per relevant Acts and Rules. Further the said land is not eco-fragile/ wet land and the said land has been classified as Industrial Hi-Tech under the BDA Revised Master Plan (RMP) 2015. Accordingly, the Project Proponent has obtained change of land use from Industrial (Hi-Tech) to Residential. At Page 37 the Committee records that the residential projects in question has not encroached upon or have been constructed on the wetlands and Rajkaluves. The construction is carried out as per the Modified Sanction plan of BBMP by leaving required Buffer Zone of Lake and Drains. The construction is found in accordance with the approved drawings. Adequate space is earmarked for development of Green Belt and holding surface run-off during rain as per EC conditions stipulated by SEIAA.

Pg 53 and 53A	BBMP in its separate report has opined that after verifying the spot, it shows that as per the village map two streams originate from Kasavankhalli lake and flow towards Kaikondrahalli lake. These streams flow in the Survey No. 57 and 63 and since they flow in the Kharab area of the respective survey numbers, the said drain in survey no. 63 is "<u>to be considered as a secondary drain</u>". This report further states that single line drain is spotted and the same is called agricultural drain or feeder channel, and the same ends on the Secondary drain. Since single line drain terminates at Secondary drain the said drain is a Pilla Kaluve, for which Buffer is not applicable. Since these single line drains runs in various Survey Nos., the same is treated as Tertiary Drain. @ Pg 53A, the report further states that the said spot was also verified with respect to RMP-2015, as per which some portion of the eastern part of the project site is marked as valley zone. On verification at spot the drain marked in RMP 2015 is not constructed, however the area earmarked for valley is kept as non-construction zone. On verification buffer at the spot from building line to the center of the valley zone is 34.55 mtrs, which is above the prescribed buffer for Secondary drain (25 mtrs). The said area was verified with the plan sanctioned by BBMP. As informed earlier the nala in survey no. 53 is considered to be Secondary drain. However, the building line of each of the towers is more than 50 mtrs. away from the edge of the nala. Therefore, it is found that there is no violation of the Buffer area by M/s Wonder Projects and M/s Godrej Properties pertaining to storm water drains in the premises in question. Further permission obtained by Project Proponent for construction of Storm water drain is as per approved drawings.
Pg 55	Qua the issue of concretization by the Project proponent, the construction of RCC box type culvert is also as per the permission granted by BBMP, which has endorsed the same at Pg 55 of the report.

11. With respect to the issue of the Appellant qua the Project Proponent not adhering to the EC, it is a settled position of law that in the event there is expansion beyond the approved EC, only then is the Project Proponent required to obtain fresh Environment clearance. Reliance is placed on *Keystone Realtors Pvt. Ltd. vs. Sri Anil V Tharthore & Ors.* (2020 (2) SCC 66) annexed herewith as ANNEXURE C. In this case, the Court observed that *EIA Notification, 2006, at para 2, imposes restrictions on the execution of new projects and on the expansion of existing projects, until their potential environmental impact has been assessed and approved by the grant of an EC.* The judgment in para 13 further states that the crucial point which must be noted in the said Notification is the phrase, "*expansion with increase in production capacity beyond the capacity for which prior environment clearance has been granted*". However, in the present case there has been no expansion but a reduction in the area granted by the EC, which is also evident from page 29 the report. It records that EC issued by SEIAA dated 10.01.2018 mentioned the total built up area as 1,28,193.9 sq mtrs. consisting of 655 units, however, the Project Proponent have

reduced the units to 625 thereby reducing the total built up area to 1,23,663.06 sq mtrs., which is less than 150000 sq. mtrs. As such, the above action cannot be termed as an expansion. *Furthermore, by reducing the number of units, the Project proponent have endeavored to reduce the population load on the land.*

12. It is submitted that in the marking of Nala's/ Rajakaluve is done based on the revenue records. BBMP has also *notified a map on its official website in this regard.* In the present case, the classification of Nala as Primary happened based on the Village Map of the year 1904. However, when the Joint Committee inspected the site the Storm Water Department of BBMP (i.e. the relevant Authority) on verification opined that the same is in fact a Secondary Nala (Report dated 04.02.2020 (@ Pg 53 of the Report). As such based on the opinion of the appropriate department i.e. Storm Water Department of BBMP, the Joint Committee accepted the conclusion of BBMP that *the streams flowing in survey numbers flow in Kharab area of respective Survey numbers and also since two streams joins together in Survey No. 57 and flow in Survey No. 63, the said drain in Survey No. 63 is to be considered as Secondary Drain.*
13. Furthermore, the allegations of the Appellant (i) that the Kharab land falls in the Nala has also been dealt with by the Storm Water Department of BBMP at Pg 53 of the Report (detailed as above). A perusal of the Village Map (filed at Pg 18 of the Report), would show that the Nala has been categorized as Kharab since 1904 (as is written in Kannada, in the last line), as such the allegation that Kharab land is now falling under Nala, does not hold any water; (ii) The sewage water flowing in the Nala is also falsified from the fact that the expert Joint Committee itself had visited the project in question thrice and has not reported any such illegality by the Appellant; (iii) Project Proponent has constructed the Gas Bank/LPG Tank in the Buffer Zone, is also wrong. The said Gas Bank/ LPG Tank has in fact been constructed on the valley zone (which is also as per the RMP 2015 Regulation 4.12.2, which states that any construction that does not obstruct the flow of the water is allowed, also @ Pg. 199 of documents filed by Project proponent on 19.05.2018) and not on the Buffer Zone, which is also clear from the Report of the Joint Committee which has in fact clarified that the Project Proponent has not undertaken any construction in the Buffer Zone; (iv) Breach of Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, is a false allegation. The said provision talks about obtaining the CFE (at page no. 429 - 433, filed by Project Proponent) before commencing construction. As per the chart of permissions provided above, the CFE was obtained on 12.11.2018, whereas the

Project proponent started construction only in April 2019; (v) Furthermore, Block 1 and 2 is also called as Tower 1 and 2, difference between tower and wing is that each individual building is considered as 1 tower and they consists of several wings which completes the tower, hence, no breach of EC (vi) CDP of Bangalore was notified in June 2007 under the Town and Country Planning Act, wherein 'the project' was categorized as Industrial Hi Tech (also can be seen from the Joint Committee Report @ Pg 12-14), further the authority had called for objections before finalizing the said CDP and executing the same, if the said land were to be considered as "wetland" objections quz the same could have been raised and recorded then and the conversion wouldn't have happened. Since no objections were received, the land was categorized as Industrial Hi Tech Zone, post which on 24.10.2017 the land was further converted into residential area by Metropolitan Commissioner, Bangalore Metropolitan Region Development Authority (BMRDA). The Project Proponent have also obtained confirmation letter of change of land use from BDA on 08.12.2017 for the change of land use from Industrial Hi-Tech use to residential use (@Pg 14 of the Report)

14. That the Joint Committee independently and physically visited/inspected the site and measured the distances from the lake and nallas on three occasions, and found to be in compliance with all the parameters as laid down by this Hon'ble Tribunal in the judgment of Forward Foundation vs. State of Karnataka (Original Application No. 222 of 2014), annexed herewith as ANNEXURE D, as well as the judgment of Mantri Techzone Pvt Ltd. Vs. Forward Foundation (2019 SCC Online SC 322), annexed herewith as ANNEXURE E which makes the Report of the Committee even more credible. It is relevant to note that in the case of Forward Foundation (*Supra*) this Hon'ble Tribunal provided the distance from the Rajakaluves, water-bodies and wetlands, in para 63 General conditions 1, to be maintained at 75 m. from the periphery of Lake boundary, 50 mtrs from the edge of primary Rajakaluve, 35 mtrs from the edge of secondary Rajakaluve and 25 mtrs from the edge of tertiary Rajakaluve. The judgment further recorded that the "offending constructions raised by Respondent no. 9 and 10 such as boundary wall shall be demolished which falls within such areas". Pursuant thereto this judgment was challenged before the Hon'ble Supreme Court in the matter of Mantri Techzone (*Supra*). The Hon'ble Supreme Court in para 60-62 of the said judgment has held that the order of 04.05.2016 (the judgment of Forward Foundations vs. State) is hereby set aside, except the directions issued against Respondent No. 9 and 10 qua the offending constructions (as highlighted above) undertaken by Respondent No. 9 and 10 in that project. As

per the judgment of the Supreme Court, the Buffer limits were restored to 30 mtrs. from Lake Boundary, 30 mtrs. from Primary Nala, 25 mtrs. from Secondary Nala and 15 mtrs. from Tertiary Nala. As such, the position qua the buffer zone as it stood prior to the judgment of this Hon'ble Tribunal in Forward foundation (*supra*) was restored by Mantri Techzone (*Supra*).

15. It is relevant to note that the directions qua the changed buffer limits passed in Forward Foundation (*supra*) was mandated only qua Respondent no. 9 and 10 in that proceeding, as is evident from a perusal of general conditions contained in para 65 of the said judgment which states that "*Thus, we direct the distance in the case of Respondent Nos. 9 and 10 from Rajakalaves, Waterbodies and wetlands shall be maintained as below...*" It is relevant to note that the aforesaid observation was not maintained for all the projects around Bangalore city, as can be seen from the language of the judgment. Even otherwise, the Project proponent in the present case has not only complied with the directions of Forward Foundation (*supra*) but also with the directions of Mantri Techzone (*Supra*). (Reliance is placed on the Joint Committee report, which was prepared by the Committee as well as BBMP, and Clause 4.12.2 (ii) of the Revised Master Plan 2015 (RMP 2015)).
16. The aforesaid discussion would show that the Project Proponent has kept the principle of sustainable development in mind while constructing the said project, as is evident from all the compliances done by the Project Proponent, which have also been established by the Joint Committee Report. As such nothing survives in the present matter. The Appellant has been raising frivolous objections and Respondent No. 5 is blowing hot and cold by sanctioning the permissions and providing reports to the Committee stating that the Project Proponent is in compliance of all its conditions, and on the other hand challenging the said approvals before this Hon'ble Tribunal with the sole purpose to mislead this Hon'ble Tribunal. This clearly shows connivance on the part of Respondent No. 5 with the Appellant herein. Thus, the present Appeal is liable to be dismissed considering all the grounds as mentioned above.

FILED THROUGH:

Venancio D'Costa / Astha
Counsel for Respondent No. 11 and 12

Place: New Delhi:

Date: 26/03/2020

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018**

IN THE MATTER OF:
H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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Date: 27-08-2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
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IN THE MATTER OF:
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VERSUS

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...RESPONDENTS

SHORT NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12

MOST RESPECTFULLY SHOWETH:

That vide order dated 27.08.2020, this Hon'ble Commission had directed the parties to file a short note of submissions. That the present note may be read as part and parcel of the pleadings and written submissions filed by Respondent no. 11 and 12 (Project proponent) in the present case. By way of this written short note, the Project Proponent would counter each and every allegation of the Appellant and the Respondent No. 5, along with proof thereof.

It is submitted that the Appellant herein is trying to create a case which is absolutely new and different from his Appeal. The new grounds raised by the Appellant are as follows:

- a. At page 771 of the additional Objection, the Appellant has alleged that as per Gazette Notification No. FEE 316 EPC 2015 dated 19.01.2016(Page 822 @ page 824) and as per judgement of Anirudh Kumar vs MCD 2015(7) SCC 779, approval plan for construction of building can be obtained only after production of copy of Consent for establishment CFE issued under Water Act. In the present case CFE obtained on 12.10.2018 whereas Building plan approval on 30.08.2018.
- b. Development plan issued by BDA includes FAR+ non-FAR is 2,35,076.81 Sq.m which is beyond the 1,50,000 Sq.mt.
- c. Further the project falls in B-1 category and, therefore, SEIAA had no authority to grant EC by treating it as category B-2.
- d. At page 784 allegation of different project dimensions before different public authorities.

In light of the above the Project proponent would like to address all the grounds both old and new as below:

1. *Illegal construction continued even after revocation of EC*- There is no revocation of EC till date (@ Pg 40-51 of documents filed by Appellant and @ pg 463-472 of documents filed by KSPCB).

2. *Phase 1 construction illegally done until October 2019 inasmuch as Consent to establish was granted on 12.10.2019 i.e. pendente lite permission subject to final outcome of the present case. Offence under Section 24 of Water Act- @ para 5 of the reply of KSPCB (Pg 460) "...as per applicable law and guidelines, the processing of Application for CFE and CFO are undertaken by KSPCB after grant of EC by SELAA. @ para 6 "CFE applied on 18.01.2018. On receipt of this Application officers of Regional office-Bommanahalli had inspected the project on 05.02.2018 and observed that the construction work has not yet started. Relevant also para 7 @ Pg 461. @ para 8-during inspection on 05.2.2018 only a model flat was constructed for marketing purpose and Project proponent had not taken up any construction activity. Further Clause 46 of the Building Plan and Building license states that the Project Proponent needs to submit the CFE within 30 days. Clause 46 is @ pg 440 of the of the documents filed by Project Proponent on 07.02.2019*
3. *Report was not called qua issues raised in statutory appeal/present case and hence it apparently does not cover the grounds of attack raised to the impugned EC- The Committee was constituted at the insistence of the Appellant. The same was done for the Project in question. If the Appellant had reservations, why was it not raised on the date of constitution. Even otherwise on Appellant's request MoEF was included in the Committee. The Committee was independent and looked into all contentions. It visited the Project thrice and provided detailed report qua all the allegations of the Appellant. Committee is an hand pit authority by this Tribunal*
4. *Amendment to EC/retrospective EC- There is no retrospective or amended EC- refer to reply of KSCPb in point 2 Supra*
5. *Issue of primary nala – Village map of 1904 (year as written in Kanada) shows primary nala, same has been relied by Applicant at page no. 21 of his Objections. SWD department of BBMP (being the appropriate authority) at the time of inspection by the joint committee, upon inspection said it is a Secondary nala. Be that as it may, Project Proponent has left requisite buffer.*
6. *Conflict between OA 281/2018 and OA 602/2018 – Report of OA 281 clearly states it does not cover the project and the same is within the ambit of inspection of the committee arising out of OA 602. OA 281 rules out its report from being evaluated while analyzing the project which is to be done by OA 602. Hence, no conflict.*

7. ***Conflicting finding by both the committee*** – The findings by the committee are based on actual ground status of the site. As the ambit of OA 281 was qua different survey no. and OA 602 was for different survey no.
8. ***Permitting the project would result in complete removal of catchment area. Adverse impact on bird habitat and Nocturnal birds-*** Committee report Observations @ point 14 Pg 612. Issue of Industrial Hi Tech (also can be seen from the Joint Committee Report @ Pg 588-590).
9. ***Issue of manhole chambers*** – No construction for the last one year as such the same cannot be blamed on the Project Proponent. Unless people start staying there, the issue of sewage would not arise. Project proponent is not the concerned authority to manage manhole, that is the duty of BBMP jointly with Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samithi (MPSMAS).
10. ***Non-compliance with Zoning Regulations-Concretization of the nala*** – Construction happening in valley Zone and not on Buffer Zone @ Pg 600 of Report. Storm water drain originates from Kasavanahalli Lake and flows towards Kaikondarhalli Lake through survey 63 between two building blocks. The total area of the drain is 13 guntas (Kharab land). Constructing U type RCC drain (done with the approval of BBMP @ Annexure 9 and 10 of the Report) without deviating the original alignment and measurement of the storm water drain is beneficial to the flow of water.
11. ***On 04.05.2016 Full bench of this Hon'ble Commission passed directions and the EC is in violation of the same-*** The General directions, not pertaining to the Respondents in the case of Forward Foundation (04.05.2016) were struck off vide the Judgment of Mantri Techzone (para 60-62). Even otherwise the permissions/ sanctions and the Joint Committee report shows that Project Proponent is in compliance of Buffer limits of not only the RMP-2015 but also of Forward foundation.
12. ***Inspection undertaken by Committee devoid of authority-*** vide order dated 03.02.2020 the Bench never directed the committee to stop with the inspection. As such its mandate was never cancelled. Furthermore, vide order dated 02.03.2020 the Hon'ble Supreme Court, directed the Committee to file its report with the Supreme Court Registry, as such reviving the Committee.
13. ***Building Plan being Void-*** Building Plan was approved on 30.08.2018 (Pg 436 of documents filed by the Project Proponent on 07.02.2019). BBMP filed their objection before this Tribunal on 05.09.2018. Building plan for phase II

approved on 28.05.2019. When the building plan was modified by adding phase II, the earlier building plan dated 30.08.2018 got automatically cancelled. The new building plain dated 28.05.2019 speaks about phase-I as well. The Appellant has deliberately filed the wrong translation of the Building Plan @ pg 821, whereas the fact remains that the actual translation is "Cancelled" and not "Void". True copy of the translation of the Building plan is annexed as ANNEXURE F. Furthermore, even the Site Plan approved by BBMP contains a chart showing that the said Building Plan is for both the Blocks. True copy of the Site Plan is annexed as ANNEXURE G. Hence the term void Building plan is nothing but a brain-child of the Appellant.

