

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH PUNE AT PUNE

**ORIGINAL APPLICATION NO. 97/2022**

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE

& ORS.

...APPLICANTS

VERSUS

UNION OF INDIA-SECRETARY

MoEF &CC AND ORS.

....RESPONDENTS

**FILE-A**

**[VOLUME-\_\_\_]**

REJOINDER OF APPLICANTS TO THE REPLY OF PP &

MPCB

(FOR PAPERBOOK INDEX KINDLY SEE INSIDE)

[REJOINDER: \_\_\_\_ To \_\_\_\_]

[ANNEXURES: A-1 to A-10]

[ANNEXURES PAGE No.: \_\_\_\_ To \_\_\_\_]

[CASE LAWS: \_\_\_\_ To \_\_\_\_]

**APPLICANTS IN-PERSON**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH PUNE AT PUNE  
ORIGINAL APPLICATION NO. 97/2022

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE  
& ORS.

...APPLICANTS

VERSUS

UNION OF INDIA-SECRETARY  
MoEFCC & ORS.

....RESPONDENTS

**FILE-A**  
**(VOLUME-\_\_\_)**  
**INDEX**

| <b>Sr.</b> | <b>Description</b>                                                                                              | <b>Page No.</b> |
|------------|-----------------------------------------------------------------------------------------------------------------|-----------------|
| <b>1.</b>  | Rejoinder of Applicant to the Reply of PP & MPCB                                                                |                 |
| <b>2.</b>  | <b>ANNEXURE-A-1</b><br>A true copy of the Application for the amendment in EC vide dated 07.12.2021             |                 |
| <b>3.</b>  | <b>ANNEXURE-A-2</b><br>A true copy of Order passed SEIAA for withdrawal of EC Application vide dated 22.12.2021 |                 |
| <b>4.</b>  | <b>ANNEXURE-A-3</b><br>A true copy of minutes of 135 <sup>th</sup> SEAC-III meeting held on 22-25.02.2022       |                 |
| <b>5.</b>  | <b>ANNEXURE-A-4</b><br>A true copy of PP letter for submission of additional information vide dated 14.04.2022  |                 |
| <b>6.</b>  | <b>ANNEXURE-A-5</b><br>A true copy of minutes of 242 <sup>nd</sup> SEIAA meeting held on 04.05.2022             |                 |
| <b>7.</b>  | <b>ANNEXURE-A-6</b><br>A true copy of PP undertaking dated 04.05.2022                                           |                 |
| <b>8.</b>  | <b>ANNEXURE-A-7</b><br>A true copy of PP letter for submission of additional information vide dated 23.05.2022  |                 |
| <b>9.</b>  | <b>ANNEXURE-A-8</b><br>A true copy of minutes of 245 <sup>th</sup> SEIAA meeting held on 12.07.2022             |                 |
| <b>10.</b> | <b>ANNEXURE-A-9</b>                                                                                             |                 |

|            |                                                                                                                                                                           |  |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|            | A true copy of third Environment Clearance granted for expansion of project vide dated 25.07.2022                                                                         |  |
| <b>11.</b> | <b>ANNEXURE-A-10</b><br>A true copy of Order passed SEIAA for withdrawal of EC Application vide dated 27.08.2022                                                          |  |
|            | <b>CASE LAWS</b>                                                                                                                                                          |  |
| <b>12.</b> | Vellore Citizens Welfare Forum Vs Union of India, (1996) 5 SCC 647                                                                                                        |  |
| <b>13.</b> | The Forward Foundation Vs State of Karnataka & Ors., 2015 SCC OnLine NGT 5                                                                                                |  |
| <b>14.</b> | Mantri Techzone Pvt. Ltd. Vs. Forward Foundation & Ors., (2019) 18 SCC 494                                                                                                |  |
| <b>15.</b> | MCGM Vs Ankita Sinha & Ors.<br>2021 SCC Online SC 897                                                                                                                     |  |
| <b>16.</b> | Judgment passed by Hon'ble Supreme Court in M/s. Mongia Realty and Buildwell Private Limited Versus Manik Sethi, <b>Civil Appeal No 814 of 2022 vide dated 31.01.2022</b> |  |
| <b>17.</b> | Judgment passed by Hon'ble Supreme Court in Sathyanath & Anr Vs. Sarojamani, <b>Civil Appeal No. 3680 OF 2022</b> vide dated 06.05.2022                                   |  |
| <b>18.</b> | Hon'ble NGT Order in OA No. 38/2020 vide dated 23.02.2023 on preliminary issues                                                                                           |  |
| <b>19.</b> | Hon'ble NGT Order in OA No. 65/2019 vide dated 24.04.2023 on recall of Order                                                                                              |  |
| <b>20.</b> | Hon'ble NGT Final Order & Judgment in OA No. 38/2020 vide dated 23.02.2023                                                                                                |  |

Date: 19.05.2023



TANAJI BALASAHEB GAMBHIRE  
(APPLICANT No. 1)

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH PUNE  
ORIGINAL APPLICATION NO. 97/2022

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE & ORS. ....APPLICANTS

VERSUS

UNION OF INDIA & ORS.

....RESPONDENTS

**REJOINDER ON BEHLF OF ORIGINAL APPLICANTS TO REPLY OF  
RESPONDENT No. 22-PP DATED 03.01.2023, MPCB REPLY  
DATED 23.03.2023**

I, Mr. Tanaji Gambhire S/o Shri. Balasaheb Gambhire Aged: 39 Years, Profession: Advocate, R/at: CTS No. 296, Shukrawar Peth, Laxmi Apartment, Near Shivaji Maratha High School, White House Lane, Pune-411002, do hereby solemnly affirm and state on oath as follows:

| <b>Part</b> | <b>Para</b> | <b>Description</b>                                                                    |
|-------------|-------------|---------------------------------------------------------------------------------------|
| Part-A      | 1-2         | Brief Background                                                                      |
| Part-B      | 3           | Important Dates and Events                                                            |
| Part-C      | 4           | Various Permissions procured by PP & its Amendments/Revisions time to time            |
| Part-D      | 5           | Reply To Preliminary issues Raised By PP                                              |
| Part-E      | 6           | Rejoinder to Reply of PP                                                              |
| Part-F      | 7           | Rejoinder to Reply of MPCB                                                            |
| Part-G      | 8           | Case Laws by Original Applicant                                                       |
| Part-H      | 9-13        | Settled position of Law                                                               |
| Part-I      | 14          | Request/Suggestions on behalf of Original Applicant seeking Reliefs/Directions/Orders |

**PART-A**

- I state that, the OA is filed on 02.11.2022 for illegal felling of trees & non-plantation of compensatory plantation of requisite trees ought to carry out by PP against the Permission dated 25.07.2013, 25.05.2014, 19.12.2016 and for violations of terms & conditions of Environment Clearance (EC) dated 01.12.2014, 27.11.2018 granted by SEIAA, Consent to Establish (CTE) dated 09.01.2014, 16.09.2019 & Consent to Operates (CTO) dated 29.06.2020, 11.08.2021 granted by MPCB and other violations



constituting damage to the environment and seeking restoration & restitution of the area thereby demolition of illegal construction, Environmental Compensation due to damage caused by PP with remedial & mitigations measures and legal actions on PP as well as erring officers from respondents involved in these violations helping PP.

2. I state that, these Original Applicants are filling this Rejoinder to the Reply of Respondent No. 22-PP filed vide dated 03.01.2023 and Reply of Respondent No. 9 & 10-MPCB filed vide dated 20.03.2023 as below;

PART-B

**3. IMPORTANT DATES AND EVENTS:**

- A. That, the following dates & events are important to decide the various issued involved in matter

| Sr. | Event                                                                                                                                                                                                                                        | Date       | Annex |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------|
| 1.  | Report issued by garden Department of PMC obstructions of 189 trees out of 786 for construction                                                                                                                                              | 13.12.2011 | A-3   |
| 2.  | Conditional Commencement and Layout sanction by Pune Municipal Corporation                                                                                                                                                                   | 01.06.2012 | A-4   |
| 3.  | Alleged bogus letter issued by Dr. S. S. Deokule, Head of Department of Botanical Dept. of University of Pune for compensatory plantation of 810 trees against 251 tree in Botanical Garden of University                                    | 20.10.2012 | A-5   |
| 4.  | List of 775 number of Trees submitted by PP to the PMC for obtaining revised building sanction                                                                                                                                               | 25.02.2013 | A-6   |
| 5.  | Order passed by Hon'ble Bombay High Court in Civil Application No. 180 of 2012 filed by PP in PIL No. 93/2009 granting permission for cutting of 17 trees on condition of transplantation of 13 trees and compensatory plantation on 51 tree | 01.07.2013 | A-7   |
| 6.  | Alleged permission granted by Tree Authority of PMC as per Hon'ble High Court Order to cut down 17 trees, transplant 13 trees on                                                                                                             | 25.07.2013 | A-8   |

|     |                                                                                                                                                                                                 |            |      |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------|
|     | condition of compensatory plantation of 90 trees                                                                                                                                                |            |      |
|     | Alleged clean chit given by Tree Authority of PMC on account of false & baseless plantation of 90 trees in University of Pune                                                                   | 02.09.2013 | A-9  |
| 7.  | Judgment passed by Hon'ble Bombay High Court in PIL No. 93 of 2009 for laying down principles of 1:3 ratio while granting felling of tree permission                                            | 20.09.2013 | A-10 |
| 8.  | Conditional Commencement Certificate and Revised Building Sanction granted by PMC                                                                                                               | 27.12.2013 | A-11 |
| 9.  | Consent to Establish granted by Maharashtra Pollution Control Board (MPCB) for construction                                                                                                     | 09.01.2014 | A-12 |
| 10. | Permission granted by Tree Authority for felling of 149 trees, replantation of 47 trees on condition of compensatory plantation of 588 trees by misinterpreting the Order of Hon'ble High Court | 23.05.2014 | A-15 |
| 11. | Environmental Clearance (EC) granted by State Level Environment Impact Assessment Authority (SEIAA), Maharashtra                                                                                | 01.12.2014 | A-18 |
| 12. | Alleged bogus Certificate issued by Head of Department of Botanical Dept. of University of Pune for plantation of 810 trees in Botanical Garden                                                 | 24.12.2014 | A-19 |
| 13. | Notice issued by PMC to PP for illegal cutting of 119 trees without permission                                                                                                                  | 10.12.2015 | A-20 |
| 14. | Conditional Commencement Certificate and Revised Building Sanction granted by PMC                                                                                                               | 21.12.2015 | A-21 |
| 15. | Reply of PP to the notice of PMC for illegal felling of tree                                                                                                                                    | 05.01.2016 | A-22 |
| 16. | Tree Layout submitted by PP to the PMC                                                                                                                                                          | 05.01.2016 | A-23 |
| 17. | Application filed by PP for additional felling of tree                                                                                                                                          | 22.01.2016 | A-24 |
| 18. | Complaint of Dy. Engineer of Building Permission Dept. to Superintendent of Garden Dept. of PMC for illegal cutting of 120 tree                                                                 | 28.01.2016 | A-25 |
| 19. | Alleged bogus letter issued by Dr. S. S. Deokule, Head of Department of Botanical Dept. of University of Pune for compensatory                                                                  | 08.02.2016 | A-26 |

|     |                                                                                                                                                                                                        |            |      |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------|
|     | plantation of 810 trees against 251 tree in Botanical Garden of University                                                                                                                             |            |      |
| 20. | Letter sent by PMC for legal opinion of Panel Advocate of High Court for further permission of tree felling                                                                                            | 02.03.2016 | A-27 |
| 21. | PP letter for site inspection and tree counting at site                                                                                                                                                | 07.05.2016 | A-28 |
| 22. | PP letter seeking permission for tree felling                                                                                                                                                          | 10.05.2016 | A-29 |
| 23. | PP letter seeking permission for tree felling                                                                                                                                                          | 12.05.2016 | A-30 |
| 24. | Tree Authority of PMC decision rejecting the permission to PP for felling of tree on account of criminal complaint filed against PP                                                                    | 20.07.2016 | A-31 |
| 25. | Regular Criminal Complaint No. 64/2016 filed by PMC against PP                                                                                                                                         | 29.07.2016 | A-32 |
| 26. | Tree Authority Report on felling of 118 in illegal manner vide dated 04.10.2016 along with officer report for recommending the case to PMC Commissioner                                                | 14.10.2016 | A-33 |
| 27. | Proposal submitted by Garden Department for recommendation from PMC commissioner seeking further permission of felling of 149 trees and transplantation of 56 trees counter blasting the criminal case | 02.11.2016 | A-34 |
| 28. | Office Note of the Additional Commissioner PMC                                                                                                                                                         | 19.11.2016 | A-35 |
| 29. | Letter of Tree Officer to Building Permission informing the proposal for granting permission for felling of 149 trees and transplantation of 56 trees under consideration                              | 03.12.2016 | A-36 |
| 30. | Tree Authority Order for felling of 149 trees and transplantation of 56 trees                                                                                                                          | 19.12.2016 | A-37 |
| 31. | Notice by Garden dept. of PMC to PP for making arrangement of own land for compensatory plantation of trees as per the permissions obtained from PMC                                                   | 27.01.2017 | A-38 |
| 32. | Alleged application of PP seeking permission for tree plantation at Kendriya Vidyalaya Ganesh Khind                                                                                                    | 11.02.2017 | A-39 |
| 33. | RTI Application to Botanical Department of University of Pune                                                                                                                                          | 17.07.2017 | A-40 |

|     |                                                                                                                                                                                                             |            |      |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------|
| 34. | PP alleged letter showing false & baseless compliance of conditions of compensatory plantation                                                                                                              | 05.08.2017 | A-41 |
| 35. | Reply of University of Pune on tree plantation by outsider is not allowed in university campus                                                                                                              | 12.08.2017 | A-42 |
| 36. | Complaint of Applicant No. 2 to the PMC-Commissioner for negligence of duties by PMC officials vide dated                                                                                                   | 29.08.2017 | A-43 |
| 37. | Conditional Commencement Certificate and Revised Building Sanction granted by PMC                                                                                                                           | 17.10.2017 | A-44 |
| 38. | Occupancy Certificate issued by PMC for Buildings A & B                                                                                                                                                     | 28.01.2018 | A-45 |
| 39. | Reply to RTI by PMC                                                                                                                                                                                         | 31.01.2018 | A-46 |
| 40. | Complaint of Applicant No. 2 to the PMC-Tree Officer for illegal felling of tree                                                                                                                            | 05.02.2018 | A-47 |
| 41. | Notice/complaint by Applicant No. 2                                                                                                                                                                         | 23.06.2018 | A-48 |
| 42. | Amended Environment Clearance granted by SEIAA                                                                                                                                                              | 27.11.2018 | A-51 |
| 43. | MPCB revalidation of Consent to Establish                                                                                                                                                                   | 16.09.2019 | A-52 |
| 44. | Permission granted by the Tehsildar, Pune City for the excavation of only 500 Brass                                                                                                                         | 13.12.2019 | A-53 |
| 45. | Part-I Consent to Operate granted by MPCB                                                                                                                                                                   | 29.06.2020 | A-54 |
| 46. | Order passed by Hon'ble Supreme Court, in Special Leave Petition (Civil) No. 25047 Of 2018 in the matter of "Association for Protection of Democratic Rights & Anr. Versus The State Of West Bengal & Ors." | 25.03.2021 | A-56 |
| 47. | Conditional Commencement Certificate and Revised Building sanction granted by PMC                                                                                                                           | 21.06.2021 | A-57 |
| 48. | Application seeking ex-post facto Environment Clearance                                                                                                                                                     | 09.07.2021 | A-58 |
| 49. | Part-II Consent to Operate granted by MPCB                                                                                                                                                                  | 11.08.2021 | A-59 |
| 50. | Application seeking ex-post facto EC                                                                                                                                                                        | 11.10.2021 | A-60 |
| 51. | Application filed by Applicant No. 2 seeking sanction for prosecution against erring officers of PMC                                                                                                        | 21.02.2022 | A-61 |
| 52. | Complaint filed by Applicant No. 2 to the Police Commissioner against erring officers of PMC                                                                                                                | 21.02.2022 | A-62 |
| 53. | Reply given by the information officer of                                                                                                                                                                   | 08.03.2022 | A-63 |

|     |                                                                                                                      |            |      |
|-----|----------------------------------------------------------------------------------------------------------------------|------------|------|
|     | Mining Dept. of Collector Officer                                                                                    |            |      |
| 54. | Notice/ Complaint filed by Applicant No. 1 to the various government department vide through Adv. Sachin Zalte-Patil | 11.03.2022 | A-64 |
| 55. | Google Earth images showing green cover of trees at project site from 2013 to 2017 and its tree cutting              |            | A-65 |
| 56. | PP procured amended EC                                                                                               | 25.07.2022 |      |
|     |                                                                                                                      |            |      |

## PART-C

### **4. VARIOUS PERMISSIONS PROCURED BY PP & ITS AMENDMENTS/REVISIONS TIME TO TIME:**

#### **A. TREE FELLING PERMISSIONS**

| Sr. | Permission   | Felling    | Transplantation | Compensatory Plantation |
|-----|--------------|------------|-----------------|-------------------------|
| 1.  | 02.09.2013   | 17         | 13              | 90                      |
| 2.  | 25.05.2014   | 149        | 47              | 588                     |
| 3.  | 19.12.2016   | 149        | 56              | 615                     |
| 4.  | <b>Total</b> | <b>315</b> | <b>116</b>      | <b>1293</b>             |

PP in collusion with Tree Officer & Tree Authority of PMC have illegally felled more than 750 number of trees out of 786 trees without any compensatory plantation and by procuring ex-post facto permissions vide dated 02.09.2013, 25.05.2014 & 19.12.2016 for felling of 315 trees, for transplantation of 116 trees on condition of compensatory plantation of 1293 trees.

#### **B. ENVIRONMENTAL CLEARANCES:**

| Sr. | EC         | TBUA (M <sup>2</sup> ) |
|-----|------------|------------------------|
| 1.  | 01.12.2014 | 26080.62               |
| 2.  | 27.11.2018 | 35380.55               |
| 3.  | 25.07.2022 | 57663.19               |

#### **C. CONSENT TO ESTABLISH:**

| Sr. | CTE | TBUA (M <sup>2</sup> ) |
|-----|-----|------------------------|
|     |     |                        |

|    |                       |          |
|----|-----------------------|----------|
| 1. | 09.01.2014            | 55402.63 |
| 2. | 16.09.2021            | 50168.0  |
| 3. | Applied on 25.08.2022 | 62183.45 |

## D. CONSENT TO OPERATE:

| Sr. | CTO        | TBUA (M <sup>2</sup> ) | Valid upto               | No CTO for                                                                                                         | Gaps of No. of days                  |
|-----|------------|------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| 1.  | 30.01.2019 | 19811.44               | 31.01.2020               | Occupancy obtained on 28.01.2018 & stated use of premises. However, there was no CTO from 29.01.2018 to 29.01.2019 | 365 days<br><b>Para-bbb, P@35-36</b> |
| 2.  | 29.06.2020 | 19811.44               | 01.02.2020 to 31.01.2021 |                                                                                                                    |                                      |
| 3.  | 11.08.2021 | 35830.55               | 31.01.2022               | No CTO from 01.02.2021 To 10.08.2021                                                                               | 191 days                             |
| 4.  | 29.12.2022 | 35830.55               | 31.01.2024               | No CTO from 01.02.2022 To 28.12.2022                                                                               | 331 days                             |

## E. LAYOUT & BUILDING SANCTIONS

| CC No.     | Date       | ANNEXURE | Condition in Violation |
|------------|------------|----------|------------------------|
|            | 30.03.2007 |          |                        |
| CC/0705/12 | 01.06.2012 | A-11     | 5(e)                   |
| CC/3167/13 | 27.12.2013 | A-21     | 11                     |
| CC/3034/15 | 21.12.2015 | A-21     | 11                     |
|            | 18.08.2017 |          |                        |
| CC/1808/17 | 17.10.2017 | A-44     | 1-6, 10,               |
|            | 07.12.2020 |          |                        |
| CC/0634/21 | 21.06.2021 | A-57     | 14                     |

PMC imposed condition in their commencement certificate for obtaining prior permission for felling of trees. However, PP have not obtained permission for such mass felling and also, not planted the compensatory trees.

**F. PLINTH CHECK CERTIFICATES**

PMC have not filed their affidavit and not disclosed the Plinth Check Certificate.

**G. OCCUPANCY CERTIFICATE**

PP have procured Occupancy certificate for building A & B vide dated 28.01.2018 for 96 flats and only thereafter gaps of 365 days, procured CTO vide dated 30.01.2019.

**PART-D****5. REPLY TO PRELIMINARY ISSUES RAISED BY PP:**

- a) That, the issues raised by PP in his Reply Affidavit in respect of preliminary objections as below;
  - i) **Limitation:** PP states the cause of action first arose on 25.07.2013, when the First (1<sup>st</sup>) permission for the felling of trees was granted. *{Para-3 to 18 of PP Reply Affidavit}*
  - ii) **Plural Remedies & Relief Prayed:** As per Rule No. 14 of the NGT (Practice & Procedure) Rules, 2011, OA is based on the multiple causes of action instead of single cause of action as mandated in Rule-14 of NGT (P&P) Rules, 2011 and prayer sought does not falls under the Enactment listed in Schedule-I to the Section-14 of the NGT Act, 2010 and seeking demolition & compensation have no concern. *{Para-19 to 24 of PP Reply Affidavit}*
  - iii) **Cause that triggered the limitation mentioned by the Applicant:** Cause of Action mentioned in OA i.e. 21.06.2021, when PP received revised sanction from PMC is not “substantial question related to the Environment”. *{Para-24 to 26 of PP Reply Affidavit}*
  - iv) **Acts Not In Schedule-I:** Acts not mentioned in Schedule-I of Section-14 of the NGT Act, 2010 cannot be relied and Order cannot be passed there under and if omission constitute

offence under Environment (P) Act, 1986 as well as other acts and offender found guilty, then offender shall be punishable under other acts and not under Environment (P) Act, 1986. **{Para-27 to 28 of PP Reply Affidavit}**

v) **No substantial Question as defined in 2(M) of the NGT Act, 2010:** PP stated that, OA does not deals with “substantial question related to the environment” as specifically defined U/s. 2 (m) in NGT Act, 2010. **{Para-29 to 32 of PP Reply Affidavit}**

vi) **Judgments Relied by PP:** **{Para-33-35 of Reply Affidavit}**

a) **Para-33:** OA No. 31/2020 (*Shashikant Kamble Vs M/s Embassy Property Development Pvt Ltd*). **(Para-5 of Judgment)**

b) **Para-34:** MA 74/2015 in OA 10/2014(WZ) *Lakhan Musafir V/s Sardar Sarovar Narmada Nigam Ltd.* **(Para-27 & 33 of Judgment)**

vii) **Harassment & Extortion of PP:** NGT Act is misused by the chronic litigants and RTI Activists to harass and extort from the litigants even when the projects are completed way back. **{Para-35 of PP Reply Affidavit}**

b) That, the preliminary objections raised by PP are false, misleading, baseless, vexatious, misconceived, filed with malafide intention and it is also abuse of process of this Hon’ble NGT and it shall be dismissed with cost.

c) **REPLY TO LIMITATION & CAUSE OF ACTION:** In respect of the cause of action, I state that the cause of action is bundle of actions. In this case, PP have procured the various permission right from “2014 to till date” and carrying out the expansion of construction without complying to the terms & conditions of those permissions, that the PP have procured PMC Permission



dated 25.07.2013, 25.05.2014, 19.12.2016 for tree felling and Environment Clearance (EC) dated 01.12.2014, 27.11.2018 granted by SEIAA, Consent to Establish (CTE) dated 09.01.2014, 16.09.2019 & Consent to Operates (CTO) dated 29.06.2020, 11.08.2021 granted by MPCB and other violations constituting damage to the environment due to illegal felling of trees & non-plantation of compensatory plantation of requisite trees ought to carry out by PP against the given permission and also for violations of terms & conditions of EC, CTE, CTO etc.

- d) However, Local authority-PMC is sanctioning the revised plans without giving any heads to the terms & conditions imposed in their commencement certificate for compliance of the above permissions and PMC have granted the revised sanction vide dated 21.06.2021 and PP has made the illegal changes in the capacity or modification in the project layout by carrying out subsequent amendments in sanction plans of PMC till 21.06.2021 and these sanction have given rise to the cause of action, as there is change in the previous sanction, in fact there is increase in capacity of the project by  $24991.42 \text{ M}^2$   $\{60371.97\text{M}^2 - 35380\text{M}^2\}$  as disclosed in PMC sanction dated 21.06.2021 as compared to the Environment Clearance dated 27.11.2018 and all these sanctions become the first cause of action by making the previous sanction ineffective, null & void and PP have not obtained EC accommodating the actual construction, despite there was clear cut Condition No. 14 (Some Important and Special Instruction) for felling of trees & Condition no. 27 (Conditions) imposed in sanction vide its commencement certificate No. CC/0634/21 dated 21.06.2021, mandating prior NoC for tree felling, Environment Clearance and consent from MPCB.
- e) That, the present Original Application is filed under section 15, 18 and 20 of the NGT Act, 2010 and there is limitation of 5

Years u/s 15 of NGT Act-2010 from the cause of action first arose and Principal prayer of the applicant is for restoration and restitution of the project site to its original position.

- f) That, the Original Applicants have raised substantial questions relating to environment and this application is filed within five years from cause of action first arose on 21.06.2021, when PP procured the PMC sanction plan for expansion and carried out substantial construction without complying to the compensatory plantation of trees and its triggered cause of action.
- g) The present application is filed within Five Years from 21.06.2021 (excluding the period from 23.03.2020 to 30.03.2022 on account of COVID-19 pandemic as exempted by Hon'ble Supreme Court of India) and thus the Original Application filed is within the prescribed period of limitation
- h) Therefore, the cause of action first arose to file this Original Application is on 21.06.2021 on grant of revised sanction by PMC {**ANNEXURE-A-57, P@663-680**}, which is well within the limitation of 5 years from filing of OA vide dated 02.11.2022 as held by this Hon'ble NGT in "**Para-20 to 33 of Forward Foundation Case-2015 SCC OnLine NGT 5**" and as uphold by Hon'ble SC in **Para-39 to 50 of Matri Techzone Vs. Forward Foundation-(2019) 18 SCC 494**".
- i) **REPLY TO THE PLURAL REMEDIES AND PRAYERS SOUGHT:**  
That the Hon'ble NGT have also resolved the issue of Plural Remedies i.e. single cause of action in "**Para-29 of Forward Foundation Case-2015 SCC OnLine NGT 5**". That, this Original Applicant has instituted present OA based on single cause of action with multiple consequential prayers based on the information collected and this relates to the single cause of action i.e. PMC revised sanction with conditional Commencement Certificate granted by the PMC to PP vide dated 21.06.2021. Therefore, OA is based on the single cause of action

and not hit by plural remedies as mandated by the Rule No. 14 of NGT (Practice & Procedure Rules), 2011. Further, it is important to note that, the prayers sought by the Original Applicant are consequential to each other.

- j) **CAUSE THAT TRIGGERED THE LIMITATION MENTIONED BY THE APPLICANT:** Cause of Action mentioned in OA i.e. 21.06.2021, when PP received revised sanction from PMC is the “substantial question related to the Environment”, as the non-compliance to the terms & conditions mentioned in tree felling NOC of PMC, EC, CTE, CTO etc. thereby non-carrying out compensatory plantation and illegal excess construction is have direct adverse impact on the environment and PMC have granted the revised sanction vide dated 21.06.2021 based on the conditions imposed on PP for compliance of other permission granted to the project and therefore, stand taken by PP on count of revised sanction & conditional commencement certificate dated 21.06.2021 is not dealing with any “substantial question related to the Environment” is false & misleading.
- k) **Acts Not In Schedule-I:** that, the Original Applicants have not sought any prayers under the acts other than Acts mentioned in Schedule-I of Section-14 of the NGT Act, 2010 and moreover, as per the “**Para-50 of (2019) 19 SCC 494, Mantri Techzone Case**”, that, it is well settled principle of law that non-mention of or erroneous mention of the provisions of law would not be of any relevance, if the court had the requisite jurisdiction to pass an order. It would be mere irregularity and would not vitiate the application or the judicial order of the Tribunal. Therefore, the Original Applicant have raised the substantial questions related to the environment falling within the jurisdiction of this Hon’ble NGT and sought the related prayers and even then prayers/reliefs in environmental cases ought to be granted based on the facts & circumstances of the case as held by

Hon'ble Supreme Court in "**Para-41 of the 2021 SCC OnLine SC 897, MCGM Vs Ankita Shinha**".

- 1) **NO SUBSTANTIAL QUESTION AS DEFINED IN 2(M) OF THE NGT ACT, 2010:** That, OA does deals with "*substantial question related to the environment*" as specifically defined U/s. 2 (m) in NGT Act, 2010 as the tree plantation is the remedial measures to have ecological balance of the area and PP have illegally felt the trees & not made compensatory plantation and this "**specific activity**" have caused adverse impact on environment & ecology with dire "**consequences**" of ecological imbalance. Therefore, there is substantial question related to the environment as defined in Section-2 (m) of the NGT Act, 2010.
  
- m) **JUDGMENTS RELIED BY PP:** that the PP have placed reliance on **i)** OA No. 31/2020 (*Shashikant Kamble Vs M/s Embassy Property Development Pvt Ltd*). (**Para-5 of Judgment**) and **ii)** MA 74/2015 in OA 10/2014(WZ) *Lakhan Musafir V/s Sardar Sarovar Narmada Nigam Ltd.* (**Para-27 & 33 of Judgment**). are just applications simplicitor for violations of enactments without specific pleadings of environmental damages. The limitation to file every application has to be computed from the cause of action first arose under both the section 14(3) & 15 (3) of NGT Act, 2010. However, it does not mean that the PP is allowed to manipulate & misrepresent the facts of case. That, this Hon'ble NGT vide Order dated 23.02.2023 passed in OA No. 38/2020 (WZ) have opined that there is no mention of facts of case in order passed in OA No. 31/2020 and under what circumstance the order dated 10.02.2022 is passed. Therefore, it cannot be relied upon in present case. That, the project under challenge in OA NO. 10/2014 is irrigation project and facts of the case are different and cannot be applied here as the OA No. 10/2014 is

the application simplicitor for violations of enactments without specific pleadings of environmental damages.

n) **HARASSMENT & EXTORTION OF PP:** that, the PP being mighty & resourceful entity thinks themselves above the law and also, thinks they are having privilege to make any bald & bold allegations against the common man without any evidence. Basically, PP have not placed single piece of paper to prove or substantiate the allegations made against the Original Applicant. But, in fact, such allegations are made by the notorious professional, who thinks they are expert of manipulating the court and also have advantage of their face value and nothing else. Moreover, the PP have committed such blatant violations in collusions with the ill practicing government official and now, this deep unholy nexus is exposed by these Original Applicants, therefore, by becoming hyper or got scared of punishment that will be imposed by this Hon'ble NGT and making such false & baseless allegations against the Original Applicants, who's social activities are appreciated by Hon'ble Supreme Court as well as this Hon'ble NGT. Therefore, original Applicant have adopted the legal recourse by way of this Original Applicant and on the contrary PP himself is the most reckless & careless person in environmental compliance.

o) **ACCESS TO THE INFORMATION:** That the **access to the information** for technical knowledge of the cause is also very important aspect for dealing with the environmental issues, as it is direct fight between common man having limited resources and mighty & powerful polluters having all means as observed by Hon'ble SC in "**MCGM Vs Ankita Shinha & Ors., 2021 SCC OnLine SC 897**" have held that;

*"75. While discussing the NGT's power and responsibility, it is essential to keep in mind the **Principle 10 of the Rio Declaration** which speaks of three fundamental rights i.e.,*

**access to information, access to public participation and access to justice**, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional.”

“86. The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which this Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach to the heart of environmental concerns. This Court has previously moulded the jurisdictional jurisprudence in favour of larger societal interest, whether that be in the form of ‘Public Interest Litigation’ or widening the scope of locus standi.”

“The identification of potential environmental justice issues is very important in determining how our enforcement efforts are working in minority and low-income communities, and whether they are comparable to the enforcement efforts in other communities.”

- p) Therefore, this Hon’ble NGT may kindly reject the preliminary objection raised by the PP.

## **PART-E**

### **6. REJOINDER TO REPLY OF PP:**

- a) That, the Reply affidavit filed by Respondent No. 22-PP vide dated 03.01.2023 is false, misleading, baseless, vexatious, misconceived, filed with malafide intention on one hand and on other hand, chronology of the events & annexures itself proves the, procurement of ex-post facto EC & Consent after carrying substantial construction.
- b) That, the Respondent No. 22-PP is abusing the process of this Hon’ble NGT by misleading on account of preliminary objections

and liable for the action under section 19(5) of the NGT Act, 2010 for filing of false affidavit.

- c) That, the Respondent No. 22-PP have not rebutted the allegations made in the Original Application and therefore, allegations made in OA are true & correct and supported with the evidences and documents.
- d) Therefore, Respondent No. 22-PP have committed the violation of thereby illegal felling of trees & non-plantation of compensatory plantation of requisite trees ought to carry out by PP against the Permission dated 25.07.2013, 25.05.2014, 19.12.2016 and for violations of terms & conditions of Environment Clearance (EC) dated 01.12.2014, 27.11.2018 granted by SEIAA, Consent to Establish (CTE) dated 09.01.2014, 16.09.2019 & Consent to Operates (CTO) dated 29.06.2020, 11.08.2021 granted by MPCB under EIA Notification, 2006 r/w Environment (Protection) Act, 1986, Water (P&CP) Act, 1974, Air (P&CP) Act, 1981 and other violations constituting damage to the environment.

#### PART-F

#### **7. REJOINDER TO REPLY OF MPCB :**

- A) That the MPCB have filed their reply affidavit vide dated **23.03.2023** and failed to impose the penalty under the circular for gaps in obtaining Consents specifically CTO and also failed to imposed the Environmental Compensation as per the “Paryavaran Suraksa Case”. Therefore, PP has carried out substantial construction without obtaining requisite CTE/renewal of CTO and also started occupation of project well prior to obtain CTO as admitted in Joint Committee Report.
- B) Also, MPCB have not verified the conditions of Consent for installation of Environmental infrastructure and their designated location in EMP while obtaining CTE & EC.

- C) Therefore, MPCB needs to direct for calculation of penalty & compensation for violation of CTE/CTO.

#### PART-G

#### **8. CASE LAWS BY ORIGINAL APPLICANT:**

- a) Forward Foundation Case-**2015 SCC OnLine NGT 5** at **Para-20-33**: Entire pleadings has to be considered, Cause of Action & Limitation & **Para-29**: Plural Remedies/Single Cause of action.
- b) Mantri Techzone Pvt. Ltd. Vs. Forward Foundation & Ors. **(2019) 18 SCC 494** at **Para-39-50**: Maintainability, Cause of Action, Limitation, powers u/s. 14, 15, 20, 33 (Overriding Effect) etc. **Para-49**: Environmental Degradation gives rise to an independent cause of action, **Para-50**: No mention of provisions, well settled principle of law, non-mention or erroneous mention of provisions would not be any relevance, if court had 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.
- c) MCGM Vs Ankita Sinha & Ors. **2021 SCC Online SC 897: Para-41**: Final reliefs in environmental matter to be granted on the facts & circumstances of the case, **Para-75: Principle 10 of the Rio Declaration** which speaks of three fundamental rights i.e., **access to information, access to public participation and access to justice**, **Para-86**: Larger societal interest, whether that be in the form of 'Public Interest Litigation' or widening the scope of locus standi.
- d) **OA NO. 38/2020, ORDER DATED 23.02.2023 & 08.05.2023**: Have held that, the cause of action is the bundle of actions and grant of subsequent permission constituting the threat to the environment and establishes the damage to the environment & ecology can be considered as cause of action as held in Forward Foundation case.



- e) **OA NO. 65/2019, ORDER DATED 24.04.2023:** That, this Hon'ble NGT in its Order dated 24.04.2023 passed in OA No. 65/2019 have held that the question of limitation is the mixed question of law and facts and to decide such issue needs detailed evidence and therefore, issue of limitation shall be decided at final hearing.

### **PART-H**

#### **SETTLED POSITION OF LAW**

#### **9. BURDEN/ONUS OF PROOF LIES ON POLLUTERS IN ENVIRONMENTAL CASES:**

That, the Hon'ble Supreme Court have casted burden on Polluter in environmental cases as held in **(1996) 5 SCC 647**, in the case of "**Vellore Citizens Welfare Forum Versus Union of India**" that the onus of proof is on the polluter;

*"(11) SOME of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means:*

- (I) Environmental measures - by the State government and the statutory authorities—must anticipate, prevent and attack the causes of environmental degradation.*
- (II) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
- (III) The "onus of proof is on the actor or the developer/industrialist to show that his action is environmentally benign."*

Therefore, wherever there is specific burden of proof on developer/industrialist, then developer/industrialist cannot adopt the abuse of process of law to get escape from its liability.

#### 10. OBJECTIVE BEHIND SPECIAL ENACTMENT OF NGT:

- a) The National Green Tribunal (NGT) is a specialized body that was formed under the NGT Act, 2010 for effective and expeditious disposal of cases that are related to the protection and conservation of the environment, forests, and other natural resources. India has become the third country in the world after Australia and New Zealand, for setting up a specialized environmental tribunal and also the first developing country to do so.
- b) The Statement of Objects and Reasons of the NGT Act will now require attention. Paras 1 to 6 of the Statement of Objects and Reasons being relevant are extracted herein below:-

***“Statement of Objects and Reasons,-*** *The rapid expansion in industrial. Infrastructure and transportation sectors and increasing urbanization in recent years have given rise to new pressures on our natural resources and environment. There is a commensurate increase in environment related litigation pending in various Courts and other authorities. The risk to human health and environment arising out of hazardous activities has also become a matter of concern.*

*2. India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.*

3. *The right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.*

4. *The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environmental Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.*

5. *Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.*

6. *In view of the foregoing paragraphs, a need has been felt to establish a specialized tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.”*

- c) Therefore, I state that from the object No. 6 itself clear that this Hon’ble NGT shall hear the matter as a whole as expeditiously as

possible to decide the said matter within 6 months from its filing at final stage as per the objects and Section-18 (3) of the NGT Act, 2010.

**11. HON'BLE SUPREME COURT OPINION ON "NGT IS A SPECIALISED JUDICIAL BODY FOR EFFECTIVE AND EXPEDITIOUS DISPOSAL OF CASES:**

- a) That the Hon'ble Supreme Court, in three judge bench judgment in the case of **(2012) 8 SCC 326**, Bhopal Gas Peedith Mahila Udyog Sangathan v. Union of India, and same is also reiterated in **2021 SCC OnLine SC 897** highlighted the NGT's role in the context, in the following words:—

*"40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.*

- b) That the Hon'ble Supreme Court, in the case of **(2019) 18 SCC 494**, Explaining the purpose for constituting the special court to deal with environmental issues, in **Mantri Techzone (P) Ltd. v. Forward Foundation**, Justice S. Abdul Nazeer writing for the three Judge Bench, made the following pertinent observations on the status of the NGT: -

*"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 specialised 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 the 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.”*

**12. DISPOSAL OF ENVIRONMENTAL CASES BY HON’BLE NGT SHALL BE AS EXPEDITIOUSLY AS POSSIBLE AND ENDEAVOUR:**

That, the Sub-section (3) of Section: 18 Application or appeal to Tribunal of the NGT Act, is ad below;

*“(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.”*

**13. GROUNDS TO ALLOW THE RECALL OF ORDER DATED 04.01.2023:**

- A) **BECAUSE**, the provisions of Section 18 (3) of NGT Act, 2010 is barrier on hearing of matters in part as environmental cases ought to be decided within six months from its filling with mandate of law on speedy disposal-“expeditiously as possible and endeavor” and mandates to hear the matter as whole at final stage only.
- B) **BECAUSE**, the preliminary objection on issue of limitation is substantial mixed question of law and also based on disputed questions of facts and it has to be decided at final stage as its

required to go through entire records & evidences in the matter and it has to be decided at the final hearing on merit only.

- C) **BECAUSE**, the settled position of law to decide the case in which such mixed question of law & fact is involved is only at final stage and in such cases hearing the case in parts is not permissible.
- D) **BECAUSE**, the NGT is the special statute for expeditious disposal of environmental cases to avoid the unbridled & uncontrolled situation of environmental degradation derived from the object behind the statute of NGT Act, 2010.
- E) **BECAUSE**, if the issue is a mixed issue of law and fact, or issue of law depends upon the decision of fact, such issue cannot be tried as a preliminary issue. In other words, preliminary issues can be those where no evidence is required and on the basis of reading of the plaint or the applicable law, if the jurisdiction of the Court or the bar to the suit is made out, the Court may decide such issues with the sole objective for the expeditious decision. Thus, if the Court lacks jurisdiction or there is a statutory bar, such issue is required to be decided in the first instance so that the process of civil court is not abused by the litigants, who may approach the civil court to delay the proceedings on false pretext.
- F) **BECAUSE**, the in present case the facts surrounding the issue of limitation are disputed and the determination of the issue of limitation in this case is not a pure question of law. Therefore, it cannot be decided as a preliminary issue.
- G) **BECAUSE**, this Hon'ble NGT have powers granted Under Rule No. 24 of The NGT (P&P) Rules, 2011 R/W. Section 18(3) & 19(4) (K) Of NNGT Act, 2010 to recall of its order to secure end of justice and to prevent the abuse of its process being pro-environment court and onus of proof lies on the Polluter to prove his innocence as per the Vellore citizen forum case.

- H) **BECAUSE**, this Hon'ble NGT required to strictly adhere to the procedures laid down in the NGT Act, 2010 & NGT (P&P) Rules, 2011 and shall not exercise inherent powers to support the polluters or suo moto powers dehors the specific provisions contained/not contained in the Act or rule. If, the case will be heard in part on the issue of limitation and then the outcome will be impugned orders will utter disregard of the objective behind NGT Act, 2010 & Rules for speedy disposal of Environment Cases and also said order will be against the settled legal position,
- I) **BECAUSE**, the applicant have made out prima-facie case and there will be unbridle uncontrolled situation is stay is not granted
- J) **BECAUSE**, the PP cannot stare in the eyes of the law to continue his illegal operations and construction activity without any mandatory permission and in admitted case of violation.
- K) **BECAUSE**, this OA is filed on 02.11.2022 and Respondents are not completing the pleadings despite the opportunity. Therefore, this Hon'ble NGT may kindly pass an order to proceed ex-parte and this OA has to be heard on merit as well as preliminary issued decided as whole at final stage.
- L) **BECAUSE**, the present case is the admitted case of violations, wherein Respondent No.22-PP have caused serious irreparable substantial damage to the environment and ecology on account of non-plantation of compensatory trees and also violated the terms & conditions EC, CTE, CTO, CC.
- M) **BECAUSE**, the Respondent No.22-PP is trying to get escape from his strict & absolute liability of Environment Protection & its restitution & restoration by adopting such tactics of preliminary issue and Respondent No.22-PP is abusing the process of this Hon'ble NGT.

N) Therefore, recall the order dated 04.01.2023 and hear the case finally.

**PART-I**

**14. THEREFORE, IT IS HUMBLE SUGGESTIONS OF ORIGINAL APPLICANT THAT:**

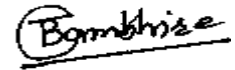
This Hon'ble NGT may kindly allow the OA and grant the prayers as sought therein.

This Hon'ble NGT may kindly reject the contentions raised by PP on account of Preliminary objections and also, on merit as PP failed to prove anything contrary to the allegations from OA.

**15. Hence this Rejoinder Affidavit.**

Whatever stated above is true and correct to the best of my knowledge, belief and information, hence, to verify the same I have signed hereunder at Pune.

Place: Pune  
Date: 19.05.2023



MR. TANAJI B. GAMBHIRE  
ORIGINAL APPLICANT



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH PUNE  
ORIGINAL APPLICATION NO. 97 OF 2022

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE

....APPLICANT

VERSUS

UNION OF INDIA & ORS.

....RESPONDENTS

AFFIDAVIT IN SUPPORT OF REJOINDER TO THE RESPONDENTS  
REPLY

I, Mr. Tanaji Gambhire S/o Shri. Balasaheb Gambhire Age: 39 Years, Profession: Advocate, R/at: CTS No. 296, Shukrawar Peth, Laxmi Apartment, Near Shivaji Maratha High School, White House Lane, Pune-411002, do hereby solemnly affirm and state on oath as follows:

1. I state that, I am Original Applicant in the aforesaid matter and I am well aware with the facts and circumstances of the case and in such capacity competent to depose by way of this affidavit.
2. I have read the contents of the accompanying Rejoinder to the Respondents Reply & Objections to the Joint Committee Report, the same has been drafted by my advocate under my instruction and that the Para-1 to 15 of the reply are true facts in my personal knowledge.
3. I state that, the annexures attached with the Rejoinder to the Respondents Reply & Objections to the Joint Committee Report are true copies of their respective and content of this affidavit are true and correct to the best of my knowledge and belief.
4. Hence this Affidavit.

*(Bambhira)*

**AFFIANT**

(MR. TANAJI B. GAMBHIRE)

**BEFORE ME**

*(Signature)*  
**Shashikant B. Kurhade**  
Notary Govt. of India



26

Noted and Registered  
at Sr. No. 226/2023  
Date:- 19 MAY 2023

Proposal received date at each stage of flow.**Proposal No.\*** : SIA/MH/MIS/243583/2021**Project Name\*** Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village  
: Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP**Project Sector\***  
: INFRA-2**Date of  
submission\*** : 07 Dec 2021

| Submitted<br>by<br>Proponent | Query for<br>Shortcoming(if<br>any) by<br>SEIAA | Resubmission<br>of Proposal<br>by Proponent | Accepted<br>by SEIAA<br>and<br>forwarded<br>to SEAC | Query for<br>Shortcoming(if<br>any) by SEAC | Resubmission<br>of Proposal<br>by Proponent | Accepted<br>by SEAC | Forwarded<br>to SEIAA<br>for EC | EC Letter<br>Uploaded<br>On/EC<br>Granted |
|------------------------------|-------------------------------------------------|---------------------------------------------|-----------------------------------------------------|---------------------------------------------|---------------------------------------------|---------------------|---------------------------------|-------------------------------------------|
| 07/12/2021                   | N/A                                             | N/A                                         | 08/12/2021                                          | N/A                                         | N/A                                         | 11/02/2022          | 16/03/2022                      | 25/07/2022                                |

**TRUE COPY**



Date: 7.12.2021

To,  
The Member Secretary,  
State Environmental Impact Assessment Authority - SEIAA  
Environment Department, New Administrative Building, 15th Floor,  
Mantralaya, Mumbai – 400032, Maharashtra

Through,  
The Chairman,  
State Level Expert Appraisal Committee (SEAC-III)  
Environment Department, New Administration Building,  
15th Floor, Mantralaya, Mumbai, Maharashtra.

|           |   |                                                                                                                                                                       |
|-----------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subject   | : | Application for Environmental Clearance under Expansion in EC                                                                                                         |
| Project   | : | Proposed Expansion in Residential & Commercial project "PARK LANDMARK" at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |
| Reference | : | Circular from Environment Department of Maharashtra Circular No. SEIAA-2021/C.R.104/SEIAA on dated 29.11.2021                                                         |

Dear Sir,

With the reference of above mentioned, earlier application has been submitted under amendment (SIA/MH/MIS/233761/2021) for Proposed Expansion in Residential & Commercial project for the said project on 11<sup>th</sup> October, 2021

As per Circular from Environment Department of Maharashtra Circular No. SEIAA-2021/C.R.104/SEIAA on dated 29.11.2021, we are re-submitting application for under Expansion in EC under Fresh category.

We request you to please kindly consider the re-submitted application against our earlier submission sequence and consider on priority basis.

Thanking you,

Yours faithfully,

FOR PRIDE PURPLE LANDMARK LLP

Authorized Signatory



**Form-1****APPLICATION FOR PRIOR ENVIRONMENTAL CLEARANCE****1. Basic Informations**

|                           |                                                                                                                                                            |                                    |                           |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------------------|
| <b>Project Name</b>       | Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP | <b>Company/Organisation Name</b>   | PRIDE PURPLE LANDMARK LLP |
| <b>Registered Address</b> | Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016 Maharashtra 411016                                                          | <b>Legal Status of the Company</b> | Others                    |

|    |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                            |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. | <b>Address for the correspondence:</b>                                                                                                                                                                                                                                                            |                                                                                                                                                                                            |
|    | (a)Name of the Applicant<br>(b)Designation (Owner/ Partner/ CEO)<br>(c)Address<br>(d)Pin code<br>(e)E-mail<br>(f)Telephone No.<br>(g)Fax No.<br>Copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency . | Mr D P Jain<br>Partner<br>Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016,Pune,Maharashtra-411016<br>411016<br>nandkishor@pridepurplegroup.com<br>0-<br>NIL |

|    |                                                                                                                                                                                                                                            |                                                                                                                                                                           |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. | <b>Category of the Project/Activity as per Schedule of EIA Notification,2006:</b>                                                                                                                                                          |                                                                                                                                                                           |
|    | (a)Major Project/Activity<br>(b)Minor Project/Activity<br>(c)Category<br>(d)Proposal Number<br>(e)Master Proposal Number(Single Window)<br>(f)EAC concerned (for category A Projects only)<br>(g)Project Type(New/Expansion/Modernization) | <b>8(a) Building and Construction projects</b><br><b>NIL</b><br><b>B2</b><br><b>SIA/MH/MIS/243583/2021</b><br><b>SW/243578/2021</b><br><b>INFRA-2</b><br><b>Expansion</b> |

|    |                                                                                       |                  |
|----|---------------------------------------------------------------------------------------|------------------|
| 4. | (a)Number of States in which Project will be Executed<br>(b)Main State of the project | 1<br>Maharashtra |
|----|---------------------------------------------------------------------------------------|------------------|

| Details of State(s) of the project |             |               |             |                   |
|------------------------------------|-------------|---------------|-------------|-------------------|
| S. No.                             | State Name  | District Name | Tehsil Name | Village Name      |
| (1.)                               | Maharashtra | Pune          | Haveli      | Village Bibwewadi |

|    |                                                                                             |                  |
|----|---------------------------------------------------------------------------------------------|------------------|
| 5. | <b>Details of Public Consultation:</b>                                                      |                  |
|    | (a)Whether the Project Exempted from Public Hearing?<br>(c)Reason<br>(d)Supporting Document | Yes<br>-1<br>NIL |

**Project Profile**

|                                                                                         |                                                                                             |                                                                                                 |                                                                                             |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <b>Location of the project</b>                                                          | S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |                                                                                                 |                                                                                             |
| <b>Town / Village</b><br>(Name of more than one town may be entered by separating with) | Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP                         | <b>Plot/Survey/Khasra No.</b><br>(Name of more than one town may be entered by separating with) | S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |

|                                                                                                                                                                                                                |                                                   |                                              |                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| State                                                                                                                                                                                                          | Maharashtra                                       | District                                     | Pune                                                                                                                                                      |
| Tehsil                                                                                                                                                                                                         | Haveli                                            | Pincode                                      | 411037                                                                                                                                                    |
| Nearest railway station                                                                                                                                                                                        | Pune Railway Station                              | Distance from the project site               | 7.5                                                                                                                                                       |
| Nearest airport                                                                                                                                                                                                | Pune                                              | Distance from the project site               | 14.7                                                                                                                                                      |
| Nearest Town/City/District Headquarters                                                                                                                                                                        | Pune municipal Corporation                        | Distance from the project site               | 0                                                                                                                                                         |
| Village Panchayats, Zila Parishad, Municipal Corporation, Local body(Complete postal addresses with telephone nos. to be given)                                                                                | Pune Municipal Corporation (PMC)                  | Upload GPS file                              | <a href="#">Copy of Kml File</a> <br><a href="#">Uploaded GPS file</a> |
| Shape of the project land                                                                                                                                                                                      | Block (Polygon)                                   | Site alternative under consideration(If any) | <a href="#">Uploaded Site alternative under consideration</a>                                                                                             |
| Brief summary of project                                                                                                                                                                                       | <a href="#">Uploaded Brief summary of project</a> |                                              |                                                                                                                                                           |
| Does your project location falls under out of any following areas                                                                                                                                              | None of above Areas                               |                                              |                                                                                                                                                           |
| Proposed Built up area (Built up area or covered area on all the floors puttogether including its basement and other service areas which are proposed in the building or construction projects)(In Meter /Sqr) | 62183.45                                          | Existing Built Up Area(In Meter /Sqr)        | 50168                                                                                                                                                     |
| Does it attract any of the general conditions given below?                                                                                                                                                     | No                                                |                                              |                                                                                                                                                           |
| Does it attract the specific condition given below?                                                                                                                                                            | No                                                |                                              |                                                                                                                                                           |
| Interlinked Projects                                                                                                                                                                                           | No                                                |                                              |                                                                                                                                                           |
| Whether separate application of interlinked projects has been submitted?                                                                                                                                       |                                                   | Date of Submission                           |                                                                                                                                                           |
| Whether the proposal involves approval/clearance under the Forest (Conservation) Act,1980?                                                                                                                     | No                                                |                                              |                                                                                                                                                           |
| Whether the proposal involves approval/clearance under the wildlife (Protection) Act,1972?                                                                                                                     | No                                                |                                              |                                                                                                                                                           |
| Whether the proposal involves approval/clearance under the C.R.Z notification,2011?                                                                                                                            | No                                                |                                              |                                                                                                                                                           |
| Whether there is any Government Order/Policy relevent/relating to the site?                                                                                                                                    | No                                                |                                              |                                                                                                                                                           |
| Forest land involved(hectares)                                                                                                                                                                                 | 0                                                 |                                              |                                                                                                                                                           |
| Is there any litigation pending against the project?                                                                                                                                                           | No                                                |                                              |                                                                                                                                                           |

### 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.)

| S.No | Information/Checklist confirmation                                                                                                                    | Yes/No | Details there of (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) | No     | Development will be carried in line with the topography & without disturbing natural drainage pattern.  |



|      |                                                                                                                                      |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------|--------------------------------------------------------------------------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.2  | Clearance of existing land, vegetation and buildings?                                                                                | Yes | We have received As per 1st EC Letter No. SEAC-2013/CR561/TC-2 dated 1st December ,2014 & 2nd EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 Copy attached as an Annexure 1.                                                                                                                                                                                                                                                 |
| 1.3  | Creation of new land uses?                                                                                                           | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.4  | Pre-construction investigations e.g. bore houses, soil testing?                                                                      | Yes | Hydrogeological Investigation is carried out.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 1.5  | Construction works?                                                                                                                  | Yes | We have started construction activity as per received EC. We have received EC File No. EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 for total construction area 50168 m2 Out of that, 35380.55 m2 construction area has been sanctioned in EC. Out of 35,380.55 sq.mt, 31,411.54 sq.mt.construction has been completed till date. (Building A-B Completed, Building E-F & Shops partially Completed. CD Work in progress.) |
| 1.6  | Demolition works?                                                                                                                    | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.7  | Temporary sites used for construction works or housing of construction workers?                                                      | Yes | Will be outsource                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.8  | Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations and fill or excavations    | Yes | Excavated earth material has been utilized within the plot for landscaping and plot and road leveling                                                                                                                                                                                                                                                                                                                                                               |
| 1.9  | Underground works including mining or tunneling?                                                                                     | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.10 | Reclamation works?                                                                                                                   | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.11 | Dredging?                                                                                                                            | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.12 | Offshore structures?                                                                                                                 | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.13 | Production and manufacturing processes?                                                                                              | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.14 | Facilities for storage of goods or materials?                                                                                        | Yes | During construction phase temporary storing facilities will be created to store the construction raw material. Annexure II                                                                                                                                                                                                                                                                                                                                          |
| 1.15 | Facilities for treatment or disposal of solid waste or liquid effluents?                                                             | Yes | Facilities have been provided for collection, treatment and disposal for solid and liquid waste. - STP for treatment of sewage - Segregation of solid waste into non-biodegradable and biodegradable garbage - Treatment of biodegradable waste in Organic Waste Converter - Segregation of Non-biodegradable waste into recyclable & non-recyclable. - Recyclable waste: To recyclers. - Non-Recyclable waste: To PMC. - Dried sludge from STP : As manure         |
| 1.16 | Facilities for long term housing of operational workers?                                                                             | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.17 | New road, rail or sea traffic during construction or operation?                                                                      | No  | 1. Pune Railway Station – 7.5 km 2. Pune airport – 14.7 km                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1.18 | New road, rail, air water borne or other transport infrastructure including new or altered routes and stations, ports, airports etc? | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.19 | Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?                         | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.20 | New or diverted transmission lines or pipelines?                                                                                     | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.21 | Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?                         | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.22 | Stream crossings?                                                                                                                    | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.23 | Abstraction or transfers of water from ground or surface waters?                                                                     | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.24 | Changes in water bodies or the land surface affecting drainage or run-off?                                                           | No  | By considering the runoff prior to development and runoff after development there is some increment in runoff of storm water and rain water recharge in to aquifer will be decrease.                                                                                                                                                                                                                                                                                |

|      |                                                                                        |     |                                                                                                                                                                                                                                          |
|------|----------------------------------------------------------------------------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.25 | Transport of personnel or materials for construction, operation or decommissioning?    | Yes | Transport of construction materials from the local markets. Precautions taken to reduce the impact of the vehicular movement by trying to avoid the vehicular trips during peak hours.                                                   |
| 1.26 | Long-term dismantling or decommissioning or restoration works?                         | No  | -                                                                                                                                                                                                                                        |
| 1.27 | Ongoing activity during decommissioning which could have an impact on the environment? | No  | -                                                                                                                                                                                                                                        |
| 1.28 | Influx of people to an area in either temporarily or permanently?                      | Yes | As Per EC Operation Phase As per Proposed Expansion /Amendment Tenements – 274 Nos. Shops – 22 Nos. Tenements 328 Nos. Shops – 18 Nos. Population – 1370 Nos. Residential – 1640 Nos. Commercial – 333 Nos. Total Population – 1973 Nos. |
| 1.29 | Introduction of alien species?                                                         | No  | -                                                                                                                                                                                                                                        |
| 1.30 | Loss of native species or genetic diversity?                                           | No  | -                                                                                                                                                                                                                                        |
| 1.31 | Any other actions?                                                                     | No  | -                                                                                                                                                                                                                                        |

**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):**

| S.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)                                        | Yes    | Total Plot Area will be under proposed development -20,154.48 m2                                                                                                                                                                                                                                                                                                                                                                                             |
| 2.2  | Water (expected source & competing users) unit: KLD                                          | Yes    | Water Requirement & Source: During Operation Phase: Total Quantity of water- 271.39 m3/day Fresh from PMC : 155.93m3/day Recycled : For Flushing :80.46 m3/day For Gardening : 30 m3/day Club house :5.00 For HVAC makeup NA Swimming Pool make up water : Excess Treated water -106.79 m3/day                                                                                                                                                               |
| 2.3  | Minerals (MT)                                                                                | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2.4  | Construction material – stone, aggregates, sand / soil (expected source – MT)                | Yes    | Quantity : As per requirement Stone aggregates demand will be met from the clay/soil generated after excavation and from open market Sources: The material required for construction activities shall be procured from company's authorized / approved vendors only. The vendor's performance will be monitored periodically. In case of urgency or non-availability of materials from authorized/approved vendors, it will be procured from the open market |
| 2.5  | Forests and timber (source – MT)                                                             | Yes    | Timber required for doors sourced from local suppliers.                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.6  | Energy including electricity and fuels (source, competing users) Unit: fuel (MT),energy (MW) | Yes    | Source: MSEDCL Connected load – 2521.25 kW Maximum Demand – 1,123.45 kW Transformers - 630 kVA x 2nos DG Sets: 200 kVAX 1no                                                                                                                                                                                                                                                                                                                                  |
| 2.7  | Any other natural resources (use appropriate standard units)                                 | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**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**

| S.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) | No     | -                                                                                                      |
| 3.2  | Changes in occurrence of disease or affect disease vectors (e.g.                                                                               | No     | -                                                                                                      |

|     |                                                                                                                     |    |   |
|-----|---------------------------------------------------------------------------------------------------------------------|----|---|
|     | insect or water borne diseases)                                                                                     |    |   |
| 3.3 | Affect the welfare of people e.g. by changing living conditions?                                                    | No | - |
| 3.4 | Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc. | No | - |
| 3.5 | Any other causes                                                                                                    | No | - |

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

| S.No | Information/Checklist confirmation                         | Yes/No | Details thereof (with approximate quantities/rates, wherever possible) with source of information data                                                                                                                                                                                                                                                                                                                                                 |
|------|------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1  | Spoil, overburden or mine wastes                           | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.2  | Municipal waste (domestic and or commercial wastes)        | Yes    | During Construction Phase: Total quantity of solid waste = 45 kg/day (Biodegradable and Non-biodegradable) During Operation Phase: Total solid waste Generation: 887 kg/day Bio-Degradable: 519 Kg/day Non-Biodegradable: 368 kg/day E Waste :95 kg/Month Recyclable waste to recyclers • Non-recyclable waste to Authorized agency • Biodegradable waste will be treated in OWC • End product from OWC and STP sludge shall be used as manure on site |
| 4.3  | Hazardous wastes (as per Hazardous Waste Management Rules) | Yes    | Waste oil generated from D.G. shall be stored at separate location duly marked and will be sold to the authorized recyclers.                                                                                                                                                                                                                                                                                                                           |
| 4.4  | Other industrial process wastes                            | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.5  | Surplus product                                            | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.6  | Sewage sludge or other sludge from effluent treatment      | Yes    | Dried sludge from STP will be used as manure for the plants.                                                                                                                                                                                                                                                                                                                                                                                           |
| 4.7  | Construction or demolition wastes                          | Yes    | Construction waste material shall be partly reused and remaining disposed to the authorized land fill site.                                                                                                                                                                                                                                                                                                                                            |
| 4.8  | Redundant machinery or equipment                           | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.9  | Contaminated soils or other materials                      | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.10 | Agricultural wastes                                        | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.11 | Other solid wastes                                         | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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

| S.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    | CPCB approved D.G. Sets will be used during power failure.                                                                                                            |
| 5.2  | Emissions from production processes                                         | No     |                                                                                                                                                                       |
| 5.3  | Emissions from materials handling including storage or transport            | Yes    | Fugitive dust emission due to handling and loading unloading expected during construction. Frequent water sprinkling will be done to minimize the fugitive emissions. |
| 5.4  | Emissions from construction activities including plant and equipment        | Yes    | The project may cause rise in dust levels during construction phase. Precautions would be taken to reduce dust generation by water sprinkling at regular intervals.   |
| 5.5  | Dust or odours from handling of materials including construction            | Yes    | Dust generation will be controlled as                                                                                                                                 |



|     |                                                                                         |    |                                                                                                       |
|-----|-----------------------------------------------------------------------------------------|----|-------------------------------------------------------------------------------------------------------|
|     | materials, sewage and waste                                                             |    | described above. Proper ventilation will be provided around STP and solid waste management facilities |
| 5.6 | Emissions from incineration of waste                                                    | No | -                                                                                                     |
| 5.7 | Emissions from burning of waste in open air (e.g. slash materials, construction debris) | No | -                                                                                                     |
| 5.8 | Emissions from any other sources                                                        | No | -                                                                                                     |

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

| S.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    | Yes but negligible For control of noise following measures shall be adopted: • Regular noise monitoring to be scheduled to maintain the noise level within the levels prescribed by CPCB during day and night time • Provision of ear plugs to workers • No noise polluting work in night shifts • Provision of barricades along the periphery of the site.                                                                                                                                               |
| 6.2  | From industrial or similar processes                                  | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 6.3  | From construction or demolition                                       | Yes    | Noise levels may increase due to operation of machinery as well as transportation vehicles. This may cause nuisance to the nearby area. Following precautions shall be taken to control noise pollution: • High noise generating construction activities would be carried out only during day time • Installation, use and maintenance of mufflers on equipment • Workers working near high noise construction machinery would be supplied with ear muffs/ear plugs • Provision of barricades along the p |
| 6.4  | From blasting or piling                                               | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 6.5  | From construction or operational traffic                              | Yes    | During Construction phase: • Proper traffic management for the construction vehicles • Regular maintenance of vehicles with suitable enclosures and intake silencers • Planning and ensuring effective implementation of the waste movement plan for loading and offsite movement in non-traffic hours. During Operation Phase : • Install traffic control measures to regulate the flow of traffic • Assign traffic wardens to regulate flow of project traffic during peak hours                        |
| 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:

| S.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     | -                                                                                                                                                          |
| 7.2  | From discharge of sewage or other effluents to water or the land (expected mode and place of discharge) | No     | During Construction Phase: Disposal of sewage to municipal sewer line. During Operation Phase: Sewage will be reused for flushing and gardening within the |

|     |                                                                                            |    |                                                                 |
|-----|--------------------------------------------------------------------------------------------|----|-----------------------------------------------------------------|
|     |                                                                                            |    | premises. Excess treated sewage will be disposed to sewer line. |
| 7.3 | By deposition of pollutants emitted to air into the land or into water                     | No | -                                                               |
| 7.4 | From any other sources                                                                     | No | -                                                               |
| 7.5 | Is there a risk of long term build up of pollutants in the environment from these sources? | No | -                                                               |

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

| S.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                                 | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 8.2  | From any other causes                                                                                                                   | No     | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 8.3  | Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)? | Yes    | Landslides are not expected in the area. Management plan for flood and earthquake is as follows : Flood : • Minimizing the incremental runoff from the site with the help of rain water harvesting pits • Proper management of channelization of storm water from site by using proper internal SWD system and discharge points of adequate capacity • Use of screens and silt traps to SWD • Proper maintenance of storm water drainage to avoid choking of drains and flooding on site • Ensure d |

**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**

| S.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 utilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: <ul style="list-style-type: none"> <li>Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.)</li> <li>housing development</li> <li>extractive industries</li> <li>supply industries</li> <li>Other</li> </ul> | No     | Supporting infrastructure is already in existence.                                                                                               |
| 9.2  | Lead to after-use of the site, which could have an impact on the environment                                                                                                                                                                                                                                                                                                                               | No     | -                                                                                                                                                |
| 9.3  | Set a precedent for later developments                                                                                                                                                                                                                                                                                                                                                                     | Yes    | Will create job opportunity in construction and operation phase with support staff like security, maintenance, shop keepers, professionals, etc. |
| 9.4  | Have cumulative effects due to proximity to other existing or planned projects with similar effects                                                                                                                                                                                                                                                                                                        | Yes    | Impacts on water availability, storm water drainage, availability of electricity, traffic congestion etc.                                        |

**(III) Environmental Sensitivity**

| S.No | Areas                                                              | Name/Identity | Aerial distance (within 15km.) Proposed project location boundary |
|------|--------------------------------------------------------------------|---------------|-------------------------------------------------------------------|
| 1    | Areas protected under international conventions, national or local | No            | -                                                                 |

|    |                                                                                                                                                                                                                        |     |                                                                                                                         |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------|
|    | legislation for their ecological, landscape, cultural or other related value                                                                                                                                           |     |                                                                                                                         |
| 2  | Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests                                                             | No  | -                                                                                                                       |
| 3  | Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration                                                                          | No  | Nil                                                                                                                     |
| 4  | Inland, coastal, marine or underground waters                                                                                                                                                                          | No  | Mutha River - Approx.4.6 km Katraj Lake - Approx.500 m Jambhulwadi Lake - Approx.3.0 km Khadakwasala Dam - Approx.10 km |
| 5  | State, National boundaries                                                                                                                                                                                             | No  | -                                                                                                                       |
| 6  | Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas                                                                                                                       | No  | Mumbai - Bangalore (NH4) Approx- 530 m                                                                                  |
| 7  | Defence installations                                                                                                                                                                                                  | Yes | Pune Cantonment 4.3 km                                                                                                  |
| 8  | Densely populated or built-up area                                                                                                                                                                                     | Yes | Pune City. Approx- 5 Km.                                                                                                |
| 9  | Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)                                                                                                           | Yes | Parvati " Peshwe museum and Temples - Approx-4.2 Km.                                                                    |
| 10 | Areas containing important, high quality or scarce resources. (ground water resources,surface resources,forestry,agriculture,fisheries,tourism,minerals)                                                               | No  | Mutha River - 4.6 km Katraj Snake Park - 500m                                                                           |
| 11 | Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)                                                                                        | No  | -                                                                                                                       |
| 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) similar effects | No  | -                                                                                                                       |

### Document to be attached

|    |                                                                                                                        |                                                                  |
|----|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 1. | Upload a copy of PFR                                                                                                   | <a href="#">Uploaded a copy of PFR.</a>                          |
| 2. | Upload a copy of EMP                                                                                                   | <a href="#">Uploaded a copy of EMP.</a>                          |
| 3. | Upload Scanned copy of covering letter.                                                                                | <a href="#">Uploaded Scanned copy of covering letter..</a>       |
| 4. | Upload Additional attached if any(Single PDF)                                                                          | <a href="#">Uploaded Additional attached if any(Single PDF).</a> |
| 5. | Whether it is a violation case and application is being submitted under Notification No. S.O.804(E) dated 14.03.2017 ? | No                                                               |

| Essential Details Sought |                 |            |        |
|--------------------------|-----------------|------------|--------|
| S. No.                   | EDS Sought Date | EDS Sought | Letter |
| NO Record                |                 |            |        |

| Additional Details Sought |                 |                                                                                                                                                            |                            |
|---------------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| S. No.                    | ADS Sought Date | ADS Sought                                                                                                                                                 | Letter                     |
| (1.)                      | 20/05/2022      | Kindly submit the compliance as per the minutes of 242 (day 4) meeting of SEIAA.                                                                           |                            |
| (2.)                      | 26/05/2022      | Respected Sir, We are submitting the undertaking as mentioned in compliance point. Kindly consider the same. Thanks and Regards, PRIDE PURPLE LANDMARK LLP | <a href="#">EDS Letter</a> |

### Undertaking

I hereby give undertaking that the data and information given in the application and enclosures are true to be best of my knowledge and belief. And I am aware that if any part of the data and information found to be false or misleading at any stage, the project will be rejected and clearance given, if any to the project will be revoked at our risk and cost. In addition to above, I hereby give undertaking that no activity/ construction/ expansion has since been taken up.

|                                                                                                                                      |                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Name of Applicant</b><br><b>Designation</b><br><b>Name of Company (Applicant Name should not be given here)</b><br><b>Address</b> | Mr D P Jain<br>Partner<br>PRIDE PURPLE LANDMARK LLP<br>Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|

1232

"411016



Date: 7.10.2021

To,

**The Member Secretary,**

State Environmental Impact Assessment Authority - SEIAA

Environment Department, New Administrative Building, 15<sup>th</sup> Floor,

Mantralaya, Mumbai – 400032, Maharashtra

Through,

The Chairman,

State Level Expert Appraisal Committee (SEAC-III)

Environment Department, New Administration Building,

15<sup>th</sup> Floor, Mantralaya, Mumbai, Maharashtra.

|         |                                                                                                                                                                                    |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subject | Application for Expansion in Environment Clearance.                                                                                                                                |
| Project | "Proposed Expansion in Residential & Commercial project <b>PARK LANDMARK</b> at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by <b>PRIDE PURPLE LANDMARK LLP</b> |
|         | EC file number: SEIAA-EC- 0000000536 dated 27th November, 2018                                                                                                                     |

Dear Sir,

With the reference of above mentioned, we have submitted application for Proposed Expansion in Residential & Commercial project for the said project.

As per new guidelines for DCR rules of PMC Corporation, FSI and Non FSI area will be changed in the proposal. So we are applying for withdrawal of the proposal having number SIA/MH/MIS/218897/2021.

We request you to kindly allow to us for withdrawal of proposal and consider the our revise application.

We are submitting revised Form 1&1A so, kindly consider the same.