14. *Net site area as 50,382.95 sq mtrs. After deducting Kharab Land-* Net site area is the total land. While deducting the Net Site area, one is required to deduct Kharab Land, roadways, Civic amenities area, buffer zones and what is left is where the construction has to take place. In the present case the Project proponent has an area of 12 acres and 18 guntas within its ambit, whereas the Project Proponent is only constructing 2 acres area. @ Pg 585 of the Report as per RMP-2015, area for residential development apart from provisions for amenities and open space shall be maximum of 55% of the total area. The said Project (Block 1 and Block 2) has ground coverage area of 22.63%. Rest of the area has been left as green belt by the Project proponent. Copy of the chart
15. *Bangalore Monitoring Committee and not BDA should have approved the Development Plan-* Appellant is relying on a judgment of A. Feroz Ahmed vs. Bangalore Development Authority, and is saying that the permissions listed at se. No. 1-7, pg 596 and 597 of the report are illegal and void, as BDA could not grant change of land use and Development Plan, but rather it is the Bangalore Metropolitan Committee which has the authority. If we read the judgment the same applies to a locality called Abshot Layout and does not apply to the whole of Bangalore. Bangalore Metropolitan Committee does not have jurisdiction over the area of Kasavanhalli village area. This committee is not even functioning as of now.
16. *Construction of RCC Culvert-* the construction of RCC Culvert has been done with the prior approval of BBMP, as is evident from internal Pg 55 of the report of the Committee where BBMP itself has given an endorsement for construction of RCC Culvert.
17. *Committee failed to include non-FAR area in total Built up area. Since the FAR + non FAR is 2,35,076 m² the project is in B1 category-* the Development

Plan filed by the Project Proponent at Pg 270 of the documents filed on 19.05.2018, nowhere states that the FAR + Non FAR = 2.35 lacs m2. This is a self-created figure by the Appellant. Furthermore, the project has a total built up area of 1,25,663 sq. mtr. as is also evident from Pg 611 of the Joint Committee Report.

18. **BWSSB granted NOC for 1,71,744.37 sq mtrs.** - This is a figment of Appellant's imagination. BWSSB has in fact granted the NOC for 1,17,755.37 Sq. mtrs. As per the chart annexed as ANNEXURE H.
19. **Demolition Order PO/CO dated 06.06.2018**- The provisional order (PO) dated 06.06.2018, as well as the Confirmation Order (CO) dated 22.06.2018, were never served on the Project Proponent despite BBMP having correct address. In fact the Project Proponent learnt about the same only when the Appellant filed the same before this Hon'ble Tribunal. Even otherwise, model flat/ temporary structure was present on the Civic amenities side of the project. It is relevant to note that 5% of the Total Land is reserved for Civic Amenity area as per Section 14B of Karnataka Town and Country Planning Act and the same is required to be handed over to the Bangalore Development Authority free of cost on the receipt of Occupancy Certificate. Further the Project Development Approval from both BDA and BBMP is taken excluding the said civic amenity area. Hence same is not be construed as part of project Development. No construction has been taken up in the Buffer area. The same is put up in the Civic Amenities Area which is governed under Bangalore Development Authority Norms. BBMP has no jurisdiction over the structure put up in Civic Amenity area. Howbeit, the Appellant No. 1 had informed the BBMP Mahadevapura, as an abundant caution prior to putting up of said structure vide letter dated 27.12.2017 for which no reply was received from the BBMP (as such it was deemed approved). Stop work notice dated 13.07.2018, granted without granting the Building plan to the Project Proponent, which was appropriately replied by the Project proponent on 17.07.2018, post which BBMP granted the Building Plan dated 30.08.2018. True copy of the Reply dated 17.07.2018 of the Project proponent is annexed as ANNEXURE I.
20. **Further, the reliance by BBMP to Divya Granites Vs. Karnataka State Pollution Control Board in Appeal Nos. 98101, 105-113 and 156-158 of 2013 (SZ)**- BBMP has misquoted paragraph-15 of the judgment by wrongly saying that steps to take building plan, conversion order, civil work cannot be undertaken without first obtaining the mandatory prior consent from the Karnataka State Pollution Control Board under Section 25 of the Water Act,

1974 and that the said consent is a "condition precedent" for establishment or taking any steps for establishment", as a perusal of the judgment does not say so.

Filed Through

Astha

Venancio D'Costa/Astha Ojha

L&L Partners Law Offices

Counsel for Respondent no. 11 and 12

Email: vdcosta@luthra.com; asojha@luthra.com

Ph No: 9810232678; 9821396903

Place: New Delhi

Date: 27-8-2020

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MODIFIED PLAN

Note: The previous approved site plan as per serial number L.P.No.203/2017-18, dated 20-08-2018 stands cancelled

As per the Commissioner's order dated 21-05-2019, J.D.T.P(N)/(S) L.P.No.203/17-18, dated 28-05-2019, the building plan sanction subject to the conditions is approved. This approval is valid from 28-05-2019 to 27-05-2021 (only for two years period)

Joint Director(Town Planning-North)
Bruhath Bangalore Mahanagara Palike

BE RESPONSIBLE FOR EXCAVATION FOR BASEMENT FOUNDATION AND
CONSTRUCTING THE BASEMENT FOUNDATION, SECOND AND UPPER FLOORS
AND BE RESPONSIBLE FOR THE STABILITY OF THE STRUCTURE SAID OF THE
NEIGHBOURS AND CONSTRUCTION LABOURERS. OWNER/ENGINEER WILL BE
BE RESPONSIBLE FOR ANY LAPSES IN THIS REGARD.

Chief of the Additional Joint Commissioner (South)
Bangalore Metropolitan Water Supply & Sewerage Board

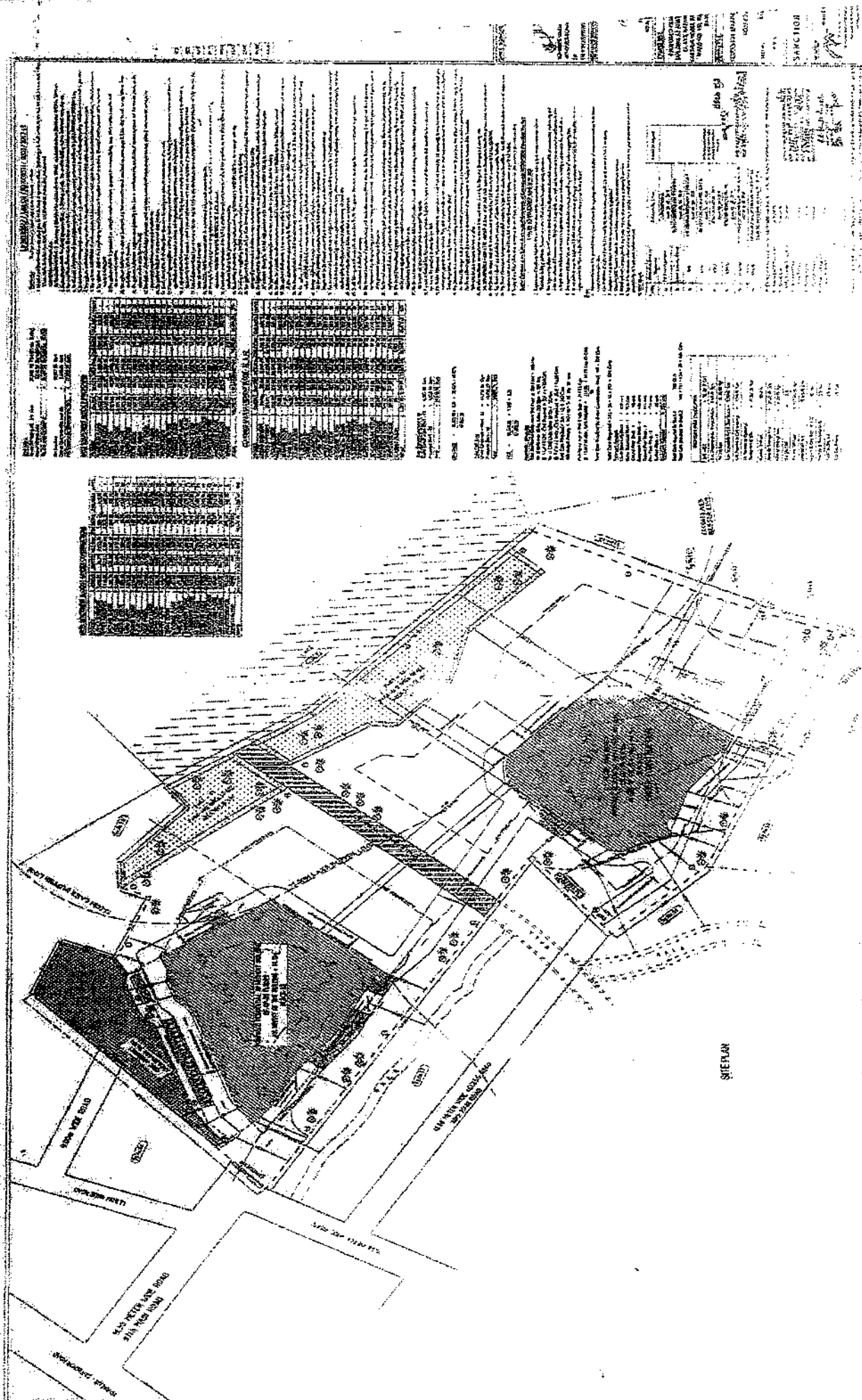
PLAN PREVIOUSLY SANCTIONED
VILLUP NO. Ad Com/SUT/0599/14-15
DATED 15-9-2014 STANDS CANCELLED.

MODIFIED PLAN

LP No. Ad com/SUT/0599/14-15 Dated

Valid From to

For every car sanctioned as per plan as shown in green



- The below is the table comparison of various approval along with dimension. The area differs due to the FSI/FAR being consumed and calculated by each authority.
- So the maximum Achievable FAR is 2.25% but what is achieved out of both phases is 1.979% which actually is impacting the calculation made by each authority

Date of Approval	Approval/NOC	Site Area	Built up area	Dimension
22.12.2017	NOC from Fire and Emergency services - Phase -1 (Godrej Reflections)	50,382.91 Sq. Mtrs	59,091.85 Sq. mtrs	One building – Phase-1, 3-Towers joined together
20.04.2018	NOC from Fire and Emergency services - Phase -2 (Godrej Lake Gardens)	50,382.91 Sq. Mtrs	64,958.15 Sq. mtrs 1,24,050 Sq. mtrs	One building – Phase-2, 4-Towers joined together
10.01.2018	Environmental Clearance from Ministry of Environment and Forests and SEIAA – Phase1 and Phase -2	50,382.91 Sq. Mtrs	1,28,193.9 Sq. mtrs	2 Blocks consisting of GF + 20 UF (655 Units)
07.03.2018	Development Plan approved by Bangalore Development Authority	50,382.95 Sq. mtrs	1,27,149.25 Sq. mtrs	2 blocks consisting of 2 BF+GF+20 UF (658 units)
30.08.2018	Building Plan approval from Bruhat Bangalore Mahanagara Palike – Godrej Reflections – Phase-1	50,382.95 Sq. mtrs	61,418.72 Sq. mtrs	One building – Phase-1, 2 BF+GF+20 UF (265 Units)
28.05.2019	Modified Building Plan approval from Bruhat Bangalore Mahanagara Palike – Godrej Reflection and Godrej Lake gardens – Phase-1 and Phase-2	50,382.95 Sq. mtrs	64,244.34 Sq. mtrs 1,25,663.06 Sq. mtrs	One building – Phase-1, 2 BF+GF+20 UF (360 Units)
30.10.2018	NOC from Bangalore Water Supply and Sewerage Board	51,698.16 sq. mtrs	1,17,755.37 Sq. mtrs	Block 1 and 2 each consist of 2 BF+GF+ 20 UF

Wonder Projects Development Pvt. Ltd.
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Tel : +91-22-6169-8500
Fax: +91-22-6169-8666
Website: www.godrejproperties.com

Dated : 17.07.2018

THE COMMISSIONER,
Bruhat Bengaluru Mahanagara Palike
NR Square,
Bangalore.

Dear Sir

Sub : Reply to your show cause notice cum stop work notice dated 13.07.2018 bearing No. COMM/PSR(4)/2143/18-19

Ref : Application submitted by M/s Wonder Projects Development Private Limited for sanction of their building plan and building license for the purpose of construction of high rise building project from BBMP, that is kept in abeyance in No. B3PM/Add Dir/ID/North/0203/2017-18 on respect of land in Khatha No. 4131, Survey No. 61/2, 62 & 63/2, totaly measuring 12 Acres 18 Guntas, situated at Kasayanahalli village, Varthur Hobli, Bangalore East Taluk.

In furtherance to the above, we, Wonder Projects Development Private Limited (hereinafter referred to as "WPDPL"), at the outset deny all the allegations and observations made thereunder and we hereby reserve all our rights to reply as follows:

NGT Case

We would like to transverse each para with the substantial grounds and reiterate you that the allegations made thereunder are completely denied as baseless and has no bearing either in law or in prudence.