Thanks & Regards,

For **PRIDE PURPLE LANDMARK LLP**

  
Authorized Signatory

**Enclosed:**

Form 1 & 1A with all annexures

**Pride Purple Group**

Pride House, 5th floor | 10B, Ganeshkhind Road | Near Pune University | Pune 411 006 | +91 20 6709 1000  
[www.pridepurplegroup.com](http://www.pridepurplegroup.com)

Pune | Bangalore | Mumbai

**FORM –1**

**Proposed Amendment / Expansion in Environmental  
Clearance**

**Residential & Commercial - “PARK LANDMARK”**

**At**

**S. No. 665/A At Bibwewadi Taluka Haveli, Village**

**Bibwewadi, Pune**

**By**

**PRIDE PURPLE LANDMARK LLP**

## APPENDIX - I

(See paragraph - 6)

## FORM 1

## (I) Basic Information

| Sr. No. | Item                        | Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                            |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
|---------|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|-------------|-------------------------------------------------------------|--------------------------------------------|----|-----------------|-----------|-----------|----|------------|--------|--------|----|---------------|----------|----------|----|----------|-----------|----------|----|--------------|----------|----------|----|-------------------------|----------|----------|
| 1       | Name of the project         | <p>“Proposed Amendment / Expansion in Residential &amp; Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP</p> <p>We have received As per 1<sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December ,2014 &amp; 2<sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 <b>Copy attached as an Annexure 1.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                            |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 2       | S. No. in the schedule      | 8 a (B2)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                            |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 3       | Proposed capacity/ area     | <p>Total plot area = 20154.48 m<sup>2</sup><br/> Total deduction = 620.00 m<sup>2</sup><br/> Net Plot Area = 17581.03 m<sup>2</sup><br/> FSI Area – 41412.30 m<sup>2</sup><br/> Non FSI Area – 20771.15 m<sup>2</sup><br/> Total Construction Area – 62183.45 m<sup>2</sup></p> <table border="1"> <thead> <tr> <th>Sr.No.</th><th>Particulars</th><th>As per Earlier EC 27th November 2018 Area in m<sup>2</sup></th><th>Applied for Proposed amendment / Expansion</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Total Plot Area</td><td>20,154.48</td><td>20,154.48</td></tr> <tr> <td>2.</td><td>Deductions</td><td>620.00</td><td>620.00</td></tr> <tr> <td>3.</td><td>Net Plot Area</td><td>17481.03</td><td>17581.03</td></tr> <tr> <td>4.</td><td>FSI Area</td><td>27,574.62</td><td>41412.30</td></tr> <tr> <td>5.</td><td>Non FSI Area</td><td>22593.32</td><td>20771.15</td></tr> <tr> <td>6.</td><td>Total Construction Area</td><td>50168.00</td><td>62183.45</td></tr> </tbody> </table> | Sr.No.                                     | Particulars | As per Earlier EC 27th November 2018 Area in m <sup>2</sup> | Applied for Proposed amendment / Expansion | 1. | Total Plot Area | 20,154.48 | 20,154.48 | 2. | Deductions | 620.00 | 620.00 | 3. | Net Plot Area | 17481.03 | 17581.03 | 4. | FSI Area | 27,574.62 | 41412.30 | 5. | Non FSI Area | 22593.32 | 20771.15 | 6. | Total Construction Area | 50168.00 | 62183.45 |
| Sr.No.  | Particulars                 | As per Earlier EC 27th November 2018 Area in m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Applied for Proposed amendment / Expansion |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 1.      | Total Plot Area             | 20,154.48                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 20,154.48                                  |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 2.      | Deductions                  | 620.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 620.00                                     |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 3.      | Net Plot Area               | 17481.03                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 17581.03                                   |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 4.      | FSI Area                    | 27,574.62                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 41412.30                                   |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 5.      | Non FSI Area                | 22593.32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 20771.15                                   |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 6.      | Total Construction Area     | 50168.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 62183.45                                   |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |
| 4       | New/Expansion/Modernization | Expansion in Existing Project with Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                            |             |                                                             |                                            |    |                 |           |           |    |            |        |        |    |               |          |          |    |          |           |          |    |              |          |          |    |                         |          |          |

| 5                                         | Existing Capacity/ Area etc.                                                                                                    | <p>We have received As per 1<sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December ,2014 &amp; 2<sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>As per EC dated 27<sup>th</sup> November, 2018</th> </tr> </thead> <tbody> <tr> <td>Plot Area in m<sup>2</sup></td> <td>20,154.48</td> </tr> <tr> <td>FSI Area in m<sup>2</sup></td> <td>27,574.62</td> </tr> <tr> <td>Non FSI Area in m<sup>2</sup></td> <td>22593.32</td> </tr> <tr> <td>Total Construction Area in m<sup>2</sup></td> <td>50168.00</td> </tr> </tbody> </table> |  | Particulars | As per EC dated 27 <sup>th</sup> November, 2018 | Plot Area in m <sup>2</sup> | 20,154.48 | FSI Area in m <sup>2</sup> | 27,574.62 | Non FSI Area in m <sup>2</sup> | 22593.32 | Total Construction Area in m <sup>2</sup> | 50168.00 |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------|-------------------------------------------------|-----------------------------|-----------|----------------------------|-----------|--------------------------------|----------|-------------------------------------------|----------|
| Particulars                               | As per EC dated 27 <sup>th</sup> November, 2018                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| Plot Area in m <sup>2</sup>               | 20,154.48                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| FSI Area in m <sup>2</sup>                | 27,574.62                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| Non FSI Area in m <sup>2</sup>            | 22593.32                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| Total Construction Area in m <sup>2</sup> | 50168.00                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 6                                         | Category of project i.e.' A' or 'B'                                                                                             | B2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 7                                         | Does it attract the general condition? If yes, please specify.                                                                  | Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 8                                         | Location                                                                                                                        | <b>Latitude – 18°27'40.53"N</b><br><b>Longitude – 73°51'52.41"E</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Plot/Survey/Khasra No.                                                                                                          | S. No. 665/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Village                                                                                                                         | Bibwewadi,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Tehsil                                                                                                                          | Haveli                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | District                                                                                                                        | Pune                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | State                                                                                                                           | Maharashtra                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 9                                         | Nearest railway station<br>Nearest airport                                                                                      | Pune Railway Station – 7.5 km<br>Saswad Raiway Station – 93.5 km<br>Pune Airport –14.7 km                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 10                                        | Nearest Town, city, District headquarters along with distance                                                                   | Pune Municipal Corporation (PMC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 11                                        | Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal address with telephone nos. to be given) | Pune Municipal Corporation (PMC)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 12                                        | Name of the applicant                                                                                                           | Mr. D P Jain                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 13                                        | Registered Address                                                                                                              | Pride House, 5 <sup>th</sup> floor, Near Pune University Circle, Shivajinagar, Pune 411016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
| 14                                        | Address for correspondence                                                                                                      | Pride House, 5 <sup>th</sup> floor, Near Pune University Circle, Shivajinagar, Pune 411016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Name                                                                                                                            | Mr. D P Jain                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Designation (Owner/Partner/CEO)                                                                                                 | Partner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Address                                                                                                                         | Pride House, 5 <sup>th</sup> floor, Near Pune University Circle, Shivajinagar, Pune 411016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Pin Code                                                                                                                        | 411016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | E-mail                                                                                                                          | <a href="mailto:nandkishor@pridepurplegroup.com">nandkishor@pridepurplegroup.com</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Telephone No.                                                                                                                   | 9823022211                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |
|                                           | Fax No.                                                                                                                         | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |             |                                                 |                             |           |                            |           |                                |          |                                           |          |



|    |                                                                                                                                                                                                                                                           |                |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 15 | Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo-sheet                                                                                                                                                    | No             |
| 16 | Interlinked Projects                                                                                                                                                                                                                                      | Not Applicable |
| 17 | Whether separate application of interlinked project has been submitted?                                                                                                                                                                                   | Not Applicable |
| 18 | If yes, date of submission                                                                                                                                                                                                                                | Not Applicable |
| 19 | If no, reason                                                                                                                                                                                                                                             | Not Applicable |
| 20 | Whether the proposal involves approval / clearance under: if yes, details of the same and their status to be given.                                                                                                                                       |                |
|    | (a) The Forest (Conservation) Act, 1980?                                                                                                                                                                                                                  | Not Applicable |
|    | (b) The Wildlife (Protection) Act, 1972?                                                                                                                                                                                                                  |                |
|    | (c) The C.R.Z Notification, 1991?                                                                                                                                                                                                                         |                |
| 21 | Whether there is any Government Order/Policy relevant/ relating to the site?                                                                                                                                                                              | Not Applicable |
| 22 | Forest land involved (hectares)                                                                                                                                                                                                                           | Not Applicable |
| 23 | Whether there is any litigation pending against the project and/or land in which the project is propose to be set up?<br>(a) Name of the Court<br>(b) Case No.<br>(c) Order /directions of the Court, if any and its relevance with the proposed project. | No             |

## (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.)

| Sr. No. | Information/Check list confirmation                                                                                                         | Yes/No | Details thereof(with approximate quantities/rates, wherever possible)with source of information data   |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------|
| 1.1     | Permanentortemporarychang einlanduse,landcoverortopogr aphyincluding increase in intensity of land use (with respect to local landuse plan) | No     | Development will be carried in line with the topography & without disturbing natural drainage pattern. |

|      |                                                                                                           |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------|-----------------------------------------------------------------------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.2  | Clearance of existing land, vegetation and building?                                                      | Yes | We have received As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December ,2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 <b>Copy attached as an Annexure 1.</b>                                                                                                                                                                                                                                            |
| 1.3  | Creation of new land uses?                                                                                | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.4  | Pre-construction investigation e.g. bore houses, soil testing?                                            | Yes | <b>Hydrogeological Investigation is carried out.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.5  | Construction works?                                                                                       | Yes | <b>We have started construction activity as per received EC.</b><br>We have received EC File No. EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 for total construction area 50168 m <sup>2</sup> Out of that, 35380.55 m <sup>2</sup> construction area has been sanctioned in EC. Out of 35,380.55 sq.mt, 31,411.54 sq.mt. construction has been completed till date.<br>(Building A-B Completed, Building E-F & Shops partially Completed. CD Work in progress.) |
| 1.6  | Demolition works?                                                                                         | No  | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.7  | Temporary sites used for construction works or housing of construction workers?                           | Yes | Will be outsource                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.8  | Above ground building, structures or earthworks including linear structures, cut and fill or excavations. | Yes | Excavated earth material has been utilized within the plot for landscaping and plot and road leveling                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1.9  | Underground works including mining or Tunneling?                                                          | No. | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.10 | Reclamation works?                                                                                        | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.11 | Dredging?                                                                                                 | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.12 | Off shore structures?                                                                                     | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.13 | Production and manufacturing processes?                                                                   | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.14 | Facilities for storage of goods or materials?                                                             | Yes | During construction phase temporary storing facilities will be created to store the construction raw material. <b>Annexure II</b>                                                                                                                                                                                                                                                                                                                                                                         |

|      |                                                                                                                                        |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------|----------------------------------------------------------------------------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.15 | Facilities for treatment or disposal of solid waste or liquid effluents?                                                               | Yes | <b>Facilities have been provided for collection, treatment and disposal for solid and liquid waste.</b> <ul style="list-style-type: none"> <li>- STP for treatment of sewage</li> <li>- Segregation of solid waste into non-biodegradable and biodegradable garbage</li> <li>- Treatment of biodegradable waste in Organic Waste Converter</li> <li>- Segregation of Non-biodegradable waste into recyclable &amp; non-recyclable.</li> <li>- Recyclable waste: To recyclers.</li> <li>- Non-Recyclable waste: To PMC.</li> <li>- Dried sludge from STP : As manure</li> </ul> |
| 1.16 | Facilities for long term housing of operational workers?                                                                               | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.17 | New road, rail, or sea traffic during construction or operation?                                                                       | No  | 1. Pune Railway Station – 7.5 km<br>2. Pune airport – 14.7 km                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 1.18 | New road, rail, air, water borne or other transport infrastructure including new or altered routes and stations, ports, airports etc.? | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.19 | Closure or diversion of existing transport routes or infrastructure leading to changes in traffic Movements?                           | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.20 | New or diverted transmission lines or pipelines?                                                                                       | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.21 | Impoundment, damming, culverting, realignment or other change to the hydrology Water courses or aquifers?                              | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.22 | Stream crossings?                                                                                                                      | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.23 | Abstraction or transfers of water from ground or surface waters?                                                                       | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.24 | Changes in water bodies or the land surface affecting drainage or run-off?                                                             | No  | <b>By considering the runoff prior to development and runoff after development there is some increment in runoff of storm water and rain water recharge in to aquifer will be decrease.</b>                                                                                                                                                                                                                                                                                                                                                                                    |

|      |                                                                                        |     |                                                                                                                                                                                           |                                                                                           |
|------|----------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| 1.25 | Transport of personnel or materials for construction, operation or decommissioning?    | Yes | Transport of construction materials from the local markets.<br>Precautions taken to reduce the impact of the vehicular movement by trying to avoid the vehicular trips during peak hours. |                                                                                           |
| 1.26 | Long-term dismantling or decommissioning or restoration works?                         | No  | --                                                                                                                                                                                        |                                                                                           |
| 1.27 | Ongoing activity during decommissioning which could have an impact on the environment? | No  | --                                                                                                                                                                                        |                                                                                           |
| 1.28 | Influx of people to an area in either temporarily or permanently?                      | Yes | As Per EC<br>Operation Phase                                                                                                                                                              | As per Proposed<br>Expansion<br>/Amendment                                                |
|      |                                                                                        |     | Tenements – 274<br>Nos.<br>Shops – 22 Nos.                                                                                                                                                | Tenements 328<br>Nos.<br>Shops – 18 Nos.                                                  |
|      |                                                                                        |     | Population – 1370<br>Nos.                                                                                                                                                                 | Residential –<br>1640 Nos.<br>Commercial –<br>333 Nos.<br>Total Population<br>– 1973 Nos. |
| 1.29 | Introduction of alien species?                                                         | No  | --                                                                                                                                                                                        |                                                                                           |
| 1.30 | Loss of native species or genetic diversity?                                           | No  | --                                                                                                                                                                                        |                                                                                           |
| 1.31 | Any other actions?                                                                     | No  | --                                                                                                                                                                                        |                                                                                           |

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):

| Sr. No. | Information/ Check list 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) | Yes     | Total Plot Area will be under proposed development - 20,154.48 m <sup>2</sup>                                                                                                                                                                                                                                                                            |
| 2.2     | Water (expected source & competing users)unit        | Yes     | <b>Water Requirement &amp; Source:</b><br><b>During Operation Phase:</b><br>Total Quantity of water- 271.39 m <sup>3</sup> /day<br>Fresh from PMC : 155.93m <sup>3</sup> /day<br>Recycled : For Flushing :80.46 m <sup>3</sup> /day<br>For Gardening : 30 m <sup>3</sup> /day<br>Club house :5.00<br>For HVAC makeup NA<br>Swimming Pool make up water : |

|     |                                                                                            |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|--------------------------------------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                            |     | Excess Treated water –106.79 m3/day                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2.3 | Minerals(MT)                                                                               | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.4 | Construction material– stone, aggregates, and soil (expected source–MT)                    | Yes | <b>Quantity : As per requirement</b><br>Stone aggregates demand will be met from the clay/soil generated after excavation and from open market<br><b>Sources:</b> The material required for construction activities shall be procured from company's authorized / approved vendors only. The vendor's performance will be monitored periodically. In case of urgency or non-availability of materials from authorized/approved vendors, it will be procured from the open market |
| 2.5 | Forest sand timber (source–MT)                                                             | Yes | Timber required for doors sourced from local suppliers.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2.6 | Energy including electricity and fuels (source, competing users)Unit: fuel(MT), energy(MW) | Yes | <b>Source:</b> MSEDCL<br>Connected load – 2521.25 kW<br>Maximum Demand –1,123.45 kW<br>Transformers - 630 kVA x 2nos<br>DG Sets: 200 kVAX 1no                                                                                                                                                                                                                                                                                                                                    |
| 2.7 | Any other natural resources(use appropriate standard units)                                | No  | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

**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.**

| Sr. 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) | No     | --                                                                                                    |
| 3.2     | Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)                                               | No     | --                                                                                                    |
| 3.3     | Affect the welfare of people e.g. by changing living conditions?                                                                               | No     | --                                                                                                    |
| 3.4     | Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,                           | No     | --                                                                                                    |
| 3.5     | Any other causes                                                                                                                               | No     | --                                                                                                    |

**4. Production of solid wastes during construction or operation or decommissioning**

(MT/month):

| Sr. No. | Information/ Check list confirmation                       | Yes/ No | Details thereof(with approximate quantities/ rates, wherever possible)with source of information data                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------|------------------------------------------------------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1     | Spoil, overburden or mine wastes                           | No      | Not applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4.2     | Municipal waste(domestic and or commercial wastes)         | Yes     | <b>During Construction Phase:</b><br>Total quantity of solid waste = 45 kg/day(Biodegradable and Non-biodegradable)<br><br><b>During Operation Phase:</b><br>Total solid waste Generation: 887 kg/day<br>Bio-Degradable: 519 Kg/day<br>Non-Biodegradable: 368 kg/day<br>E Waste :95 kg/Month<br>Recyclable waste to recyclers <ul style="list-style-type: none"> <li>• Non-recyclable waste to Authorized agency</li> <li>• Biodegradable waste will be treated in OWC</li> <li>• End product from OWC and STP sludge shall be used as manure on site</li> </ul> |
| 4.3     | Hazardous wastes (as per Hazardous waste Management Rules) | Yes     | Waste oil generated from D.G. shall be stored at separate location duly marked and will be sold to the authorized recyclers.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 4.4     | Other industrial process wastes                            | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4.5     | Surplus product                                            | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4.6     | Sewage sludge or other sludge from effluent treatment      | Yes     | Dried sludge from STP will be used as manure for the plants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 4.7     | Construction or demolition wastes                          | Yes     | Construction waste material shall be partly reused and remaining disposed to the authorized land fill site.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 4.8     | Redundant machinery or equipment                           | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4.9     | Contaminated soils or other materials                      | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4.10    | Agriculture wastes                                         | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4.11    | Other solid wastes                                         | No      | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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

| Sr. No. | Information/ Check list 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    | CPCB approved D.G. Sets will be used during power failure.                                            |
| 5.2     | Emissions from production processes                                         | No     | --                                                                                                    |
| 5.3     | Emissions from materials handling including storage or transport            | Yes    | Fugitive dust emission due to handling and loading                                                    |

|     |                                                                                              |              |                                                                                                                                                                     |
|-----|----------------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                              |              | unloading expected during construction. Frequent water sprinkling will be done to minimize the fugitive emissions.                                                  |
| 5.4 | Emissions from construction activities including plant and equipment                         | Yes/marginal | The project may cause rise in dust levels during construction phase. Precautions would be taken to reduce dust generation by water sprinkling at regular intervals. |
| 5.5 | Dust or odours from handling of materials including construction materials, sewage and waste | Yes          | Dust generation will be controlled as described above. Proper ventilation will be provided around STP and solid waste management facilities                         |
| 5.6 | Emissions from incineration of waste                                                         | No           | --                                                                                                                                                                  |
| 5.7 | Emissions from burning of waste in open air (e.g. slash materials, construction debris)      | No           | --                                                                                                                                                                  |
| 5.8 | Emissions from any other sources                                                             | No           | --                                                                                                                                                                  |

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

| Sr. 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 but negligible | For control of noise following measures shall be adopted: <ul style="list-style-type: none"> <li>Regular noise monitoring to be scheduled to maintain the noise level within the levels prescribed by CPCB during day and night time</li> <li>Provision of ear plugs to workers</li> <li>No noise polluting work in night shifts</li> <li>Provision of barricades along the periphery of the site.</li> </ul>                                                                                                                                                                                                                   |
| 6.2     | From industrial or similar processes.                                  | No                 | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 6.3     | From construction or demolition.                                       | Yes                | Noise levels may increase due to operation of machinery as well as transportation vehicles. This may cause nuisance to the nearby area. Following precautions shall be taken to control noise pollution: <ul style="list-style-type: none"> <li>High noise generating construction activities would be carried out only during day time</li> <li>Installation, use and maintenance of mufflers on equipment</li> <li>Workers working near high noise construction machinery would be supplied with ear muffs/ear plugs</li> <li>Provision of barricades along the periphery of the site</li> <li>Plantation of trees</li> </ul> |

| Sr. No. | Information/Checklist confirmation        | Yes/No | Details thereof (with approximate quantities/rates, wherever possible) with source of information data                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------|-------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                                           |        | <ul style="list-style-type: none"> <li>Acoustic enclosure for DG sets</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 6.4     | From blasting or piling.                  | No     | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 6.5     | From construction or operational traffic. | Yes    | <p><b>During Construction phase:</b></p> <ul style="list-style-type: none"> <li>Proper traffic management for the construction vehicles</li> <li>Regular maintenance of vehicles with suitable enclosures and intake silencers</li> <li>Planning and ensuring effective implementation of the waste movement plan for loading and offsite movement in non-traffic hours.</li> </ul> <p><b>During Operation Phase :</b></p> <ul style="list-style-type: none"> <li>Install traffic control measures to regulate the flow of traffic</li> <li>Assign traffic wardens to regulate flow of project traffic during peak hours</li> </ul> |
| 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:**

| Sr. 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     | --                                                                                                                                                                                                                                                             |
| 7.2     | From discharge of sewage or other effluents to water or the land (expected mode and place of discharge). | No     | <p><b>During Construction Phase:</b><br/>Disposal of sewage to municipal sewer line.</p> <p><b>During Operation Phase:</b><br/>Sewage will be reused for flushing and gardening within the premises. Excess treated sewage will be disposed to sewer line.</p> |
| 7.3     | By deposition of pollutants emitted to air into the land or into water.                                  | No     | --                                                                                                                                                                                                                                                             |
| 7.4     | From any other sources.                                                                                  | No     | --                                                                                                                                                                                                                                                             |
| 7.5     | Is there a risk of long term build up of pollutants in the environment from these                        | No     | --                                                                                                                                                                                                                                                             |



sources?

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

| Sr. 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                             | No     | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8.2     | From any other causes.                                                                                                              | No     | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8.3     | Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst)? | Yes    | <p>Landslides are not expected in the area. Management plan for flood and earthquake is as follows :</p> <p>Flood :</p> <ul style="list-style-type: none"> <li>Minimizing the incremental runoff from the site with the help of rain water harvesting pits</li> <li>Proper management of channelization of storm water from site by using proper internal SWD system and discharge points of adequate capacity</li> <li>Use of screens and silt traps to SWD</li> <li>Proper maintenance of storm water drainage to avoid choking of drains and flooding on site</li> <li>Ensure discharge of storm water from the site is clear of sediment and pollution</li> </ul> <p><b>Earthquake :</b><br/>The structure of the building is designed as per IS codes for zone III.</p> |

**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:**

| Sr. 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.: | No     | Supporting infrastructure is already in existence.                                                     |

|     |                                                                                                                                                                                                                                                         |     |                                                                                                                                                  |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <ul style="list-style-type: none"> <li>• Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.)</li> <li>• housing development</li> <li>• extractive industries</li> <li>• supply industries</li> <li>• other</li> </ul> |     |                                                                                                                                                  |
| 9.2 | Lead to after-use of the site, which could have an impact on the environment                                                                                                                                                                            | No  | --                                                                                                                                               |
| 9.3 | Set a precedent for later developments                                                                                                                                                                                                                  | Yes | Will create job opportunity in construction and operation phase with support staff like security, maintenance, shop keepers, professionals, etc. |
| 9.4 | Have cumulative effects due to proximity to other existing or planned projects with similar effects                                                                                                                                                     | Yes | Impacts on water availability, storm water drainage, availability of electricity, traffic congestion etc.                                        |

### (III) Environmental Sensitivity

| Sr. No. | Areas                                                                                                                                                       | Name/Identity                                                      | Aerial distance (within 15km) from Proposed project location boundary |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1       | Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value             | No                                                                 | ---                                                                   |
| 2       | Areas which are important or sensitive for ecological reasons - Wetlands, water courses or other water bodies, coastal zone, biospheres, mountains, forests | No                                                                 | --                                                                    |
| 3       | Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration               | Nil                                                                | Nil                                                                   |
| 4       | Inland, coastal, marine or underground waters                                                                                                               | Mutha River<br>Katraj Lake<br>Jambhulwadi Lake<br>Khadakwasala Dam | Approx. 4.6 km<br>Approx. 500 m<br>Approx. 3.0 km<br>Approx. 10 km    |
| 5       | State, National boundaries                                                                                                                                  | No                                                                 | --                                                                    |
| 6       | Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas                                                            | Mumbai – Bangalore (NH4)                                           | Approx- 530 m                                                         |
| 7       | Defense installations                                                                                                                                       | Pune                                                               | 4.3 km                                                                |

|    |                                                                                                                                                                                                           | Cantonment                                   |                |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|----------------|
| 8  | Densely populated or built-up area                                                                                                                                                                        | Pune City.                                   | Approx- 5 Km.  |
| 9  | Areas occupied by sensitive man-made land uses(hospitals, schools, places of worship, community facilities)                                                                                               | Parvati “<br>Peshwe<br>museum and<br>Temples | Approx-4.2 Km. |
| 10 | Areas containing important, high quality or scarce resources<br>(Ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)                                          | Mutha River<br>Katraj Snake<br>Park          | 4.6 km<br>500m |
| 11 | Areas already subjected to pollution or environmental damage.(those where existing legal environmental standards are exceeded)                                                                            | No                                           | --             |
| 12 | Areas susceptible to natural hazard which could cause the project to present environmental problems<br>(Earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions) | No                                           | --             |

**IV) Proposed Terms of Reference 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: 7.10.2021

Place: Pune, Maharashtra



For PRIDE PURPLE LANDMARK LLP

Mr. Arvind Premchand Jain

Designated Partner

**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, w.r.t. 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 Wile Animals, the project proponent 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 project proponent shall be made by the authorized signatory only. The authorized signatory should also submit a document in support of his claim of being and authorized signatory for the specific project.

**Pride Purple Group**

Pride House, 5th floor | 108, Ganeshkhind Road | Near Pune University | Pune 411 015 | +91 20 6709 1000  
[www.pridepurplegroup.com](http://www.pridepurplegroup.com)

Pune | Bangalore | Mumbai

**FORM - 1A**

**Proposed Amendment / Expansion in**

**Environmental Clearance**

**Residential & Commercial**

**“PARK LANDMARK”**

**At**

**S. No. 665/A At Bibwewadi Taluka Haveli,**

**Village Bibwewadi, Pune**

**By**

**PRIDE PURPLE LANDMARK LLP**

## FORM-1 A (only for construction projects listed under item 8 of the Schedule)

## CHECK LIST OF ENVIRONMENTAL IMPACTS

(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)

| 1   | LAND ENVIRONMENT Attach panoramic view of the project site and the vicinity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |     |             |          |    |              |   |    |              |   |    |             |   |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------|----------|----|--------------|---|----|--------------|---|----|-------------|---|
| 1.1 | <p>Will the existing land use get significantly altered from the project that is not consistent with the surroundings? (Proposed land use must conform to the approved Master Plan/ Development Plan of the area. Change of land use if any and the statutory approval from the competent authority be submitted).</p> <p>Attach Maps of</p> <p>(i) site location</p> <p>(ii) surrounding features of the proposed site (within 500 meters)</p> <p>(iii) the site (indicating levels &amp; contours) to appropriate scales. If not available attach only conceptual plans</p> | <p><b>Site Location:</b></p> <p>The project site is located at , S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune, Maharashtra by PRIDE PURPLE LANDMARK LLP</p> <p><b>Land use pattern:</b></p> <p>Project site is within PMC jurisdiction and local DCR is applicable.</p> <p><b>Site levels:</b></p> <p>The following details are enclosed:</p> <table border="1"> <thead> <tr> <th>Sr.</th> <th>Particulars</th> <th>Annexure</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Google image</td> <td>3</td> </tr> <tr> <td>2.</td> <td>Contour Plan</td> <td>4</td> </tr> <tr> <td>3.</td> <td>Layout Plan</td> <td>5</td> </tr> </tbody> </table> | Sr. | Particulars | Annexure | 1. | Google image | 3 | 2. | Contour Plan | 4 | 3. | Layout Plan | 5 |
| Sr. | Particulars                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Annexure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |     |             |          |    |              |   |    |              |   |    |             |   |
| 1.  | Google image                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |     |             |          |    |              |   |    |              |   |    |             |   |
| 2.  | Contour Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |     |             |          |    |              |   |    |              |   |    |             |   |
| 3.  | Layout Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |     |             |          |    |              |   |    |              |   |    |             |   |
| 1.2 | List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |     |             |          |    |              |   |    |              |   |    |             |   |
|     | <p><b>A) Connectivity and community facilities</b></p> <p>The project site is located at , S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune, Maharashtra by PRIDE PURPLE LANDMARK LLP</p> <p><b>Table 1: Building Details:</b></p>                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |     |             |          |    |              |   |    |              |   |    |             |   |

| <b>Building Name</b>                                                                                     | <b>Status Of Construction<br/>As per received EC</b> | <b>Number of floors</b>         | <b>No. of tenements</b> | <b>Height of the building (m)</b> |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------|-------------------------|-----------------------------------|
| <b>A-B Type</b>                                                                                          | Completed                                            | P+P+12                          | 96                      | 37.65                             |
| <b>C-D Type</b><br>(Proposed Internal floor design will be changed . So Flats Numbers will be increased) | Work in Progress                                     | Lower level<br>Parking + G + 14 | 144                     | 44.95                             |
| <b>E-F Type</b><br>Residential & Commercial Building                                                     | Partly completed                                     | Lower level<br>Parking + G + 11 | 88 Flats<br>18 Shops    | 35.99                             |
| Club House :<br>Ground                                                                                   | Completed                                            | Ground                          |                         |                                   |
| <b>Tenements - 328 Nos.</b>                                                                              |                                                      |                                 |                         |                                   |
| <b>Shops – 18 Nos.</b>                                                                                   |                                                      |                                 |                         |                                   |

**B) Area Statement****Table 2: Area Statement**

| <b>Sr.No.</b> | <b>Particulars</b>      | <b>As per Earlier EC<br/>27th November<br/>2018 Area in m<sup>2</sup></b> | <b>Applied for Proposed<br/>Amendmnt /<br/>Expansion</b> |
|---------------|-------------------------|---------------------------------------------------------------------------|----------------------------------------------------------|
| 1.            | Total Plot Area         | 20,154.48                                                                 | 20,154.48                                                |
| 2.            | Deductions              | 620.00                                                                    | 620.00                                                   |
| 3.            | Net Plot Area           | 17481.03                                                                  | 17581.03                                                 |
| 4.            | FSI Area                | 27,574.62                                                                 | 41412.30                                                 |
| 5.            | Non FSI Area            | 22593.32                                                                  | 20771.15                                                 |
| 6.            | Total Construction Area | 50168.00                                                                  | 62183.45                                                 |

**D. Parking Statement Table 3: Parking Statement**

| <b>Details</b>     | <b>Number</b> |
|--------------------|---------------|
| Total Parking area | 12555         |
| 4 Wheeler          | 405           |
| 2 Wheeler          | 918           |

**E. Occupancy load of the project:****Table 4: Occupancy Load**

| No. of Flats/ shops (h,I &j Building) | Criteria for Occupancy                                                     | Occupancy (Nos.)                                                                |
|---------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Tenements 328 Nos.<br>Shops – 18 Nos. | Residential – 5 person / flat<br><br>Commercial-1 person/ 10m <sup>2</sup> | Residential – 1640 Nos.<br>Commercial –333 Nos.<br>Total Population – 1973 Nos. |

**Reference:** National Building Code (NBC) -2016**F. Water requirement for the project:****1. During Construction Phase:**

- From Tanker water of potable quality: 14 KLD (For workers)
- From Water Tankers: 15 – 20 KLD (Depending on construction activity)

**2. During Operational Phase:****Table 4: Water requirement****During Construction Phase**

| No.      | Description               | Quantity of water required in KLD                  | Source of water supply                   |
|----------|---------------------------|----------------------------------------------------|------------------------------------------|
| <b>I</b> | <b>Construction phase</b> |                                                    |                                          |
| 1        | For Workers               | 14                                                 | From Tanker water of potable quality     |
| 2        | For Construction          | 10 - 20 (Depending upon the construction activity) | Water Tankers or As Per Available Source |

**Table 5: Water requirement (Domestic and flushing requirement)****During Operation Phase****Source – Pune Municipal Corporation & Tankers**

| Particulars                     | Dry Season | Wet Season |
|---------------------------------|------------|------------|
| Fresh Water (CMD) :             | 155        | 155        |
| Recycled water-Flushing(CMD):   | 80.46      | 80.46      |
| Recycled water-Gardening (CMD): | 30         | 0          |
| Club house                      | 5          | -          |
| Total Water Requirement(CMD):   | 271.39     | 241.39     |
| HVAC Makeup water               | NA         | NA         |
| Swimming pool makeup(Cum):      | -          | -          |
| Excess treated water (CMD):     | 106.79     | 136.79     |

**Reference:** Criteria for Water Requirement: National Building Code (NBC) -2016**Considerations for water requirement:**

The amount of water demand is calculated based on the occupancy of the building and the per capita consumption as given in MOEFCC Manual on norms and standards for EC of large construction projects i.e. Total quantity of water used (LPCD) = Occupancy x Quantity (LPCD)



Then Total quantity of water used for Domestic and Flushing in KLD is calculated.

\*\*Total quantity of water used for gardening

(KLD) = No. of trees x 6 + Gardening area x 10 Lit / sqm.

Then Total quantity of water for gardening in KLD is calculated.