C In this regard, we would like to give brief background about Wonder Projects Development Private Limited and Godrej Properties Limited:

H. S. S.

13/7/18

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Wonder Projects Development Private Limited ("Respondent No. 11") is an Associate Company of the Godrej Properties Limited ("Respondent No. 12") and is involved in Real estate activities with own or leased property, therein indulging in buying, selling, renting and operating of self-owned or leased real estate such as apartment building and dwellings, non-residential buildings, developing and subdividing real estate into lots etc.

The Godrej Properties Limited has contributed immensely to the environmental sustainability and has received over 200 awards in the past 5 years. The persistent endeavor of the Godrej Properties Limited has been to broaden its perspective to encompass conservation of habitats and ecosystems and protect forests and propagate greenery. To name a few, the commercial office project of the Godrej Properties Limited, Godrej BKC, is the only LEED (Leadership in Energy and Environmental Design) Platinum rated building in India's leading commercial district, Bandra Kurla Complex, Mumbai, Maharashtra demonstrating the commitment of Godrej Properties Limited towards environmental sustainability. The flagship project of Godrej Properties Limited, 'The Trees', is one of India's most sustainably planned mixed-use projects that will contribute to the evolution of urban design thinking in the country.]

PARA 2

The averments made in the para 2 of the notice is accepted to the extent that H.P. Ranjana ("the Appellant") has filed a case in Appeal no. 54/2018 before the Hon'ble Principle Bench National Green Tribunal, New Delhi and has sought various relief mentioned thereunder and all other para are denied and transverse hereunder.

PARA 3

It is pertinent to mention that the Wonder Projects Development Private Limited is the lawful owner of the Land bearing Survey no. 61/2, 62 and 63/2 situated at Kasavanahalli Village, Varthur Hobli, Bengaluru, admeasuring 12 acres and 18 guntas/50382.92 sq. meters. (hereinafter referred to as the "Total Land"). The Total Land, as per the Revised Master Plan

A handwritten signature in cursive script, appearing to read 'Godrej', is written over a circular stamp. The stamp contains some illegible text and a central emblem.

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2015 (hereinafter referred to as the "Plan"), falls within the Industrial (High Tech) Zone. That the Plan is notified by the Development Authority only after having taken into consideration the multifarious aspects of environment, population density, ecological impact etc. Thus, after taking all this into account, the Government decided to consider the area in question, i.e. the Total Land, fit for urbanization and thus it is not an eco-sensitive/eco-fragile zone, even as per the Plan. It is therefore vehemently denied that the Total land is eco-fragile and any construction thereon would lead to adverse impact on the environment.

That a portion of the Total Land is abutting the Kaikondarahalli lake and there is only one Primary Rajakaluve (Nala) flowing through portion of Sy No.63/2 which is specified as Kharab in all revenue documents and also have reserved the said portion as undeveloped. It is further submitted that there are two Tertiary Nala and one Secondary Nala flowing outside the Total Land. It is submitted that the Respondent No.11 has obtained the approval for change of land use from Industrial (Hi-Tech) to Residential from the Bangalore Development Authority (BDA). Consequently, the Respondent no. 11 is required to fulfill the conditions laid down in the Environmental Clearance letter bearing No. SE/AA 114 dated 10.01.2018 (hereafter referred to as the "EC") especially relating to the maintenance of Buffer Zones. It is pertinent to note that the Respondent no.11 is in compliance with the conditions laid down in the EC with regard to maintenance of Buffer Zones which is evident from a perusal of the approved Development Plan, which delineates the Total Land, the Buffer Zone maintained, as well as the portion of land whereupon the construction is to be undertaken once all the approvals are obtained. It is pertinent to submit that out of the total Land measuring 50382.92 sq. metres, the construction area is only approximately 10,842 sq. metres (hereafter referred as "Construction Area"). At this stage it is apropos to aver that the coverage provided as per Zonal Regulation is 50% whereas, the Respondent No. 11, after adequately leaving the Buffer Zones as required in the EC, have achieved a ground coverage of only 22.55%.

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That it is pertinent to note that the Plan prescribes the maintenance of a buffer Zone 30 metres distance around the lake, which has been extended to 75 metres vide a detailed judgment passed by the Hon'ble Tribunal in the case of "The Forward Foundation & Ors. v. State of Karnataka & Ors." [Original Application no. 222/2014] (hereinafter referred to as the "Forward Foundation Judgment"). The relevant extract of the aforesaid judgment is reproduced herein below :

"In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.

- (i) 50m from the edge of the primary Rajakaluve.*
- (ii) 35m from the edges in the case of secondary Rajakaluve*
- (iii) 25m from the edges in the case of tertiary Rajakaluve"*

It is pertinent to mention that even the EC issued to Respondent no.11 mandates vide clause 48, compliance of the aforesaid conditions stipulated in the Forward Foundation Judgment. Further, vide clause 47 of the EC the Respondent no. 11 is to ensure that the existing water body, canals, Rajakaluve and other drainage and water bound structures are retained unaltered with due buffer zone. Thus a bare perusal of the EC clearly establishes that adequate safeguards have been provided and is in compliance with the existing laws. The Respondent No. 11 are complying, as well as undertake to comply with all the conditions of the EC.

The Appellant is trying to mislead the Hon'ble Tribunal by falsely alleging that the Construction Area falls within the Buffer Zone, whereas the fact of the matter is that Respondent No. 11 shall/has not undertaken any construction of whatsoever nature in the buffer zone nor has undertaken any construction at the construction area without prior



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approval from this authority and also Respondent No. 11 undertakes and confirms that that the required buffer zones will be maintained as prescribed by law as well as in compliance of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. The construction will be undertaken, only once the approvals are obtained, on the Construction Area which does not fall under the Buffer Zone. This is evident from a bare perusal of the approved Development plan.

PARA 4

The Appellant is trying to paint a picture that the EC suffers from non-application of mind and that appropriate safeguards to protect the water bodies and the environment have not been taken into account by the concerned authority while granting the EC. However, the fact of the matter is that the Appellant, in order to make a case, has misrepresented on oath to the Hon'ble Tribunal that there are three Rajakaluve flowing through the Project, whereas the correct fact is that there is only one Primary Rajakaluve flowing through portion of Sy No.63/2 and one Secondary and two Tertiary Rajakaluve are flowing outside the Total Land. It is pertinent to reiterate that the requisite Buffer Zone, as detailed in the Forward Foundation Judgment and clause 48 of the EC will be maintained. The same is evident from a bare perusal of the approved Development Plan which categorically demarcates the Total Land, the Buffer Zone being maintained and the area on which the actual construction, away from the Buffer Zone, will take place. It is also pertinent to reiterate that the Total Land was demarcated in the Plan as High Tech Industrial Area and therefore the intention was always to treat this land for the purpose of urbanization.

PARA 5

It is pertinent to assert that that the Form 1A submitted by Respondent No.11 for the grant of EC is only an application expressing the desire of the promoter to commence a particular project. It is neither conclusive nor decisive on the project and is only a guiding factor. The appraisal committee of State Environmental Impact Assessment Authority ("SEIAA") consisting of experts from different fields, who, before granting the EC, circumspectly assess the Form 1A, conduct due site inspections coupled with independent and thorough

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approval from this authority and also Respondent No. 11 undertakes and confirms that that the required buffer zones will be maintained as prescribed by law as well as in compliance of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. The construction will be undertaken, only once the approvals are obtained, on the Construction Area which does not fall under the Buffer Zone. This is evident from a bare perusal of the approved Development plan.

PARA 4

The Appellant is trying to paint a picture that the EC suffers from non-application of mind and that appropriate safeguards to protect the water bodies and the environment have not been taken into account by the concerned authority while granting the EC. However, the fact of the matter is that the Appellant, in order to make a case, has misrepresented on oath to the Hon'ble Tribunal that there are three Rajakaluve flowing through the Project, whereas the correct fact is that there is only one Primary Rajakaluve flowing through portion of Sy No.63/2 and one Secondary and two Tertiary Rajakaluve are flowing outside the Total Land. It is pertinent to reiterate that the requisite Buffer Zone, as detailed in the Forward Foundation Judgment and clause 48 of the EC will be maintained. The same is evident from a bare perusal of the approved Development Plan which categorically demarcates the Total Land, the Buffer Zone being maintained and the area on which the actual construction, away from the Buffer Zone, will take place. It is also pertinent to reiterate that the Total Land was demarcated in the Plan as High Tech Industrial Area and therefore the intention was always to treat this land for the purpose of urbanization.

PARA 5

It is pertinent to assert that that the Form 1A submitted by Respondent No.11 for the grant of EC is only an application expressing the desire of the promoter to commence a particular project. It is neither conclusive nor decisive on the project and is only a guiding factor. The appraisal committee of State Environmental Impact Assessment Authority ("SEIAA") consisting of experts from different fields, who, before granting the EC, circumspectly assess the Form 1A, conduct due site inspections coupled with independent and thorough



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evaluation and decides the necessary parameters and safeguards for a given project independently. Only after having fully satisfied itself, the EC is granted to a project proponent. The Hon'ble tribunal in R.Veermani V. The Secretary P.W.D, Chennai & Ors. 2013 SCC Online NGT 11 has held:-

"The EC is wisdom driven of the members of the committee and no doubt it is not driven by the Data and particulars furnished by the Promoter in the form alone. The Authority cannot place their decision on the application alone or the contents of the form."

That it is apropos to aver that in the present case too, the concerned authority, after an exhaustive study, consultation and taking into account all necessary parameters by the committee of Experts having fully satisfied itself, granted the EC to Respondent No.11. The EC, keeping in mind a particular project, entails a list of conditions to be complied with at pre and post construction stage so as to ensure protection/conservation of the water bodies, as well as the environment. Envisaging the area in which the construction is to take place, the EC requires the Respondent no. 11 to maintain the buffer zone in terms of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. Therefore the averment of the Appellant that the EC suffers from non-application of mind is baseless and misconceived.

It is further submitted that the Respondent No.11 is in the process of acquiring all requisite permissions and sanctions from the appropriate and competent authorities as required under the provisions of the relatable laws. As such Respondent No.11 being law abiding and eco-friendly, is committed to safeguarding the environment, and shall not commence the construction until all the requisite permissions/sanctions are not in order.

PARA 6, 7 & 8

The averments made under the said para are denied as false, incorrect and grossly misleading. It is denied that there is any violation of the Karnataka Municipal Corporation Act, 1976 [hereinafter, in short, "KMCA"] or any zoning regulation thereunder or under the

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Karnataka Town and Country Planning Act, 1961 (hereafter referred to as the "KTCP Act"). It is submitted that all permissions, approvals, sanctions required under the KTCP Act have been applied for by the Respondent No.11 and are supported with requisite information/documents confirming the compliance with the provisions of the KTCP Act. The contents of the paras under reply are negatively presumptuous and merit no consideration from the Hon'ble Tribunal. It is submitted by the Respondent No. 12 that they are in due compliance with the KTCP Act and the concerned zonal regulations. This being the case, Section 505 of the KMCA is not attracted in the present case. In the same breath it is submitted that Section 300 of the KMCA is also not attracted as no work has commenced in the present instance. In any event the Respondent No.11 undertake to only commence construction after having requisite permissions and approvals from the competent authorities and in accordance of applicable laws.

It is denied as false and incorrect to the extent that violations carried out and as well as the Authorities especially the KSPCB would invite strictures from the Hon'ble Tribunal. It is reiterated that there are no violations carried out by the Respondent No. 11 and thus there is no question of attracting strictures.

The contents of said para are denied as false and incorrect. It is denied that any ad hoc or for that matter any construction is taking place at the site. The Appellant is trying to paint a picture that construction activities are being undertaken without a valid consent being obtained under Section 25 of the Water Act or without the building plan. The Appellant is making false assertions to prejudice the mind of the Hon'ble Tribunal and strict action must be initiated against the Appellant in order to ensure that such false and frivolous publicity seeking Appeals are not filed. It is submitted that the Respondent no. 11 has applied for the necessary consent under Section 25 of the Water Act as well as the sanction plans and undertake to commence construction work upon obtaining all necessary approvals from the statutory authorities. It is reiterated that the Appellant is relying upon the photographs


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to falsely show construction activity, whereas, the correct fact is that only preparatory work towards contouring and landscaping of green belt so as to derive benefit of the upcoming monsoon has taken place. It is reiterated that the Respondent No.11 is not in violation of any law.

The contents of said para details the discretionary power of the State Pollution Control Board under Section 33 of the Water Act. It is denied that the Respondent No.11 has contravened any law which would lead to initiation of proceedings under Section 33 of the Water Act.

It is pertinent to mention that the allegations made under para 8 is completely denied as false and baseless. The Respondent No.11 have neither raised nor constructed any constructions of ground floor and first floor or model flat measuring 2,500 sq. ft. As accepted earlier, the Respondent No.11 have not undertaken any ad-hoc construction, that too without a sanctioned building plan and without the consent of EBMPP ("Respondent No. 9"). It is reiterated that the Respondent No.11 are only taking preparatory steps towards contouring and landscaping with a view to maintain greenery on the total area and prepare for the upcoming monsoon.

Further, The Appellant is trying to create a prejudice in the minds of this authority by stating that the Respondent No.11 is carrying out construction activities, by placing on record photographs which do not convey the correct position. It is reiterated that the Respondent No. 11 are only undertaking preparatory steps for the purpose of contouring and landscaping and carrying out plantation and maintaining the greenery in the Total Area. It is further submitted that the same is being done to avail the benefits of the upcoming monsoon. It is reiterated that no damage to the ecosystem, whatsoever, is/will be caused by the Respondent No. 11. In fact, this Respondent No.11 has replied and submitted necessary documents to your notice dated 30.05.2018 vide notice no. Ward No. 150/TAMSHA/PR/49/13-19

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PARA 9

The contents of the said para are vehemently denied for the following reasons:

It is hereby denied that any illegal or highhanded act has been committed by or on behalf of the Respondent No.11. It is further denied that any illegal permission has been given or unauthorized construction has commenced in regard to the project over the subject land. Furthermore, it is also denied that any legally enforceable right of the Appellants including constitutional and fundamental right under Article 21 has been affected by any act of the Respondent No. 11. The Appellant be put to strict proof of the allegations made in the paragraph under reply. The allegations of the Appellant are uncorroborated and not evidence in support of such allegations is forthcoming.