#### G. Sewage Generation

**Table7: Sewage Generation :**

| No | Description        | Quantity of Sewage generated (KLD) | Treatment/ Disposal                       |
|----|--------------------|------------------------------------|-------------------------------------------|
| 1. | Construction Phase | 100                                | Disposal to existing municipal sewer line |
| 2. | Operation Phase    | 217                                | MBBR                                      |

**Reference:** Manual on norms and standards for EC of large construction projects MoEF & CC

#### H. Solid Wastes Generation from the project:

##### 1) During Construction Phase:

**Table 8: Solid Wastes During Construction Phase**

| No. of workers | Criteria for Solid Waste Generation |               |                   | Solid Waste Generation (Kg /day) |                   |       |
|----------------|-------------------------------------|---------------|-------------------|----------------------------------|-------------------|-------|
|                | Total (Kg/Person/day)               | Biodegradable | Non-Biodegradable | Biodegradable                    | Non-Biodegradable | Total |
| 100            | 0.45                                | 60%           | 40%               | 27.00                            | 18.00             | 45    |

The solid waste generation due to workers dwelling on the site will be segregated and will be handed over to authorized recyclers

##### 2) During Operation Phase:

**Table 9: Solid Wastes During Operation Phase**

| Solid waste        | Quantity (kgs/day) |
|--------------------|--------------------|
| Non- Biodegradable | 368                |
| Biodegradable      | 519                |
| <b>Total</b>       | 887                |
| <b>E waste</b>     | 95 kg/month        |

#### Considerations for solid waste generation as per norms:

- Segregation of non-biodegradable and biodegradable garbage on site.
- Bio degradable garbage: shall be treated in OWC
- Non- biodegradable garbage: Segregation into recyclable and non-recyclable waste
  - Recyclable waste: To recyclers
  - Non-recyclable waste: To PMC
- STP Sludge (Dry sludge): Use as manure

|                                                 | <p><b>Power requirement:</b><br/> <b>During Construction Phase -</b></p> <p>From Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Solar energy D.G. Sets: As per requirement</p> <p><b>During Operational Phase –</b><br/> Source – MSEDCL</p> <table border="1"> <thead> <tr> <th>Particulars</th><th>Details</th></tr> </thead> <tbody> <tr> <td>During Operation phase (Connected load):</td><td>2521.25 kw</td></tr> <tr> <td>During Operation phase (Demand load):</td><td>1,123.45 kw</td></tr> <tr> <td>DG set as Power back-up during operation phase:</td><td>200 kVAX 1no</td></tr> <tr> <td>Transformers</td><td>630 kVA x 2nos</td></tr> </tbody> </table> <ul style="list-style-type: none"> <li>• <b>Community Facility:</b> - Open Space will provide as per Local Rules.</li> <li>• <b>Parking Needs:-</b> As per Development Control Rules of Local Authority</li> </ul>                                            | Particulars | Details | During Operation phase (Connected load): | 2521.25 kw | During Operation phase (Demand load): | 1,123.45 kw | DG set as Power back-up during operation phase: | 200 kVAX 1no | Transformers | 630 kVA x 2nos |
|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|---------|------------------------------------------|------------|---------------------------------------|-------------|-------------------------------------------------|--------------|--------------|----------------|
| Particulars                                     | Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| During Operation phase (Connected load):        | 2521.25 kw                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| During Operation phase (Demand load):           | 1,123.45 kw                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| DG set as Power back-up during operation phase: | 200 kVAX 1no                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| Transformers                                    | 630 kVA x 2nos                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| 1.3                                             | <p>What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing landuse, disturbance to the local ecology).</p> <p>Project site shall be developed into a Residential &amp; Commercial development. Hence, there shall be some impacts on water, air environment, power requirement but it shall be mitigated by providing proper pollution control facilities. STP shall be provided for treatment of recycling of sewage there by reducing fresh water demand. Also for water conservation, rain water harvesting shall be done. Power consumption shall be reduced by using energy saving practices. Impact on air quality shall be reduced by plantation of trees on green cover area. This project will generate employment during construction and operation phase and there by shall have positive impact on socio economy</p> |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| 1.4                                             | <p>Will there be any significant land disturbance resulting in erosion, subsidence &amp; instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).</p> <p>As per the Seismic Zoning Map of India, region falls under Zone- III. Stability Certificate, as per prevalent IS Code will be obtained for these buildings from registered Consulting Structural Engineer considering the seismic forces and wind forces etc.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| 1.5                                             | <p>Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)</p> <p>No, the proposal won't involve alteration of natural drainage systems.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| 1.6                                             | <p>What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)</p> <p>Excavated top soil – has been utilized for landscaping within site<br/> Excavated lower layer- has been utilized for back filling within site</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |             |         |                                          |            |                                       |             |                                                 |              |              |                |
| 1.7                                             | <p>Give details regarding water supply, waste handling etc during the construction period</p> <p><b>Water Requirement during Construction Phase:</b><br/> From Water tankers (For Construction): 15-20 KLD.<br/> (Depending upon the construction activity)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |         |                                          |            |                                       |             |                                                 |              |              |                |

|     |                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                                                                     | <b>Operation Phase:</b><br>The sewage generated approximately 217 KLD will be treated in STP & recycled treated water will be used for flushing & gardening will be disposed existing sewer line.                                                                                                                                                                                                                       |
| 1.8 | Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)                                                                    | No                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.9 | Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal) | <b>Solid Waste Generation during Construction Phase:</b><br>Demolition debris, excavation material & construction waste material shall be partly reused and remaining disposed to the authorized land fill site<br><b>From Construction labour :</b><br>Biodegradable garbage = 27 kg/day<br>Non-biodegradable garbage = 18kg/day<br>Total = 45 kg/day<br>Proper segregation of the wastes done and handing over to PMC |

| 2                               | <b>WATER ENVIRONMENT</b>                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------|------------|---------------------|-----|-----|-------------------------------|-------|-------|---------------------------------|----|---|------------|---|---|-------------------------------|--------|--------|-------------------|----|----|----------------------------|---|---|-----------------------------|--------|--------|
| 2.1                             | <p>Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources &amp; quantities and furnish a water balance statement</p> | <p><b><u>During Construction Phase –</u></b><br/>         For Workers : From Tanker water of potable quality: 14 KLD<br/>         Source – Water Tankers or As Per Available Source</p> <p><b><u>During Operation phase</u></b></p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>Dry Season</th> <th>Wet Season</th> </tr> </thead> <tbody> <tr> <td>Fresh Water (CMD) :</td> <td>155</td> <td>155</td> </tr> <tr> <td>Recycled water-Flushing(CMD):</td> <td>80.46</td> <td>80.46</td> </tr> <tr> <td>Recycled water-Gardening (CMD):</td> <td>30</td> <td>0</td> </tr> <tr> <td>Club house</td> <td>5</td> <td>-</td> </tr> <tr> <td>Total Water Requirement(CMD):</td> <td>271.39</td> <td>241.39</td> </tr> <tr> <td>HVAC Makeup water</td> <td>NA</td> <td>NA</td> </tr> <tr> <td>Swimming pool makeup(Cum):</td> <td>-</td> <td>-</td> </tr> <tr> <td>Excess treated water (CMD):</td> <td>106.79</td> <td>136.79</td> </tr> </tbody> </table> <p>(All quantities are in m<sup>3</sup>/day)</p> | Particulars | Dry Season | Wet Season | Fresh Water (CMD) : | 155 | 155 | Recycled water-Flushing(CMD): | 80.46 | 80.46 | Recycled water-Gardening (CMD): | 30 | 0 | Club house | 5 | - | Total Water Requirement(CMD): | 271.39 | 241.39 | HVAC Makeup water | NA | NA | Swimming pool makeup(Cum): | - | - | Excess treated water (CMD): | 106.79 | 136.79 |
| Particulars                     | Dry Season                                                                                                                                                                                                                                   | Wet Season                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Fresh Water (CMD) :             | 155                                                                                                                                                                                                                                          | 155                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Recycled water-Flushing(CMD):   | 80.46                                                                                                                                                                                                                                        | 80.46                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Recycled water-Gardening (CMD): | 30                                                                                                                                                                                                                                           | 0                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Club house                      | 5                                                                                                                                                                                                                                            | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Total Water Requirement(CMD):   | 271.39                                                                                                                                                                                                                                       | 241.39                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| HVAC Makeup water               | NA                                                                                                                                                                                                                                           | NA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Swimming pool makeup(Cum):      | -                                                                                                                                                                                                                                            | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| Excess treated water (CMD):     | 106.79                                                                                                                                                                                                                                       | 136.79                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| 2.2                             | What is the capacity (dependable flow or yield) of the proposed source of water?                                                                                                                                                             | Required water supply from PMC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| 2.3                             | What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)                                                              | Drinking water quality of Class A as per Indian Standard (2296 -1982) shall be maintained.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| 2.4                             | How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)                                                                                                   | All Secondary requirements like flushing (80 CMD) and gardening (30 CMD) would be fulfilled by treated sewage from STP. Excess treated sewage during non-monsoon and monsoon shall be disposed to existing sewer line.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |
| 2.5                             | Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)                                                                                           | Drinking water shall be supplied by PMC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |            |            |                     |     |     |                               |       |       |                                 |    |   |            |   |   |                               |        |        |                   |    |    |                            |   |   |                             |        |        |

| 2.6   | What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)                                                                                                     | <p>Sewage generation will be 217 CMD. Treated sewage will be reused for flushing (80.46 CMD), and gardening 30 CMD). Excess treated sewage (during non-monsoon and monsoon season) shall be disposed to sewer line.</p> <p><b><u>UNTREATED AND TREATED SEWAGE QUALITY:</u></b></p> <p><b>Table 12: Untreated &amp; Treated Sewage Quality</b></p> <table><tr><th rowspan="2">NO.</th><th rowspan="2">DETAILS</th><th colspan="2">VALUES</th><th rowspan="2">UNITS</th></tr><tr><th>UNTREATED</th><th>TREATED</th></tr><tr><td>1.</td><td>pH</td><td>7.0 – 8.0</td><td>6.5 – 7.5</td><td></td></tr><tr><td>2.</td><td>Total Suspended solids</td><td>250</td><td>&lt;10</td><td>mg/lit</td></tr><tr><td>3.</td><td>Chemical Oxygen Demand</td><td>400</td><td>&lt;30</td><td>mg/lit</td></tr><tr><td>4.</td><td>BOD, 3 day, 27°C</td><td>250</td><td>&lt;10</td><td>mg/lit</td></tr><tr><td>5.</td><td>Oil &amp; Grease</td><td>50</td><td>&lt;5</td><td>mg/lit</td></tr></table> | NO.       | DETAILS | VALUES |  | UNITS | UNTREATED | TREATED | 1. | pH | 7.0 – 8.0 | 6.5 – 7.5 |  | 2. | Total Suspended solids | 250 | <10 | mg/lit | 3. | Chemical Oxygen Demand | 400 | <30 | mg/lit | 4. | BOD, 3 day, 27°C | 250 | <10 | mg/lit | 5. | Oil & Grease | 50 | <5 | mg/lit |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------|--------|--|-------|-----------|---------|----|----|-----------|-----------|--|----|------------------------|-----|-----|--------|----|------------------------|-----|-----|--------|----|------------------|-----|-----|--------|----|--------------|----|----|--------|
| NO.   | DETAILS                                                                                                                                                                                                                                                                                              | VALUES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |         | UNITS  |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
|       |                                                                                                                                                                                                                                                                                                      | UNTREATED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | TREATED   |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 1.    | pH                                                                                                                                                                                                                                                                                                   | 7.0 – 8.0                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 6.5 – 7.5 |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 2.    | Total Suspended solids                                                                                                                                                                                                                                                                               | 250                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <10       | mg/lit  |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 3.    | Chemical Oxygen Demand                                                                                                                                                                                                                                                                               | 400                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <30       | mg/lit  |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 4.    | BOD, 3 day, 27°C                                                                                                                                                                                                                                                                                     | 250                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <10       | mg/lit  |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 5.    | Oil & Grease                                                                                                                                                                                                                                                                                         | 50                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <5        | mg/lit  |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 2.7   | Give details of the water requirements met from water harvesting? Furnish details of the facilities created.                                                                                                                                                                                         | Water harvesting system will be installed and the harvested water will be used to recharge the ground water.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 2.8   | What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way? | <p><b>Precaution to avoid water logging on site:</b></p> <ul style="list-style-type: none"><li>Storm water drain shall be cleaned at regular interval.</li><li>Minimizing the incremental runoff from the site with the help of rain water harvesting pits</li><li>Proper management of channelization of storm water from site by using proper internal SWD system and discharge points of adequate capacity</li><li>Use of screens and silt traps to SWD</li><li>Proper maintenance of storm water drainage to avoid choking of drains and flooding on site</li><li>Ensure discharge of storm water from the site is clear of sediment and pollution</li></ul>                                                                                                                                                                                                                                                                                                                 |           |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 2.9   | What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)                                                                              | No ground water abstraction is planned so no impact is envisaged.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |           |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |
| 2.10. | What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures                                                                                                                                      | <p>The runoff from the site during construction phase would be prevented as under:</p> <ul style="list-style-type: none"><li>Curing water shall be sprayed on concrete structures, free flow of water shall not be</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |         |        |  |       |           |         |    |    |           |           |  |    |                        |     |     |        |    |                        |     |     |        |    |                  |     |     |        |    |              |    |    |        |

|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                           |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | taken to avoid the adverse impacts)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>allowed for curing</p> <ul style="list-style-type: none"> <li>• Use of wet jute cloth/gunny bags instead of water spray for curing activity.</li> </ul>                                                                                                                |
| 2.11 | How is the storm water from within the site managed?(State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Internal storm water drains will be constructed in accordance to regulations. The storm water collected through the storm water drains shall be diverted to recharge pit.                                                                                                 |
| 2.12 | Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>• Disposal of sewage to sewer line</li> <li>• Disposal of segregated waste to PMC</li> <li>• First aid and medical facilities</li> <li>• Proper housekeeping</li> <li>• Regular pest control</li> <li>• Site sanitation</li> </ul> |
| 2.13 | What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                           |
|      | <ul style="list-style-type: none"> <li>• Wastewater generation:- 217.25 m<sup>3</sup>/day</li> <li>• Treatment capacities with technology: 220 m<sup>3</sup>/day using MBBR</li> <li>• Facilities for recycling: Flushing, gardening</li> </ul> <p><b>Design Basis of Treatment plant – MBBR (Moving Bed Bio Reactor)</b></p> <ul style="list-style-type: none"> <li>• <b>Preliminary Treatment:</b></li> <li>• Pre – Treatment:</li> <li>• Screening : This is the first units of the plant in which large or floating materials in the sewage gets arrested and blockage or choking of the downstream equipments can be avoided. This arrested material will be removed manually and then will be disposed off suitably</li> <li>• Oil &amp; Grease trap : Domestic sewage sometimes gets waste water from pantries or kitchen which contains free oil. This oil if not removed then creates the problem of scum accumulation and affects the functioning of microbes.</li> <li>• To avoid this, oil &amp; Grease trap is provided after the bar screen, where free floating oil is arrested prior to entry in the plant. Accumulated oil will be removed periodically and disposed off properly.</li> <li>• Equalization : To absorb variation in quantity and quality of sewage and to provide uniform flow at the downstream treatment process, a collection or equalization tank is provided. This will avoid shock loading and process upsets of the treatment plant. To avoid settling of suspended solids in this tank, continues air agitation is provided.</li> <li>• If at site, septic tank is provided then collection tank as well as air agitation is not required.</li> <li>• <b>Secondary Treatment:</b></li> <li>• Biological Treatment: This is the main section of the plant where degradation of organic pollutants with the help of aerobic micro-organism takes place. To provide higher surface area for micro-organism, floating media is provided. On which micro-organism growth takes place. This makes bioreactor is of hybrid concept in which both suspended growth as well as attached growth principal for micro-organism is achieved. Due to higher population of micro-organism, effective volume of bioreactor reduced drastically as compared to conventional aeration tanks.</li> <li>• To maintain the aerobic condition in the bioreactor, air supply arrangement is provided by means of aeration equipment which has high oxygen transfer efficiency.</li> <li>• Tube Settler : Gravity overflow from the bioreactor is collected in the tube settler tank. In this settling tank, generated sludge from the bioreactor undergoes a gravity settling. Clear supernatant from settling tank will flow by gravity to a chlorine contact tank.</li> </ul> |                                                                                                                                                                                                                                                                           |

|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                     |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | <ul style="list-style-type: none"> <li>• To reduce the plan area of settling tank, tube modules are placed in this tank to increase the settling area of the tank. Since this tank is a hopper bottom tank due to which there is no need of sludge scrapping mechanisms.</li> <li>• Intermediate Storage tank : Supernatant from Tube settler, flow by gravity to the Intermediate storage tank. Here water is stored before pass through the Filtration plant.</li> <li>• Disinfection : Done by Using Ozonator where all bacteria killed using Ozone gas by circulation treated water through the system it mounted before Treated water tank.</li> <li>• Sludge disposal system : Settled sludge from tube settler will be removed by pumping to the sludge holding tank or Centrifuge or Techno bag system or Filter press.</li> <li>• <b>Tertiary treatment:</b></li> <li>• Secondary treated water will be further passed through sand media filter followed by activated carbon filter.</li> </ul> <p>a. Pressure sand filter</p> <p>The raw water is first passed through a Multigrade sand filter to reduce the suspended solids present in the raw water. This filter is provided to keep a check on the suspended solids.</p> <p>b. Activated carbon filter</p> <p>Activated Carbon Filter shall be used to remove undesired color, odor &amp; Organic matter. Filtered water will be collected in the Treated water Storage tank from where it will be for desired non potable application. Backwashed water from filters will return back to equalization tank.</p> <p>Advantages of treatment scheme</p> <ul style="list-style-type: none"> <li>• This plant will produce the treated water which can be recycled back.</li> <li>• This plant is based on biological principle hence no need use of any excessive hazardous chemicals for the main degradation process.</li> <li>• Being an attached growth process there is no need of Return sludge recycling.</li> <li>• Due to media technology, foot print area required for the plant is very less.</li> <li>• Due to smaller unit sizes, civil construction cost &amp; overall project cost is very less</li> <li>• Due to efficient aeration system, electrical power requirement is very low.</li> <li>• Due to user friendly equipment, plant maintenance is very less.</li> <li>• Due to inbuilt automation, plant machinery life is high &amp; ensures trouble free operation</li> <li>• All process rotating electromechanical equipments are provided with standby equipment to ensure the uninterrupted operation.</li> <li>• Due to effective after sales service from our qualified staff, maintenance issues to the owner are less.</li> </ul> |                                                                                                                                                                                                                                                     |
| 2.14 | Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>• Recycling of treated sewage for flushing with dual plumbing (for proposed project only) and gardening.</li> <li>• Color coding for dual plumbing system shall be done as per standard practices</li> </ul> |
| 3.   | <b>VEGETATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                     |
| 3.1  | Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with its unique features, if any)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | There is no threat to the biodiversity due to the project under reference.                                                                                                                                                                          |
| 3.2  | Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | No                                                                                                                                                                                                                                                  |
| 3.3  | What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Project proponents have proposed indigenous species plantation on ground and on the periphery of the project site.<br>(Refer <b>Layout Plan</b> )                                                                                                   |

|           |                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | layout plan to an appropriate scale)                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>4.</b> | <b>FAUNA</b>                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 4.1       | Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.                                                                                                                                         | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4.2       | Any direct or indirect impacts on the avifauna of the area? Provide details                                                                                                                                                                                                            | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4.3       | Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna                                                                                                                                                                                            | Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>5</b>  | <b>AIR ENVIRONMENT</b>                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 5.1       | Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions) | No perceptible change is anticipated in AAQ due to Project as it being Residential & Commercial development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 5.2       | What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters                                                                                                                               | <p>During construction phase, air borne dust, is the main pollutant, which may be generated during construction activities. Other emissions, SO<sub>2</sub>NO<sub>x</sub> and CO, due to vehicular movement, construction machinery, etc are expected. However, it will be temporary.</p> <p>Proper upkeep and maintenance of vehicles, sprinkling of water on roads and construction site are some of the measures that would reduce the impact of dust during construction phase.</p> <p><b>Sources of Air pollution during Operational phase :</b></p> <ul style="list-style-type: none"> <li>• The gaseous emissions from vehicles.</li> <li>• Emissions from DG set</li> </ul> <p><b>Mitigation Measures:</b></p> <ul style="list-style-type: none"> <li>• The traffic congestion will be avoided by proper parking arrangement and maintaining smooth traffic flow</li> <li>• Regular PUC checkup for vehicles</li> <li>• CPCB approved DG sets only will be used.</li> <li>• Proper maintenance of DG sets shall be done and Low sulphur fuel shall be used.</li> <li>• Plantation of trees which will act as noise and dust buffer</li> </ul> |
| 5.3       | Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site                                       | The project proponents have proposed to provide well organized arrangement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5.4       | Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with                                                                                                                                                                | <ul style="list-style-type: none"> <li>• Provide adequate traffic signs and signages to notify residents</li> <li>• Install safety mirrors to aid visibility in conflict</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



|           |                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | areas under each category                                                                                                                                                     | <p>points</p> <ul style="list-style-type: none"> <li>• Prevent parking near the Entry and Exit Gate</li> <li>• Provide speed humps to regulate speed of vehicles</li> <li>• Provide pedestrian crossings and dedicated footpath to cater to the walking population</li> <li>• Assign traffic wardens to regulate flow of project traffic during peak hours</li> </ul>                                                        |
| 5.5       | Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above                           | The proposed project being Residential & commercial development, the source of noise is mainly vehicular noise. The project proponents have proposed to provide well organized parking arrangement and maintaining smooth traffic flow which would help in reducing traffic congestion and noise levels. Trees would act as noise barrier and will reduce the noise level.                                                   |
| 5.6       | What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details                            | <p>D.G. Set will be operated only in case of power failures during operational phase. The Pollutants like RSPM, SO<sub>2</sub> that may arise from emissions from D.G. Sets will be discharged through vent of proper height.</p> <p>D.G. sets are with inbuilt acoustic enclosures to reduce the noise of D.G. sets while in operation. Plantation of trees would act as noise barrier and will reduce the noise level.</p> |
| <b>6.</b> | <b>AESTHETICS</b>                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 6.1       | Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?  | No                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 6.2       | Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?                                          | All precautions will be taken to mitigate the impact due to water, air and noise pollution during construction and operation phase. Environmental Management plan is prepared and shall be implemented along with Environmental Monitoring Programme.                                                                                                                                                                        |
| 6.3       | Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out                                     | No, there are no such local considerations.                                                                                                                                                                                                                                                                                                                                                                                  |
| 6.4.      | Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered. | No such site in the vicinity.                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>7.</b> | <b>SOCIO-ECONOMIC ASPECTS</b>                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 7.1       | Will the proposal result in any changes to the demographic structure of local population? Provide the details.                                                                | Yes , Will give rise to enhancement in economic structure of the area.                                                                                                                                                                                                                                                                                                                                                       |
| 7.2       | Give details of the existing social infrastructure around the proposed project.                                                                                               | It is a well-developed City of India, having all modern amenities. Civil structures, School, Colleges, Hospitals, Recreation facilities, Markets, etc. are available in the area to a reasonable degree.                                                                                                                                                                                                                     |

|           |                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.3       | Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?                                                                                                            | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>8.</b> | <b>BUILDING MATERIALS</b>                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 8.1       | May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency) | No, Polozona Cement with 15% ash shall be used. Bricks are used for construction having 60% fly ash content. Construction materials from nearest source are chosen to minimize energy consumption for transportation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 8.2       | Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?                                                                                                      | <p>The material required for construction activities shall be procured from company's authorized / approved vendors only. The vendor's performance is monitored periodically. In case of urgency or non-availability of materials from authorized/approved vendors, it will be procured from the open market to maintain the pace of the work. The mode of transport for above materials will be by trucks and / or by trailers.</p> <ul style="list-style-type: none"> <li>• The construction material will be carried in properly covered vehicles.</li> <li>• All the contractors / Vendors will be instructed to use vehicles having PUC certificates</li> <li>• Security staff presents at site will supervise loading and unloading of material at site</li> <li>• Construction material will be stored at identified site/ temporary godowns at site</li> </ul> |
| 8.3       | Are recycled materials used in roads and structures? State the extent of savings achieved?                                                                                                                                                                      | Cement containing fly ash shall be used. Construction materials from nearest source shall be chosen to minimize energy consumption for transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 8.4       | Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project                                                                                                                           | <ul style="list-style-type: none"> <li>• Segregation of non-biodegradable and biodegradable garbage on site.</li> <li>• Bio degradable garbage: Treatment in OWC (Organic Waste Convertor)</li> <li>• Non- biodegradable garbage: Segregation into recyclable and non-recyclable waste <ul style="list-style-type: none"> <li>➤ Recyclable waste: To Recyclers</li> <li>➤ Non-recyclable waste: To PMC</li> </ul> </li> <li>• STP Sludge (Dry sludge): Use as manure</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>9.</b> | <b>ENERGY CONSERVATION</b>                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 9.1       | Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?                                                        | <p>Source – MSEDCL as well as Solar energy</p> <ul style="list-style-type: none"> <li>• Connected Load – 2521.25 kW</li> <li>• Maximum Demand load – 1,123.45 kW</li> <li>• Number and capacity of D.G set – 200 kVAX 1no</li> <li>• 630 kVA x 2nos</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

|     |                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                                                                                                                                                                | <p>As per Requirement</p> <p><b>Following Energy conservation measures are proposed for Energy Saving:</b></p> <ol style="list-style-type: none"> <li>1. As per MSEDCL requirements, we have planned to use high efficiency Transformer to reduce losses. Losses for Transformer will be as per IS standards &amp; ECBC norms. <ul style="list-style-type: none"> <li>• We Will Provided Solar Energy As Per Standarded Norms</li> <li>• Low power high efficiency CFL/LED lights in common areas.</li> </ul> </li> </ol> |
| 9.2 | What type of, and capacity of, power back-up to you plan to provide?                                                                                                                                                                                                                                           | <p>Number and capacity of D.G set –<br/>As per Requirement</p> <p>No. of Transformers – As per Requirement</p>                                                                                                                                                                                                                                                                                                                                                                                                            |
| 9.3 | What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?                                                                                                                                                   | Glass shall be used only for windows                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 9.4 | What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.                                                                                                                                                                            | The roof shall be insulated so that there will not be direct heat gain due to sunlight                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 9.5 | Does the layout of streets & buildings maximize the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.                                                             | <p>Use of Solar lights for Common area and external lighting</p> <p>Solar water heating system has also been provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                |
| 9.6 | Is shading effectively used to reduce cooling/heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?                                                                                                  | It is proposed to insulate the roofs of these buildings to minimize the heat gain and in turn saving the electricity.                                                                                                                                                                                                                                                                                                                                                                                                     |
| 9.7 | Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications. | Yes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 9.8 | What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?                                                                                              | Alteration of microclimate is not notable in this case. Systematic design of buildings in order to assure light ventilation, open spaces , green areas , tree plantation as per requirement are considered which will help to reduce the effect of creation of heat island.                                                                                                                                                                                                                                               |
| 9.9 | What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details                                                                                                                                                                                | <ul style="list-style-type: none"> <li>• It is proposed to insulate the roofs of these buildings to minimize the heat gain and in turn save the electricity.</li> </ul>                                                                                                                                                                                                                                                                                                                                                   |

|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | of the material used and the U-values or the R values of the individual components.                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 9.10 | What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Fire fighting measures:</b> <ul style="list-style-type: none"> <li>• Fire fighting system has been designed as per No Objection Certificate from Chief Fire Officer (CFO NOC),</li> <li>• Provision of UG Tanks</li> <li>• Fire Hydrant system &amp; wet risers</li> <li>• One Twin headed landing valves with hose reel boxes</li> <li>• Automatic Sprinkler system</li> <li>• Fire alarm system</li> <li>• External Hydrant System</li> <li>• Separate power system for fire fighting</li> <li>• Fire detection system</li> <li>• Fire resistant doors at flat entry and staircases</li> <li>• Portable fire extinguishers</li> <li>• Emergency &amp; escape lighting, emergency exit signage</li> </ul> Disaster Management plan enclosed. |
| 9.11 | If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.                                                                                                                                                                                                                                                                                                                                                                                                         | Glass shall be used only for windows / openings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 9.12 | What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration                                                                                                                                                                                                                                                                                                                                                                                                         | This is not a centrally air conditioned building hence it has not been studied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 9.13 | To what extent the non-conventional energy technologies are utilized in the overall energy consumption? Provide details of the renewable energy technologies used.                                                                                                                                                                                                                                                                                                                                                                    | Use of Solar lights for Common area and external lighting.<br>Use of solar heating system to meet water requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 10.  | <b>ENVIRONMENT MANAGEMENT PLAN</b><br>The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire | EMP would consist of mitigation measures for environmental attributes viz, air, water, noise, etc to minimize the anticipated impacts during the construction and operation phase of the project.<br>It would also delineate the monitoring program to comply with environmental regulations. This will also include the action to be taken in case of emergency such as accidents at the site including fire.                                                                                                                                                                                                                                                                                                                                   |

## ENVIRONMENTAL IMPACTS AND MANAGEMENT PLAN

## EMP for Construction Phase

| No.                       | Environmental Issues/Impacts                                                                               | Mitigation measures                                                                                                                                                                                                                                                                                                                    | Responsibility                 | Legal & Other requirements            |
|---------------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|---------------------------------------|
| <b>LOCATION SPECIFIC</b>  |                                                                                                            |                                                                                                                                                                                                                                                                                                                                        |                                |                                       |
| 1.                        | Level difference in Land                                                                                   | <ul style="list-style-type: none"> <li>For minimum cutting and filling on site, parking level are planned along the contours and proposed formation levels shall be created by using ramp along the natural slope</li> <li>Proper measures shall be adopted for noise and dust suppression on site and in surrounding areas</li> </ul> | Project Proponents /Architects | --                                    |
| 2.                        | Loss of vegetation                                                                                         | <ul style="list-style-type: none"> <li>Good Landscaping with good plantation</li> </ul>                                                                                                                                                                                                                                                | Contractor/ Project Manager    | --                                    |
| <b>DESIGN SPECIFIC</b>    |                                                                                                            |                                                                                                                                                                                                                                                                                                                                        |                                |                                       |
| 1.                        | Building Height                                                                                            | <ul style="list-style-type: none"> <li>Height of the building is in accordance with the local planning permissions and aviation NOC</li> </ul>                                                                                                                                                                                         | Architects                     | Guidelines of PMC                     |
| 2.                        | Incremental runoff due to Increase in paved areas                                                          | Planned RG area: <ul style="list-style-type: none"> <li>Minimizing the incremental runoff from the site with the help of rain water harvesting</li> </ul>                                                                                                                                                                              | Architects                     | --                                    |
| <b>CONSTRUCTION PHASE</b> |                                                                                                            |                                                                                                                                                                                                                                                                                                                                        |                                |                                       |
| 1.                        | Increase in water demand (15-20 KLD) due to water usage for construction, dust suppression and for workers | <ul style="list-style-type: none"> <li>Curing water shall be sprayed on concrete structures, free flow of water shall not be allowed for curing</li> <li>Use of wet jute cloth/gunny bags instead of water spray for curing activity.</li> </ul>                                                                                       | Contractor & Project Manager   | --                                    |
| 2.                        | Sewage generation and disposal                                                                             | <ul style="list-style-type: none"> <li>Disposal of sewage generated to sewer line</li> <li>Daily watch on sanitation facilities, drains &amp; good housekeeping</li> </ul>                                                                                                                                                             | Contractor & Project Manager   | Water (P & CP) Act 1974               |
| 3.                        | Municipal solid waste generation (45 kg/day) by workers                                                    | <ul style="list-style-type: none"> <li>Segregation of Biodegradable (27 kg/day) and non-biodegradable garbage (18kg/day)</li> <li>Disposal of segregated waste to PMC</li> </ul>                                                                                                                                                       | Contractor & Project Manager   | --                                    |
| 4.                        | Construction activity may lead to <ul style="list-style-type: none"> <li>Water logging on site</li> </ul>  | <ul style="list-style-type: none"> <li>Computation of the runoff from the catchment areas outside the plot and runoff within the plot.</li> <li>Proper management of channelization</li> </ul>                                                                                                                                         | Contractor & Project Manager   | Storm water drainage remarks from PMC |

|          |                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                           |    |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----|
|          | <ul style="list-style-type: none"> <li>• Unsanitary conditions and mosquito breeding on site</li> <li>• Sedimentation of outside drains</li> </ul>   | <ul style="list-style-type: none"> <li>• of storm water</li> <li>• Designing storm water drainage with adequate capacity to cater the total runoff from site to avoid flooding on site</li> <li>• Use of screens and silt traps in advance of earthworks</li> <li>• Proper maintenance of storm water drainage to avoid choking of drains and flooding on site</li> <li>• Prompt completion of works relating to drainage and sediment control</li> <li>• Ensure discharge of storm water from the site or inflow to the site due to contributing catchment is clear of sediment and pollution</li> </ul> |                           |    |
| <b>5</b> | <b>Construction activity</b>                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                           |    |
| a.       | Dust generation                                                                                                                                      | <ul style="list-style-type: none"> <li>• On site sensors shall be installed to monitor PM<sub>10</sub> and PM<sub>2.5</sub></li> <li>• Provision of Barricades of adequate height along the periphery of the site</li> <li>• Use of covering sheets while transporting the material</li> </ul>                                                                                                                                                                                                                                                                                                            | Contractor/<br>Proponents | -- |
| b.       | Noise & Vibration                                                                                                                                    | <ul style="list-style-type: none"> <li>• Regular noise monitoring to be scheduled to maintain the noise level within the levels prescribed by CPCB during day and night time</li> <li>• Provision of ear plugs to workers</li> <li>• No noise polluting work in night shifts</li> <li>• Provision of barricades along the periphery of the site</li> </ul>                                                                                                                                                                                                                                                |                           |    |
| c.       | Disruption of soil & runoff                                                                                                                          | <ul style="list-style-type: none"> <li>• Sedimentary controls to be implemented</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                           |    |
| d.       | Oil leaks                                                                                                                                            | <ul style="list-style-type: none"> <li>• Regular maintenance of machineries to prevent and repair leaks</li> <li>• Contaminated soil (if any) disposed to authorized CHWTSDF</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                   |                           |    |
| e.       | Generation of construction waste - Debris/ Excavation material                                                                                       | <ul style="list-style-type: none"> <li>• Quantity of the debris:</li> <li>• Rock - Used for plinth refilling &amp; road formation</li> <li>• Disposal of hazardous waste to CHWTSDF</li> <li>• Construction waste (Empty Cement Bags, Paint container, other Barrels &amp; Scrap metal) will be handed over/sold to Authorized recyclers</li> </ul>                                                                                                                                                                                                                                                       | Contractor/<br>Proponents | -- |
| 6        | Vehicular movement <ul style="list-style-type: none"> <li>• Increase in traffic</li> <li>• Air emissions &amp; Noise</li> <li>• Oil leaks</li> </ul> | <ul style="list-style-type: none"> <li>• Proper traffic management for the construction vehicles</li> <li>• Provision of oil and grease traps to the Storm water drains</li> <li>• Regular maintenance of vehicles with</li> </ul>                                                                                                                                                                                                                                                                                                                                                                        | Project Manager           | -- |

|                        |                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                               |                           |
|------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------|
|                        |                                                                        | suitable enclosures and intake silencers <ul style="list-style-type: none"> <li>• Planning and ensuring effective implementation of the waste movement plan for loading and offsite movement in non-traffic hours</li> </ul>                                                                                                                                                                                                                                                |                                                               |                           |
| 7                      | Use of DG sets may leads to air and noise pollution                    | <ul style="list-style-type: none"> <li>• DG sets with inbuilt acoustic enclosures</li> <li>• Site barricading</li> <li>• Regular maintenance</li> </ul>                                                                                                                                                                                                                                                                                                                     | Project Manager                                               | --                        |
| 8                      | Impact on health of workers<br>Accidents, Hazards, injuries to workers | <ul style="list-style-type: none"> <li>• Adequate drinking water, canteen, toilet and bathing facilities</li> <li>• First aid facility</li> <li>• Regular health checkup of workers</li> <li>• Risk assessment and preparation of disaster management plan</li> <li>• Provision of temporary water tank for firefighting and appropriate fire suppression measures</li> <li>• Safety educational and awareness programme</li> <li>• Proper security arrangements</li> </ul> | Safety officer                                                | --                        |
| <b>OPERATION PHASE</b> |                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                               |                           |
| 1.                     | Increase in water demand                                               | <ul style="list-style-type: none"> <li>• Use of treated sewage for flushing (80.46 CMD) and gardening (30 CMD)</li> <li>• Use of Treated Waste Water for flushing and gardening resulting in reduction of Net water</li> </ul>                                                                                                                                                                                                                                              | Project Proponents/<br>Society/<br>Facility Management system | Water Act 1974 as amended |
| 2.                     | Sewage generation (217.25 KLD)                                         | <ul style="list-style-type: none"> <li>• Provision of STP of capacity 220 CMD for treatment of sewage up to tertiary level.</li> <li>• Proper operation and maintenance of STP and Daily analysis of general parameters like pH, BOD, COD and TSS &amp; O &amp; G of the STP outlet to ensure good treatment of waste water with the help of sensors</li> <li>• Ventilation around the STP</li> <li>• Proper arrangements for sludge handling and disposal</li> </ul>       | Project Proponents/<br>Society/<br>Facility Management system | --                        |
| 3.                     | Incremental Runoff from site                                           | <ul style="list-style-type: none"> <li>• Minimizing the incremental runoff from the site with the help of rain water harvesting pits</li> <li>• Proper management of channelization of storm water from site by using proper internal SWD system and two discharge points of having adequate capacity</li> <li>• Use of screens and silt traps to SWD</li> </ul>                                                                                                            | Project Proponents/<br>Society/<br>Facility Management system |                           |

|    |                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                               |                          |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|--------------------------|
|    |                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>• Proper maintenance of storm water drainage to avoid choking of drains and flooding on site</li> <li>• Ensure discharge of storm water from the site is clear of sediment and pollution</li> <li>• Provision of sump pumps</li> <li>• External drain of adequate capacity</li> </ul>                                                                                                                                                                              |                                                               |                          |
| 4. | Power demand                                                                                                                                                                                        | <p>Provision of energy saving measures:<br/>As per MSEDCL requirements, we are planned to use high efficiency Transformer &amp; to reduce losses. Losses for Transformer will be as per IS standards &amp; ECBC norms.</p> <p>Following are the Energy efficient fixtures should be used in our project for energy conservation :-</p>                                                                                                                                                                    | Project Proponents/<br>Society/<br>Facility Management system |                          |
| 5. | Use of DG sets may lead to air and noise pollution                                                                                                                                                  | <ul style="list-style-type: none"> <li>• Stack height as per CPCB norms</li> <li>• DG sets with inbuilt acoustic enclosures</li> </ul>                                                                                                                                                                                                                                                                                                                                                                    | Project Proponents/<br>Society/<br>Facility Management system | CPCB specification       |
| 6. | <p>Vehicular movement</p> <ul style="list-style-type: none"> <li>• Increase in traffic</li> <li>• Air emissions &amp; Noise</li> <li>• Contamination of soil (if any) leads to Oil leaks</li> </ul> | <ul style="list-style-type: none"> <li>• Provide adequate traffic signs and signages to notify residents</li> <li>• Install safety mirrors to aid visibility in conflict points</li> <li>• Prevent parking near the Entry and Exit Gate</li> <li>• Provide speed humps to regulate speed of vehicles</li> <li>• Provide pedestrian crossings and dedicated footpath to cater to the walking population</li> <li>• Assign traffic wardens to regulate flow of project traffic during peak hours</li> </ul> | Project Proponents/<br>Society/Facility Management system     | --                       |
| 7. | Odour and unsanitary conditions due to STP and Composting of biodegradable garbage                                                                                                                  | <ul style="list-style-type: none"> <li>• Ventilation around STP and OWC area</li> <li>• Proper housekeeping and maintenance</li> </ul>                                                                                                                                                                                                                                                                                                                                                                    | Project Proponents/<br>Society/<br>Facility Management system | Air act 1981, as amended |
| 8. | Municipal waste & other solid waste generation                                                                                                                                                      | <ul style="list-style-type: none"> <li>• Informing and educating occupants for solid waste management</li> <li>• Provision of adequate space (OWC) for solid waste management. Proper segregation on site to biodegradable</li> </ul>                                                                                                                                                                                                                                                                     | Project Proponents/<br>Society/<br>Facility Management        | --                       |



|   |                                                 |                                                                                                                                                                                                                                                                                         |                |         |
|---|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------|
|   |                                                 | and non-biodegradable.<br>• Non- Biodegradable waste (519 kg/day): To PMC<br>• Biodegradable waste ( 368 kg/day) Treatment in Organic Waste Converter (OWC)<br>• End product from OWC and sludge generated from STP shall be used as manure on site<br>• Quarterly monitoring of manure | system         |         |
| 9 | Disasters like Fire, lightning, Earthquake etc. | • Preparation of Disaster Management Plan<br>• Provision of Safety officer, Security and First aid team<br>• Regular review of DMP and mock drill<br>• Effective implementation of DMP                                                                                                  | Safety Officer | CFO NOC |

**Consolidated Statement**  
**On various Environment Aspects for Construction Project**

| Sr. no. | Particular                                                                                             | Commitment on                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | <b>Name of Project</b>                                                                                 | Proposed Amendment / Expansion in Residential & Commercial project “PARK LANDMARK” at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP<br><br>We have received As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December, 2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 <b>Copy attached as an Annexure 1.</b> |
|         | <b>New project/ expansion in existing project/modernization/diversification in existing project</b>    | Expansion                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|         | <b>Type of Institution</b>                                                                             | Private                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 2.      | <b>Name, contact number &amp; address of Project Proponent</b>                                         | Name – Mr. D P Jain<br>Designation - Partner<br>Contact No. - 9823022211<br>Mail id - <a href="mailto:nandkishor@pridepurplegroup.com">nandkishor@pridepurplegroup.com</a> Registered Address - Pride House, 5 <sup>th</sup> floor, Near Pune University Circle, Shivajinagar, Pune 411037                                                                                                                                                              |
| 3.      | <b>Name, contact number &amp; address of Consultant</b>                                                | M/s. Mahabal Enviro Engineers Pvt Ltd.<br><br>Mrs. Pradnya Niphade<br><br>Address: Plot No. F-7, Road No. 21, Wagle Estate Thane-400604, Maharashtra<br>Email id : <a href="mailto:thane@mahabal.com">thane@mahabal.com</a>                                                                                                                                                                                                                             |
| 4.      | <b>Accreditation of consultant (NABET Accreditation)</b>                                               | NABET/EIA/1821/0160                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5.      | <b>Type of project : Housing project / Industrial Estate / SRA scheme / MHADA / Township or others</b> | Housing Project (Residential & Commercial)                                                                                                                                                                                                                                                                                                                                                                                                              |
| 6.      | <b>Location of the project</b>                                                                         | S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune                                                                                                                                                                                                                                                                                                                                                                                          |
| 7.      | <b>Whether in Corporation / Municipal / other area</b>                                                 | Pune Municipal Corporation                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 8.      | <b>Applicability of DCR</b>                                                                            | DCR- PMC                                                                                                                                                                                                                                                                                                                                                                                                                                                |

|     |                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                 |                         |                                                             |                                |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------|--------------------------------|
| 9.  | IOD/IOA/Concession document or any other form or document as applicable (Clarifying its conformity with local planning rules & provision) | Applied                                                                                                                                                                                                                                                                                                                                                                                                         |                         |                                                             |                                |
|     | IOD/ IOA/ Concession/ Plan Approval Number                                                                                                | Applied                                                                                                                                                                                                                                                                                                                                                                                                         |                         |                                                             |                                |
|     | If expansion / diversification, whether environmental clearance has been obtained for existing project                                    | Yes, We have received EC File No. : EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 Copy attached as an <b>Annexure 1</b> .                                                                                                                                                                                                                                               |                         |                                                             |                                |
| 10. | Note on the initiated work (If applicable)                                                                                                | As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December ,2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 for total construction area 50168 m <sup>2</sup> Out of that,35380.55 m2 construction area has been sanctioned in EC. Out of 35,380.55 sq.mt, 31,411.54 sq.mt.construction has been completed till date. |                         |                                                             |                                |
| 11. | LOI/NOC/IOD from MHADA/Other approvals (If applicable)                                                                                    | NA                                                                                                                                                                                                                                                                                                                                                                                                              |                         |                                                             |                                |
| 12. | Total Plot Area (sq.m.)                                                                                                                   | 20,154.48                                                                                                                                                                                                                                                                                                                                                                                                       |                         |                                                             |                                |
| 13. | Deductions                                                                                                                                | 620.00                                                                                                                                                                                                                                                                                                                                                                                                          |                         |                                                             |                                |
| 14. | Net Plot area                                                                                                                             | 17581.03                                                                                                                                                                                                                                                                                                                                                                                                        |                         |                                                             |                                |
| 15. | Proposed Built-up Area (FSI & Non-FSI)                                                                                                    | 62183.45 m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                         |                         |                                                             |                                |
|     |                                                                                                                                           | Sr.No.                                                                                                                                                                                                                                                                                                                                                                                                          | Particulars             | As per Earlier EC 27th November 2018 Area in m <sup>2</sup> | Applied for Proposed Expansion |
|     |                                                                                                                                           | 1.                                                                                                                                                                                                                                                                                                                                                                                                              | Total Plot Area         | 20,154.48                                                   | 20,154.48                      |
|     |                                                                                                                                           | 2.                                                                                                                                                                                                                                                                                                                                                                                                              | Deductions              | 620.00                                                      | 620.00                         |
|     |                                                                                                                                           | 3.                                                                                                                                                                                                                                                                                                                                                                                                              | Net Plot Area           | 17481.03                                                    | 17581.03                       |
|     |                                                                                                                                           | 4.                                                                                                                                                                                                                                                                                                                                                                                                              | FSI Area                | 27,574.62                                                   | 41412.30                       |
|     |                                                                                                                                           | 5.                                                                                                                                                                                                                                                                                                                                                                                                              | Non FSI Area            | 22593.32                                                    | 20771.15                       |
|     |                                                                                                                                           | 6.                                                                                                                                                                                                                                                                                                                                                                                                              | Total Construction Area | 50168.00                                                    | 62183.45                       |
|     | FSI area                                                                                                                                  | 41412.30                                                                                                                                                                                                                                                                                                                                                                                                        |                         |                                                             |                                |
|     | Non FSI                                                                                                                                   | 20771.15                                                                                                                                                                                                                                                                                                                                                                                                        |                         |                                                             |                                |
|     | Total Construction area                                                                                                                   | 62183.45                                                                                                                                                                                                                                                                                                                                                                                                        |                         |                                                             |                                |

|     |                                                                                                                            |                                                                                                                                                    |                                 |                      |                            |
|-----|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|----------------------|----------------------------|
| 16. | Estimated cost of the project (in Rs.)                                                                                     | 110                                                                                                                                                |                                 |                      |                            |
| 17. | Number of buildings & its configuration                                                                                    |                                                                                                                                                    |                                 |                      |                            |
|     |                                                                                                                            |                                                                                                                                                    |                                 |                      |                            |
|     | Building Name                                                                                                              | Status Of Construction<br>As per received EC                                                                                                       | Number of floors                | No. of tenements     | Height of the building (m) |
|     | A-B Type                                                                                                                   | Completed                                                                                                                                          | P+P+12                          | 96                   | 37.65                      |
|     | C-D Type<br>(Proposed Internal floor design will be changed . So Flats Numbers will be increased)                          | Work in progress                                                                                                                                   | Lower level<br>Parking + G + 14 | 144                  | 44.95                      |
|     | E-F Type<br>Residential & Commercial Building                                                                              | Partly completed                                                                                                                                   | Lower level<br>Parking + G + 11 | 88 Flats<br>18 Shops | 35.99                      |
|     | Club House :<br>Ground                                                                                                     | Completed                                                                                                                                          | Ground                          |                      |                            |
|     | Tenements - 328 Nos.                                                                                                       |                                                                                                                                                    |                                 |                      |                            |
|     | Shops – 18 Nos.                                                                                                            |                                                                                                                                                    |                                 |                      |                            |
| 13. | Number of tenants and shops                                                                                                | Tenements – 328 Nos.<br>Commercial – Shops - 18 Nos.                                                                                               |                                 |                      |                            |
| 14. | Number of expected residents/users                                                                                         | Residential – 1640 Nos.<br>Commercial – 333 Nos.<br>Total Population – 1973 Nos.                                                                   |                                 |                      |                            |
| 15. | Height of the building(s)                                                                                                  | Maximum height 44.95m                                                                                                                              |                                 |                      |                            |
| 16. | Right of way (Width of the road from the nearest fire station to the proposed building(s))                                 | 1) Dhankawadi: 1.0 Km. 2) Bibwewadi: 2.7 Km. Width of the road from the nearest fire station to the proposed building 18.m. road abutting to site. |                                 |                      |                            |
| 17. | Turning radius for easy access of fire tender movement from all around the building excluding the width for the plantation | Turning radius for easy access of fire tender movement – 9 m                                                                                       |                                 |                      |                            |

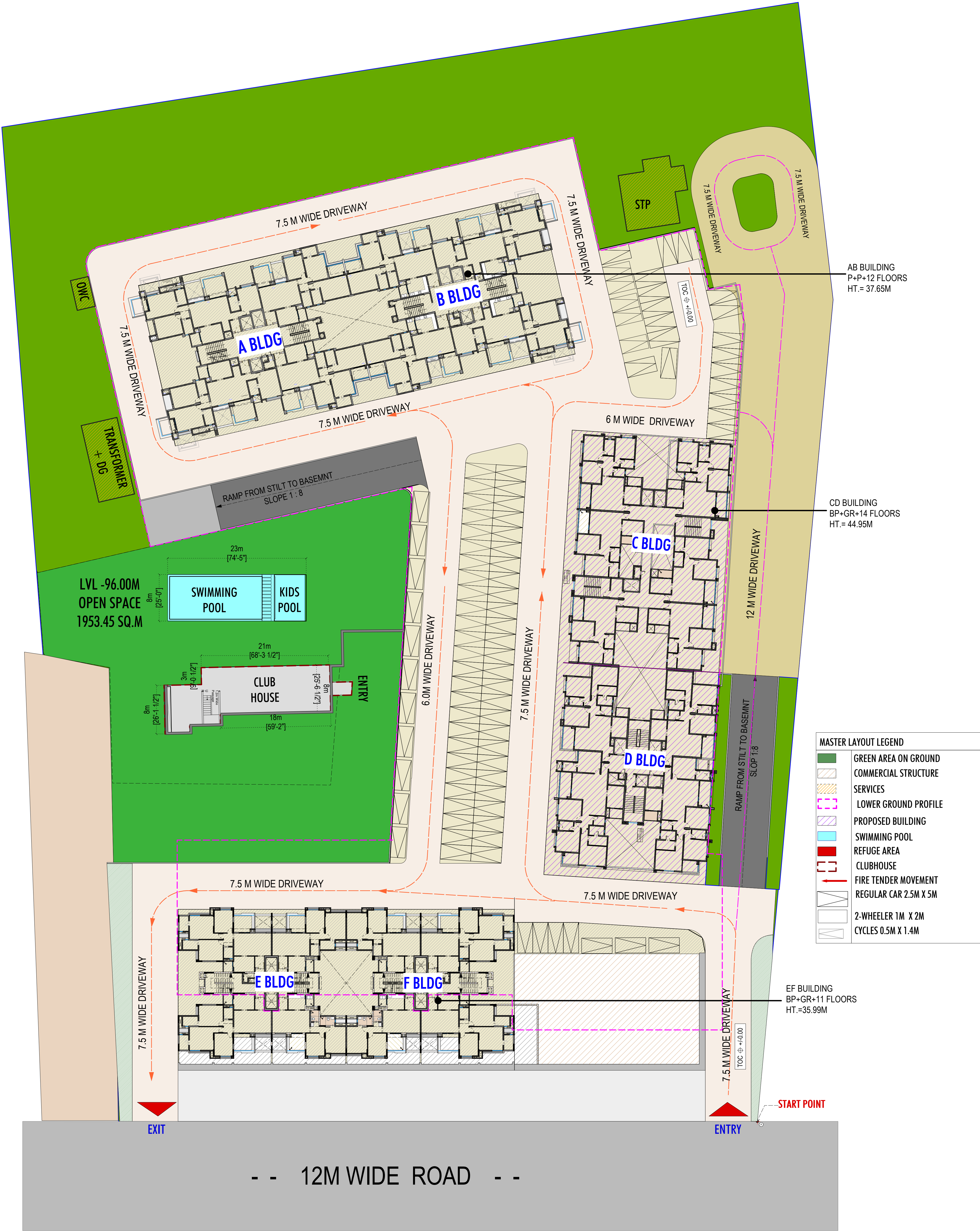
|     |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                            |
|-----|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| 18. | Existing structure(s) if any | As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December ,2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 for total construction area 50168 m <sup>2</sup> Out of that, 35380.55 m <sup>2</sup> construction area has been sanctioned in EC. Out of 35,380.55 sq.mt, 31,411.54 sq.mt.construction has been completed till date. (Building A-B Completed, Building E-F & Shops partially Completed. CD Work in progress.) |                            |
| 19. | Total Water Requirement :    | Residential and Commercial                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                            |
|     | Dry season:                  | Source of water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Pune Municipal Corporation |
|     |                              | Fresh Water (CMD) :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 155.93                     |
|     |                              | Recycled water-Flushing(CMD):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 80.46                      |
|     |                              | Recycled water-Gardening (CMD):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 30                         |
|     |                              | Club House                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 5.00                       |
|     |                              | HVAC Makeup water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | NA                         |
|     |                              | Total Water Requirement(CMD):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 271.39                     |
|     |                              | Excess treated water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 106.79                     |
| 21. |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Residential and commercial |
|     | Wet season:                  | Source of water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Pune Municipal Corporation |
|     |                              | Fresh water (CMD)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 155.93                     |
|     |                              | Recycled water - Flushing(CMD):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 80.46                      |
|     |                              | Recycled water-Gardening (CMD) :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 0                          |
|     |                              | Club House                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 5.00                       |
|     |                              | HVAC makeup (CMD)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | NA                         |
|     |                              | Total Water Requirement(CMD):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 241.39                     |
|     |                              | Excess treated water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 136.79                     |

|     |                                                                        |                                                                                     |                                                                                                                  |
|-----|------------------------------------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| 22. | Rain Water Harvesting(RWH)                                             | Residential and Commercial                                                          |                                                                                                                  |
|     |                                                                        | Level of the Ground water table:                                                    | 2.3 to 2.7 m, below                                                                                              |
|     |                                                                        | Size and no of RWH tank(s) and Quantity:                                            | NA                                                                                                               |
|     |                                                                        | Location of the RWH tank(s):                                                        | NA                                                                                                               |
|     |                                                                        | No. of Recharge pits                                                                | 5 nos. pits with 10 nos. of recharge bore wells.                                                                 |
|     |                                                                        | Sizes of Recharge pits                                                              | 2.60 m x 2.60 m x 1.65 m                                                                                         |
|     |                                                                        | Budgetary allocation (Capital cost): Rs.3.76 lacs<br>(O&M cost): Rs.0.26 lacs/annum |                                                                                                                  |
| 20. | Storm water drainage                                                   | Natural water drainage pattern:                                                     | From South West To North                                                                                         |
|     |                                                                        | Quantity of storm water:                                                            | 20 cum/m                                                                                                         |
|     |                                                                        | Size of SWD:                                                                        | 600 mm to 900 mm                                                                                                 |
| 21. | Sewage and Waste water                                                 | Residential and commercial                                                          |                                                                                                                  |
|     |                                                                        | Details                                                                             |                                                                                                                  |
|     |                                                                        | Sewage generation (CMD):                                                            | 217.25                                                                                                           |
|     |                                                                        | Capacity of STP(CMD):                                                               | 220                                                                                                              |
|     |                                                                        | STP technology:                                                                     | MBBR                                                                                                             |
|     |                                                                        | Location & area of the STP:-                                                        | Open to sky and above ground                                                                                     |
| 22. | Solid Waste Management                                                 |                                                                                     |                                                                                                                  |
|     |                                                                        | Excavation debris                                                                   | Excavated earth material will be used for filling material for plinth area and top soil was used for landscaping |
|     |                                                                        | Disposal of the construction waste debris:                                          | Topsoil to be preserved & remaining will be used for back filling                                                |
|     | Waste generation in the operation Phase:<br>Residential and commercial | Biodegradable (Wet) waste:                                                          | 519 kg/day                                                                                                       |
|     |                                                                        | Non-Biodegradable (dry) waste:                                                      | 368 Kg/day                                                                                                       |
|     |                                                                        | E waste                                                                             | 95 kg/month                                                                                                      |
|     |                                                                        | Hazardous waste:                                                                    | NA                                                                                                               |
|     |                                                                        | Biomedical waste (If applicable):                                                   | NA                                                                                                               |
|     |                                                                        | STP Sludge                                                                          | 16.5 kg/day                                                                                                      |
|     | Mode of Disposal of waste:                                             | Dry waste:                                                                          | Handed over to authorized recyclers                                                                              |
|     |                                                                        | Wet waste:                                                                          | Smart Organic waste composter                                                                                    |

|       |                                                                   |                                   |                                                             |                                    |
|-------|-------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------|------------------------------------|
|       |                                                                   | E-waste                           | Handed over to authorized recyclers                         |                                    |
|       |                                                                   | Hazardous waste:                  | NA                                                          |                                    |
|       |                                                                   | Biomedical waste (If applicable): | NA                                                          |                                    |
|       |                                                                   | STP Sludge :                      | Used as manure                                              |                                    |
|       |                                                                   | Others if any:                    | NA                                                          |                                    |
| 23.   | Green Belt Development                                            | Total RG area:                    | RG area provided 1953.45m <sup>2</sup>                      |                                    |
| 24.   | Energy :                                                          |                                   |                                                             |                                    |
| a.    | Power requirement:                                                |                                   |                                                             |                                    |
| i.    | Source of power supply:                                           |                                   | MSEDCL                                                      |                                    |
| ii.   | Total DG power consumption for residential building               |                                   |                                                             |                                    |
| iii.  | Total DG power consumption for clubhouse and commercial buildings |                                   |                                                             |                                    |
| iv.   | During Construction Phase: (Demand Load)                          |                                   | 85 kw                                                       |                                    |
| v.    | DG set as Power back-up during construction phase                 |                                   | 1 x 160 kVA                                                 |                                    |
| vi.   | During Operation phase (Connected load):                          |                                   | 2521.25 kW                                                  |                                    |
| vii.  | During Operation phase (Demand load):                             |                                   | 1,123.45 kW                                                 |                                    |
| viii. | Transformer:                                                      |                                   | 630 kVA x 2nos                                              |                                    |
| ix.   | DG set as Power back-up during operation phase:                   |                                   | 200 kVAX 1no                                                |                                    |
| x.    | Fuel used:                                                        |                                   | Disel                                                       |                                    |
| xi.   | Details of high tension line passing through the plot if any:     |                                   | NA                                                          |                                    |
| 25.   | Environmental Management plan Budgetary Allocation                |                                   |                                                             |                                    |
|       | Construction phase(with Break-up):                                |                                   |                                                             |                                    |
|       | Sr. No.                                                           | Attributes                        | Parameter                                                   | Total Cost per annum (Rs. In Lacs) |
|       | 1                                                                 | Air & Noise                       | Water For Dust Suppression<br>Air & Noise monitoring        | 1.56                               |
|       | 2                                                                 | Water                             | Tanker water for construction & worker and Water monitoring | 2.04                               |
|       | 3                                                                 | Land                              | Labour toilets 10 Nos. Cleaning<br>10,000 Rs./month         | 5.44                               |
|       | 4                                                                 | Biological                        | Gardening & Excavation                                      | 15.10                              |



|     |                                                                                                           |                             |                                                                                                                                                                  |                                                    |                                                         |
|-----|-----------------------------------------------------------------------------------------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------------|
|     | 5                                                                                                         | Socio                       | Disinfection at site<br>Safety, First Aid, Health Hygiene<br>Facilities<br>Creches for children<br>Personal Protective Equipment<br>CFL lamps for labor hutments | 3.30                                               |                                                         |
|     | TOTAL                                                                                                     |                             |                                                                                                                                                                  | 27.44                                              |                                                         |
|     | b) Operation Phase (with Break-up):                                                                       |                             |                                                                                                                                                                  |                                                    |                                                         |
|     |                                                                                                           | Particulars                 | Description                                                                                                                                                      | Capital cost Rs. In<br>Lacs                        | Operational and<br>Maintenance<br>cost (Rs. in Lacs/yr) |
|     | 1                                                                                                         | STP Cost                    | STP plant<br>1x220 KLD                                                                                                                                           | 38.00                                              | 9.75                                                    |
|     | 2                                                                                                         | Rain Water<br>Harvesting    | RWH Pits and<br>network                                                                                                                                          | 3.76                                               | 0.26                                                    |
|     | 3                                                                                                         | Environmental<br>Monitoring | MoEF approved<br>laoratory                                                                                                                                       | -                                                  | 18.41                                                   |
|     | 4                                                                                                         | Gardening                   | Plantation                                                                                                                                                       | 1.62                                               | 11.21                                                   |
|     | 5                                                                                                         | Solid waste                 | OWC                                                                                                                                                              | 14.9                                               | 3.6                                                     |
|     | 6                                                                                                         | Energy                      |                                                                                                                                                                  | 13.44                                              | 0.67                                                    |
|     |                                                                                                           | Total                       |                                                                                                                                                                  | 71.72                                              | 43.9                                                    |
| 26. | Traffic Management :<br>Parking statement : Residential and Commercial                                    |                             |                                                                                                                                                                  |                                                    |                                                         |
|     | Nos. of the junction to the main road &<br>design of confluence                                           |                             |                                                                                                                                                                  |                                                    |                                                         |
|     | Total Parking area:                                                                                       |                             |                                                                                                                                                                  | 12555m <sup>2</sup>                                |                                                         |
|     | Area per car:                                                                                             |                             |                                                                                                                                                                  | 12.5 sq.mt.                                        |                                                         |
|     | Number of 4-Wheelers as approved by<br>competent authority                                                |                             |                                                                                                                                                                  | 405 Nos.                                           |                                                         |
|     | Number of 2-Wheelers as approved by<br>competent authority                                                |                             |                                                                                                                                                                  | 918 Nos.                                           |                                                         |
|     | Number of cycles as approved by<br>competent authority:                                                   |                             |                                                                                                                                                                  | 192 Nos.                                           |                                                         |
|     | Public Transport:                                                                                         |                             |                                                                                                                                                                  | Bus                                                |                                                         |
| 27. | CRZ/RRZ clearance obtain, if any:                                                                         |                             |                                                                                                                                                                  | NA                                                 |                                                         |
| 28. | Distance from Protected Areas/Critically<br>Polluted areas/Eco-sensitive areas/inter-<br>State boundaries |                             |                                                                                                                                                                  | NA                                                 |                                                         |
| 37. | Category as per schedule of EIA Notification<br>sheet                                                     |                             |                                                                                                                                                                  | 8(a)B2                                             |                                                         |
| 38. | Court case spending if any                                                                                |                             |                                                                                                                                                                  | NA                                                 |                                                         |
| 39. | Other approvals (If any)                                                                                  |                             |                                                                                                                                                                  | EC , Consent and respective NOC's are<br>available |                                                         |

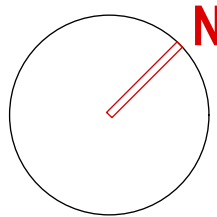


TRUE COPY

*Bombira*

PROJECT NAME: PARK LANDMARK - S.NO 665, AT BIBVEWADI PUNE.

PROJECT BY- PRIDE PURPLE LANDMARK LLP,



MUNICIPAL ARCHITECT  
MR.DILIP G. KALE

STRUCTURAL CONSULTANT  
MR. HEMANT NIMBALKAR

LANDSCAPE CONSULTANT  
SUMANSHILP  
CONSULTANT

MEP CONSULTANTS  
OLECTRA CONSULTANTS  
McLIN AQUA Consultants LLP

EC CONSULTANT  
PAN GREEN FIELD  
ENVIRO

**ABHI KALPAN**  
ARCHITECTS & PLANNERS  
UNIT - 301A, LOKHA SUPREMAS, 3TH FLOOR, CAMPUS, OPP.  
KANJURMARG STN (E), MUMBAI - 400 042, INDIA. TEL / FAX - +91 22 2577  
9081 / 27. www.abhikalpan.in  
OFF NO - 301/2, PURUSHOTTAM PLAZA, SURVEY NO 239 & 235 - A, NEAR  
KUNDAN GARDEN, BANER ROAD, PUNE - 411 045, INDIA. TEL - +91 20  
27202055 / 27. www.abhikalpan.in

DESIGN ARCHITECT



**STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY**

No. SIA/MH/MIS/218662/2021  
Environment & Climate  
Change Department  
Room No. 217, 2<sup>nd</sup> Floor,  
Mantralaya, Mumbai- 400032.  
Date- 22.12.2021

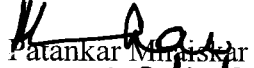
To  
M/s.PRIDE PURPLE LANDMARK LLP,  
S. No. 665/A Bibwewadi, Taluka Haveli,  
Village Bibwewadi, Pune.

Subject : Environmental Clearance for Expansion in Residential & Commercial  
project Park Landmark at S. No. 665/A Bibwewadi, Taluka Haveli,  
Village Bibwewadi, Pune by M/s.PRIDE PURPLE LANDMARK LLP

Reference : Application no. SIA/MH/MIS/218662/2021

This has reference to your communication on the above mentioned subject. Your proposal was considered in 233<sup>th</sup> (Day-3) meeting of SEIAA and following decision is taken-

“Proposal is forwarded by SEAC-3 in its 125th meeting to SEIAA in order to allow PP to withdraw the application as per request of PP. SEIAA after deliberation decided to reject the proposal.”

Manisha Patankar   
(Member Secretary, SEIAA) 22/12/2021

TRUE COPY

  
84

**During discussion following points emerged:**

1. PP to submit Certified Compliance report from Regional Office MoEFCC Nagpur.
2. PP to submit Superimposed layout on earlier layout to assess the layout.
3. PP to revise the layout as the plantation plan as it is erroneous with respect to building boundaries also causing hindrance to Fire Tender movement, hence to revise the same.
4. PP has proposed less plantation as compared to earlier EC granted and the plantation is proposed on Amenity space also. PP to submit Corporation NOC for the said plantation.
5. Distance between the plant Syzigium Cumini shall be at least 6 meters.
6. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.
7. PP to ensure that, the water proposed to use for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.
8. NOC of fire, water, sewage, and swatch required.
9. Basement dewatering plan required

**Decision: -**

**In view of above, the proposal is deferred and shall be considered only after the compliance of above observations.**

\*\*\*\*\*

|     |      |                        |                                                                                                                                                             |
|-----|------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 58. | P-58 | SIA/MH/MIS/243583/2021 | Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP. |
|-----|------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|

Representative of PP was present during the meeting along with Environmental consultant M/s. M/s. Mahabal Enviro Engineers Pvt. Ltd.

It is noted that, the PP has submitted the application for prior Environmental clearance for total plot area of 20,154.48 m<sup>2</sup>, FSI area of 41412.30 m<sup>2</sup>, Non FSI area of 20771.15 m<sup>2</sup> and total BUA of 62183.45 m<sup>2</sup>.

Brief information of the proposal is as below:

Secretary, SEAC-3

Chairman, SEAC-3

Page 9 of 360

**TRUE COPY**

85 *Bombhise*

|    |                         |                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                         |
|----|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1. | Proposal Number         | SIA/MH/MIS/243583/2021                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                         |
| 2. | Name of Project         | <p>Proposed Expansion in Residential &amp; Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP</p> <p>We have received As per 1<sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December, 2014 &amp; 2<sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018</p> |                                                                                         |
| 3. | Project category        | 8(a)B2                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                         |
| 4. | Type of Institution     | Private                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                         |
| 5. | Project Proponent       | Name                                                                                                                                                                                                                                                                                                                                                                                                           | Mr. D P Jain<br>Director                                                                |
|    |                         | Regd. Office address                                                                                                                                                                                                                                                                                                                                                                                           | Address: Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016 |
|    |                         | Contact number                                                                                                                                                                                                                                                                                                                                                                                                 | 9823022211                                                                              |
|    |                         | e-mail                                                                                                                                                                                                                                                                                                                                                                                                         | <a href="mailto:nandkishor@pridepurplegroup.com">nandkishor@pridepurplegroup.com</a>    |
| 6. | Consultant              | <p>M/s. Mahabal Enviro Engineers Pvt. Ltd.<br/>Address : Plot No. F-7, Road No. 21, Wagle Estate Thane-400604, Maharashtra<br/>Email id : <a href="mailto:thane@mahabal.com">thane@mahabal.com</a><br/>Tel: 022- 25823154/ 0658/ 1663</p>                                                                                                                                                                      |                                                                                         |
| 7. | Applied for             | Expansion - Brown Field Project                                                                                                                                                                                                                                                                                                                                                                                |                                                                                         |
| 8. | Details of previous EC  | <p>We have received As per 1st EC Letter No. SEAC-2013/CR561/TC-2 dated 1st December, 2014 &amp; 2nd EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018</p>                                                                                                                                                                                                                 |                                                                                         |
| 9. | Location of the project | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi,                                                                                                                                                                                                                                                                              |                                                                                         |

Secretary, SEAC-3

Chairman, SEAC-3

|     |                                                                                                                                                           |                                   |                                                                             |                           |               |                                |                                                                               |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------------------------------------------------|---------------------------|---------------|--------------------------------|-------------------------------------------------------------------------------|
|     |                                                                                                                                                           | Pune by PRIDE PURPLE LANDMARK LLP |                                                                             |                           |               |                                |                                                                               |
| 10. | Latitude and Longitude                                                                                                                                    |                                   | Latitude – 18°27'40.53"N<br>Longitude – 73°51'52.41"E                       |                           |               |                                |                                                                               |
| 11. | Total Plot Area(m2)                                                                                                                                       |                                   | 20,154.48                                                                   |                           |               |                                |                                                                               |
| 12. | Deductions(m2)                                                                                                                                            |                                   | 620.00                                                                      |                           |               |                                |                                                                               |
| 13. | Net Plot area(m2)                                                                                                                                         |                                   | 17581.03                                                                    |                           |               |                                |                                                                               |
| 14. | Proposed FSI area(m2)                                                                                                                                     |                                   | 41412.30                                                                    |                           |               |                                |                                                                               |
| 15. | Proposed non-FSI area(m2)                                                                                                                                 |                                   | 20771.15                                                                    |                           |               |                                |                                                                               |
| 16. | Proposed TBUA(m2)                                                                                                                                         |                                   | 62183.45                                                                    |                           |               |                                |                                                                               |
| 17. | TBUA(m2)approved by Planning Authority till date                                                                                                          |                                   | 62183.45                                                                    |                           |               |                                |                                                                               |
| 18. | Ground coverage(m2)&%                                                                                                                                     |                                   | 9483.69 (As per Previous EC)                                                |                           |               |                                |                                                                               |
| 19. | Total Project Cost(Rs.)                                                                                                                                   |                                   | Rs.- 110 Crore                                                              |                           |               |                                |                                                                               |
| 20. | CER as per MoEF & CC circular dated01/05/2018                                                                                                             |                                   | Activity                                                                    | Location                  | Cost(Rs.)     | Duration                       |                                                                               |
|     |                                                                                                                                                           |                                   | Details attached                                                            |                           |               |                                |                                                                               |
| 21. | Details of Building Configuration:<br><Pleaseusefollowinglegends:Floor=F,Parking=Pk,Podium=Po,Stilt=St,LowerGround=LG,UpperGround=UG,Basement=B,Shops=Sh> |                                   |                                                                             |                           |               | Reason for Modification/Change |                                                                               |
|     | Previous EC/Existing Building                                                                                                                             |                                   | Proposed Configuration                                                      |                           |               |                                |                                                                               |
|     | Building Name                                                                                                                                             | Configuration                     | Height (m)                                                                  | Building Name             | Configuration | Height (m)                     | Now, we had applied for Expansion /amendment in EC due to addition of floors. |
|     |                                                                                                                                                           |                                   |                                                                             | A-B Type (Completed)      | P+P+12        | 37.65                          |                                                                               |
|     |                                                                                                                                                           |                                   | C-D Type (Proposed Internal floor design will be changed . So Flats Numbers | Lower Level Parking +G+14 | 44.95         |                                |                                                                               |

Secretary, SEAC-3

Chairman, SEAC-3

|     |                                              |                                                                                                                                                                                                   |        |                                                                                                                                                                                                   |                           |       |  |
|-----|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-------|--|
|     |                                              |                                                                                                                                                                                                   |        | will be increased)                                                                                                                                                                                |                           |       |  |
|     |                                              |                                                                                                                                                                                                   |        | E-F Type Residential & Commercial Building                                                                                                                                                        | Lower Level Parking +G+11 | 35.99 |  |
|     |                                              |                                                                                                                                                                                                   |        | Club House : Ground                                                                                                                                                                               | Ground                    | -     |  |
| 22. | Total number of tenements                    |                                                                                                                                                                                                   |        | (Existing + Proposed) - Nos.<br><br>Proposed Residential Tenements – 328 Nos.<br>Shops – 18 Nos.<br><br>Residential Users: 1640 nos<br>Commercial Users: 333 Nos.<br>Total Population : 1973 nos. |                           |       |  |
| 23. | Water Budget                                 | Dry Season(CMD)                                                                                                                                                                                   |        | Wet Season(CMD)                                                                                                                                                                                   |                           |       |  |
|     |                                              | Fresh Water                                                                                                                                                                                       | 155.93 | Fresh Water                                                                                                                                                                                       | 155.93                    |       |  |
|     |                                              | Recycled Flushing                                                                                                                                                                                 | 80.46  | Recycled                                                                                                                                                                                          | 80.46                     |       |  |
|     |                                              | Swimming Pool                                                                                                                                                                                     | -      | Swimming Pool                                                                                                                                                                                     | -                         |       |  |
|     |                                              | Club House                                                                                                                                                                                        | 5.00   |                                                                                                                                                                                                   | 5.00                      |       |  |
|     |                                              | Flushing                                                                                                                                                                                          | 80.46  | Flushing                                                                                                                                                                                          | 80.46                     |       |  |
|     |                                              | Gardening                                                                                                                                                                                         | 30.00  | Gardening                                                                                                                                                                                         | 0                         |       |  |
|     |                                              | Total                                                                                                                                                                                             | 271.39 | Total                                                                                                                                                                                             | 241.39                    |       |  |
|     |                                              | Wastewater generation                                                                                                                                                                             | 106.79 |                                                                                                                                                                                                   | 136.79                    |       |  |
| 24. | Water Storage Capacity for Firefighting/ UGT | Residential:<br><br>Domestic UG tank Capacity ( CUM): 142<br>Flushing UG tank Capacity ( CUM): 73<br>Fire UG tank Capacity ( CUM): 200 x 2<br><br>Commercial: NA<br>Domestic UG tank Capacity: NA |        |                                                                                                                                                                                                   |                           |       |  |