It is denied that the present project of the Respondent No.11 is in any manner illegal or will adversely impact the environment. It is further denied that the provisions of any law have been flouted by the Respondent No.11 or not implemented by the State. It is also submitted that in no way has the Project in question responsible for the water situation in the city of Bengaluru and the development of the said Project will not result in any damage, as has been falsely propagated in the NGT appeal, to the environment. As such, the Respondent No.11 is in due compliance with all the concerned statutory compliances and environmental safeguards. The Appellant states that the Authorities have failed in *"implementing properly and efficaciously the various provisions of the Environmental laws and local laws including the Zoning regulations in the Revised master Plan..."*. However, the fact of the matter is that as per the Plan, the Subject Land was categorized as an "Industrial High Tech Area", subsequent to which it the land use was converted to Residential. The intent was to use the land for the purpose of urbanization. This being the case, even the present EC has been granted after taking into account the Plan. Therefore, in essence, the Authorities have ensured compliance with the zoning requirements detailed in the Plan and then issued the impugned EC.

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It is denied that any of the Respondent No.11 have flouted or are in non-compliance of any law or the directions stipulated by the Hon'ble Tribunal in the Forward Foundation Judgment. It is reiterated that the Appellant is making unsubstantiated averments which are not backed by any evidence. It is submitted that the Respondent No.11 have duly complied with the Forward Foundation Judgment and have maintained the requisite Buffer Zone from the water bodies, in conformity with the dictum laid down by the Hon'ble Tribunal in the afore stated case.

By stating that the subject land falls within the Buffer Zone of the Kaikondrahalli Lake or within the Buffer Zone of one primary or two tertiary Rajakaluve, the Appellant is trying to mislead the Hon'ble Tribunal into believing that the authorities have granted EC to construct within the Buffer Zone. It is reiterated that out of the total Land measuring 50382.92 sq. metres, the Construction Area is only approximately 10,842 sq. metres. From the aforesaid, it is rather evident that the Respondent No. 11 are in due compliance with the condition(s)/direction(s) of the EC and the Forward Foundation Judgment. The Buffer Zones, as can be seen from the Approved Development Plan, have been maintained as green belt in terms of the conditions stipulated in the EC and will be treated as a NO CONSTRUCTION ZONE. The Respondent No.11 has categorically submitted in their Form I submitted with the SEIAA that *"a primary nala connecting to Kaikondrahalli lake is crossing across the Project site. 50m buffer on both side are provided as per NGT specifications."* Furthermore, the Respondent No.11 has very categorically stated that, *"Kaikondrahalli lake exist at a distance of 75m. Harlur/Kasavanahalli lake at a distance of 0.800km"*

It is denied that the project will be constructed in an inherently eco-fragile environment within the Buffer Zone of the lake and the Rajakaluve. The Respondent No.11 has already highlighted the area in the Total Land where the construction will take place. It is vehemently denied that the Respondent No.11 is going to carry out any construction in the Buffer Zone. It is further denied that environmental load of the population envisaged to stay in the same would be more than what the ecosystem can withstand. It is humbly


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submitted that a Master Plan is circulated by the Development Authority only after having taken into consideration multifarious aspects of environment, population density, ecological impact etc.

It is humbly submitted that the issues cited in the corresponding paragraph are non-existent and highly presumptuous, as has been detailed hereinbelow.

It is denied that there has been any concealment or that the Respondent No.11 has supplied wrong information and thus there is no question of the EC being considered void ab initio. The SEIAA has, only after careful scrutiny and consideration of the same, granted the EC. Furthermore, the EC has been granted by the SEIAA, after having received the recommendation in this regard from the State Environment Assessment Committee [hereinafter, in short "SEAC"] in their meeting held on 25.11.2017. It is reiterated that the appraisal committee of SEIAA does not grant the EC on the basis of the information provided in the Form 1A. The Appraisal Committee, consisting of experts from different fields, circumspectly assess the Form 1A, conduct due site inspections coupled with independent and thorough evaluation and decides the necessary parameters and safeguards for a given project independently and only after completely satisfying itself grants an EC. In any event, it is reiterated herein that all concerned information, along with the supporting documents were duly provided to the SEIAA by the Respondent No.11 while seeking the EC. This being the case there exists no reason to raise doubts on the EC or the process by which it has been granted.

It is the submission of the Respondent No. 11 that there is no government policy / order applicable on the subject site in question. The question put to the Respondent No.11 was whether there is any government order /policy relating to the site. The question itself makes it abundantly clear that the details sought were specific to the site, and since there is no site specific government order/policy, the Respondent No.11 have stated "nil". In light of the same, it is apparent that there has been no non-disclosure on the part of the Respondent No.11.


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There are three Rajakaluve passing through the Project. The Respondent No.11 submits that the Appellant is purposely misleading the Hon'ble Tribunal. Reference is made to the approved Development Plan. It is also submitted that the Form-1 categorically states that there is only one primary Rajakulewas passing through the site. Furthermore, it is trite to note that no secondary and/or tertiary Rajakulewas are passing through the Total Area. Regardless, the buffer area has been maintained by the Respondent No. 11 from all the water bodies in or around the Total Land, in accordance with the guidelines laid down by the Hon'ble Tribunal in the Forward Foundation Judgment.

It is denied as false, vague and vexatious that there has been any fraudulent concealment or misinformation which would make the Total Area unfit for construction. It is also denied that the EC is liable to be revoked in terms of Regulation 8(vi) of the notification of 2006. It is denied that the Project site is unfit for construction of a project of the magnitude as alleged. It is reiterated that the Appellant is deliberately trying to show that the construction is planned in the Buffer Zone, which is not true at all.

PARA 10

Further, in reply to the said contents of the para, we would like to substantiate the same with the permissible usage provided under Zonal Regulations, 2015 which provides for norms to be followed in respect of buffer of valley/ drain.

4.12.2) Regulations

i. Permissible land uses:

- 1) *Uses permissible include: Sports grounds, stadium, playgrounds, parks, swimming pools, cemeteries, garden land and crematoria.*
- 2) *Uses permissible under special circumstances by the authority: Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, libraries, milk booths, HOPCOMS, the area of such use shall not exceed 5% of the total area and shall not be more than G+1 floor in any case.*
- 3) *Setbacks for the above will be decided by the Authority taking into account the surrounding development and traffic scenario in that area.*




ii. Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- 1) Sewerage Treatment Plants and Water treatment plants
- 2) Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.
- 3) In case of water bodies a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.
- 4) If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.
- 5) Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.

Hence, there is no valid ground as to why the request for building plan and building license be refused since for the above reasons, we have clearly followed the directions provided under the judgment of NGT in O.A. No. 222/2014.

PARA 11

In reply to the said para, it is denied that there is any violation of the Karnataka Municipal Corporation Act, 1976 [hereinafter, in short, "KMCA"] or any zoning regulation thereunder or under the Karnataka Town and Country Planning Act, 1961 (hereafter referred to as the "KTCP Act"). It is submitted that all permissions, approvals, sanctions required under the KTCP Act have been applied for by the Respondent No.11 and are supported with requisite information/documents confirming the compliance with the provisions of the KTCP Act. The contents of the paras under reply are negatively presumptuous and merit no consideration from the Hon'ble Tribunal. It is submitted by the Respondent No. 11 that they are in due

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compliance with the KTCP Act and the concerned zonal regulations. This being the case, Section 505 of the KMCA is not attracted in the present case. In the same breath it is submitted that Section 300 of the KMCA is also not attracted as no work has commenced in the present instance. In any event the Respondent No.11 undertakes to only commence construction after having requisite permissions and approvals from the competent authorities and in accordance of applicable laws.

It is denied that the Total Area contains within itself Rajakaluve and Buffer Zone of the lake which would mean that any activity without the consent of the KSPCB would legitimately cause such pollution as envisaged under Section 33 of the Water Act. It is denied that any violation of Section 25 of the Water Act has taken place. It is further reiterated that as there is no violation, the provisions of Section 33 of the Water Act are attracted. The Respondent No.11 seeks liberty to rely upon the correct interpretation of the judgment *Mohan Singh & Ors. V. International Airport Authority of India & Ors.*, at the time of arguments. It is denied that there is any present or future harm that will be caused. It is reiterated that an expert panel, after having considering all the parameters has granted the present EC. It is vehemently denied that any of the Authorities have violated their statutory duties in any manner.

It is vehemently denied that there is any ground for setting aside the EC or requiring to remediate loss to the environment. It is humbly submitted that neither has any loss been caused, nor will it be caused. The EC has been granted by the concerned authority after recommendation being given by the expert committee. The Appellant is making presumptuous and vague allegations which are not supported by any expert report/findings.

The Appellant continues to reiterate false and incorrect averments. It is reiterated that Buffer Zone is maintained from all the water bodies in the vicinity. It is further reiterated that Respondent No. 11 have not misrepresented or concealed any facts and hence the EC

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must not be rejected. It is further denied that the impugned order granting EC lacks application of mind. The conditions entailed in the EC are not generic but specific to the present Project. The case of Forward Foundation has been complied with. The condition of the Forward Foundation judgment quoted by the Appellant in para C was a specific condition imposed upon the BWSSB therein keeping in mind the violations committed as per the facts detailed in the said judgment. It is vehemently denied that there will be any concrete construction or laying of foundation, providing amenities such as bench/table/ etc. within the Buffer Zone. It is reiterated that in terms of the EC, which categorically refers to the Buffer Zone requirement detailed in the Forward Foundation Judgment, there will be no construction in the Buffer Zone. It is correct that levelling of excavated soil cannot be permitted in the Buffer Zone. However, it is submitted that the Respondent No. 11 are not carrying out as on date and undertake not to carry out any construction within the Buffer Zone. This being the case, there is no question of revoking the EC. It is denied that any ground has been set forth in the Appeal for revoking the EC. The directions detailed in the Forward Foundation Judgment are entailed in the EC and the Respondent No. 11 undertake to comply with the same in full letter and spirit.

It is denied that the authorities have allowed any sort of construction within the Buffer Zone.

It is denied that by the grant of the EC there has been any violation of the statutory provisions of the Environment Act of 1986 or any judgment of the Hon'ble Tribunal. Keeping in mind the growing environmental concerns, strict conditions have been incorporated in the EC for the Respondent No.11. The EC envisages a strict formulation of the guidelines laid down by the Forward Foundation case and other statutes.

It is vehemently denied that any adverse impact will be caused to the Buffer Zones. It is further submitted that no construction will be undertaken in the defined Buffer Zones in



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the Total Area. It is further submitted that the construction undertaken in the Construction Area will adhere to the conditions specified in the EC. It is further submitted that the conditions imposed in the EC are analogous to the conditions stipulated in the EIA notification of 2005 as well as the Forward Foundation Judgment. Thus the apprehension of the Appellant is only an assumption which has no reliable basis.

The allegations of the Appellant are derived from incorrect facts. The Appellant, by placing reliance on the photographs, is falsely accusing the Respondent No.11 of having undertaken temporary construction within the Buffer Zones without a valid sanction plan. It is reiterated that the Respondent No.11 are in the process of obtaining the necessary approvals. With regard to the allegation of temporary construction, it is reiterated that the Respondent No.11 have only undertaken preparatory work towards contouring and landscaping to avail benefits of the upcoming monsoon. There is no question of any adverse impact on the environment / ecology. From the aforesaid, it is evident that the Appellant is only making hollow, false and incorrect assertions thereby misleading this Authority and harassing the Respondent No.11. It is submitted that the Respondent No.11, is not in violation of the directions of this Authority in the Forward Foundation Judgment or any other statutory compliance.

It is denied that the Project Proponents have colluded with the Authorities or that any of the direction(s) of the Hon'ble Tribunal or any other statutory provisions have been violated by the Respondent No.11. It is further denied that the project will have any adverse effect let alone destroy the eco-system services associated with the lake or the Rajakaluve and it is also denied that the EC should be set aside. It is further denied that there is any ground for any of the Respondent No.11 to pay substantial sum or for that matter any sum towards restoration as no damage has been caused to the environment as has been falsely alleged by the Appellant.

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It is denied that there has been any violation of the Forward Foundation Judgment or any regulation of the Plan. It is submitted by the Respondent No.11 that the Buffer Zone around the lake and the Rajakaluve has been maintained as per the directions of the Hon'ble Tribunal in Forward Foundation Judgment, which expanded the buffer area from 30 m. to 75 m.

It is denied that there are secondary and tertiary nalas flowing through the Total Land. It is also denied that the Authorities have discounted the provisions of the Municipal laws. It is reiterated that there is only one primary Rajakaluve flowing through portion of Sy No.63/2 and the requisite Buffer Zone will be maintained qua the said Rajakaluve as well as the other waterbodies around the Total Land. The Appellant is repeatedly levelling incorrect and baseless allegations against the Respondent No. 11 in order to malign their reputation and cause harassment, for which heavy strictures and penalty should be imposed upon the Appellant by the Hon'ble Tribunal.

It is vehemently denied that the Respondent No.11 have not applied for the grant of EC in accordance with the law and the zonal and sectoral development plans have not been complied with. The Respondent No.11 has ensured that the specific distances, as detailed in the Forward Foundation Judgment, are maintained as Buffer Zones. It is submitted that the judgments relied upon the Appellant in the para under reply are a matter of record and the Respondent No.11 seek liberty of the Hon'ble Tribunal to refer and rely upon the correct interpretation of the said judgments.

It is denied that the judgment of the Hon'ble Tribunal has been violated by the Respondent No.11. It is absolutely denied that the Respondent No.11 has played any fraud on the environment or that the Authorities are hands in gloves with the Respondent No.11 in this regard. Per contra, the Respondent No.11 are environmentally responsible and aware developers/ builders who have always been sensitive towards the ecological impacts of urbanization, and in regard the Respondent No.11 has also received several awards in this regard.



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Reply to the objections from B.M. Associates, Advocates and Consultants and restraining order passed by the High Court of Karnataka in MFA NO. 52/2001 arising out of O.S. No. 4287/2000

PARA 13, 14, 15, 16, 17 & 18

The contents of this paragraph are not true. In fact, the Complaint submitted by B.M. Associates, Advocates on behalf of their client Mrs. Susheelamma are completely baseless. Mrs. Susheelamma do not have any right over the project lands as stated in their complaint. The information regarding pending litigation bearing O.S.No.4287/2000 before the City Civil Court, Bangalore, has already been disclosed to all authorities wherever we have obtained the approvals including Bangalore Development Authority. The Complainant has suppressed the real facts of the case while submitting their complaint.

It is pertinent to describe the correct facts of the above civil suit which will enable your goodself to understand the true facts of the case. This case is originally filed by one Mrs. Anitha, in the year 2000 against her brother Mr.P.Ramprasad, her sister P.Rajitha, and paternal aunts Mrs.Susheelamma, Mrs.Radhamma, Mrs.Leelamma, Mrs.A.C.Shamala, seeking partition of their family properties including the project lands. During the pendency of the suit the parties decided to settle their dispute and accordingly Mrs.Anitha, her brother P.Ramprasad and her sister P.Rajitha entered into a registered Partition Deed dated 21.08.2003 wherein they partitioned family properties including the project lands. *The said Susheelamma and Radhamma two Paternal aunts joined the above registered partition suit and have signed as concurring witnesses to the Partition stating that neither they nor children/their legal heirs shall have any right whatsoever in respect of the schedule lands therein including the project lands. Further, the said Susheelamma in her Written Statement has clearly stated that she has given up her share in the Schedule Properties including the project lands.* Thus, the said Susheelamma has declared and confirmed that she has no right, title and interest over the Suit Schedule Properties including projects lands back in the year 2003 and is now estopped from denying the pleadings filed by her as well

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as her consent given under the said registered Partition Deed. Further to the said Partition Deed, Mrs. Anitha and Ramprasad have conveyed the project lands to third parties and we have purchased the project lands from the Third Parties i.e., Microgate Trading Co. Pvt. Ltd., and Teknopoint Trading Co. Pvt. Ltd., in the year 2016. This being the case, the said Susheelamma who has no right, title or interest in the Suit Schedule Properties including project lands has been filing false complaints with mala fide intention to harass us. Moreover, we are not party to the said suit and any allegation to this extent are baseless.