Secretary, SEAC-3

Chairman, SEAC-3

|     |                                                  |                                                               |                                                                                                                                                                                                                                                                                         |                                                                                             |
|-----|--------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
|     |                                                  | Flushing UG tank Capacity: -NA<br>Fire UG tank Capacity: - NA |                                                                                                                                                                                                                                                                                         |                                                                                             |
| 25. | Source of water                                  | Pune Municipal Corporation (PMC )                             |                                                                                                                                                                                                                                                                                         |                                                                                             |
| 26. | Rainwater Harvesting (RWH)                       | Level of the Ground water table:                              | 2.3 to 2.7 m, below                                                                                                                                                                                                                                                                     |                                                                                             |
|     |                                                  | Size and no of RWH tank(s)and Quantity:                       | NA                                                                                                                                                                                                                                                                                      |                                                                                             |
|     |                                                  | Quantity and size of recharge pits:                           | 5 nos. pits with 10 nos. of recharge bore wells.<br>Size - 2.60 m x 2.60 m x 1.65 m                                                                                                                                                                                                     |                                                                                             |
|     |                                                  | Details of UGT tanks if any:                                  | Residential:<br>Domestic UG tank Capacity:142<br>Flushing UG tank Capacity: 73<br>Fire UG tank Capacity: 200x2<br><br>Commercial: NA<br>Domestic UG tank Capacity: NA m <sup>3</sup><br>Flushing UG tank Capacity: -including residential m <sup>3</sup><br>Fire UG tank Capacity: - NA |                                                                                             |
| 27. | Sewage and Wastewater                            | Sewage generation inCMD:                                      | 217.25                                                                                                                                                                                                                                                                                  |                                                                                             |
|     |                                                  | STP technology:                                               | MBBR                                                                                                                                                                                                                                                                                    |                                                                                             |
|     |                                                  | Capacity of STP(CMD):                                         | 1 x220 KLD                                                                                                                                                                                                                                                                              |                                                                                             |
| 28. | Solid Waste Management during Construction Phase | Type                                                          | Quantity(kg/d)                                                                                                                                                                                                                                                                          | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                                                    | 27.00                                                                                                                                                                                                                                                                                   | Total - 45 kgs/day - Composting method                                                      |
|     |                                                  | Wet waste:                                                    | 18.00                                                                                                                                                                                                                                                                                   |                                                                                             |
|     |                                                  | Construction waste                                            | Excavation -2120 m <sup>3</sup>                                                                                                                                                                                                                                                         | Excavated earth material will be used for filling of plinth area & top soil for landscaping |
| 29. | Solid Waste Management during                    | Type                                                          | Quantity(kg/d)                                                                                                                                                                                                                                                                          | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                                                    | 368                                                                                                                                                                                                                                                                                     | Handed over to authorized recycler for further handling                                     |

Secretary, SEAC-3

Chairman, SEAC-3



|     |                                             |                                         |                                                           |                                                                           |
|-----|---------------------------------------------|-----------------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------|
|     | Operation Phase                             |                                         |                                                           | &disposal purpose                                                         |
|     |                                             | Wet waste:                              | 519                                                       | Through Mechanical Composter (Smart OWC)                                  |
|     |                                             | Hazardous waste:                        | NA                                                        |                                                                           |
|     |                                             | Biomedical waste                        | NA                                                        |                                                                           |
|     |                                             | E-Waste                                 | 95 kg/Month                                               | Handed over to authorized recycler for further handling &disposal purpose |
|     |                                             | STP Sludge(dry)                         | 16.5 kg/day                                               | To be used as manure for Gardening purpose                                |
| 30. | Green Belt Development                      | Total RG area(m <sup>2</sup> ):         |                                                           | 1953.45 m <sup>2</sup>                                                    |
|     |                                             | Existing trees on plot:                 |                                                           | 275                                                                       |
|     |                                             | Number of trees to be planted:          |                                                           | 220                                                                       |
|     |                                             | Number of trees to be cut:              |                                                           | NA                                                                        |
|     |                                             | Number of trees to be transplanted:     |                                                           | NA                                                                        |
| 31. | Power requirement:                          | Source of power supply:                 |                                                           | MSEDCL                                                                    |
|     |                                             | During Construction Phase Demand Load): |                                                           | 85 kW                                                                     |
|     |                                             | During Operation phase(Connected load): |                                                           | 2521.25 kW                                                                |
|     |                                             | During Operation phase(Demand load):    |                                                           | 1,123.45kW                                                                |
|     |                                             | Transformer:                            |                                                           | 2Nos. x 630kVA                                                            |
|     |                                             | DG set:                                 |                                                           | 1 No.x200 kVA                                                             |
|     |                                             | Fuel used:                              |                                                           | HSD                                                                       |
| 32. | Details of Energy saving                    | 246636 KWH / Anum<br>9 %                |                                                           |                                                                           |
| 33. | Environmental Management plan budget during | Type                                    | Details                                                   | Cost                                                                      |
|     |                                             | Capital                                 | Air & Noise and Water, Land Biological and Socio Economic | Rs. 27.44 Lakh                                                            |

Secretary, SEAC-3

Chairman, SEAC-3

|     | Construction phase                                                           | O&M                      | Included in above      |                       |                                    |
|-----|------------------------------------------------------------------------------|--------------------------|------------------------|-----------------------|------------------------------------|
| 34. | Environmental Management plan Budget during Operation phase                  | Component                | Details                | Capital (Rs.) in Lakh | O&M (Rs. Lakh/Y)                   |
|     |                                                                              | Sewage treatment         | STP plant 1x220 KLD    | 38.00                 | 9.75                               |
|     |                                                                              | Water treatment          | -                      | NA                    | NA                                 |
|     |                                                                              | RWH and Storm Water      | RWH Pits and network   | 3.76                  | 0.26                               |
|     |                                                                              | Swimming Pool            | -                      | -                     | -                                  |
|     |                                                                              | Solid Waste              | OWC                    | 14.9                  | 3.6                                |
|     |                                                                              | Hazardous waste          | NA                     | -                     | -                                  |
|     |                                                                              | e-waste                  | Authorized vendor      | -                     | -                                  |
|     |                                                                              | Green belt development   | Plantation             | 1.62                  | 11.21                              |
|     |                                                                              | Energy saving            | Solar and LED          | 13.44                 | 0.67                               |
|     |                                                                              | Environmental Monitoring | Through laboratory     | -                     | 18.41                              |
|     |                                                                              | Disaster Management      | Provided               | 63.78                 | 1.18                               |
| 35. | Traffic Management                                                           | Type                     | Required as per DCR no | Actual Provided Nos.  | Area per parking (m <sup>2</sup> ) |
|     |                                                                              | 4-Wheeler                | 405                    | 405                   | As per Standard DCR                |
|     |                                                                              | 2-Wheeler                | 918                    | 918                   | As per Standard DCR                |
|     |                                                                              | Bicycles                 | 192                    | 192                   | As per Standard DCR                |
| 36. | DetailsofCourt cases/litigations w.r.t.theproject andprojectlocation if any. | NA                       |                        |                       |                                    |

Secretary, SEAC-3

Chairman, SEAC-3

**Deliberations :**

PP informed that the expansion is in existing residential and commercial project. PP has already obtained Environmental Clearance in the year 2014 subsequently EC for expansion was sought in the year 2018 for BUA 50168.00 m<sup>2</sup>. As per earlier sanctioned received, 31,411.54 m<sup>2</sup> construction has been completed on site. It was further informed that the proposed expansion is in building C & D type with Proposed Internal floor design has been changed. Also no. of floors increased from 12 to 14. So Flats Numbers will be increased and in E & F type 2 tenements will be increased and 4 shops will be reduced. It was also informed that six monthly compliance reports are submitted to Regional Office MoEFCC Nagpur however Certified Compliance report is not submitted by PP. The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(b) B2.

**During discussion following points emerged:**

1. PP to submit certified Compliance report from Regional officer MoEFCC Nagpur.
2. As agreed during presentation PP to change the shrub proposed ie Phycus Benjamina.
3. As agreed during presentation PP to ensure that the fire tender Movement shall be in front of Commercial area also.
4. PP to reshuffle entry and exit to avoid traffic congestion in the plot area. PP to ensure that the slope of the ramp shall be maintained as 1:10.
5. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.
6. PP to ensure that, the water proposed to use for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

**Decision: -**

**After deliberation, Committee decided to recommend the proposal for Environmental Clearance to SEIAA, subject to compliance of above points.**

Secretary, SEAC-3

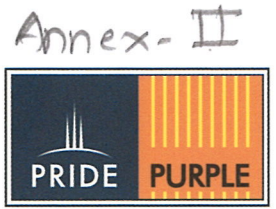
Chairman, SEAC-3

Page 16 of 360

**TRUE COPY**

# 1288

## ANNEXURE-A-4



Date: 14.04.2022

To,

The Chairman,

State Environment Impact Assessment Authority (SEIAA)

Environment Department, Mantralaya, Mumbai-400032

Maharashtra.

|                  |                                                                                                                                                                                                                                                                                                                     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject :</b> | Request for <b>Correction</b> in Sr. No. 30 of Minutes of 135 <sup>th</sup> SEAC - 3 Meeting scheduled on 22/02/2022 regarding SIA/MH/MIS/243583/2021 wrt Expansion in residential and commercial project Park Landmark developed by Pride Purple Landmark LLP at survey no. 665/A at Bibvewadi, Tal- Haveli, Pune. |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

1. Please refer Sr. no 30 of Minutes of 135th SEAC -3 Meeting scheduled on 22/02/2022 regarding SIA/MH/MIS/243583/2021.

2. In the Minutes of 135th SEAC -3 Meeting at Serial no. 30 for Green belt development, we have erroneously intimated number of existing trees at plot as 275 instead of 401. In this connection please refer our Landscape consultant undertaking duly signed by project proponent and Landscape consultant also along with Landscape plan (Undertaking copy attached)

3. In view of the above, we request the correction in Minutes of 135th SEAC-3 Meeting at Serial no. 30 as under :-

FOR

|                        |                                    |               |
|------------------------|------------------------------------|---------------|
| Green Belt Development | Total R. G. area (m <sup>2</sup> ) | 1953.45 sq.mt |
|                        | Existing trees on plant            | 275           |
|                        | No.of Trees to be planted          | 220           |
|                        | No.of Trees to be cut              | NA            |
|                        | No.of Trees to be transplanted     | NA            |



**Pride Purple Group**

Pride House, 5th floor | 108, Ganeshkhind Road | Near Pune University | Pune 411 016 | +91 20 6709 1000  
[www.pridepurplegroup.com](http://www.pridepurplegroup.com)

**TRUE COPY**

*Bambhisa*

Pune | Bangalore | Mumbai

READ

|                        |                                    |               |
|------------------------|------------------------------------|---------------|
| Green Belt Development | Total R. G. area (m <sup>2</sup> ) | 1953.45 sq.mt |
|                        | Existing trees on plant            | <b>401</b>    |
|                        | No.of Trees to be planted          | 220           |
|                        | No.of Trees to be cut              | NA            |
|                        | No.of Trees to be transplanted     | NA            |

4. We request you to incorporate the correction in the MOM of the SEIAA and Final EC and regret the inconvenience caused.

Thanking you,

Yours faithfully

  
**Pride Purple Landmark LLP**  
**Project Proponent**  
 (Arvind Jain)

TRUE COPY

Bombhise

**ANNEXURE-A-5****Item no. 13****Proposal No.:-** SIA/MH/MIS/243583/2021**Type of Project:** EC**Subject-** Environmental Clearance for Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP**Project Details-**

Representative of PP was present during the meeting along with Environmental consultant M/s. M/s. Mahabal Enviro Engineers Pvt. Ltd.

Brief information of the proposal is as below:

|    |                         |                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                         |
|----|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1. | Proposal Number         | SIA/MH/MIS/243583/2021                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                         |
| 2. | Name of Project         | <p>Proposed Expansion in Residential &amp; Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP</p> <p>We have received As per 1<sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December, 2014 &amp; 2<sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018</p> |                                                                                         |
| 3. | Project category        | 8(a)B2                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                         |
| 4. | Type of Institution     | Private                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                         |
| 5. | Project Proponent       | Name                                                                                                                                                                                                                                                                                                                                                                                                           | Mr. D P Jain<br>Director                                                                |
|    |                         | Regd. Office address                                                                                                                                                                                                                                                                                                                                                                                           | Address: Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016 |
|    |                         | Contact number                                                                                                                                                                                                                                                                                                                                                                                                 | 9823022211                                                                              |
|    |                         | e-mail                                                                                                                                                                                                                                                                                                                                                                                                         | nandkishor@pridepurplegroup.com                                                         |
| 6. | Consultant              | <p>M/s. Mahabal Enviro Engineers Pvt. Ltd.<br/>Address : Plot No. F-7, Road No. 21, Wagle Estate Thane-400604, Maharashtra<br/>Email id : <a href="mailto:thane@mahabal.com">thane@mahabal.com</a><br/>Tel: 022- 25823154/ 0658/ 1663</p>                                                                                                                                                                      |                                                                                         |
| 7. | Applied for             | Expansion - Brown Field Project                                                                                                                                                                                                                                                                                                                                                                                |                                                                                         |
| 8. | Details of previous EC  | <p>We have received As per 1<sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December, 2014 &amp; 2<sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018</p>                                                                                                                                                                                |                                                                                         |
| 9. | Location of the project | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A                                                                                                                                                                                                                                                                                                                           |                                                                                         |

  
Member Secretary

  
Chairman

TRUE COPY

|     |                                                                                                                                                                        |                                                                                |                                            |                                                                                                |                           |                                |                                                                               |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|-------------------------------------------------------------------------------|
|     |                                                                                                                                                                        | Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |                                            |                                                                                                |                           |                                |                                                                               |
| 10. | Latitude and Longitude                                                                                                                                                 | Latitude – 18°27'40.53"N<br>Longitude – 73°51'52.41"E                          |                                            |                                                                                                |                           |                                |                                                                               |
| 11. | Total Plot Area(m2)                                                                                                                                                    | 20,154.48                                                                      |                                            |                                                                                                |                           |                                |                                                                               |
| 12. | Deductions(m2)                                                                                                                                                         | 620.00                                                                         |                                            |                                                                                                |                           |                                |                                                                               |
| 13. | Net Plot area(m2)                                                                                                                                                      | 17581.03                                                                       |                                            |                                                                                                |                           |                                |                                                                               |
| 14. | Proposed FSI area(m2)                                                                                                                                                  | 41412.30                                                                       |                                            |                                                                                                |                           |                                |                                                                               |
| 15. | Proposed non-FSI area(m2)                                                                                                                                              | 20771.15                                                                       |                                            |                                                                                                |                           |                                |                                                                               |
| 16. | Proposed TBUA(m2)                                                                                                                                                      | 62183.45                                                                       |                                            |                                                                                                |                           |                                |                                                                               |
| 17. | TBUA(m2)approved by Planning Authority till date                                                                                                                       | 62183.45                                                                       |                                            |                                                                                                |                           |                                |                                                                               |
| 18. | Ground coverage(m2)&%                                                                                                                                                  | 9483.69 (As per Previous EC)                                                   |                                            |                                                                                                |                           |                                |                                                                               |
| 19. | Total Project Cost(Rs.)                                                                                                                                                | Rs.- 110 Crore                                                                 |                                            |                                                                                                |                           |                                |                                                                               |
| 20. | CER as per MoEF & CC circular dated01/05/2018                                                                                                                          | Activity                                                                       | Location                                   | Cost(Rs.)                                                                                      | Duration                  |                                |                                                                               |
|     |                                                                                                                                                                        | Details attached                                                               |                                            |                                                                                                |                           |                                |                                                                               |
| 21. | Details of Building Configuration:<br><Please use following legends: Floor=F, Parking=Pk, Podium=Po, Stilt=St, Lower Ground=LG, Upper Ground=UG, Basement=B, Shops=Sh> |                                                                                |                                            |                                                                                                |                           | Reason for Modification/Change |                                                                               |
|     | Previous EC/Existing Building                                                                                                                                          |                                                                                | Proposed Configuration                     |                                                                                                |                           |                                |                                                                               |
|     | Building Name                                                                                                                                                          | Configuration                                                                  | Height (m)                                 | Building Name                                                                                  | Configuration             | Height (m)                     | Now, we had applied for Expansion /amendment in EC due to addition of floors. |
|     |                                                                                                                                                                        |                                                                                |                                            | A-B Type (Completed)                                                                           | P+P+12                    | 37.65                          |                                                                               |
|     |                                                                                                                                                                        |                                                                                |                                            | C-D Type (Proposed Internal floor design will be changed . So Flats Numbers will be increased) | Lower Level Parking +G+14 | 44.95                          |                                                                               |
|     |                                                                                                                                                                        |                                                                                | E-F Type Residential & Commercial Building | Lower Level Parking +G+11                                                                      | 35.99                     |                                |                                                                               |
|     |                                                                                                                                                                        |                                                                                | Club House : Ground                        | Ground                                                                                         | -                         |                                |                                                                               |

Member Secretary

Chairman

|     |                                             |                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                         |                 |        |
|-----|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------|
| 22. | Total number of tenements                   | (Existing + Proposed) - Nos.<br>Proposed Residential Tenements – 328 Nos.<br>Shops – 18 Nos.<br>Residential Users: 1640 nos<br>Commercial Users: 333 Nos.<br>Total Population : 1973 nos.                                                                  |                                                                                                                                                                                                                                                                                         |                 |        |
| 23. | Water Budget                                | Dry Season(CMD)                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                         | Wet Season(CMD) |        |
|     |                                             | Fresh Water                                                                                                                                                                                                                                                | 155.93                                                                                                                                                                                                                                                                                  | Fresh Water     | 155.93 |
|     |                                             | Recycled Flushing                                                                                                                                                                                                                                          | 80.46                                                                                                                                                                                                                                                                                   | Recycled        | 80.46  |
|     |                                             | Swimming Pool                                                                                                                                                                                                                                              | -                                                                                                                                                                                                                                                                                       | Swimming Pool   | -      |
|     |                                             | Club House                                                                                                                                                                                                                                                 | 5.00                                                                                                                                                                                                                                                                                    |                 | 5.00   |
|     |                                             | Flushing                                                                                                                                                                                                                                                   | 80.46                                                                                                                                                                                                                                                                                   | Flushing        | 80.46  |
|     |                                             | Gardening                                                                                                                                                                                                                                                  | 30.00                                                                                                                                                                                                                                                                                   | Gardening       | 0      |
|     |                                             | Total                                                                                                                                                                                                                                                      | 271.39                                                                                                                                                                                                                                                                                  | Total           | 241.39 |
|     |                                             | Wastewater generation                                                                                                                                                                                                                                      | 106.79                                                                                                                                                                                                                                                                                  |                 | 136.79 |
| 24. | Water Storage Capacity for Firefighting/UGT | Residential:<br>Domestic UG tank Capacity ( CUM): 142<br>Flushing UG tank Capacity ( CUM): 73<br>Fire UG tank Capacity ( CUM): 200 x 2<br>Commercial: NA<br>Domestic UG tank Capacity: NA<br>Flushing UG tank Capacity: -NA<br>Fire UG tank Capacity: - NA |                                                                                                                                                                                                                                                                                         |                 |        |
| 25. | Source of water                             | Pune Municipal Corporation (PMC )                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                         |                 |        |
| 26. | Rainwater Harvesting (RWH)                  | Level of the Ground water table:                                                                                                                                                                                                                           | 2.3 to 2.7 m, below                                                                                                                                                                                                                                                                     |                 |        |
|     |                                             | Size and no of RWH tank(s)and Quantity:                                                                                                                                                                                                                    | NA                                                                                                                                                                                                                                                                                      |                 |        |
|     |                                             | Quantity and size of recharge pits:                                                                                                                                                                                                                        | 5 nos. pits with 10 nos. of recharge bore wells.<br>Size - 2.60 m x 2.60 m x 1.65 m                                                                                                                                                                                                     |                 |        |
|     |                                             | Details of UGT tanks if any:                                                                                                                                                                                                                               | Residential:<br>Domestic UG tank Capacity:142<br>Flushing UG tank Capacity: 73<br>Fire UG tank Capacity: 200x2<br><br>Commercial: NA<br>Domestic UG tank Capacity: NA m <sup>3</sup><br>Flushing UG tank Capacity: -including residential m <sup>3</sup><br>Fire UG tank Capacity: - NA |                 |        |

  
Member Secretary

  
Chairman



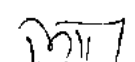
|     |                                                  |                                         |                                 |                                                                                             |
|-----|--------------------------------------------------|-----------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------|
| 27. | Sewage and Wastewater                            | Sewage generation in CMD:               | 217.25                          |                                                                                             |
|     |                                                  | STP technology:                         | MBBR                            |                                                                                             |
|     |                                                  | Capacity of STP(CMD):                   | 1 x220 KLD                      |                                                                                             |
| 28. | Solid Waste Management during Construction Phase | Type                                    | Quantity(kg/d)                  | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 27.00                           | Total - 45 kgs/day - Composting method                                                      |
|     |                                                  | Wet waste:                              | 18.00                           |                                                                                             |
|     |                                                  | Construction waste                      | Excavation -2120 m <sup>3</sup> | Excavated earth material will be used for filling of plinth area & top soil for landscaping |
| 29. | Solid Waste Management during Operation Phase    | Type                                    | Quantity(kg/d)                  | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 368                             | Handed over to authorized recycler for further handling & disposal purpose                  |
|     |                                                  | Wet waste:                              | 519                             | Through Mechanical Composter (Smart OWC)                                                    |
|     |                                                  | Hazardous waste:                        | NA                              |                                                                                             |
|     |                                                  | Biomedical waste                        | NA                              |                                                                                             |
|     |                                                  | E-Waste                                 | 95 kg/Month                     | Handed over to authorized recycler for further handling & disposal purpose                  |
|     |                                                  | STP Sludge(dry)                         | 16.5 kg/day                     | To be used as manure for Gardening purpose                                                  |
| 30. | Green Belt Development                           | Total RG area(m <sup>2</sup> ):         | 1953.45 m <sup>2</sup>          |                                                                                             |
|     |                                                  | Existing trees on plot:                 | 275                             |                                                                                             |
|     |                                                  | Number of trees to be planted:          | 220                             |                                                                                             |
|     |                                                  | Number of trees to be cut:              | NA                              |                                                                                             |
|     |                                                  | Number of trees to be transplanted:     | NA                              |                                                                                             |
| 31. | Power requirement:                               | Source of power supply:                 | MSEDCL                          |                                                                                             |
|     |                                                  | During Construction Phase Demand Load): | 85 kW                           |                                                                                             |
|     |                                                  | During Operation phase(Connected load): | 2521.25 kW                      |                                                                                             |
|     |                                                  | During Operation phase(Demand load):    | 1,123.45kW                      |                                                                                             |
|     |                                                  | Transformer:                            | 2Nos. x 630kVA                  |                                                                                             |
|     |                                                  | DG set:                                 | 1 No.x200 kVA                   |                                                                                             |
|     |                                                  | Fuel used:                              | HSD                             |                                                                                             |


  
Member Secretary


  
Chairman

|     |                                                                          |                          |                                                           |                       |                                    |
|-----|--------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------|-----------------------|------------------------------------|
| 32. | Details of Energy saving                                                 | 246636 KWH / Anum<br>9 % |                                                           |                       |                                    |
| 33. | Environmental Management plan budget during Construction phase           | Type                     | Details                                                   |                       | Cost                               |
|     |                                                                          | Capital                  | Air & Noise and Water, Land Biological and Socio Economic |                       | Rs. 27.44 Lakh                     |
|     |                                                                          | O&M                      | Included in above                                         |                       |                                    |
| 34. | Environmental Management plan Budget during Operation phase              | Component                | Details                                                   | Capital (Rs.) in Lakh | O&M (Rs. Lakh/Y)                   |
|     |                                                                          | Sewage treatment         | STP plant 1x220 KLD                                       | 38.00                 | 9.75                               |
|     |                                                                          | Water treatment          | -                                                         | NA                    | NA                                 |
|     |                                                                          | RWH and Storm Water      | RWH Pits and network                                      | 3.76                  | 0.26                               |
|     |                                                                          | Swimming Pool            | -                                                         | -                     | -                                  |
|     |                                                                          | Solid Waste              | OWC                                                       | 14.9                  | 3.6                                |
|     |                                                                          | Hazardous waste          | NA                                                        | -                     | -                                  |
|     |                                                                          | e-waste                  | Authorized vendor                                         | -                     | -                                  |
|     |                                                                          | Green belt development   | Plantation                                                | 1.62                  | 11.21                              |
|     |                                                                          | Energy saving            | Solar and LED                                             | 13.44                 | 0.67                               |
|     |                                                                          | Environmental Monitoring | Through laboratory                                        | -                     | 18.41                              |
|     |                                                                          | Disaster Management      | Provided                                                  | 63.78                 | 1.18                               |
| 35. | Traffic Management                                                       | Type                     | Required as per DCR no                                    | Actual Provided Nos.  | Area per parking (m <sup>2</sup> ) |
|     |                                                                          | 4-Wheeler                | 405                                                       | 405                   | As per Standard DCR                |
|     |                                                                          | 2-Wheeler                | 918                                                       | 918                   | As per Standard DCR                |
|     |                                                                          | Bicycles                 | 192                                                       | 192                   | As per Standard DCR                |
| 36. | DetailsofCourtcases/litigationsw.r.t.theprojectandprojectlocationif any. | NA                       |                                                           |                       |                                    |

  
Member Secretary

  
Chairman

**SEAC Deliberation –**

PP informed that the expansion is in existing residential and commercial project. PP has already obtained Environmental Clearance in the year 2014 subsequently EC for expansion was sought in the year 2018 for BUA 50168.00 m<sup>2</sup>. As per earlier sanctioned received, 31,411.54 m<sup>2</sup> construction has been completed on site. It was further informed that the proposed expansion is in building C & D type with proposed Internal floor design has been changed. Also no. of floors increased from 12 to 14. So Flats Numbers will be increased and in E & F type 2 tenements will be increased and 4 shops will be reduced. It was also informed that six monthly compliance reports are submitted to Regional Office MoEFCC Nagpur however Certified Compliance report is not submitted by PP. The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(b) B2.

**During discussion following points emerged:**

1. PP to submit certified Compliance report from Regional officer MoEFCC Nagpur.
2. As agreed during presentation PP to change the shrub proposed i.e. Phycus Benjamina.
3. As agreed during presentation PP to ensure that the fire tender Movement shall be in front of Commercial area also.
4. PP to reshuffle entry and exit to avoid traffic congestion in the plot area. PP to ensure that the slope of the ramp shall be maintained as 1:10.
5. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.

PP to ensure that, the water proposed to use for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

**Recommendations of SEAC-**

After deliberation, Committee decided to recommend the proposal for Environmental Clearance to SEIAA, subject to compliance of above points.

**Deliberation in SEIAA-**

Proposal is an expansion of existing construction project. Proposal is recommended by SEAC-3 in its 135<sup>th</sup> meeting for grant of Environment Clearance for total plot area of 20154.48 m<sup>2</sup>, FSI- 41412.30m<sup>2</sup>, Non-FSI- 20771.15 m<sup>2</sup>, Total BUA- 62183.45m<sup>2</sup>.

SEAC-3 in its 135<sup>th</sup> meeting pointed out that, proposed expansion is in building C & D type with Proposed Internal floor design has been changed. SEAC also pointed out that, no. of floors increased from 12 to 14. So Flats Numbers will be increased and in E & F type 2 tenements will be increased and 4 shops will be reduced. SEIAA asked PP to submit undertaking regarding no construction initiated on site wherein internal changes are proposed. SEIAA decided to defer the proposal for compliance of above point.

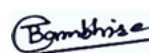
**SEIAA Decision-**

SEIAA decided to defer the proposal.

  
Member Secretary

  
Chairman

**TRUE COPY**



**ANNEXURE-A-6**

Date: 04.05.2022

**UNDERTAKING**

This is to certify that **PRIDE PURPLE LANDMARK LLP** has proposed Expansion in Proposed Residential & Commercial Project "PARK LANDMARK" at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune.

We have received the **Environmental clearance** from SEIAA Maharashtra having file number **SEIAA-EC-0000000536** dated 27.11.2018.

Since then we have started construction and partly completed as per sanctioned plan and as well as EC. As on date i. e 04 May **2022**, construction completed is about **34,377.35 m<sup>2</sup>** out of 35, 380.55 m<sup>2</sup> sanctioned in IOD which is within the EC limit.

We certify that the construction carried on the ground by the PP till the date of SEIAA hearing is within the BUA & in accordance with the configuration of the sanctioned plan.

**With reference to the discussion and direction by SEIAA during the 242th SEIAA Day -4 Meeting, Item no. 13 on 04.05.2022 , we also hereby certify that NO CONSTRUCTION HAS BEEN UNDERTAKEN IN RESPECT OF BUILDINGS wherein we have proposed internal floor Design change.**

Thanks,

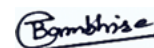
Yours Faithfully,

   
**Pride Purple Landmark LLP**

(Arvind Jain)

Project Proponent

**TRUE COPY**



# 1297

## ANNEXURE-A-7



Date: 23.05.2022

To,  
The Chairman,  
State Environmental Impact Assessment Authority  
Environment Department, New Administration Building,  
15<sup>th</sup> Floor, Mantralaya, Mumbai, Maharashtra.

|                        |                                                                                                                                                                       |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject</b>         | Submission of compliance reply AND Intimation letter regarding Tree nos.- EC                                                                                          |
| <b>Project</b>         | Expansion of Proposed Residential & Commercial Project "PARK LANDMARK" at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |
| <b>Proposal number</b> | SIA/MH/MIS/243583/2021                                                                                                                                                |
| <b>Ref</b>             | Day 4 : 242 <sup>nd</sup> SEIAA meeting held on dated 04.05.2022, Item no 13.<br>(135 <sup>th</sup> SEAC Meeting 22 /02/2022, Item no. 58)                            |

Dear Sir,  
With reference to above-mentioned subject, our project has been listed and discussed in said meeting.

As discussed during the meeting, we are submitting the information as below,

| Points  | Details                                                                                                         |
|---------|-----------------------------------------------------------------------------------------------------------------|
| Point 1 | PP to submit the undertaking regarding no construction initiated on site wherein internal changes are proposed. |
| Reply   | We are submitting the undertaking for the same and attached as an Annexure I                                    |

Also we have submitted intimation letter regarding revised landscape plan including tree numbers with respect to compliance in 135<sup>th</sup> SEAC Meeting 22 /02/2022. Intimation letter regarding correction to be done due to typographical error is attached as Annexure II.

Kindly consider the same

Thanks & Regards,

  
**For PRIDE PURPLE LANDMARK LLP**  
(Project Proponent - Arvind Jain)



# 1298

## ANNEXURE-A-8

Minutes of 245<sup>th</sup> (Day - 3) meeting of SEIAA held on 12<sup>th</sup> July, 2022.

### Item no. 27

**Proposal No.:-** SIA/MH/MIS/243583/2021

**Type of Project:** EC

**Subject-** Environmental Clearance for Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP

### Project Details-

Representative of PP was present during the meeting along with Environmental consultant M/s. M/s. Mahabal Enviro Engineers Pvt. Ltd.