The cause of action under which the order was passed in the said M.F.A.No.52 and 212 / 2001 dated 18th March, 2012 was completely different and the said cause of action do not survive anymore and hence are not binding on us in any manner. In fact, pursuant to the said Order the parties have executed the above said registered Partition Deed and have settled their disputes and the suit was sought to be dismissed by the Civil Court. The said dismissal of the suit was challenged by Leelamma and A.C.Shamala and thereafter the suit was restored wherein Leelamma and A. C. Shamala got transposed as Plaintiffs No.2 and 3 in the above suit. The said Mrs. Leelamma and Mrs. Shyamala A.C. have on 21.7.2016 presented themselves before the Civil Court along with their legal counsels and submitted that they HAVE GIVEN UP THEIR CLAIM IN RESPECT OF SAID LANDS BELONGING TO US AND LAND BEARING SURVEY NO. 62 MEASURING 3 ACRES 7 GUNTAS AND LAND BEARING SURVEY NO. 63 MEASURING 6 ACRES 21 GUNTAS, ALL SITUATED AT KASAVANAHALLI VILLAGE. This being the case when there are no contesting Plaintiffs in the suit Mrs. Susheelamma having no right, title or interest in the project lands is trying to mislead this Authority by bringing only partial facts into light and by suppressing the actual facts of the case. Further, as far as the allegation about the alienation of project lands during the pendency of the suit is concerned, it is the Plaintiffs and Defendants who first entered into the registered Partition Deed dated 21.08.2003 and thereafter alienated the lands in favour of third parties and the project lands were purchased by us from third parties for valuable consideration.


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The allegations of the Complainants are false and are hereby denied as false. The Memo dated 21.07.2016 filed by Mrs.Radhamma and Shamala for giving up their claims and settling their rights for a valuable consideration in respect of the project lands and requesting the court to delete the said project lands from the suit. Further, it is pertinent to mention that it is falsely alleged by the Complainant that it is an order which was passed by the Civil Court on 21.07.2016, whereas, the true fact is that it was only a Memo for deletion which was filed on 21.07.2016 by Mrs.Radhamma and Shamala. The copy of the Memo has been annexed herewith for kind perusal of this Authority.

Respondent No. 11 hereby accepts the contents of this paragraph to the extent that we have submitted application for amalgamation of three Survey Numbers into one Plot and have obtained the Khatha Amalgamation. In this regard, we have obtained a special notice dated 07.10.2016, issued by the Joint Commissioner, BBMF, Mahadevpura, Banagalore, and also the Respondent No. 11 has paid a betterment charges to this Authority. Thereafter, this Authority has issued the Khatha Certificate and Khatha Extract in the name of Respondent No.11.

The allegations of this paragraph are completely baseless. There is no NGT Order passed as alleged in this paragraph. There was no such NGT CASE ADMITTED as on the date of submission of application / obtaining of approval from the authorities and till date, the matter before NGT has not been admitted. In fact, the Complainants are again misleading this Authority by referring to NGT case where there are no orders passed as on this day.

PARA 19

In reply to the said para,

- (i) We hereby reiterate that the Order sheet dated 21.07.2015 wherein the Mrs. Leelamma and Mrs. Shamala have signed for having submitted the Memo for deletion of Suit Schedule Item No. 7, 8 and 9 are annexed herewith as required by this Authority.

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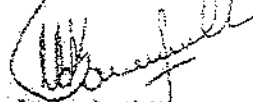
- (ii) We are still awaiting the Consent for Establishment (CFE) by Karnataka State Pollution Control Board for the project; and
- (iii) The NOC by BWSSB, we have made an application for release of NOC as the project land is falling under 110 Villages which are now unified and the application is under process.

Thus, in view of the above, there are no contesting Plaintiffs in the case against us and there does not arise any cause of action for Mrs. Susheelamma to the said suit and her claim in respect of the suit Schedule Property is not subsisting. The said Susheelamma is estopped from denying her own pleadings and confirmations executed by her, now after a gap of more than 15 years. Thus, it is crystal clear that the Complainant is just taking advantage of the pending case where there are no orders against us and is filing false and baseless complaints to succeed in her ulterior motives.

In lieu of the above, we request you not to consider the misleading contention raised by Mrs. Susheelamma. We hereby inform you that we shall abide by the ruling of the court in the said suit bearing O.S.No.4287/2000 and NGT, if any.

We are always committed to ethics and comply with all prevailing laws/regulations etc, under the said situation, we have taken adequate steps and followed the provision of the law required to be followed with utmost importance and obligated to follow the same if required in future. Hence for the reasons stated above and facts transverse hereunder, we request your goodself to withdraw the show cause notice and process the Building Plan and license and release the same at the earliest.

Thanking you,
Yours truly,
For Wonder Projects Development Private Limited,


Authorized Signatory

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 54 OF 2018

IN THE MATTER OF:

H.P. RANJANNA

...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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Place: New Delhi

Date: 27-08-2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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...APPELLANT/APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

SHORT NOTE ON BEHALF OF RESPONDENT NO. 11 AND 12

MOST RESPECTFULLY SHOWETH:

That vide order dated 27.08.2020, this Hon'ble Commission had directed the parties to file a short note of submissions. That the present note may be read as part and parcel of the pleadings and written submissions filed by Respondent no. 11 and 12 (Project proponent) in the present case. By way of this written short note, the Project Proponent would counter each and every allegation of the Appellant and the Respondent No. 5, along with proof thereof.

It is submitted that the Appellant herein is trying to create a case which is absolutely new and different from his Appeal. The new grounds raised by the Appellant are as follows:

- a. At page 771 of the additional Objection, the Appellant has alleged that as per Gazette Notification No. FEE 316 EPC 2015 dated 19.01.2016(Page 822 @ page 824) and as per judgement of Anirudh Kumar vs MCD 2015(7) SCC 779, approval plan for construction of building can be obtained only after production of copy of Consent for establishment CFE issued under Water Act. In the present case CFE obtained on 12.10.2018 whereas Building plan approval on 30.08.2018.
- b. Development plan issued by BDA includes FAR+ non-FAR is 2,35,076.81 Sq.m which is beyond the 1,50,000 Sq.mt.
- c. Further the project falls in B-1 category and, therefore, SEIAA had no authority to grant EC by treating it as category B-2.
- d. At page 784 allegation of different project dimensions before different public authorities.

In light of the above the Project proponent would like to address all the grounds both old and new as below:

1. *Illegal construction continued even after revocation of EC-* There is no revocation of EC till date (@ Pg 40-51 of documents filed by Appellant and @ pg 463-472 of documents filed by KSPCB).

2. *Phase 1 construction illegally done until October 2019 inasmuch as Consent to establish was granted on 12.10.2019 i.e. pendente lite permission subject to final outcome of the present case. Offence under Section 24 of Water Act- @ para 5 of the reply of KSPCB (Pg 460) "...as per applicable law and guidelines, the processing of Application for CFE and CFO are undertaken by KSPCB after grant of EC by SEIAA. @ para 6 "CFE applied on 18.01.2018. On receipt of this Application officers of Regional office-Bommanahalli had inspected the project on 05.02.2018 and observed that the construction work has not yet started. Relevant also para 7 @ Pg 461. @ para 8-during inspection on 05.2.2018 only a model flat was constructed for marketing purpose and Project proponent had not taken up any construction activity. Further Clause 46 of the Building Plan and Building license states that the Project Proponent needs to submit the CFE within 30 days. Clause 46 is @ pg 440 of the of the documents filed by Project Proponent on 07.02.2019*
3. *Report was not called qua issues raised in statutory appeal/present case and hence it apparently does not cover the grounds of attack raised to the impugned EC- The Committee was constituted at the insistence of the Appellant. The same was done for the Project in question. If the Appellant had reservations, why was it not raised on the date of constitution. Even otherwise on Appellant's request MoEF was included in the Committee. The Committee was independent and looked into all contentions. It visited the Project thrice and provided detailed report qua all the allegations of the Appellant. Committee is an hand pit authority by this Tribunal*
4. *Amendment to EC/retrospective EC- There is no retrospective or amended EC- refer to reply of KSCPb in point 2 Supra*
5. *Issue of primary nala – Village map of 1904 (year as written in Kanada) shows primary nala, same has been reliev by Applicant at page no. 21 of his Objections. SWD department of BBMP (being the appropriate authority) at the time of inspection by the joint committee, upon inspection said it is a Secondary nala. Be that as it may, Project Proponent has left requisite buffer.*
6. *Conflict between OA 281/2018 and OA 602/2018 – Report of OA 281 clearly states it does not cover the project and the same is within the ambit of inspection of the committee arising out of OA 602. OA 281 rules out its report from being evaluated while analyzing the project which is to be done by OA 602. Hence, no conflict.*

7. *Conflicting finding by both the committee* – The findings by the committee are based on actual ground status of the site. As the ambit of OA 281 was qua different survey no. and OA 602 was for different survey no.
8. *Permitting the project would result in complete removal of catchment area. Adverse impact on bird habitat and Nocturnal birds-* Committee report Observations @ point 14 Pg 612. Issue of Industrial Hi Tech (also can be seen from the Joint Committee Report @ Pg 588-590).
9. *Issue of manhole chambers* – No construction for the last one year as such the same cannot be blamed on the Project Proponent. Unless people start staying there, the issue of sewage would not arise. Project proponent is not the concerned authority to manage manhole, that is the duty of BBMP jointly with Mahadevapura Parisara Smrakshne Mattu Abhirudhi Samithi (MPSMAS).
10. *Non-compliance with Zoning Regulations-Concretization of the nala* – Construction happening in valley Zone and not on Buffer Zone @ Pg 600 of Report. Storm water drain originates from Kasavanahalli Lake and flows towards Kaikondarhalli Lake through survey 63 between two building blocks. The total area of the drain is 13 guntas (Kharab land). Constructing U type RCC drain (done with the approval of BBMP @ Annexure 9 and 10 of the Report) without deviating the original alignment and measurement of the storm water drain is beneficial to the flow of water.
11. *On 04.05.2016 Full bench of this Hon'ble Commission passed directions and the EC is in violation of the same-* The General directions, not pertaining to the Respondents in the case of Forward Foundation (04.05.2016) were struck off vide the Judgment of Mantri Techzone (para 60-62). Even otherwise the permissions/ sanctions and the Joint Committee report shows that Project Proponent is in compliance of Buffer limits of not only the RMP-2015 but also of Forward foundation.
12. *Inspection undertaken by Committee devoid of authority-* vide order dated 03.02.2020 the Bench never directed the committee to stop with the inspection. As such its mandate was never cancelled. Furthermore, vide order dated 02.03.2020 the Hon'ble Supreme Court, directed the Committee to file its report with the Supreme Court Registry, as such reviving the Committee.
13. *Building Plan being Void-* Building Plan was approved on 30.08.2018 (Pg 436 of documents filed by the Project Proponent on 07.02.2019). BBMP filed their objection before this Tribunal on 05.09.2018. Building plan for phase II

approved on 28.05.2019. When the building plan was modified by adding phase II, the earlier building plan dated 30.08.2018 got automatically cancelled. The new building plan dated 28.05.2019 speaks about phase-I as well. The Appellant has deliberately filed the wrong translation of the Building Plan @ pg 821, whereas the fact remains that the actual translation is "Cancelled" and not "Void". True copy of the translation of the Building plan is annexed as ANNEXURE F. Furthermore, even the Site Plan approved by BBMP contains a chart showing that the said Building Plan is for both the Blocks. True copy of the Site Plan is annexed as ANNEXURE G. Hence the term void Building plan is nothing but a brain-child of the Appellant.

14. **Net site area as 50,382.95 sq mtrs. After deducting Kharab Land-** Net site area is the total land. While deducting the Net Site area, one is required to deduct Kharab Land, roadways, Civic amenities area, buffer zones and what is left is where the construction has to take place. In the present case the Project proponent has an area of 12 acres and 18 guntas within its ambit, whereas the Project Proponent is only constructing 2 acres area. @ Pg 585 of the Report as per RMP-2015, area for residential development apart from provisions for amenities and open space shall be maximum of 55% of the total area. The said Project (Block 1 and Block 2) has ground coverage area of 22.63%. Rest of the area has been left as green belt by the Project proponent. Copy of the chart
15. **Bangalore Monitoring Committee and not BDA should have approved the Development Plan-** Appellant is relying on a judgment of A. Feroz Ahmed vs. Bangalore Development Authority, and is saying that the permissions listed at se. No. 1-7, pg 596 and 597 of the report are illegal and void, as BDA could not grant change of land use and Development Plan, but rather it is the Bangalore Metropolitan Committee which has the authority. If we read the judgment the same applies to a locality called Abshot Layout and does not apply to the whole of Bangalore. Bangalore Metropolitan Committee does not have jurisdiction over the area of Kasavanhalli village area. This committee is not even functioning as of now.
16. **Construction of RCC Culvert-** the construction of RCC Culvert has been done with the prior approval of BBMP, as is evident from internal Pg 55 of the report of the Committee where BBMP itself has given an endorsement for construction of RCC Culvert.
17. **Committee failed to include non-FAR area in total Built up area. Since the FAR + non FAR is 2,35,076 m2 the project is in B1 category-** the Development

Plan filed by the Project Proponent at Pg 270 of the documents filed on 19.05.2018, nowhere states that the FAR + Non FAR = 2.35 lacs m2. This is a self-created figure by the Appellant. Furthermore, the project has a total built up area of 1,25,663 sq. mtr. as is also evident from Pg 611 of the Joint Committee Report.