Brief information of the proposal is as below:

|    |                         |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                         |
|----|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1. | Proposal Number         | SIA/MH/MIS/243583/2021                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |
| 2. | Name of Project         | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP<br><br>We have received As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December, 2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 |                                                                                         |
| 3. | Project category        | 8(a)B2                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |
| 4. | Type of Institution     | Private                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                         |
| 5. | Project Proponent       | Name                                                                                                                                                                                                                                                                                                                                                                                               | Mr. D P Jain<br>Director                                                                |
|    |                         | Regd. Office address                                                                                                                                                                                                                                                                                                                                                                               | Address: Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016 |
|    |                         | Contact number                                                                                                                                                                                                                                                                                                                                                                                     | 9823022211                                                                              |
|    |                         | e-mail                                                                                                                                                                                                                                                                                                                                                                                             | <a href="mailto:nandkishor@pridepurplegroup.com">nandkishor@pridepurplegroup.com</a>    |
| 6. | Consultant              | M/s. Mahabal Enviro Engineers Pvt. Ltd.<br>Address : Plot No. F-7, Road No. 21, Wagle Estate Thane-400604, Maharashtra<br>Email id : <a href="mailto:thane@mahabal.com">thane@mahabal.com</a><br>Tel: 022- 25823154/ 0658/ 1663                                                                                                                                                                    |                                                                                         |
| 7. | Applied for             | Expansion - Brown Field Project                                                                                                                                                                                                                                                                                                                                                                    |                                                                                         |
| 8. | Details of previous EC  | We have received As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December, 2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018                                                                                                                                                                            |                                                                                         |
| 9. | Location of the project | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A                                                                                                                                                                                                                                                                                                               |                                                                                         |

  
Member Secretary

TRUE COPY

  
Chairman



Minutes of 245<sup>th</sup> (Day - 3) meeting of SEIAA held on 12<sup>th</sup> July, 2022.

|     |                                                                                                                                                           |                                                                                |                        |                                                                                                |                           |                                |                                                                               |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|-------------------------------------------------------------------------------|
|     |                                                                                                                                                           | Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |                        |                                                                                                |                           |                                |                                                                               |
| 10. | Latitude and Longitude                                                                                                                                    | Latitude – 18°27'40.53"N<br>Longitude – 73°51'52.41"E                          |                        |                                                                                                |                           |                                |                                                                               |
| 11. | Total Plot Area(m2)                                                                                                                                       | 20,154.48                                                                      |                        |                                                                                                |                           |                                |                                                                               |
| 12. | Deductions(m2)                                                                                                                                            | 620.00                                                                         |                        |                                                                                                |                           |                                |                                                                               |
| 13. | Net Plot area(m2)                                                                                                                                         | 17581.03                                                                       |                        |                                                                                                |                           |                                |                                                                               |
| 14. | Proposed FSI area(m2)                                                                                                                                     | 41412.30                                                                       |                        |                                                                                                |                           |                                |                                                                               |
| 15. | Proposed non-FSI area(m2)                                                                                                                                 | 20771.15                                                                       |                        |                                                                                                |                           |                                |                                                                               |
| 16. | Proposed TBUA(m2)                                                                                                                                         | 62183.45                                                                       |                        |                                                                                                |                           |                                |                                                                               |
| 17. | TBUA(m2)approved by Planning Authority till date                                                                                                          | 62183.45                                                                       |                        |                                                                                                |                           |                                |                                                                               |
| 18. | Ground coverage(m2)&%                                                                                                                                     | 9483.69 (As per Previous EC)                                                   |                        |                                                                                                |                           |                                |                                                                               |
| 19. | Total Project Cost(Rs.)                                                                                                                                   | Rs.- 110 Crore                                                                 |                        |                                                                                                |                           |                                |                                                                               |
| 20. | CER as per MoEF & CC circular dated01/05/2018                                                                                                             | Activity                                                                       | Location               | Cost(Rs.)                                                                                      | Duration                  |                                |                                                                               |
|     |                                                                                                                                                           | Details attached                                                               |                        |                                                                                                |                           |                                |                                                                               |
| 21. | Details of Building Configuration:<br><Pleaseusefollowinglegends:Floor=F,Parking=Pk,Podium=Po,Stilt=St,LowerGround=LG,UpperGround=UG,Basement=B,Shops=Sh> |                                                                                |                        |                                                                                                |                           | Reason for Modification/Change |                                                                               |
|     | Previous EC/Existing Building                                                                                                                             |                                                                                | Proposed Configuration |                                                                                                |                           |                                |                                                                               |
|     | Buildi ng Name                                                                                                                                            | Confi gurati on                                                                | Heig ht (m)            | Building Name                                                                                  | Configuratio n            | Height (m)                     | Now, we had applied for Expansion /amendment in EC due to addition of floors. |
|     |                                                                                                                                                           |                                                                                |                        | A-B Type (Completed)                                                                           | P+P+12                    | 37.65                          |                                                                               |
|     |                                                                                                                                                           |                                                                                |                        | C-D Type (Proposed Internal floor design will be changed . So Flats Numbers will be increased) | Lower Level Parking +G+14 | 44.95                          |                                                                               |
|     |                                                                                                                                                           |                                                                                |                        | E-F Type Residential & Commercial Building                                                     | Lower Level Parking +G+11 | 35.99                          |                                                                               |
|     |                                                                                                                                                           |                                                                                | Club House : Ground    | Ground                                                                                         | -                         |                                |                                                                               |

  
Member Secretary

  
Chairman

Minutes of 245<sup>th</sup> (Day - 3) meeting of SEIAA held on 12<sup>th</sup> July, 2022.

|     |                                             |                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                         |                 |        |
|-----|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------|
| 22. | Total number of tenements                   | (Existing + Proposed) - Nos.<br>Proposed Residential Tenements – 328 Nos.<br>Shops – 18 Nos.<br>Residential Users: 1640 nos<br>Commercial Users: 333 Nos.<br>Total Population : 1973 nos.                                                                  |                                                                                                                                                                                                                                                                                         |                 |        |
| 23. | Water Budget                                | Dry Season(CMD)                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                         | Wet Season(CMD) |        |
|     |                                             | Fresh Water                                                                                                                                                                                                                                                | 155.93                                                                                                                                                                                                                                                                                  | Fresh Water     | 155.93 |
|     |                                             | Recycled Flushing                                                                                                                                                                                                                                          | 80.46                                                                                                                                                                                                                                                                                   | Recycled        | 80.46  |
|     |                                             | Swimming Pool                                                                                                                                                                                                                                              | -                                                                                                                                                                                                                                                                                       | Swimming Pool   | -      |
|     |                                             | Club House                                                                                                                                                                                                                                                 | 5.00                                                                                                                                                                                                                                                                                    |                 | 5.00   |
|     |                                             | Flushing                                                                                                                                                                                                                                                   | 80.46                                                                                                                                                                                                                                                                                   | Flushing        | 80.46  |
|     |                                             | Gardening                                                                                                                                                                                                                                                  | 30.00                                                                                                                                                                                                                                                                                   | Gardening       | 0      |
|     |                                             | Total                                                                                                                                                                                                                                                      | 271.39                                                                                                                                                                                                                                                                                  | Total           | 241.39 |
|     |                                             | Wastewater generation                                                                                                                                                                                                                                      | 106.79                                                                                                                                                                                                                                                                                  |                 | 136.79 |
| 24. | Water Storage Capacity for Firefighting/UGT | Residential:<br>Domestic UG tank Capacity ( CUM): 142<br>Flushing UG tank Capacity ( CUM): 73<br>Fire UG tank Capacity ( CUM): 200 x 2<br>Commercial: NA<br>Domestic UG tank Capacity: NA<br>Flushing UG tank Capacity: -NA<br>Fire UG tank Capacity: - NA |                                                                                                                                                                                                                                                                                         |                 |        |
| 25. | Source of water                             | Pune Municipal Corporation (PMC )                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                         |                 |        |
| 26. | Rainwater Harvesting (RWH)                  | Level of the Ground water table:                                                                                                                                                                                                                           | 2.3 to 2.7 m, below                                                                                                                                                                                                                                                                     |                 |        |
|     |                                             | Size and no of RWH tank(s)and Quantity:                                                                                                                                                                                                                    | NA                                                                                                                                                                                                                                                                                      |                 |        |
|     |                                             | Quantity and size of recharge pits:                                                                                                                                                                                                                        | 5 nos. pits with 10 nos. of recharge bore wells.<br>Size - 2.60 m x 2.60 m x 1.65 m                                                                                                                                                                                                     |                 |        |
|     |                                             | Details of UGT tanks if any:                                                                                                                                                                                                                               | Residential:<br>Domestic UG tank Capacity:142<br>Flushing UG tank Capacity: 73<br>Fire UG tank Capacity: 200x2<br><br>Commercial: NA<br>Domestic UG tank Capacity: NA m <sup>3</sup><br>Flushing UG tank Capacity: -including residential m <sup>3</sup><br>Fire UG tank Capacity: - NA |                 |        |

  
Member Secretary

  
Chairman



Minutes of 245<sup>th</sup> (Day - 3) meeting of SEIAA held on 12<sup>th</sup> July, 2022.

|     |                                                  |                                         |                                 |                                                                                             |
|-----|--------------------------------------------------|-----------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------|
| 27. | Sewage and Wastewater                            | Sewage generation in CMD:               | 217.25                          |                                                                                             |
|     |                                                  | STP technology:                         | MBBR                            |                                                                                             |
|     |                                                  | Capacity of STP(CMD):                   | 1 x220 KLD                      |                                                                                             |
| 28. | Solid Waste Management during Construction Phase | Type                                    | Quantity(kg/d)                  | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 27.00                           | Total - 45 kgs/day - Composting method                                                      |
|     |                                                  | Wet waste:                              | 18.00                           |                                                                                             |
|     |                                                  | Construction waste                      | Excavation -2120 m <sup>3</sup> | Excavated earth material will be used for filling of plinth area & top soil for landscaping |
| 29. | Solid Waste Management during Operation Phase    | Type                                    | Quantity(kg/d)                  | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 368                             | Handed over to authorized recycler for further handling & disposal purpose                  |
|     |                                                  | Wet waste:                              | 519                             | Through Mechanical Composter (Smart OWC)                                                    |
|     |                                                  | Hazardous waste:                        | NA                              |                                                                                             |
|     |                                                  | Biomedical waste                        | NA                              |                                                                                             |
|     |                                                  | E-Waste                                 | 95 kg/Month                     | Handed over to authorized recycler for further handling & disposal purpose                  |
|     |                                                  | STP Sludge(dry)                         | 16.5 kg/day                     | To be used as manure for Gardening purpose                                                  |
| 30. | Green Belt Development                           | Total RG area(m <sup>2</sup> ):         | 1953.45 m <sup>2</sup>          |                                                                                             |
|     |                                                  | Existing trees on plot:                 | 275                             |                                                                                             |
|     |                                                  | Number of trees to be planted:          | 220                             |                                                                                             |
|     |                                                  | Number of trees to be cut:              | NA                              |                                                                                             |
|     |                                                  | Number of trees to be transplanted:     | NA                              |                                                                                             |
| 31. | Power requirement:                               | Source of power supply:                 | MSEDCL                          |                                                                                             |
|     |                                                  | During Construction Phase Demand Load): | 85 kW                           |                                                                                             |
|     |                                                  | During Operation phase(Connected load): | 2521.25 kW                      |                                                                                             |
|     |                                                  | During Operation phase(Demand load):    | 1,123.45kW                      |                                                                                             |
|     |                                                  | Transformer:                            | 2Nos. x 630kVA                  |                                                                                             |
|     |                                                  | DG set:                                 | 1 No.x200 kVA                   |                                                                                             |
|     |                                                  | Fuel used:                              | HSD                             |                                                                                             |

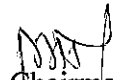
  
Member Secretary

  
Chairman

Minutes of 245<sup>th</sup> (Day - 3) meeting of SEIAA held on 12<sup>th</sup> July, 2022.

|     |                                                                                   |                          |                                                           |                       |                                    |
|-----|-----------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------|-----------------------|------------------------------------|
| 32. | Details of Energy saving                                                          | 246636 KWH / Anum<br>9 % |                                                           |                       |                                    |
| 33. | Environmental Management plan budget during Construction phase                    | Type                     | Details                                                   |                       | Cost                               |
|     |                                                                                   | Capital                  | Air & Noise and Water, Land Biological and Socio Economic |                       | Rs. 27.44 Lakh                     |
|     |                                                                                   | O&M                      | Included in above                                         |                       |                                    |
| 34. | Environmental Management plan Budget during Operation phase                       | Component                | Details                                                   | Capital (Rs.) in Lakh | O&M (Rs. Lakh/Y)                   |
|     |                                                                                   | Sewage treatment         | STP plant 1x220 KLD                                       | 38.00                 | 9.75                               |
|     |                                                                                   | Water treatment          | -                                                         | NA                    | NA                                 |
|     |                                                                                   | RWH and Storm Water      | RWH Pits and network                                      | 3.76                  | 0.26                               |
|     |                                                                                   | Swimming Pool            | -                                                         | -                     | -                                  |
|     |                                                                                   | Solid Waste              | OWC                                                       | 14.9                  | 3.6                                |
|     |                                                                                   | Hazardous waste          | NA                                                        | -                     | -                                  |
|     |                                                                                   | e-waste                  | Authorized vendor                                         | -                     | -                                  |
|     |                                                                                   | Green belt development   | Plantation                                                | 1.62                  | 11.21                              |
|     |                                                                                   | Energy saving            | Solar and LED                                             | 13.44                 | 0.67                               |
|     |                                                                                   | Environmental Monitoring | Through laboratory                                        | -                     | 18.41                              |
|     |                                                                                   | Disaster Management      | Provided                                                  | 63.78                 | 1.18                               |
| 35. | Traffic Management                                                                | Type                     | Required as per DCR no                                    | Actual Provided Nos.  | Area per parking (m <sup>2</sup> ) |
|     |                                                                                   | 4-Wheeler                | 405                                                       | 405                   | As per Standard DCR                |
|     |                                                                                   | 2-Wheeler                | 918                                                       | 918                   | As per Standard DCR                |
|     |                                                                                   | Bicycles                 | 192                                                       | 192                   | As per Standard DCR                |
| 36. | Detailsof Court cases/litigations w.r.t. the project and project location if any. | NA                       |                                                           |                       |                                    |

  
Member Secretary

  
Chairman

**SEAC Deliberation –**

PP informed that the expansion is in existing residential and commercial project. PP has already obtained Environmental Clearance in the year 2014 subsequently EC for expansion was sought in the year 2018 for BUA 50168.00 m<sup>2</sup>. As per earlier sanctioned received, 31,411.54 m<sup>2</sup> construction has been completed on site. It was further informed that the proposed expansion is in building C & D type with proposed internal floor design has been changed. Also no. of floors increased from 12 to 14. So Flats Numbers will be increased and in E & F type 2 tenements will be increased and 4 shops will be reduced. It was also informed that six monthly compliance reports are submitted to Regional Office MoEFCC Nagpur however Certified Compliance report is not submitted by PP. The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(b) B2.

**During discussion following points emerged:**

1. PP to submit certified Compliance report from Regional officer MoEFCC Nagpur.
2. As agreed during presentation PP to change the shrub proposed i.e. Phycus Benjamina.
3. As agreed during presentation PP to ensure that the fire tender Movement shall be in front of Commercial area also.
4. PP to reshuffle entry and exit to avoid traffic congestion in the plot area. PP to ensure that the slope of the ramp shall be maintained as 1:10.
5. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.
6. PP to ensure that, the water proposed to use for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

**Recommendations of SEAC-**

After deliberation, Committee decided to recommend the proposal for Environmental Clearance to SEIAA, subject to compliance of above points.

**Deliberation in SEIAA-**

Proposal is an expansion of existing construction project. Proposal was recommended by SEAC-3 in its 135<sup>th</sup> meeting for grant of Environment Clearance for Total Plot Area 20,154.48 m<sup>2</sup>, FSI-41412.30 m<sup>2</sup>, non FSI-20771.15 m<sup>2</sup> and total BUA-62183.45 m<sup>2</sup>.

Proposal was then considered in 242<sup>nd</sup> meeting of SEIAA and deferred for submission of undertaking regarding no construction is initiated on site wherein internal changes are proposed. Now, PP submitted the compliance.

Project has received 1st EC vide Letter No. SEAC-2013/CR561/TC-2 dated 1<sup>st</sup> December, 2014 PP obtained 2<sup>nd</sup> EC vide SEIAA-EC-0000000536, dated 27<sup>th</sup> November, 2018 for total BUA of 50168.00 m<sup>2</sup>.

During the meeting, SEIAA asked PP to submit architect certificate regarding construction initiated on site by PP is within the BUA and as per configuration of earlier EC. PP submitted

  
Member Secretary

  
Chairman

the architect certificate dated 11.07.2022 to that effect. PP has constructed total BUA of 34093.11 m<sup>2</sup> as per earlier EC.

During the meeting, SEIAA asked PP to submit certified compliance report from Regional Office, MoEF&CC, Nagpur. PP submitted the same dated 16.02.2022.

SEIAA after deliberation decided to grant EC for – FSI -41412.30 m<sup>2</sup>, Non FSI-16250.89 m<sup>2</sup>, Total BUA-57663.19 m<sup>2</sup>. (Plan approval No. CC/0634/21/DPO/Zone-5, Date-21.06.2021).

SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

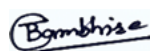
1. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
2. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
3. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
4. SEIAA after deliberation decided to grant EC for – FSI -41412.30 m<sup>2</sup>, Non FSI-16250.89 m<sup>2</sup>, Total BUA-57663.19 m<sup>2</sup>. (Plan approval No. CC/0634/21/DPO/Zone-5, Date-21.06.2021).

**SEIAA Decision-**

SEIAA after deliberation decided to grant Environment Clearance.

**TRUE COPY**

  
Member Secretary

  
Chairman

  
Chairman

# 1305 ANNEXURE-A-9



**Government of India  
Ministry of Environment, Forest and Climate Change  
(Issued by the State Environment Impact Assessment  
Authority(SEIAA), Maharashtra)**

**ENVIRONMENTAL  
CLEARANCE**

To,

The Partner

PRIDE PURPLE LANDMARK LLP

Pride House, 5th floor, Near Punr University Circle, Shivajinagar, Pune  
411016 -411016

**Subject:** Grant of Environmental Clearance (EC) to the proposed Project Activity under the provision of EIA Notification 2006-regarding

Sir/Madam,

This is in reference to your application for Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/MH/MIS/243583/2021 dated 07 Dec 2021. The particulars of the environmental clearance granted to the project are as below.

- |                                            |                                                                                                                                                            |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. EC Identification No.                   | EC22B038MH189670                                                                                                                                           |
| 2. File No.                                | SIA/MH/MIS/243583/2021                                                                                                                                     |
| 3. Project Type                            | Expansion                                                                                                                                                  |
| 4. Category                                | B2                                                                                                                                                         |
| 5. Project/Activity including Schedule No. | 8(a) Building and Construction projects                                                                                                                    |
| 6. Name of Project                         | Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP |
| 7. Name of Company/Organization            | PRIDE PURPLE LANDMARK LLP                                                                                                                                  |
| 8. Location of Project                     | Maharashtra                                                                                                                                                |
| 9. TOR Date                                | N/A                                                                                                                                                        |

The project details along with terms and conditions are appended herewith from page no 2 onwards.

Date: 25/07/2022

(e-signed)  
Manisha Patankar Mhaiskar  
Member Secretary  
SEIAA - (Maharashtra)

*Note: A valid environmental clearance shall be one that has EC identification number & E-Sign generated from PARIVESH. Please quote identification number in all future correspondence.*

*This is a computer generated cover page.*

**TRUE COPY**

*Bombhise*

## STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

No. SIA/MH/MIS/243583/2021  
 Environment & Climate  
 Change Department  
 Room No. 217, 2<sup>nd</sup> Floor,  
 Mantralaya, Mumbai- 400032.

To

M/s. PRIDE PURPLE LANDMARK LLP,  
 S. No. 665/A Bibwewadi, Taluka Haveli,  
 Village Bibwewadi, Pune.

**Subject** : Environmental Clearance for Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by M/s. PRIDE PURPLE LANDMARK LLP

**Reference** : Application no. SIA/MH/MIS/243583/2021

This has reference to your communication on the above-mentioned subject. The proposal was considered by the SEAC-3 in its 135<sup>th</sup> meeting under screening category 8 (a) B2 as per EIA Notification, 2006 and recommend to SEIAA. Proposal then considered in 245<sup>th</sup> (Day-3) meeting of State Level Environment Impact Assessment Authority (SEIAA).

2. Brief Information of the project submitted by you is as below:-

|    |                     |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                         |
|----|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1. | Proposal Number     | SIA/MH/MIS/243583/2021                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |
| 2. | Name of Project     | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP<br><br>We have received As per 1 <sup>st</sup> EC Letter No. SEAC-2013/CR561/TC-2 dated 1 <sup>st</sup> December, 2014 & 2 <sup>nd</sup> EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 |                                                                                         |
| 3. | Project category    | 8(a)B2                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |
| 4. | Type of Institution | Private                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                         |
| 5. | Project Proponent   | Name                                                                                                                                                                                                                                                                                                                                                                                               | Mr. D P Jain<br>Director                                                                |
|    |                     | Regd. Office address                                                                                                                                                                                                                                                                                                                                                                               | Address: Pride House, 5th floor, Near Pune University Circle, Shivajinagar, Pune 411016 |
|    |                     | Contact number                                                                                                                                                                                                                                                                                                                                                                                     | 9823022211                                                                              |
|    |                     | e-mail                                                                                                                                                                                                                                                                                                                                                                                             | <a href="mailto:nandkishor@pridepurplegroup.com">nandkishor@pridepurplegroup.com</a>    |
| 6. | Consultant          | M/s. Mahabal Enviro Engineers Pvt. Ltd.<br>Address : Plot No. F-7, Road No. 21,<br>Wagle Estate Thane-400604, Maharashtra                                                                                                                                                                                                                                                                          |                                                                                         |

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Email id : <a href="mailto:thane@mahabal.com">thane@mahabal.com</a><br>Tel: 022- 25823154/ 0658/ 1663                                                                               |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------|------------|-------------------------------------------------------------------------------|--|--|------------------------|--|--|--------------------------------|---------------|---------------|------------|---------------|---------------|------------|--|--|--|----------------------|--------|-------|-------------------------------------------------------------------------------|--|--|--|----------------------------------------------------------------------------------|---------------------------|-------|
| 7.                            | Applied for                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Expansion - Brown Field Project                                                                                                                                                     |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 8.                            | Details of previous EC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | We have received As per 1st EC Letter No. SEAC-2013/CR561/TC-2 dated 1st December, 2014 & 2nd EC SEIAA Maharashtra having file number SEIAA-EC-0000000536 dated 27th November, 2018 |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 9.                            | Location of the project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Proposed Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by PRIDE PURPLE LANDMARK LLP                 |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 10.                           | Latitude and Longitude                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Latitude – 18°27'40.53"N<br>Longitude – 73°51'52.41"E                                                                                                                               |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 11.                           | Total Plot Area(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 20,154.48                                                                                                                                                                           |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 12.                           | Deductions(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 620.00                                                                                                                                                                              |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 13.                           | Net Plot area(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 17581.03                                                                                                                                                                            |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 14.                           | Proposed FSI area(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 41412.30                                                                                                                                                                            |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 15.                           | Proposed non-FSI area(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 20771.15                                                                                                                                                                            |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 16.                           | Proposed TBUA(m <sup>2</sup> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 62183.45                                                                                                                                                                            |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 17.                           | TBUA(m <sup>2</sup> ) approved by Planning Authority till date                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 62183.45                                                                                                                                                                            |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 18.                           | Ground coverage(m <sup>2</sup> )&%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 9483.69 (As per Previous EC)                                                                                                                                                        |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 19.                           | Total Project Cost(Rs.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Rs.- 110 Crore                                                                                                                                                                      |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 20.                           | CER as per MoEF & CC circular dated 01/05/2018                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Activity                                                                                                                                                                            | Location                                                                         | Cost(Rs.)                 | Duration   |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Details attached                                                                                                                                                                    |                                                                                  |                           |            |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| 21.                           | <p><b>Details of Building Configuration:</b><br/>&lt;Please use following legends: Floor=F, Parking=Pk, Podium=Po, Stilt=St, Lower Ground=LG, Upper Ground=UG, Basement=B, Shops=Sh&gt;</p> <table border="1"> <thead> <tr> <th colspan="3">Previous EC/Existing Building</th> <th colspan="3">Proposed Configuration</th> <th rowspan="2">Reason for Modification/Change</th> </tr> <tr> <th>Building Name</th> <th>Configuration</th> <th>Height (m)</th> <th>Building Name</th> <th>Configuration</th> <th>Height (m)</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td>A-B Type (Completed)</td> <td>P+P+12</td> <td>37.65</td> <td rowspan="2">Now, we had applied for Expansion /amendment in EC due to addition of floors.</td> </tr> <tr> <td></td> <td></td> <td></td> <td>C-D Type (Proposed Internal floor design will be changed . So Flats Numbers will</td> <td>Lower Level Parking +G+14</td> <td>44.95</td> </tr> </tbody> </table> |                                                                                                                                                                                     |                                                                                  |                           |            | Previous EC/Existing Building                                                 |  |  | Proposed Configuration |  |  | Reason for Modification/Change | Building Name | Configuration | Height (m) | Building Name | Configuration | Height (m) |  |  |  | A-B Type (Completed) | P+P+12 | 37.65 | Now, we had applied for Expansion /amendment in EC due to addition of floors. |  |  |  | C-D Type (Proposed Internal floor design will be changed . So Flats Numbers will | Lower Level Parking +G+14 | 44.95 |
| Previous EC/Existing Building |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                     | Proposed Configuration                                                           |                           |            | Reason for Modification/Change                                                |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
| Building Name                 | Configuration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Height (m)                                                                                                                                                                          | Building Name                                                                    | Configuration             | Height (m) |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                     | A-B Type (Completed)                                                             | P+P+12                    | 37.65      | Now, we had applied for Expansion /amendment in EC due to addition of floors. |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                     | C-D Type (Proposed Internal floor design will be changed . So Flats Numbers will | Lower Level Parking +G+14 | 44.95      |                                                                               |  |  |                        |  |  |                                |               |               |            |               |               |            |  |  |  |                      |        |       |                                                                               |  |  |  |                                                                                  |                           |       |

|     |                                             |                                                                                                                                                                                                                                                            |        |                                                                                                                                                                                           |                           |       |  |
|-----|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-------|--|
|     |                                             |                                                                                                                                                                                                                                                            |        | be increased)                                                                                                                                                                             |                           |       |  |
|     |                                             |                                                                                                                                                                                                                                                            |        | E-F Type Residential & Commercial Building                                                                                                                                                | Lower Level Parking +G+11 | 35.99 |  |
|     |                                             |                                                                                                                                                                                                                                                            |        | Club House : Ground                                                                                                                                                                       | Ground                    | -     |  |
| 22. | Total number of tenements                   |                                                                                                                                                                                                                                                            |        | (Existing + Proposed) - Nos.<br>Proposed Residential Tenements – 328 Nos.<br>Shops – 18 Nos.<br>Residential Users: 1640 nos<br>Commercial Users: 333 Nos.<br>Total Population : 1973 nos. |                           |       |  |
| 23. | Water Budget                                | Dry Season(CMD)                                                                                                                                                                                                                                            |        | Wet Season(CMD)                                                                                                                                                                           |                           |       |  |
|     |                                             | Fresh Water                                                                                                                                                                                                                                                | 155.93 | Fresh Water                                                                                                                                                                               | 155.93                    |       |  |
|     |                                             | Recycled Flushing                                                                                                                                                                                                                                          | 80.46  | Recycled                                                                                                                                                                                  | 80.46                     |       |  |
|     |                                             | Swimming Pool                                                                                                                                                                                                                                              | -      | Swimming Pool                                                                                                                                                                             | -                         |       |  |
|     |                                             | Club House                                                                                                                                                                                                                                                 | 5.00   |                                                                                                                                                                                           | 5.00                      |       |  |
|     |                                             | Flushing                                                                                                                                                                                                                                                   | 80.46  | Flushing                                                                                                                                                                                  | 80.46                     |       |  |
|     |                                             | Gardening                                                                                                                                                                                                                                                  | 30.00  | Gardening                                                                                                                                                                                 | 0                         |       |  |
|     |                                             | Total                                                                                                                                                                                                                                                      | 271.39 | Total                                                                                                                                                                                     | 241.39                    |       |  |
|     |                                             | Wastewater generation                                                                                                                                                                                                                                      | 106.79 |                                                                                                                                                                                           | 136.79                    |       |  |
| 24. | Water Storage Capacity for Firefighting/UGT | Residential:<br>Domestic UG tank Capacity ( CUM): 142<br>Flushing UG tank Capacity ( CUM): 73<br>Fire UG tank Capacity ( CUM): 200 x 2<br>Commercial: NA<br>Domestic UG tank Capacity: NA<br>Flushing UG tank Capacity: -NA<br>Fire UG tank Capacity: - NA |        |                                                                                                                                                                                           |                           |       |  |
| 25. | Source of water                             | Pune Municipal Corporation (PMC )                                                                                                                                                                                                                          |        |                                                                                                                                                                                           |                           |       |  |
| 26. | Rainwater Harvesting (RWH)                  | Level of the Ground water table:                                                                                                                                                                                                                           |        | 2.3 to 2.7 m, below                                                                                                                                                                       |                           |       |  |
|     |                                             | Size and no of RWH tank(s)and Quantity:                                                                                                                                                                                                                    |        | NA                                                                                                                                                                                        |                           |       |  |
|     |                                             | Quantity and size of recharge pits:                                                                                                                                                                                                                        |        | 5 nos. pits with 10 nos. of recharge bore wells.<br>Size - 2.60 m x 2.60 m x 1.65 m                                                                                                       |                           |       |  |
|     |                                             | Details of UGT tanks if any:                                                                                                                                                                                                                               |        | Residential:<br>Domestic UG tank Capacity:142<br>Flushing UG tank Capacity: 73<br>Fire UG tank Capacity: 200x2                                                                            |                           |       |  |



|     |                                                  |                                         |                                                                                                                                                                   |                                                                                             |
|-----|--------------------------------------------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
|     |                                                  |                                         | Commercial: NA<br>Domestic UG tank Capacity: NA m <sup>3</sup><br>Flushing UG tank Capacity: -including residential m <sup>3</sup><br>Fire UG tank Capacity: - NA |                                                                                             |
| 27. | Sewage and Wastewater                            | Sewage generation inCMD:                | 217.25                                                                                                                                                            |                                                                                             |
|     |                                                  | STP technology:                         | MBBR                                                                                                                                                              |                                                                                             |
|     |                                                  | Capacity of STP(CMD):                   | 1 x220 KLD                                                                                                                                                        |                                                                                             |
| 28. | Solid Waste Management during Construction Phase | Type                                    | Quantity(kg/d)                                                                                                                                                    | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 27.00                                                                                                                                                             | Total - 45 kgs/day - Composting method                                                      |
|     |                                                  | Wet waste:                              | 18.00                                                                                                                                                             |                                                                                             |
|     |                                                  | Construction waste                      | Excavation -2120 m <sup>3</sup>                                                                                                                                   | Excavated earth material will be used for filling of plinth area & top soil for landscaping |
| 29. | Solid Waste Management during Operation Phase    | Type                                    | Quantity(kg/d)                                                                                                                                                    | Treatment/disposal                                                                          |
|     |                                                  | Dry waste:                              | 368                                                                                                                                                               | Handed over to authorized recycler for further handling &disposal purpose                   |
|     |                                                  | Wet waste:                              | 519                                                                                                                                                               | Through Mechanical Composter (Smart OWC)                                                    |
|     |                                                  | Hazardous waste:                        | NA                                                                                                                                                                |                                                                                             |
|     |                                                  | Biomedical waste                        | NA                                                                                                                                                                |                                                                                             |
|     |                                                  | E-Waste                                 | 95 kg/Month                                                                                                                                                       | Handed over to authorized recycler for further handling &disposal purpose                   |
|     |                                                  | STP Sludge(dry)                         | 16.5 kg/day                                                                                                                                                       | To be used as manure for Gardening purpose                                                  |
| 30. | Green Belt Development                           | Total RG area(m <sup>2</sup> ):         | 1953.45 m <sup>2</sup>                                                                                                                                            |                                                                                             |
|     |                                                  | Existing trees on plot:                 | 275                                                                                                                                                               |                                                                                             |
|     |                                                  | Number of trees to be planted:          | 220                                                                                                                                                               |                                                                                             |
|     |                                                  | Number of trees to be cut:              | NA                                                                                                                                                                |                                                                                             |
|     |                                                  | Number of trees to be transplanted:     | NA                                                                                                                                                                |                                                                                             |
| 31. | Power requirement:                               | Source of power supply:                 | MSEDCL                                                                                                                                                            |                                                                                             |
|     |                                                  | During Construction Phase Demand Load): | 85 kW                                                                                                                                                             |                                                                                             |
|     |                                                  | During Operation phase(Connected load): | 2521.25 kW                                                                                                                                                        |                                                                                             |
|     |                                                  | During Operation phase(Demand load):    | 1,123.45kW                                                                                                                                                        |                                                                                             |
|     |                                                  | Transformer:                            | 2Nos. x 630kVA                                                                                                                                                    |                                                                                             |

|     |                                                                                     |                          |                                                           |                       |                                    |  |
|-----|-------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------|-----------------------|------------------------------------|--|
|     |                                                                                     | DG set:                  |                                                           | 1 No.x200 kVA         |                                    |  |
|     |                                                                                     | Fuel used:               |                                                           | HSD                   |                                    |  |
| 32. | Details of Energy saving                                                            | 246636 KWH / Anum<br>9 % |                                                           |                       |                                    |  |
| 33. | Environmental Management plan budget during Construction phase                      | Type                     | Details                                                   |                       | Cost                               |  |
|     |                                                                                     | Capital                  | Air & Noise and Water, Land Biological and Socio Economic |                       | Rs. 27.44 Lakh                     |  |
|     |                                                                                     | O&M                      | Included in above                                         |                       |                                    |  |
| 34. | Environmental Management plan Budget during Operation phase                         | Component                | Details                                                   | Capital (Rs.) in Lakh | O&M (Rs. Lakh/Y)                   |  |
|     |                                                                                     | Sewage treatment         | STP plant 1x220 KLD                                       | 38.00                 | 9.75                               |  |
|     |                                                                                     | Water treatment          | -                                                         | NA                    | NA                                 |  |
|     |                                                                                     | RWH and Storm Water      | RWH Pits and network                                      | 3.76                  | 0.26                               |  |
|     |                                                                                     | Swimming Pool            | -                                                         | -                     | -                                  |  |
|     |                                                                                     | Solid Waste              | OWC                                                       | 14.9                  | 3.6                                |  |
|     |                                                                                     | Hazardous waste          | NA                                                        | -                     | -                                  |  |
|     |                                                                                     | e-waste                  | Authorized vendor                                         | -                     | -                                  |  |
|     |                                                                                     | Green belt development   | Plantation                                                | 1.62                  | 11.21                              |  |
|     |                                                                                     | Energy saving            | Solar and LED                                             | 13.44                 | 0.67                               |  |
|     |                                                                                     | Environmental Monitoring | Through laboratory                                        | -                     | 18.41                              |  |
|     |                                                                                     | Disaster Management      | Provided                                                  | 63.78                 | 1.18                               |  |
| 35. | Traffic Management                                                                  | Type                     | Required as per DCR no                                    | Actual Provided Nos.  | Area per parking (m <sup>2</sup> ) |  |
|     |                                                                                     | 4-Wheeler                | 405                                                       | 405                   | As per Standard DCR                |  |
|     |                                                                                     | 2-Wheeler                | 918                                                       | 918                   | As per Standard DCR                |  |
|     |                                                                                     | Bicycles                 | 192                                                       | 192                   | As per Standard DCR                |  |
| 36. | Details of Court cases /litigations w.r.t. the project and project location if any. | NA                       |                                                           |                       |                                    |  |

3. Proposal is an expansion of existing construction project. Project has received 1st EC vide Letter No. SEAC-2013/CR561/TC-2 dated 1st December, 2014 PP obtained 2nd EC vide SEIAA-EC-0000000536, dated 27th November, 2018 for total BUA of 50168.00 m<sup>2</sup>. Proposal has been considered by SEIAA in its 245<sup>th</sup> (Day-3) meeting and decided to accord Environment Clearance to the said project under the provisions of Environment Impact Assessment Notification, 2006 subject to implantation of following terms and conditions-

**Specific Conditions:**

**A. SEAC Conditions-**

1. PP to submit certified Compliance report from Regional officer MoEFCC Nagpur.
2. As agreed during presentation PP to change the shrub proposed i.e. Phycus Benjamina.
3. As agreed during presentation PP to ensure that the fire tender Movement shall be in front of Commercial area also.
4. PP to reshuffle entry and exit to avoid traffic congestion in the plot area. PP to ensure that the slope of the ramp shall be maintained as 1:10.
5. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.
6. PP to ensure that, the water proposed to use for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

**B. SEIAA Conditions-**

1. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
2. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
3. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
4. SEIAA after deliberation decided to grant EC for – FSI -41412.30 m<sup>2</sup>, Non FSI- 16250.89 m<sup>2</sup>, Total BUA-57663.19 m<sup>2</sup>. (Plan approval No. CC/0634/21/DPO/Zone-5, Date-21.06.2021).

**General Conditions:**

**a) Construction Phase :-**

- I. The solid waste generated should be properly collected and segregated. Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.
- II. Disposal of muck, Construction spoils, including bituminous material during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in the approved sites with the approval of competent authority.
- III. Any hazardous waste generated during construction phase should be disposed of as per applicable rules and norms with necessary approvals of the Maharashtra Pollution Control Board.

- IV. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. Provision should be made for mobile toilets. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.
- V. Arrangement shall be made that waste water and storm water do not get mixed.
- VI. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.
- VII. The ground water level and its quality should be monitored regularly in consultation with Ground Water Authority.
- VIII. Permission to draw ground water for construction of basement if any shall be obtained from the competent Authority prior to construction/operation of the project.
- IX. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
- X. The Energy Conservation Building code shall be strictly adhered to.
- XI. All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.
- XII. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.
- XIII. Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.
- XIV. PP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.
- XV. The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environments (Protection) Rules prescribed for air and noise emission standards.
- XVI. PP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.
- XVII. Vehicles hired for transportation of Raw material shall strictly comply the emission norms prescribed by Ministry of Road Transport & Highways Department. The vehicle shall be adequately covered to avoid spillage/leakages.
- XVIII. Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/MPCB.
- XIX. Diesel power generating sets proposed as source of backup power for elevators and common area illumination during construction phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel is preferred. The location of the DG sets may be decided with in consultation with Maharashtra Pollution Control Board.
- XX. Regular supervision of the above and other measures for monitoring should be in place

all through the construction phase, so as to avoid disturbance to the surroundings by a separate environment cell /designated person.

**B) Operation phase:-**

- I. a) The solid waste generated should be properly collected and segregated. b) Wet waste should be treated by Organic Waste Converter and treated waste (manure) should be utilized in the existing premises for gardening. And, no wet garbage will be disposed outside the premises. c) Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.
- II. E-waste shall be disposed through Authorized vendor as per E-waste (Management and Handling) Rules, 2016.
- III. a) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/ reused to the maximum extent possible. Treatment of 100% grey water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP. b) PP to give 100 % treatment to sewage /Liquid waste and explore the possibility to recycle at least 50 % of water, Local authority should ensure this.
- IV. Project proponent shall ensure completion of STP, MSW disposal facility, green belt development prior to occupation of the buildings. As agreed during the SEIAA meeting, PP to explore possibility of utilizing excess treated water in the adjacent area for gardening before discharging it into sewer line No physical occupation or allotment will be given unless all above said environmental infrastructure is installed and made functional including water requirement.
- V. The Occupancy Certificate shall be issued by the Local Planning Authority to the project only after ensuring sustained availability of drinking water, connectivity of sewer line to the project site and proper disposal of treated water as per environmental norms.
- VI. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
- VII. PP to provide adequate electric charging points for electric vehicles (EVs).
- VIII. Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Dept.
- IX. A separate environment management cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
- X. Separate funds shall be allocated for implementation of environmental protection measures/EMP along with item-wise breaks-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes.
- XI. The project management shall advertise at least in two local newspapers widely circulated in the region around the project, one of which shall be in the Marathi language of the local concerned within seven days of issue of this letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the Maharashtra Pollution Control Board and may also be seen at

Website at parivesh.nic.in

- XII. Project management should submit half yearly compliance reports in respect of the stipulated prior environment clearance terms and conditions in hard & soft copies to the MPCB & this department, on 1st June & 1st December of each calendar year.
- XIII. A copy of the clearance letter shall be sent by proponent to the concerned Municipal Corporation and the local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.
- XIV. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) or critical sector parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.