18. ***BWSSB granted NOC for 1,71,744.37 sq mtrs.*** - This is a figment of Appellant's imagination. BWSSB has in fact granted the NOC for 1,17,755.37 Sq. mtrs. As per the chart annexed as ANNEXURE H.
19. ***Demolition Order PO/CO dated 06.06.2018-*** The provisional order (PO) dated 06.06.2018, as well as the Confirmation Order (CO) dated 22.06.2018, were never served on the Project Proponent despite BBMP having correct address. In fact the Project Proponent learnt about the same only when the Appellant filed the same before this Hon'ble Tribunal. Even otherwise, model flat/ temporary structure was present on the Civic amenities side of the project. It is relevant to note that 5% of the Total Land is reserved for Civic Amenity area as per Section 14B of Karnataka Town and Country Planning Act and the same is required to be handed over to the Bangalore Development Authority free of cost on the receipt of Occupancy Certificate. Further the Project Development Approval from both BDA and BBMP is taken excluding the said civic amenity area. Hence same is not be construed as part of project Development. No construction has been taken up in the Buffer area. The same is put up in the Civic Amenities Area which is governed under Bangalore Development Authority Norms. BBMP has no jurisdiction over the structure put up in Civic Amenity area. Howbeit, the Appellant No. 1 had informed the BBMP Mahadevapura, as an abundant caution prior to putting up of said structure vide letter dated 27.12.2017 for which no reply was received from the BBMP (as such it was deemed approved). Stop work notice dated 13.07.2018, granted without granting the Building plan to the Project Proponent, which was appropriately replied by the Project proponent on 17.07.2018, post which BBMP granted the Building Plan dated 30.08.2018. True copy of the Reply dated 17.07.2018 of the Project proponent is annexed as ANNEXURE I.
20. ***Further, the reliance by BBMP to Divya Granites Vs. Karnataka State Pollution Control Board in Appeal Nos. 98101, 105-113 and 156-158 of 2013 (SZ)-*** BBMP has misquoted paragraph-15 of the judgment by wrongly saying that steps to take building plan, conversion order, civil work cannot be undertaken without first obtaining the mandatory prior consent from the Karnataka State Pollution Control Board under Section 25 of the Water Act,

1974 and that the said consent is a "condition precedent for establishment or taking any steps for establishment", as a perusal of the judgment does not say so.

Filed Through

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Ph No: 9810232678; 9821396903

Place: New Delhi

Date: 27-8-2020

MEASURES WHILE EXCAVATION FOR BASEMENT/FOUNDATION AND CONSTRUCTING THE BASEMENT/ FOUNDATION/STILT AND UPPER FLOORS WITH REGARD TO THE STABILITY OF THE STRUCTURE, SAFETY OF THE NEIGHBOURS AND CONSTRUCTION LABOURERS. OWNER/BUILDER WILL BE HELD RESPONSIBLE FOR ANY LAPSES IN THIS REGARD.

Office of the Additional / Joint Commissioner (South)
(Bruhat Bangalore Mahanagara Palike)

PLAN PREVIOUSLY SANCTIONED
VIDE LP.NO. Ad.Com/SUT /0599/14-15
DATED: 15 - 9 -2014 STANDS CANCELLED.

MODIFIED PLAN.

LP No. Ad.com/SUT /0599/14-15 Dated _____

Valid From _____ to _____

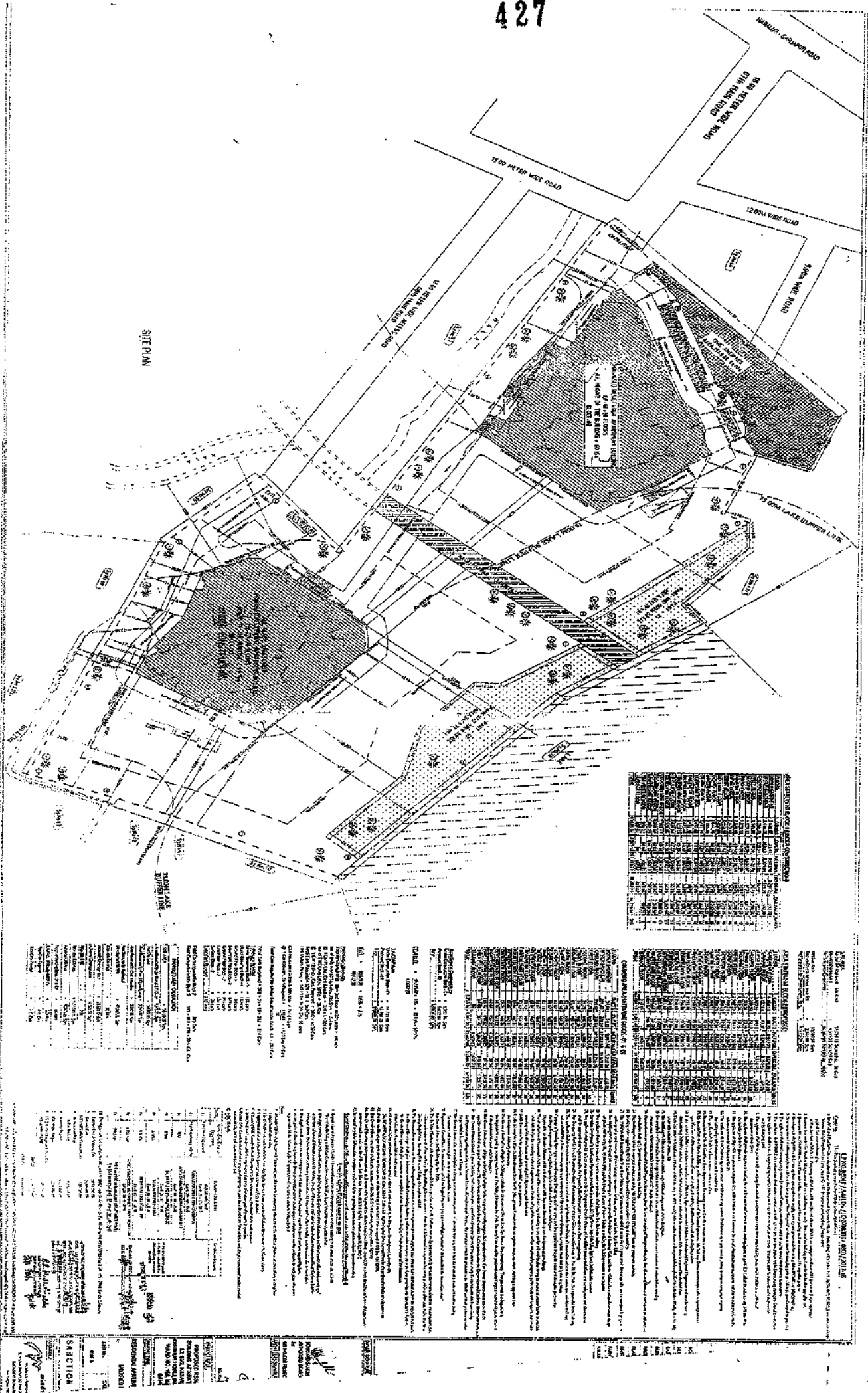
for two years, sanctioned as per plan / as corrected in green.

MODIFIED PLAN

Note: The previous approved site plan as per serial number L.P.No.203/2017-18, dated 20-08-2018 stands cancelled

As per the Commissioner's order dated 21-05-2019, J.D.T.P(N)/(S) L.P.No.203/17-18, dated 28-05-2019, the building plan sanction subject to the conditions is approved. This approval is valid from 28-05-2019 to 27-05-2021 (only for two years period)

Joint Director(Town Planning-North)
Bruhath Bangalore Mahanagara Palike



- The below is the table comparison of various approval along with dimension. The area differs due to the FSI/FAR being consumed and calculated by each authority.
- So the maximum Achievable FAR is 2.25% but what is achieved out of both phases is 1.979% which actually is impacting the calculation made by each authority

Date of Approval	Approval/NOC	Site Area	Built up area	Dimension
22.12.2017	NOC from Fire and Emergency services - Phase -1 (Godrej Reflections)	50,382.91 Sq. Mtrs	59,091.85 Sq. mtrs	One building – Phase-1, 3-Towers joined together
20.04.2018	NOC from Fire and Emergency services - Phase -2 (Godrej Lake Gardens)	50,382.91 Sq. Mtrs	64,958.15 Sq. mtrs ~~1,24,050 Sq. mtrs~~	One building – Phase-2, 4-Towers joined together
10.01.2018	Environmental Clearance from Ministry of Environment and Forests and SEIAA – Phase1 and Phase -2	50,382.91 Sq. Mtrs	1,28,193.9 Sq. mtrs	2 Blocks consisting of GF + 20 UF (655 Units)
07.03.2018	Development Plan approved by Bangalore Development Authority	50,382.95 Sq. mtrs	1,27,149.25 Sq. mtrs	2 blocks consisting of 2 BF+GF+20 UF (658 units)
30.08.2018	~~Building Plan~~ approval from Bruhat Bangalore Mahanagara Palike – Godrej Reflections – Phase-1	50,382.95 Sq. mtrs	61,418.72 Sq. mtrs	One building – Phase-1, 2 BF+GF+20 UF (265 Units)
28.05.2019	Modified ~~Building Plan~~ approval from Bruhat Bangalore Mahanagara Palike – Godrej Reflection and Godrej Lake gardens – Phase1 and Phase 2	50,382.95 Sq. mtrs	64,244.34 Sq. mtrs ~~1,25,663.06Sq. mtrs~~	One building – Phase-1, 2 BF+GF+20 UF (350 Units)
30.10.2018	NOC from Bangalore Water Supply and Sewerage Board	51,698.16 sq. mtrs	1,17,755.37 Sq. mtrs	Block 1 and 2 each consist of 2 BF+GF+ 20 UF

Wonder Projects Development Pvt. Ltd.
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CIN : U70102MH2015PTC235969

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Fax : +91-22-6369 8638
Website : www.godrejproperties.com

Dated : 17.07.2018

THE COMMISSIONER,
Bruhat Bengaluru Mahanagara Palike
NR Square,
Bangalore.

Dear Sir

Sub : Reply to your show cause notice cum stop work notice dated 13.07.2018 bearing
No. COMM/PSR/41/2143/18-19

Ref : Application submitted by M/s Wonder Projects Development Private Limited for
sanction of their building plan and building license for the purpose of construction of high
rise building project from BBMP, that is kept in abeyance in No. BBPM/Add
Dir/ID/North/0203/2017-18 on respect of land in Khatha No. 4131, Survey No. 61/2, 62 &
63/2, totally measuring 12 Acres 18 Guntas, situated at Kasavanahalli village, Varthur Hobli,
Bangalore East Taluk.

In furtherance to the above, we, Wonder Projects Development Private Limited
(hereinafter referred to as "WPDEL"), at the outset deny all the allegations and
observations made thereunder and we hereby reserve all our rights to reply as follows:

NGT Case

We would like to transverse each para with the substantial grounds and reiterate you that
the allegations made thereunder are completely denied as baseless and has no bearing
either in law or in prudence.

In this regard, we would like to give brief background about Wonder Projects Development
Private Limited and Godrej Properties Limited:

17/7/18

20-21, Godrej and Godrej
21/9/18
13/7/18

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Wonder Projects Development Private Limited ("Respondent No. 11") is an Associate Company of the Godrej Properties Limited ("Respondent No. 12") and is involved in Real estate activities with own or leased property, therein indulging in buying, selling, renting and operating of self-owned or leased real estate such as apartment building and dwellings, non-residential buildings, developing and subdividing real estate into lots etc.

The Godrej Properties Limited has contributed immensely to the environmental sustainability and has received over 200 awards in the past 5 years. The persistent endeavor of the Godrej Properties Limited has been to broaden its perspective to encompass conservation of habitats and ecosystems and protect forests and propagate greenery. To name a few, the commercial office project of the Godrej Properties Limited, Godrej BKC, is the only LEED (Leadership in Energy and Environmental Design) Platinum rated building in India's leading commercial district, Bandra Kurla Complex, Mumbai, Maharashtra demonstrating the commitment of Godrej Properties Limited towards environmental sustainability. The flagship project of Godrej Properties Limited, 'The Trees', is one of India's most sustainably planned mixed-use projects that will contribute to the evolution of urban design thinking in the country.]

PARA 2

The averments made in the para 2 of the notice is accepted to the extent that H.P. Ranjanna ("the Appellant") has filed a case in Appeal no. 54/2018 before the Hon'ble Principle Bench National Green Tribunal, New Delhi and has sought various relief mentioned thereunder and all other para are denied and transverse hereunder.

PARA 3

It is pertinent to mention that the Wonder Projects Development Private Limited is the lawful owner of the Land bearing Survey no. 61/2, 62 and 63/2 situated at Kasavanahalli Village, Varthur Hobli, Bengaluru, admeasuring 12 acres and 18 guntas/50382.92 sq. meters. (hereinafter referred to as the "Total Land"). The Total Land, as per the Revised Master Plan



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2015 (hereinafter referred to as the "Plan"), falls within the Industrial (High Tech) Zone. That the Plan is notified by the Development Authority only after having taken into consideration the multifarious aspects of environment, population density, ecological impact etc. Thus, after taking all this into account, the Government decided to consider the area in question, i.e. the Total Land, fit for urbanization and thus it is not an eco-sensitive/eco-fragile zone, even as per the Plan. It is therefore vehemently denied that the Total land is eco-fragile and any construction thereon would lead to adverse impact on the environment.

That a portion of the Total Land is abutting the Kaikondarahalli lake and there is only one Primary Rajakaluve (Nala) flowing through portion of Sy No.63/2 which is specified as Kharab in all revenue documents and also have reserved the said portion as undeveloped. It is further submitted that there are two Tertiary Nala and one Secondary Nala flowing outside the Total Land. It is submitted that the Respondent No.11 has obtained the approval for change of land use from Industrial (Hi-Tech) to Residential from the Bangalore Development Authority (BDA). Consequently, the Respondent no. 11 is required to fulfill the conditions laid down in the Environmental Clearance letter bearing No. SEIAA 114 dated 10.01.2018 (hereafter referred to as the "EC") especially relating to the maintenance of Buffer Zones. It is pertinent to note that the Respondent no.11 is in compliance with the conditions laid down in the EC with regard to maintenance of Buffer Zones which is evident from a perusal of the approved Development Plan, which delineates the Total Land, the Buffer Zone maintained, as well as the portion of land whereupon the construction is to be undertaken once all the approvals are obtained. It is pertinent to submit that out of the total Land measuring 50382.92 sq. metres, the construction area is only approximately 10,842 sq. metres (hereafter referred as "Construction Area"). At this stage it is apropos to aver that the coverage provided as per Zonal Regulation is 50% whereas, the Respondent No. 11, after adequately leaving the Buffer Zone as required in the EC, have achieved a ground coverage of only 22.66%.

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That it is pertinent to note that the Plan prescribes the maintenance of a buffer Zone 30 metres distance around the lake, which has been extended to 75 metres vide a detailed judgment passed by the Hon'ble Tribunal in the case of "The Forward Foundation & Ors. v. State of Karnataka & Ors." [Original Application no. 222/2014] (hereinafter referred to as the "Forward Foundation Judgment"). The relevant extract of the aforesaid judgment is reproduced herein below :

"In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.

- (i) 50m from the edge of the primary Rajakaluve.*
- (ii) 35m from the edges in the case of secondary Rajakaluve*
- (iii) 25m from the edges in the case of tertiary Rajakaluve"*

It is pertinent to mention that even the EC issued to Respondent no.11 mandates vide clause 48, compliance of the aforesaid conditions stipulated in the Forward Foundation Judgment. Further, vide clause 47 of the EC the Respondent no. 11 is to ensure that the existing water body, canals, Rajakaluve and other drainage and water bound structures are retained unaltered with due buffer zone. Thus a bare perusal of the EC clearly establishes that adequate safeguards have been provided and is in compliance with the existing laws. The Respondent No. 11 are complying, as well as undertake to comply with all the conditions of the EC.

The Appellant is trying to mislead the Hon'ble Tribunal by falsely alleging that the Construction Area falls within the Buffer Zone, whereas the fact of the matter is that Respondent No. 11 shall/has not undertaken any construction of whatsoever nature in the buffer zone nor has undertaken any construction at the construction area without prior


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approval from this authority and also Respondent No. 11 undertakes and confirms that that the required buffer zones will be maintained as prescribed by law as well as in compliance of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. The construction will be undertaken, only once the approvals are obtained, on the Construction Area which does not fall under the Buffer Zone. This is evident from a bare perusal of the approved Development plan.

PARA 4

The Appellant is trying to paint a picture that the EC suffers from non-application of mind and that appropriate safeguards to protect the water bodies and the environment have not been taken into account by the concerned authority while granting the EC. However, the fact of the matter is that the Appellant, in order to make a case, has misrepresented on oath to the Hon'ble Tribunal that there are three Rajakaluve flowing through the Project, whereas the correct fact is that there is only one Primary Rajakaluve flowing through portion of Sy No.63/2 and one Secondary and two Tertiary Rajakaluve are flowing outside the Total Land. It is pertinent to reiterate that the requisite Buffer Zone, as detailed in the Forward Foundation Judgment and clause 48 of the EC will be maintained. The same is evident from a bare perusal of the approved Development Plan which categorically demarcates the Total Land, the Buffer Zone being maintained and the area on which the actual construction, away from the Buffer Zone, will take place. It is also pertinent to reiterate that the Total Land was demarcated in the Plan as High Tech Industrial Area and therefore the intention was always to treat this land for the purpose of urbanization.

PARA 5

It is pertinent to assert that that the Form 1A submitted by Respondent No.11 for the grant of EC is only an application expressing the desire of the promoter to commence a particular project. It is neither conclusive nor decisive on the project and is only a guiding factor. The appraisal committee of State Environmental Impact Assessment Authority ("SEIAA") consisting of experts from different fields, who, before granting the EC, circumspectly assess the Form 1A, conduct due site inspections coupled with independent and thorough



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approval from this authority and also Respondent No. 11 undertakes and confirms that that the required buffer zones will be maintained as prescribed by law as well as in compliance of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. The construction will be undertaken, only once the approvals are obtained, on the Construction Area which does not fall under the Buffer Zone. This is evident from a bare perusal of the approved Development plan.

PARA 4

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evaluation and decides the necessary parameters and safeguards for a given project independently. Only after having fully satisfied itself, the EC is granted to a project proponent. The Hon'ble tribunal in R.Veermani V. The Secretary P.W.D, Chennai & Ors. 2013 SCC Online NGT 11 has held:-

"The EC is wisdom driven of the members of the committee and no doubt it is not driven by the Data and particulars furnished by the Promoter in the form alone. The Authority cannot place their decision on the application alone or the contents of the form."

That it is apropos to aver that in the present case too, the concerned authority, after an exhaustive study, consultation and taking into account all necessary parameters by the committee of Experts having fully satisfied itself, granted the EC to Respondent No.11. The EC, keeping in mind a particular project, entails a list of conditions to be complied with at pre and post construction stage so as to ensure protection/conservation of the water bodies, as well as the environment. Envisaging the area in which the construction is to take place, the EC requires the Respondent no. 11 to maintain the buffer zone in terms of the directions of the Hon'ble Tribunal in the Forward Foundation Judgment. Therefore the averment of the Appellant that the EC suffers from non-application of mind is baseless and misconceived.

It is further submitted that the Respondent No.11 is in the process of acquiring all requisite permissions and sanctions from the appropriate and competent authorities as required under the provisions of the relatable laws. As such Respondent No.11 being law abiding and eco-friendly, is committed to safeguarding the environment, and shall not commence the construction until all the requisite permissions/sanctions are not in order.

PARA 6, 7 & 8

The averments made under the said para are denied as false, incorrect and grossly misleading. It is denied that there is any violation of the Karnataka Municipal Corporation Act, 1976 [hereinafter, in short, "KMCA"] or any zoning regulation thereunder or under the

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Karnataka Town and Country Planning Act, 1961 (hereafter referred to as the "KTCP Act"). It is submitted that all permissions, approvals, sanctions required under the KTCP Act have been applied for by the Respondent No.11 and are supported with requisite information/documents confirming the compliance with the provisions of the KTCP Act. The contents of the paras under reply are negatively presumptuous and merit no consideration from the Hon'ble Tribunal. It is submitted by the Respondent No. 11 that they are in due compliance with the KTCP Act and the concerned zonal regulations. This being the case, Section 505 of the KMCA is not attracted in the present case. In the same breath it is submitted that Section 300 of the KMCA is also not attracted as no work has commenced in the present instance. In any event the Respondent No.11 undertake to only commence construction after having requisite permissions and approvals from the competent authorities and in accordance of applicable laws.

It is denied as false and incorrect to the extent that violations carried out and as well as the Authorities especially the KSPCB would invite strictures from the Hon'ble Tribunal. It is reiterated that there are no violations carried out by the Respondent No. 11 and thus there is no question of attracting strictures.

The contents of said para are denied as false and incorrect. It is denied that any ad hoc or for that matter any construction is taking place at the site. The Appellant is trying to paint a picture that construction activities are being undertaken without a valid consent being obtained under Section 25 of the Water Act or without the building plan. The Appellant is making false assertions to prejudice the mind of the Hon'ble Tribunal and strict action must be initiated against the Appellant in order to ensure that such false and frivolous publicity seeking Appeals are not filed. It is submitted that the Respondent no. 11 has applied for the necessary consent under Section 25 of the Water Act as well as the sanction plans and undertake to commence construction work upon obtaining all necessary approvals from the statutory authorities. It is reiterated that the Appellant is relying upon the photographs



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to falsely show construction activity, whereas, the correct fact is that only preparatory work towards contouring and landscaping of green belt so as to derive benefit of the upcoming monsoon has taken place. It is reiterated that the Respondent No.11 is not in violation of any law.

The contents of said para details the discretionary power of the State Pollution Control Board under Section 33 of the Water Act. It is denied that the Respondent No.11 has contravened any law which would lead to initiation of proceedings under Section 33 of the Water Act.

It is pertinent to mention that the allegations made under para 8 is completely denied as false and baseless. The Respondent No.11 have neither raised nor constructed any constructions of ground floor and first floor or model flat measuring 2,500 sq. ft. As accepted earlier, the Respondent No.11 have not undertaken any ad-hoc construction, that too without a sanctioned building plan and without the consent of BBMP ("Respondent No. 9"). It is reiterated that the Respondent No.11 are only taking preparatory steps towards contouring and landscaping with a view to maintain greenery on the total area and prepare for the upcoming monsoon.

Further, The Appellant is trying to create a prejudice in the minds of this authority by stating that the Respondent No.11 is carrying out construction activities, by placing on record photographs which do not convey the correct position. It is reiterated that the Respondent No. 11 are only undertaking preparatory steps for the purpose of contouring and landscaping and carrying out plantation and maintaining the greenery in the Total Area. It is further submitted that the same is being done to avail the benefits of the upcoming monsoon. It is reiterated that no damage to the ecosystem, whatsoever, is/will be caused by the Respondent No. 11. In fact, this Respondent No.11 has replied and submitted necessary documents to your notice dated 30.05.2018 vide notice no. Ward No. 150/TAMSHA/ PR/49/18-19.



PARA 9The contents of the said para are vehemently denied for the following reasons:

It is hereby denied that any illegal or highhanded act has been committed by or on behalf of the Respondent No.11. It is further denied that any illegal permission has been given or unauthorized construction has commenced in regard to the project over the subject land. Furthermore, it is also denied that any legally enforceable right of the Appellants including constitutional and fundamental right under Article 21 has been affected by any act of the Respondent No. 11. The Appellant be put to strict proof of the allegations made in the paragraph under reply. The allegations of the Appellant are uncorroborated and not evidence in support of such allegations is forthcoming.

It is denied that the present project of the Respondent No.11 is in any manner illegal or will adversely impact the environment. It is further denied that the provisions of any law have been flouted by the Respondent No.11 or not implemented by the State. It is also submitted that in no way has the Project in question responsible for the water situation in the city of Bengaluru and the development of the said Project will not result in any damage, as has been falsely propagated in the NGT appeal, to the environment. As such, the Respondent No.11 is in due compliance with all the concerned statutory compliances and environmental safeguards. The Appellant states that the Authorities have failed in *"implementing properly and efficaciously the various provisions of the Environmental laws and local laws including the Zoning regulations in the Revised master Plan..."*. However, the fact of the matter is that as per the Plan, the Subject Land was categorized as an "Industrial High Tech Area", subsequent to which it the land use was converted to Residential. The intent was to use the land for the purpose of urbanization. This being the case, even the present EC has been granted after taking into account the Plan. Therefore, in essence, the Authorities have ensured compliance with the zoning requirements detailed in the Plan and then issued the impugned EC.



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It is denied that any of the Respondent No.11 have flouted or are in non-compliance of any law or the directions stipulated by the Hon'ble Tribunal in the Forward Foundation Judgment. It is reiterated that the Appellant is making unsubstantiated averments which are not backed by any evidence. It is submitted that the Respondent No.11 have duly complied with the Forward Foundation Judgment and have maintained the requisite Buffer Zone from the water bodies, in conformity with the dictum laid down by the Hon'ble Tribunal in the afore stated case.

By stating that the subject land falls within the Buffer Zone of the Kaikondrahalli Lake or within the Buffer Zone of one primary or two tertiary Rajakaluve, the Appellant is trying to mislead the Hon'ble Tribunal into believing that the authorities have granted EC to construct within the Buffer Zone. It is reiterated that out of the total Land measuring 50382.92 sq. metres, the Construction Area is only approximately 10,842 sq. metres. From the aforesaid, it is rather evident that the Respondent No. 11 are in due compliance with the condition(s)/direction(s) of the EC and the Forward Foundation Judgment. The Buffer Zones, as can be seen from the Approved Development Plan, have been maintained as green belt in terms of the conditions stipulated in the EC and will be treated as a NO CONSTRUCTION ZONE. The Respondent No.11 has categorically submitted in their Form I submitted with the SEIAA that *"a primary nala connecting to Kaikondrahalli lake is crossing across the Project site. 50m buffer on both side are provided as per NGT specifications."* Furthermore, the Respondent No.11 has very categorically stated that, *"Kaikondrahalli lake exist at a distance of 75m. Harlur/Kasavanahalli lake at a distance of 0.800km"*

It is denied that the project will be constructed in an inherently eco-fragile environment within the Buffer Zone of the lake and the Rajakaluve. The Respondent No.11 has already highlighted the area in the Total Land where the construction will take place. It is vehemently denied that the Respondent No.11 is going to carry out any construction in the Buffer Zone. It is further denied that environmental load of the population envisaged to stay in the same would be more than what the ecosystem can withstand. It is humbly



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submitted that a Master Plan is circulated by the Development Authority only after having taken into consideration multifarious aspects of environment, population density, ecological impact etc.

It is humbly submitted that the issues cited in the corresponding paragraph are non-existent and highly presumptuous, as has been detailed hereinbelow.

It is denied that there has been any concealment or that the Respondent No.11 has supplied wrong information and thus there is no question of the EC being considered void ab initio. The SEIAA has, only after careful scrutiny and consideration of the same, granted the EC. Furthermore, the EC has been granted by the SEIAA, after having received the recommendation in this regard from the State Environment Assessment Committee [hereinafter, in short "SEAC"] in their meeting held on 25.11.2017. It is reiterated that the appraisal committee of SEIAA does not grant the EC on the basis of the information provided in the Form 1A. The Appraisal Committee, consisting of experts from different fields, circumspectly assess the Form 1A, conduct due site inspections coupled with independent and thorough evaluation and decides the necessary parameters and safeguards for a given project independently and only after completely satisfying itself grants an EC. In any event, it is reiterated herein that all concerned information, along with the supporting documents were duly provided to the SEIAA by the Respondent No.11 while seeking the EC. This being the case there exists no reason to raise doubts on the EC or the process by which it has been granted.

It is the submission of the Respondent No. 11 that there is no government policy / order applicable on the subject site in question. The question put to the Respondent No.11 was whether there is any government order /policy relating to the site. The question itself makes it abundantly clear that the details sought were specific to the site, and since there is no site specific government order/policy, the Respondent No.11 have stated "nil". In light of the same, it is apparent that there has been no non-disclosure on the part of the Respondent No.11.


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There are three Rajakaluve passing through the Project. The Respondent No.11 submits that the Appellant is purposely misleading the Hon'ble Tribunal. Reference is made to the approved Development Plan. It is also submitted that the Form-1 categorically states that there is only one primary Rajakulewas passing through the site. Furthermore, it is trite to note that no secondary and/or tertiary Rajakulewas are passing through the Total Area. Regardless, the buffer area has been maintained by the Respondent No. 11 from all the water bodies in or around the Total Land, in accordance with the guidelines laid down by the Hon'ble Tribunal in the Forward Foundation Judgment.

It is denied as false, vague and vexatious that there has been any fraudulent concealment or misinformation which would make the Total Area unfit for construction. It is also denied that the EC is liable to be revoked in terms of Regulation 8(vi) of the notification of 2006. It is denied that the Project site is unfit for construction of a project of the magnitude as alleged. It is reiterated that the Appellant is deliberately trying to show that the construction is planned in the Buffer Zone, which is not true at all.

PARA 10

Further, in reply to the said contents of the para, we would like to substantiate the same with the permissible usage provided under Zonal Regulations, 2015 which provides for norms to be followed in respect of buffer of valley/ drain.

4.12.2) Regulations

i. Permissible land uses:

- 1) *Uses permissible include: Sports grounds, stadium, playgrounds, parks, swimming pools, cemeteries, garden land and crematoria.*
- 2) *Uses permissible under special circumstances by the authority: Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, libraries, milk booths, HOPCOMS, the area of such use shall not exceed 5% of the total area and shall not be more than G+ 1 floor in any case.*
- 3) *Setbacks for the above will be decided by the Authority taking into account the surrounding development and traffic scenario in that area.*



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ii. Valley/ drain

Within the demarcated buffer for the valley the following uses are allowed:

- 1) *Sewerage Treatment Plants and Water treatment plants*
- 2) *Roads, pathways, formation of drains, culverts, bridges, etc which will not obstruct the water course, run offs, channels.*
- 3) *In case of water bodies a 30.0 m buffer of 'no development zone' is to be maintained around the lake (as per revenue records) with exception of activities associated with lake and this buffer may be taken into account for reservation of park while sanctioning plans.*
- 4) *If the valley portion is a part of the layout/ development plan, then that part of the valley zone could be taken into account for reservation of parks and open spaces both in development plan and under subdivision regulations subject to fulfilling section 17 of KTCP Act, 1961 and sec 32 of BDA Act, 1976.*
- 5) *Any land falling within the valley for which permission has been accorded either by the Authority or Government, and then such permission shall be valid irrespective of the land use classification in the RMP 2015. Fresh permissions for developments shall not be accorded in valley zone.*

Hence, there is no valid ground as to why the request for building plan and building license be refused since for the above reasons, we have clearly followed the directions provided under the judgment of NGT in O.A. No. 222/2014.

PARA 11

In reply to the said para, it is denied that there is any violation of the Karnataka Municipal Corporation Act, 1976 [hereinafter, in short, "KMCA"] or any zoning regulation thereunder or under the Karnataka Town and Country Planning Act, 1961 (hereafter referred to as the "KTCP Act"). It is submitted that all permissions, approvals, sanctions required under the KTCP Act have been applied for by the Respondent No.11 and are supported with requisite information/documents confirming the compliance with the provisions of the KTCP Act. The contents of the paras under reply are negatively presumptuous and merit no consideration from the Hon'ble Tribunal. It is submitted by the Respondent No. 11 that they are in due

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compliance with the KTCP Act and the concerned zonal regulations. This being the case, Section 505 of the KMCA is not attracted in the present case. In the same breath it is submitted that Section 300 of the KMCA is also not attracted as no work has commenced in the present instance. In any event the Respondent No.11 undertakes to only commence construction after having requisite permissions and approvals from the competent authorities and in accordance of applicable laws.

It is denied that the Total Area contains within itself Rajakaluve and Buffer Zone of the lake which would mean that any activity without the consent of the KSPCB would legitimately cause such pollution as envisaged under Section 33 of the Water Act. It is denied that any violation of Section 25 of the Water Act has taken place. It is further reiterated that as there is no violation, the provisions of Section 33 of the Water Act are attracted. The Respondent No.11 seeks liberty to rely upon the correct interpretation of the judgment *Mohan Singh & Ors. V. International Airport Authority of India & Ors.*, at the time of arguments. It is denied that there is any present or future harm that will be caused. It is reiterated that an expert panel, after having considering all the parameters has granted the present EC. It is vehemently denied that any of the Authorities have violated their statutory duties in any manner.

It is vehemently denied that there is any ground for setting aside the EC or requiring to remediate loss to the environment. It is humbly submitted that neither has any loss been caused, nor will it be caused. The EC has been granted by the concerned authority after recommendation being given by the expert committee. The Appellant is making presumptuous and vague allegations which are not supported by any expert report/findings.

The Appellant continues to reiterate false and incorrect averments. It is reiterated that Buffer Zone is maintained from all the water bodies in the vicinity. It is further reiterated that Respondent No. 11 have not misrepresented or concealed any facts and hence the EC

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must not be rejected. It is further denied that the impugned order granting EC lacks application of mind. The conditions entailed in the EC are not generic but specific to the present Project. The case of Forward Foundation has been complied with. The condition of the Forward Foundation Judgment quoted by the Appellant in para C was a specific condition imposed upon the BWSSB therein keeping in mind the violations committed as per the facts detailed in the said judgment. It is vehemently denied that there will be any concrete construction or laying of foundation, providing amenities such as bench/table/etc. within the Buffer Zone. It is reiterated that in terms of the EC, which categorically refers to the Buffer Zone requirement detailed in the Forward Foundation Judgment, there will be no construction in the Buffer Zone. It is correct that levelling of excavated soil cannot be permitted in the Buffer Zone. However, it is submitted that the Respondent No. 11 are not carrying out as on date and undertake not to carry out any construction within the Buffer Zone. This being the case, there is no question of revoking the EC. It is denied that any ground has been set forth in the Appeal for revoking the EC. The directions detailed in the Forward Foundation Judgment are entailed in the EC and the Respondent No. 11 undertake to comply with the same in full letter and spirit.

It is denied that the authorities have allowed any sort of construction within the Buffer Zone.

It is denied that by the grant of the EC there has been any violation of the statutory provisions of the Environment Act of 1986 or any judgment of the Hon'ble Tribunal. Keeping in mind the growing environmental concerns, strict conditions have been incorporated in the EC for the Respondent No.11. The EC envisages a strict formulation of the guidelines laid down by the Forward Foundation case and other statutes.

It is vehemently denied that any adverse impact will be caused to the Buffer Zones. It is further submitted that no construction will be undertaken in the defined Buffer Zones in



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the Total Area. It is further submitted that the construction undertaken in the Construction Area will adhere to the conditions specified in the EC. It is further submitted that the conditions imposed in the EC are analogous to the conditions stipulated in the EIA notification of 2006 as well as the Forward Foundation Judgment. Thus the apprehension of the Appellant is only an assumption which has no reliable basis.

The allegations of the Appellant are derived from incorrect facts. The Appellant, by placing reliance on the photographs, is falsely accusing the Respondent No.11 of having undertaken temporary construction within the Buffer Zones without a valid sanction plan. It is reiterated that the Respondent No.11 are in the process of obtaining the necessary approvals. With regard to the allegation of temporary construction, it is reiterated that the Respondent No.11 have only undertaken preparatory work towards contouring and landscaping to avail benefits of the upcoming monsoon. There is no question of any adverse impact on the environment / ecology. From the aforesaid, it is evident that the Appellant is only making hollow, false and incorrect assertions thereby misleading this Authority and harassing the Respondent No.11. It is submitted that the Respondent No.11, is not in violation of the directions of this Authority in the Forward Foundation Judgment or any other statutory compliance.

It is denied that the Project Proponents have colluded with the Authorities or that any of the direction(s) of the Hon'ble Tribunal or any other statutory provisions have been violated by the Respondent No.11. It is further denied that the project will have any adverse effect let alone destroy the eco-system services associated with the lake or the Rajakaluve and it is also denied that the EC should be set aside. It is further denied that there is any ground for any of the Respondent No.11 to pay substantial sum or for that matter any sum towards restoration as no damage has been caused to the environment as has been falsely alleged by the Appellant.

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It is denied that there has been any violation of the Forward Foundation Judgment or any regulation of the Plan. It is submitted by the Respondent No.11 that the Buffer Zone around the lake and the Rajakaluve has been maintained as per the directions of the Hon'ble Tribunal in Forward Foundation Judgment, which expanded the buffer area from 30 m. to 75 m.

It is denied that there are secondary and tertiary nalas flowing through the Total Land. It is also denied that the Authorities have discounted the provisions of the Municipal laws. It is reiterated that there is only one primary Rajakaluve flowing through portion of Sy No.63/2 and the requisite Buffer Zone will be maintained qua the said Rajakaluve as well as the other waterbodies around the Total Land. The Appellant is repeatedly levelling incorrect and baseless allegations against the Respondent No. 11 in order to malign their reputation and cause harassment, for which heavy strictures and penalty should be imposed upon the Appellant by the Hon'ble Tribunal.

It is vehemently denied that the Respondent No.11 have not applied for the grant of EC in accordance with the law and the zonal and sectoral development plans have not been complied with. The Respondent No.11 has ensured that the specific distances, as detailed in the Forward Foundation Judgment, are maintained as Buffer Zones. It is submitted that the judgments relied upon the Appellant in the para under reply are a matter of record and the Respondent No.11 seek liberty of the Hon'ble Tribunal to refer and rely upon the correct interpretation of the said judgments.

It is denied that the judgment of the Hon'ble Tribunal has been violated by the Respondent No.11. It is absolutely denied that the Respondent No.11 has played any fraud on the environment or that the Authorities are hands in gloves with the Respondent No.11 in this regard. Per contra, the Respondent No.11 are environmentally responsible and aware developers/ builders who have always been sensitive towards the ecological impacts of urbanization, and in regard the Respondent No.11 has also received several awards in this regard.



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Reply to the objections from B.M. Associates, Advocates and Consultants and restraining order passed by the High Court of Karnataka in MFA NO. 52/2001 arising out of O.S. No. 4287/2000

PARA 13, 14, 15, 16, 17 & 18

The contents of this paragraph are not true. In fact, the Complaint submitted by B.M. Associates, Advocates on behalf of their client Mrs. Susheelamma are completely baseless. Mrs. Susheelamma do not have any right over the project lands as stated in their complaint. The information regarding pending litigation bearing O.S.No.4287/2000 before the City Civil Court, Bangalore, has already been disclosed to all authorities wherever we have obtained the approvals including Bangalore Development Authority. The Complainant has suppressed the real facts of the case while submitting their complaint.

It is pertinent to describe the correct facts of the above civil suit which will enable your goodself to understand the true facts of the case. This case is originally filed by one Mrs. Anitha, in the year 2000 against her brother Mr.P.Ramprasad, her sister P.Rajitha, and paternal aunts Mrs.Susheelamma, Mrs.Radhamma, Mrs.Leeamma, Mrs.A.C.Shamala, seeking partition of their family properties including the project lands. During the pendency of the suit the parties decided to settle their dispute and accordingly Mrs.Anitha, her brother P.Ramprasad and her sister P.Rajitha entered into a registered Partition Deed dated 21.08.2003 wherein they partitioned family properties including the project lands. *The said Susheelamma and Radhamma two Paternal aunts joined the above registered partition suit and have signed as concurring witnesses to the Partition stating that neither they nor children/their legal heirs shall have any right whatsoever in respect of the schedule lands therein including the project lands. Further, the said Susheelamma in her Written Statement has clearly stated that she has given up her share in the Schedule Properties including the project lands.* Thus, the said Susheelamma has declared and confirmed that she has no right, title and interest over the Suit Schedule Properties including projects lands back in the year 2003 and is now estopped from denying the pleadings filed by her as well



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as her consent given under the said registered Partition Deed. Further to the said Partition Deed, Mrs. Anitha and Ramprasad have conveyed the project lands to third parties and we have purchased the project lands from the Third Parties i.e., Microgate Trading Co. Pvt. Ltd., and Teknpoint Trading Co. Pvt. Ltd., in the year 2015. This being the case, the said Susheelamma who has no right, title or interest in the Suit Schedule Properties including project lands has been filing false complaints with mala fide intention to harass us. Moreover, we are not party to the said suit and any allegation to this extent are baseless.

The cause of action under which the order was passed in the said M.F.A.No.52 and 212 / 2001 dated 18th March, 2012 was completely different and the said cause of action do not survive anymore and hence are not binding on us in any manner. In fact, pursuant to the said Order the parties have executed the above said registered Partition Deed and have settled their disputes and the suit was sought to be dismissed by the Civil Court. The said dismissal of the suit was challenged by Leelamma and A.C. Shamala and thereafter the suit was restored wherein Leelamma and A. C. Shamala got transposed as Plaintiffs No.2 and 3 in the above suit. The said Mrs. Leelamma and Mrs. Shyamala A.C. have on 21.7.2016 presented themselves before the Civil Court along with their legal counsels and submitted that they HAVE GIVEN UP THEIR CLAIM IN RESPECT OF SAID LANDS BELONGING TO US AND LAND BEARING SURVEY NO. 62 MEASURING 3 ACRES 2 GUNTAS AND LAND BEARING SURVEY NO. 63 MEASURING 6 ACRES 21 GUNTAS, ALL SITUATED AT KASAVANAHALLI VILLAGE. This being the case when there are no contesting Plaintiffs in the suit Mrs. Susheelamma having no right, title or interest in the project lands is trying to mislead this Authority by bringing only partial facts into light and by suppressing the actual facts of the case. Further, as far as the allegation about the alienation of project lands during the pendency of the suit is concerned, it is the Plaintiffs and Defendants who first entered into the registered Partition Deed dated 21.08.2003 and thereafter alienated the lands in favour of third parties and the project lands were purchased by us from third parties for valuable consideration.


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The allegations of the Complainants are false and are hereby denied as false. The Memo dated 21.07.2016 filed by Mrs.Radhamma and Shamala for giving up their claims and settling their rights for a valuable consideration in respect of the project lands and requesting the court to delete the said project lands from the suit. Further, it is pertinent to mention that it is falsely alleged by the Complainant that it is an order which was passed by the Civil Court on 21.07.2016, whereas, the true fact is that it was only a Memo for deletion which was filed on 21.07.2016 by Mrs.Radhamma and Shamala. The copy of the Memo has been annexed herewith for kind perusal of this Authority.

Respondent No. 11 hereby accepts the contents of this paragraph to the extent that we have submitted application for amalgamation of three Survey Numbers into one Plot and have obtained the Khatha Amalgamation. In this regard, we have obtained a special notice dated 07.10.2016, issued by the Joint Commissioner, BBMP, Mahadevpura, Banagalore, and also the Respondent No. 11 has paid a betterment charges to this Authority. Thereafter, this Authority has issued the Khatha Certificate and Khatha Extract in the name of Respondent No.11.

The allegations of this paragraph are completely baseless. There is no NGT Order passed as alleged in this paragraph. There was no such NGT CASE ADMITTED as on the date of submission of application / obtaining of approval from the authorities and till date, the matter before NGT has not been admitted. In fact, the Complainants are again misleading this Authority by referring to NGT case where there are no orders passed as on this day.

PARA 19

In reply to the said para,

- (i) We hereby reiterate that the Order sheet dated 21.07.2016 wherein the Mrs. Leelamma and Mrs. Shamala have signed for having submitted the Memo for deletion of Suit Schedule Item No. 7, 8 and 9 are annexed herewith as required by this Authority:

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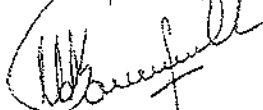
- (ii) We are still awaiting the Consent for Establishment (CFE) by Karnataka State Pollution Control Board for the project; and
- (iii) The NOC by BWSSB, we have made an application for release of NOC as the project land is falling under 110 Villages which are now unified and the application is under process.

Thus, in view of the above, there are no contesting Plaintiffs in the case against us and there does not arise any cause of action for Mrs. Susheelamma to the said suit and her claim in respect of the suit Schedule Property is not subsisting. The said Susheelamma is estopped from denying her own pleadings and confirmations executed by her, now after a gap of more than 15 years. Thus, it is crystal clear that the Complainant is just taking advantage of the pending case where there are no orders against us and is filing false and baseless complaints to succeed in her ulterior motives.

In lieu of the above, we request you not to consider the misleading contention raised by Mrs. Susheelamma. We hereby inform you that we shall abide by the ruling of the court in the said suit bearing O.S.No.4287/2000 and NGT, if any.

We are always committed to ethics and comply with all prevailing laws/regulations etc, under the said situation, we have taken adequate steps and followed the provision of the law required to be followed with utmost importance and obligated to follow the same if required in future. Hence for the reasons stated above and facts transverse hereunder, we request your goodself to withdraw the show cause notice and process the Building Plan and license and release the same at the earliest.

Thanking you,
Yours truly,
For *Wonder Projects Development Private Limited*,


Authorized Signatory

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