**C) General EC Conditions:-**

- I. PP has to strictly abide by the conditions stipulated by SEAC & SEIAA.
- II. If applicable Consent for Establishment" shall be obtained from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to the Environment department before start of any construction work at the site.
- III. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
- IV. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
- V. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.
- VI. No further Expansion or modifications, other than mentioned in the EIA Notification, 2006 and its amendments, shall be carried out without prior approval of the SEIAA. In case of deviations or alterations in the project proposal from those submitted to SEIAA for clearance, a fresh reference shall be made to the SEIAA as applicable to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any.
- VII. This environmental clearance is issued subject to obtaining NOC from Forestry & Wild life angle including clearance from the standing committee of the National Board for Wild life as if applicable & this environment clearance does not necessarily implies that Forestry & Wild life clearance granted to the project which will be considered separately on merit.

- 4. The environmental clearance is being issued without prejudice to the action initiated under



EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this clearance does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.

5. This Environment Clearance is issued purely from an environment point of view without prejudice to any court cases and all other applicable permissions/ NOCs shall be obtained before starting proposed work at site.

6. In case of submission of false document and non-compliance of stipulated conditions, Authority/ Environment Department will revoke or suspend the Environment clearance without any intimation and initiate appropriate legal action under Environmental Protection Act, 1986.

7. Validity of Environment Clearance: The environmental clearance accorded shall be valid as per EIA Notification, 2006, amended from time to time.

8. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes (Management and Handling) Rules, 1989 and its amendments, the public Liability Insurance Act, 1991 and its amendments.

9. Any appeal against this Environment clearance shall lie with the National Green Tribunal (Western Zone Bench, Pune), New Administrative Building, 1<sup>st</sup> Floor, D-Wing, Opposite Council Hall, Pune, if preferred, within 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

Manisha Patankar-Mhaskar  
(Member Secretary, SEIAA)

Copy to:

1. Chairman, SEIAA, Mumbai.
2. Secretary, MoEF & CC, IA- Division MOEF & CC
3. Member Secretary, Maharashtra Pollution Control Board, Mumbai.
4. Regional Office MoEF & CC, Nagpur
5. District Collector, Pune.
6. Commissioner, Pune Municipal Corporation
7. Regional Officer, Maharashtra Pollution Control Board, Pune.

TRUE COPY

*Bgmhise*

Signature Not Verified

Digitally signed by Manisha Patankar Mhaskar  
Member Secretary

Date: 7/25/2022 3:32:23 PM

1316

**ANNEXURE-A-10**

**STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY**

No. SIA/MH/MIS/233761/2021  
Environment & Climate Change Department,  
Room No. 217, 2<sup>nd</sup> Floor,  
Mantralaya, Mumbai- 400032.  
Date- 27-08-2022

To  
M/s. Pride Purple Landmark LLP  
S. No. 665/A Bibwewadi, Taluka Haveli,  
Village Bibwewadi, Pune

**Subject:** Amendment /Expansion in Residential & Commercial project PARK LANDMARK at S. No. 665/A Bibwewadi, Taluka Haveli, Village Bibwewadi, Pune by M/s. Pride Purple Landmark LLP

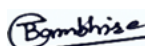
**Reference:** Application no. SIA/MH/MIS/233761/2021

This has reference to your communication on the above mentioned subject. Your proposal was considered in 249<sup>th</sup> meeting (Day-2) of SEIAA held on 26<sup>th</sup> August 2022 and following decision is taken-

“Application is forwarded by SEAC-3 in 148<sup>th</sup> meeting held on 26<sup>th</sup> to 29<sup>th</sup> July, 2022 to SEIAA with the recommendation that PP may be allowed to withdraw the project. SEIAA after deliberation decided to reject the proposal.”

  
Manisha Patankar Mhaskar  
(Member Secretary, SEIAA) 27/8/2022

**TRUE COPY**





VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA

647

(1996) 5 Supreme Court Cases 647

(BEFORE KULDIP SINGH, FAIZAN UDDIN AND K. VENKATASWAMI, JJ.)

*a* VELLORE CITIZENS' WELFARE FORUM . . . Petitioner;  
*Versus*  
UNION OF INDIA AND OTHERS . . . Respondents.

Writ Petition (C) No. 914 of 1991<sup>†</sup>, decided on August 28, 1996

- b* **A. Constitution of India — Arts. 32, 21, 47, 48-B, 51-A(g) — Environmental pollution by tannery industries —** While the industries are vital for country's development, but having regard to pollution caused by them, principle of Sustainable Development has to be adopted as a balancing concept — **Precautionary Principle and Polluter Pays Principle acceptable as part of the law of the country and should be implemented —** Precautionary environmental measures should be taken by State Govt. and statutory authorities and lack of scientific certainty cannot be a ground for postponing such measures where
- c* **there are serious threats to ecology — Onus on polluter industries to prove that their actions were environmentally benign — Polluter industries liable to pay compensation to individuals affected as well as to make good the ecological damage — Discharge of untreated effluent by tanneries in State of T.N. rendering river water unfit for human consumption, contaminating the subsoil water and spoiling the physico-chemical properties of the soil making it unfit for agricultural purposes — Held, such industries cannot be permitted to continue their operation unless they set up pollution control devices — Such industries liable to compensate for the past pollution generated by them — Pollution fine of Rs 10,000 imposed on each tannery — Amount to be deposited in Environment Protection Fund which shall be utilised for compensating the affected persons and restoring the ecological balance — Environment (Protection) Act, 1986 — Ecology — Damage to — Compensation**
- e* **B. Ecology — Environment (Protection) Act, 1986 — S. 3(3) — Authority under — Directed to be constituted by Central Govt. before 30-9-1996 — Authority to be headed by a retired High Court Judge — Authority to have all powers necessary to deal with the situation created by the polluting industries — Authority also to implement the Precautionary Principle and the principle of Polluter Pays — Authority to compute compensation payable by the polluting industries to individuals affected and that payable for restoring the damage it caused to the environment — Authority also to frame a scheme in consultation with expert bodies like NEERI, Central Board and State Board for reversing the ecological damage and environmental pollution**
- f* **C. Constitution of India — Arts. 32, 226 & 21 — PIL — Ecology — Green Bench — Environmental pollution caused by tanneries in State of T.N. — Suitable directions issued by Supreme Court — However, instead of itself monitoring the matter any further Madras High Court advised to constitute a Green Bench to deal with all the environmental matters — Such Green Benches already functioning in some other High Courts**
- g* **D. International Law — Customary international law — If not contrary to the municipal law, deemed to be incorporated in domestic law**
- h* **E. Judicial activism — Inaction on the part of the Govt. to set up regulatory/adjudicatory statutory authorities as directed by the Act makes it imperative for the Court to pass suitable necessary directions**

<sup>†</sup> Under Article 32 of the Constitution of India

648

SUPREME COURT CASES

(1996) 5 SCC

*Held :*

Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry. (Para 9)

The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists. (Para 10)

"The Precautionary Principle" and "the Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" — in the context of the municipal law — means:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

"The Polluter Pays Principle" has been held to be a sound principle. The "Polluter Pays Principle" as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject. In view of the constitutional and statutory provisions it must be held that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country. (Paras 11 to 14)

*Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212 : JT (1996) 2 SC 196, *relied on*

Even otherwise, once these principles are accepted as part of the customary international law there would be no difficulty in accepting them as part of the domestic law. The rules of customary international law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. (Para 15)

*A.D.M. v. Shivakant Shukla*, (1976) 2 SCC 521 : AIR 1976 SC 1207; *Jolly George Varghese v. Bank of Cochin*, (1980) 2 SCC 360 : AIR 1980 SC 470; *Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667, *relied on*

The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the

VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA

649

inalienable common law right of clean environment. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land. (Paras 16 and 17)

- a *Commentaries on the Laws of England of Sir William Blackstone* Vol. III, Fourth Edn. published in 1876. Chapter XIII, *relied on*

The Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by the Supreme Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for the Supreme Court to direct the Central Government to take immediate action under the provisions of the Environment Act. (Para 20)

- c There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. The Supreme Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology. (Para 21)

- d The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, it is directed that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu. (Para 24)

[Keeping in view the above position the Supreme Court gave specific directions in para 25.]

- e However, it is not necessary for the Supreme Court to monitor these matters any further. The Madras High Court would be in a better position to monitor these matters hereinafter. Therefore, the Chief Justice of the Madras High Court is directed to constitute a Special Bench — “Green Bench” — to deal with this case and other environmental matters. However, it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by “Green Benches” already functioning in Calcutta, Madhya Pradesh and some other High Courts. (Para 26)

R-M/T/16616/C

- g Advocates who appeared in this case :  
R. Mohan, V.A. Bobde, Kapil Sibal, M.R. Sharma, V.C. Mahajan and S.S. Ray, Senior Advocates (K.R.R. Pillai, M.C. Mehta, Ms Seema Midha, V.G. Pragasam, Vijay Panjwani, S. Sukumaran, Sudhir Walia, A.T.M. Sampath, M.S. Dahiya, Sudhir Walia, Roy Abraham, Sm. Baby Krishna, P. Sukumar, Praveen Kumar, Romesh C. Pathak, M.A. Krishnamoorthy, V. Krishnamurthi, Ms Anil Katiyar, Ms Indra Sawhney, Deepak Divan, S.M. Jadhav, A.V. Rangam, Zafarullah Khan, Shahid Rizvi, Shakil Ahmed Syed, Jaideep Gupta and Sanjay Hegde, Advocates, with them)
- h for the appearing parties.

650 SUPREME COURT CASES (1996) 5 SCC

**Chronological list of cases cited**

**on page(s)**

1. (1996) 3 SCC 212 : JT (1996) 2 SC 196, *Indian Council for Enviro-Legal Action v. Union of India* 658g-h a
2. (1984) 2 SCC 534 : 1984 SCC (Cr) 313 : AIR 1984 SC 667, *Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey* 660e
3. (1980) 2 SCC 360 : AIR 1980 SC 470, *Jolly George Varghese v. Bank of Cochin* 660d-e
4. (1976) 2 SCC 521 : AIR 1976 SC 1207, *A.D.M. v. Shivakant Shukla* 660d-e

The Judgment of the Court was delivered by

KULDIP SINGH, J.— This petition — public interest — under Article 32 of the Constitution of India has been filed by Vellore Citizens' Welfare Forum and is directed against the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu. It is stated that the tanneries are discharging untreated effluent into agricultural fields, roadsides, waterways and open lands. The untreated effluent is finally discharged in River Palar which is the main source of water supply to the residents of the area. According to the petitioner the entire surface and subsoil water of River Palar has been polluted resulting in non-availability of potable water to the residents of the area. It is stated that the tanneries in the State of Tamil Nadu have caused environmental degradation in the area. According to the preliminary survey made by the Tamil Nadu Agricultural University Research Centre, Vellore nearly 35,000 hectares of agricultural land in the tanneries belt has become either partially or totally unfit for cultivation. It has been further stated in the petition that the tanneries use about 170 types of chemicals in the chrome tanning processes. The said chemicals include sodium chloride, lime, sodium sulphate, chlorium (*sic*) sulphate, fat, liquor, ammonia and sulphuric acid besides dyes which are used in large quantities. Nearly 35 litres of water is used for processing one kilogram of finished leather, resulting in dangerously enormous quantities of toxic effluents being let out in the open by the tanning industry. These effluents have spoiled the physico-chemical properties of the soil and have contaminated groundwater by percolation. According to the petitioner an independent survey conducted by Peace Members, a non-governmental organisation, covering 13 villages of Dindigul and Peddiar Chatram Anchayat Unions, reveals that 350 wells out of total of 467 used for drinking and irrigation purposes have been polluted. Women and children have to walk miles to get drinking water. Legal Aid and Advice Board of Tamil Nadu requested two lawyers namely, M.R. Ramanan and P.S. Subramaniam to visit the area and submit a report indicating the extent of pollution caused by the tanneries. Relevant part of the report is as under:

“As per the Technical Report dated 28-5-1983 of the hydrological investigations carried out in Solur village near Ambur it was noticed that 176 chemicals including acids were contained in the tannery effluents. If 40 litres of water with chemicals are required for one kilo of leather, with the production of 200 tons of leather per day at present and likely to

VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA (*Kuldip Singh, J.*) 651

- a be increased multifold in the next four to five years with the springing up of more tanneries like mushroom in and around Ambur town, the magnitude of the effluent water used with chemicals and acids let out daily can be shockingly imagined. ... The effluents are let out from the tanneries in the nearby lands, then to Goodar and Palar rivers. The lands, the rivulet and the river receive the effluents containing toxic chemicals and acids. The subsoil water is polluted ultimately affecting not only arable lands, wells used for agriculture but also drinking-water wells.
- b The entire Ambur town and the villages situated nearby do not have good drinking water. Some of the influential and rich people are able to get drinking water from a far-off place connected by a few pipes. During rainy days and floods, the chemicals deposited into the rivers and lands spread out quickly to other lands. The effluents thus let out affect cultivation; either crops do not come up at all or if produced the yield is reduced abnormally too low. ... The tanners have come to stay. The industry is a foreign exchange earner. But one moot point is whether at the cost of the lives of lakhs of people with increasing human population the activities of the tanneries should be encouraged on monetary considerations. We find that the tanners have absolutely no regard for the healthy environment in and around their tanneries. The effluents discharged have been stored like a pond openly in most of the places adjacent to cultivable lands with easy access for the animals and the people. The Ambur Municipality, which can exercise its powers as per the provisions of the Madras District Municipalities Act, 1920 (5 of 1920) more particularly under Sections 226 to 231, 249 to 253 and 338 to 342 seems to be a silent spectator. Probably it does not want to antagonise the highly influential and stupendously rich tanners. The powers given under Section 63 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) have not been exercised in the case of tanneries in Ambur and the surrounding areas."

2. Along with the affidavit dated 21-7-1992 filed by Deputy Secretary to Government, Environment and Forests Department of Tamil Nadu, a list of villages affected by the tanneries has been attached. The list mentions 59 villages in the three divisions of Thirupathur, Vellore and Ranipet. There is acute shortage of drinking water in these 59 villages and as such alternative arrangements were being made by the Government for the supply of drinking water.

3. In the affidavit dated 9-1-1992 filed by Member Secretary, Tamil Nadu Pollution Control Board (the Board), it has been stated as under:

- "It is submitted that there are 584 tanneries in North Arcot Ambedkar District vide Annexures 'A' and 'D', out of which 443 tanneries have applied for consent of the Board. The Government were concerned with the treatment and disposal of effluent from tanneries. The Government gave time up to 31-7-1985 to tanneries to put up Effluent Treatment Plant (ETP). So far 33 tanneries in North Arcot



652

SUPREME COURT CASES

(1996) 5 SCC

Ambedkar District have put up Effluent Treatment Plants. The Board has stipulated standards for the effluent to be disposed of by the tanneries.”

4. The affidavits filed on behalf of the State of Tamil Nadu and the Board clearly indicate that the tanneries and other polluting industries in the State of Tamil Nadu are being persuaded for the last about 10 years to control the pollution generated by them. They were given option either to construct common effluent treatment plants for a cluster of industries or to set up individual pollution control devices. The Central Government agreed to give substantial subsidy for the construction of Common Effluent Treatment Plants (CETPs). It is a pity that till date most of the tanneries operating in the State of Tamil Nadu have not taken any step to control the pollution caused by the discharge of effluent. This Court on 1-5-1995 passed a detailed order. In the said order this Court noticed various earlier orders passed by this Court and finally directed as under:

“Mr R. Mohan, the learned Senior Counsel for the Tamil Nadu Pollution Control Board, has placed before us a consolidated statement dividing the 553 industries into three parts. The first part in Statement 1 and the second part in Statement 2 relate to those tanneries who have set up the Effluent Treatment Plants either individually or collectively to the satisfaction of the Tamil Nadu Pollution Control Board. According to the report placed on the record by the Board, these industries in Statements 1 and 2 have not achieved the standard or have not started functioning to the satisfaction of the Board. So far as the industries in Statements 1 and 2 are concerned, we give them three months’ notice from today to complete the setting up of Effluent Treatment Plant (either individually or collectively) failing which they shall be liable to pollution fine on the basis of their past working and also liable to be closed. We direct the Tamil Nadu Pollution Control Board to issue individual notices to all these industries within two weeks from today. The Board is also directed to issue a general notice on three consecutive days in a local newspaper which has circulation in the district concerned.

So far as the 57 tanneries listed in Statement III (including 12 industries who have filed writ petition, numbers of which have been given above) are concerned, these units have not installed and commissioned the Effluent Treatment Plants despite various orders issued by this Court from time to time. Mr R. Mohan, the learned Senior Counsel appearing for Tamil Nadu Pollution Control Board, states that the Board has issued separate notices to these units directing them to set up the Effluent Treatment Plants. Keeping in view the fact that this Court has been monitoring the matter for the last about four years and various orders have been issued by this Court from time to time, there is no justification to grant any further time to these industries. We, therefore, direct the 57 industries listed hereunder to be closed with immediate effect. ... We direct the District Collector and the Senior Superintendent of Police of the district to have our orders complied with

VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA (*Kuldip Singh, J.*) 653

immediately. Both these officers shall file a report in this Court within one week of the receipt of the order.

a We give opportunity to these 57 industries to approach this Court as and when any steps towards the setting up of Effluent Treatment Plants and their commissioning have been taken by these industries. If any of the industries wish to be relocated to some other area, they may come out with a proposal in that respect."

b 5. On 28-7-1995 this Court suspended the closure order in respect of seven industries mentioned therein for a period of eight weeks. It was further observed as under:

c "Mr G. Ramaswamy, the learned Senior Advocate appearing for some of the tanneries in Madras, states that the setting up of the Effluent Treatment Plants is progressing satisfactorily. According to him several lakhs have already been spent and in a short time it would start operating. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that the team of the Board will inspect the project and file a report by 3-8-1995."

6. This Court on 8-9-1995 passed the following order:

d "The Tamil Nadu Pollution Control Board has filed its report. List No. I relates to about 299 industries. It is stated by Mr G. Ramaswamy, Mr Kapil Sibal and Mr G.L. Sanghi, the learned Senior Advocates appearing for these industries, that the setting up of the projects is in progress. According to the learned counsel Tamil Nadu Leather Development Corporation (TALCO) is in charge of the project. The learned counsel state that the project shall be completed in every respect within 3 months from today. The details of these industries and the projects undertaken by TALCO as per List No. I are as under. ... We are of the view that it would be in the interest of justice to give a little more time to these industries to complete the project. Although the industries have asked for three months' time, we give them time till 31-12-1995. We make it clear that in case the projects are not completed by that time, the industries shall be liable to be closed forthwith. Apart from that, these industries shall also be liable to pollution fine for the past period during which they had been operating.

We also take this opportunity to direct TALCO to take full interest in these projects and have the projects completed within the time granted by us.

g Mr Kapil Sibal, the learned counsel appearing for the tanneries, stated that Council for Indian Finished Leather Manufacturers' Export Association is a body which is collecting 5 per cent on all exports. This body also helps the tanneries in various respects. We issue notice to the Association to be present in this Court and assist this Court in all the matters pertaining to the leather tanneries in Madras. Mr Sampath takes notice.

h

654

SUPREME COURT CASES

(1996) 5 SCC

So far as List No. II is concerned, it relates to about 163 tanneries (except M/s Vibgyor Tanners & Co., Kailasagiri Road, Mittalam-635 811, Ambur (via). The Pollution Control Board has inspected all these tanneries and placed its report before us. According to the report most of these tanneries have not even started primary work at the spot. Some of them have not even located the land. The tanneries should have themselves set up the pollution control devices right at the time when they started working. They have not done so. They are not even listening to various orders passed by this Court from time to time during the last more than 2 years. It is on the record that these tanneries are polluting the area. Even the water around the area where they are operating is not worth drinking. We give no further time to these tanneries. We direct all the following tanneries which are numbering about 162 to be closed with immediate effect.”

It may be mentioned that this Court suspended the closure orders in respect of various industries from time to time to enable the said industries to install the pollution control devices.

7. This Court by the order dated 20-10-1995 directed the National Environmental Engineering Research Institute, Nagpur (NEERI) to send a team of experts to examine, in particular, the feasibility of setting up of CETPs for cluster of tanneries situated at different places in the State of Tamil Nadu where the work of setting up of the CETPs has not started and also to inspect the existing CETPs including those where construction work was in progress. NEERI submitted its first report on 9-12-1995 and the second report on 12-2-1996. This Court examined the two reports and passed the following order on 9-4-1996:

“Pursuant to this Court’s order dated December 15, 1995, NEERI has submitted Final Examination Report dated February 12, 1996 regarding CETPs constructed/under construction by the tanneries in various districts of the State of Tamil Nadu. A four-member team constituted by the Director, NEERI inspected the CETPs from January 27, 1996 to February 12, 1996. According to the report, at present, 30 CETP sites have been identified for tannery clusters in the five districts of Tamil Nadu viz., North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. All the 30 CETPs were inspected by the team. According to the report, only 7 CETPs are under operation, while 10 are under construction and 13 are proposed. The following 7 CETPs are under operation:

1. M/s TALCO Ranipet Tannery Effluent Treatment Co. Ltd., Ranipet, District North Arcot Ambedkar.
2. M/s TALCO Ambur Tannery Effluent Treatment Co. Ltd., Thuthipet Sector, Ambur, District North Arcot Ambedkar.
3. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Vaniyambattu, Vaniyambadi, District North Arcot.



VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 655

4. M/s Pallavaram Tanners Industrial Effluent Treatment Co., Chrompet Area, District Chengai MGR.

a 5. M/s Ranipet SIDCO Finished Leather Effluent Treatment Co. Pvt. Ltd., Ranipet, District North Arcot Ambedkar.

6. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Udayendiram, Vaniyambadi, District North Arcot Ambedkar.

b 7. M/s TALCO Pernambut Tannery Effluent Treatment Co. Ltd., Bakkalapalli, Pernambut, District North Arcot Ambedkar.

c The CETPs mentioned at Sl. Nos. 5, 6 and 7 were commissioned in January 1996 and were on the date of report passing through stabilization period. The report indicates that so far as the above CETPs are concerned, although there is improvement in the performance, they are still not operating at their optimal level and are not meeting the standards as laid down by the Ministry of Environment and Forests and the Tamil Nadu Pollution Control Board for inland surface water discharge. The NEERI has given various recommendations to be followed by the above-mentioned units. We direct the units to comply with the recommendations of NEERI within two months from today. The Tamil Nadu Pollution Control Board shall monitor the directions and have the recommendations of the NEERI complied with. So far as the three units which are under stabilization are concerned, the NEERI Team may inspect the same and place a final report before this Court within the period of two months.

d Apart from the tanneries which are connected with the above-mentioned 7 units, there are large number of other tanneries operating in the 5 districts mentioned above which have not set up any satisfactory pollution control devices. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that notices were issued to all those tanneries from time to time directing them to set up the necessary pollution control devices. It is mandatory for the tanneries to set up the pollution control devices. Despite notices it has not been done. This Court has been monitoring these matters for the last about 4 years. There is no awakening or realisation to control the pollution which is being generated by these tanneries.

e The NEERI has indicated the physico-chemical characteristics of groundwater from dug wells near tannery clusters. According to the report, water samples show that well waters around the tanneries are unfit for drinking. The report also shows that the quality of water in Palar river downstream from the place where effluent is discharged is highly polluted. We, therefore, direct that all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. which are not connected with the seven CETPs mentioned above, shall be closed with immediate effect. None of these tanneries shall be permitted to operate till the time the CETPs are constructed to the satisfaction of the Tamil Nadu Pollution Control

656

SUPREME COURT CASES

(1996) 5 SCC

Board. We direct the District Magistrate and the Superintendent of Police of the area concerned, to have all these tanneries closed with immediate effect. Mr Mehta has placed on record the report of Tamil Nadu Pollution Control Board. In Statement I of the Index, there is a list of 30 industries which have also not been connected with any CETPs. According to the report, these industries have not, till date set up pollution control devices. We direct the closure of these industries also. List is as under. ... The Tamil Nadu Pollution Control Board has filed another report dated January 18, 1996 pertaining to 51 tanneries. There is dispute regarding the permissible limit of the quantity of total dissolved solids (TDS). Since the NEERI Team is visiting these tanneries, they may examine the TDS aspect also and advise this Court accordingly. Meanwhile, we do not propose to close any of the tanneries on the ground that it is discharging more than 2001 TDS. a

The report indicates that except the 17 units, all other units are non-complaint units in the sense that they are not complying with the BOD standards. Excepting these 17 industries, the remaining 34 tanneries listed hereunder are directed to be closed forthwith. ... We direct the District Magistrate and the Superintendent of Police of the area concerned to have all these industries mentioned above closed forthwith. The tanneries in the 5 districts of Tamil Nadu referred to in this order have been operating for a long time. Some of the tanneries are operating for a period of more than two decades. All this period, these tanneries have been polluting the area. Needless to say that the total environment in the area has been polluted. We issue show-cause notice to these industries through their learned counsel who are present in Court, why they be not subjected to heavy pollution fine. We direct the State of Tamil Nadu through the Industry Ministry, the Tamil Nadu Pollution Control Board and all other authorities concerned and also the Government of India through the Ministry of Environment and Forests, not to permit the setting up of further tanneries in the State of Tamil Nadu. b

Copy of this order be communicated to the authorities concerned within three days. To come up for further consideration after the replies to the show-cause. There are a large number of tanneries in the State of Tamil Nadu which have set up individual pollution control devices and which according to the Tamil Nadu Pollution Control Board are operating satisfactorily. The fact, however, remains that all these tanneries are discharging the treated effluents within the factory precincts itself. We direct NEERI Team which is visiting this area to find out as to whether the discharge of the effluent on the land within the factory premises is permissible environmentally. *M/s Nandeem Tanning Company, Valayampet Vaniyambadi* is one of such industries. Copy of the report submitted by the Tamil Nadu Pollution Control Board be forwarded to the NEERI. NEERI may inspect this industry within ten days and file a report in this Court. Copy of this order be communicated to NEERI. c

VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 657

*Matters regarding distilleries in the State of Tamil Nadu*

- a The Tamil Nadu Pollution Control Board has placed on record the factual report regarding 6 distilleries mentioned in page 4 of the Index of its Report dated April 5, 1996. The learned counsel for the Board states that the Board shall issue necessary notices to these industries to set up pollution control devices to the satisfaction of the Board, failing which these distilleries shall be closed. The Pollution Control Board shall place a status report before this Court."
- b The NEERI submitted two further reports on 1-5-1996 and 11-6-1996 in respect of CETPs set up by various industries. The NEERI reports indicate that the physico-chemical characteristics of groundwater from dug wells in Ranipet, Thuthipeth, Valayambattu, Vaniyambadi and various other places do not conform to the limits prescribed for drinking purposes.
- c 8. This Court has been monitoring this petition for almost five years. The NEERI, Board and the Central Pollution Control Board (Central Board) have visited the tanning and other industries in the State of Tamil Nadu several times. These expert bodies have offered all possible assistance to these industries. The NEERI reports indicate that even the seven operational CETPs are not functioning to its satisfaction. NEERI has made several recommendations to be followed by the operational CETPs. Out of the 30
- d CETP sites which have been identified for tannery clusters in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R., 7 are under operation, 10 are under construction and 13 are proposed. There are a large number of tanneries which are not likely to be connected with any CETP and are required to set up pollution control devices on their own. Despite repeated extensions granted by this Court
- e during the last five years and prior to that by the Board the tanneries in the State of Tamil Nadu have miserably failed to control the pollution generated by them.
- f 9. It is no doubt correct that the leather industry in India has become a major foreign exchange earner and at present Tamil Nadu is the leading exporter of finished leather accounting for approximately 80 per cent of the country's export. Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.
- g 10. The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called "Our
- h Common Future". The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known

658

SUPREME COURT CASES

(1996) 5 SCC

as “Brundtland Report”. In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a document called “Caring for the Earth” which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in the history — deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio “Sustainable Development” has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. “Sustainable Development” as defined by the Brundtland Report means “Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”. We have no hesitation in holding that “Sustainable Development” as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.

**11.** Some of the salient principles of “Sustainable Development”, as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that “The Precautionary Principle” and “The Polluter Pays Principle” are essential features of “Sustainable Development”. The “Precautionary Principle” — in the context of the municipal law — means:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

**12.** “The Polluter Pays Principle” has been held to be a sound principle by this Court in *Indian Council for Enviro-Legal Action v. Union of India*<sup>1</sup>. The Court observed: (SCC p. 246, para 65)

<sup>1</sup> (1996) 3 SCC 212 : JT (1996) 2 SC 196

VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA (*Kuldip Singh, J.*) 659

a "... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country".

The Court ruled that: (SCC p. 246, para 65)

b "... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity *irrespective* of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

c Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

d 13. The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:

e "47. *Duty of the State to raise the level of nutrition and the standard of living and to improve public health.*—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

f 48-A. *Protection and improvement of environment and safeguarding of forests and wildlife.*—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

g 51-A. (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."

h Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are: the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the



660

SUPREME COURT CASES

(1996) 5 SCC

Central Government and the constitution of the State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

15. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khanna's opinion in *A.D.M. v. Shivakant Shukla*<sup>2</sup>, *Jolly George Varghese case*<sup>3</sup> and *Gramophone Co. case*<sup>4</sup>.

16. The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (*Commentaries on the Laws of England of Sir William Blackstone*) Vol. III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words:

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow-chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, 'sic utere tuo, ut alienum non leadas'; this

<sup>2</sup> (1976) 2 SCC 521 : AIR 1976 SC 1207

<sup>3</sup> *Jolly George Varghese v. Bank of Cochun*, (1980) 2 SCC 360 : AIR 1980 SC 470

<sup>4</sup> *Gramophone Co. of India Ltd v Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667

VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 661

therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance.

- a ... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of 'doing to others, as we would they should do unto ourselves'."
- b

17. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land.

- c 18. The Statement of Objects and Reasons to the Environment Act, inter alia, states as under:

"The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food-chains, growing risks of environmental accidents and threats to life-support systems. The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. The Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident.

d

e

Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build-up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing, long-term requirements of environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.

f

g

In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate

h

662

SUPREME COURT CASES

(1996) 5 SCC

powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, safety and health.” a

Sections 3, 4, 5, 7 and 8 of the Environment Act which are relevant are as under:

“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. b

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely— c

(i) coordination of actions by the State Governments, officers and other authorities—

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act; d

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever: e

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources; f

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents; g

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution; h



VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 663

a (x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

b (xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

c (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

d (3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

f 4. *Appointment of officers and their powers and functions.*—(1) Without prejudice to the provisions of sub-section (3) of Section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

g (2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of Section 3 or of any other authority or officer.

h 5. *Power to give directions.*—Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

664

SUPREME COURT CASES

(1996) 5 SCC

*Explanation.*—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

7. *Persons carrying on industry, operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards.*—No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. *Persons handling hazardous substances to comply with procedural safeguards.*—No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.”

19. Rules 3(1), 3(2) and 5(1) of the Environment (Protection) Rules, 1986 (the Rules) are as under:

“3. *Standards for emission or discharge of environmental pollutants.*—(1) For the purposes of protecting and improving the quality of the environment and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in Schedules I to IV.

3. (2) Notwithstanding anything contained in sub-rule (1), the Central Board or a State Board may specify more stringent standards from those provided in Schedules I to IV in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons therefor in writing.

5. *Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.*—(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas—

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 665

- (v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.
- a (vi) Environmentally compatible land use.
- (vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.
- (viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.
- b
- (ix) Proximity to human settlements.
- c
- (x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area."

20. It is thus obvious that the Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by this Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for this Court to direct the Central Government to take immediate action under the provisions of the Environment Act.
- d
  - e
  - f

21. There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. This Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology.
- g

22. Mr M.C. Mehta, the learned counsel for the petitioner has invited our attention to the notification GOMs No. 213 dated 30-3-1989 which reads as under:
- h

"In the government order first read above, the Government have ordered, among other things, that no industry causing serious water

666

SUPREME COURT CASES

(1996) 5 SCC

pollution should be permitted within one kilometre from the embankments of rivers, streams, dams, etc. and that the Tamil Nadu Pollution Control Board should furnish a list of such industries to all local bodies. It has been suggested that it is necessary to have a sharper definition for water sources so that ephemeral water collections like rainwater ponds, drains, sewerages (bio-degradable) etc. may be excluded from the purview of the above order. The Chairman, Tamil Nadu Pollution Control Board has stated that the scope of the government order may be restricted to reservoirs, rivers and public drinking-water sources. He has also stated that there should be a complete ban on location of highly polluting industries within 1 kilometre of certain water sources.

2. The Government have carefully examined the above suggestions. The Government impose a total ban on the setting up of the highly polluting industries mentioned in Annexure I to this order within one kilometre from the embankments of the water sources mentioned in Annexure II to this order.

3. The Government also direct that under any circumstances if any highly polluting industry is proposed to be set up within one kilometre from the embankments of the water sources other than those mentioned in Annexure II to this order, the Tamil Nadu Pollution Control Board should examine the case and obtain the approval of the Government for it."

Annexure I to the notification includes distilleries, tanneries, fertilizer, steel plants and foundries as the highly polluting industries. We have our doubts whether the above-quoted government order is being enforced by the Tamil Nadu Government. The order has been issued to control pollution and protect the environment. We are of the view that the order should be strictly enforced and no industry listed in Annexure I to the order should be permitted to be set up in the prohibited area.

23. The learned counsel for the tanneries raised an objection that the standard regarding total dissolved solids (TDS) fixed by the Board was not justified. This Court by the order dated 9-4-1996 directed the NEERI to examine this aspect and give its opinion. In its report dated 11-6-1996 NEERI has justified the standards stipulated by the Board. The reasoning of the NEERI given in its report dated 11-6-1996 is as under:

"The total dissolved solids in ambient water have physiological, industrial and economic significance. The consumer's acceptance of mineralized water decreases in direct proportion to increased mineralization as indicated by Bruvold (1). High total dissolved solids (TDS), including chlorides and sulphates, are objectionable due to possible physiological effects and mineral taste that they impart to water. High levels of total dissolved solids produce laxative/cathartic/purgative effect in consumers. The requirement of soap and other detergents in household and industry is directly related to water hardness as brought

VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA (*Kuldip Singh, J.*) 667

a out by DeBoer and Larsen (2). High concentration of mineral salts, particularly sulphates and chlorides, are also associated with costly corrosion damage in wastewater treatment systems, as detailed by Patterson and Banker (3). Of particular importance is the tendency of scale deposits with high TDS thereby resulting in high fuel consumption in boilers.

b The Ministry of Environment and Forests (MEF) has not categorically laid down standards for inland surface water discharge for total dissolved solids (TDS), sulphates and chlorides. The decision on these standards rests with the respective State Pollution Control Boards as per the requirements based on local site conditions. The standards stipulated by the TNPCB are justified on the afore-referred considerations.

c The prescribed standards of the TNPCB for inland surface water discharge can be met for tannery wastewaters cost effectively through proper implant control measures in tanning operation, and rationally designed and effectively operated wastewater treatment plants (ETPs and CETPs). Tables 3 and 5 depict the quality of groundwater in some areas around tanneries during peak summer period (3-6-1996 to 5-6-1996). Table 8 presents the data collected by TNPCB at individual ETPs  
d indicating that TDS, sulphates and chloride concentrations are below the prescribed standards for inland surface water discharge. The quality of ambient waters needs to be maintained through the standards stipulated by TNPCB."

e 24. The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, we direct that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu.

f 25. Keeping in view the scenario discussed by us in this judgment, we order and direct as under:

g 1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired Judge of the High Court and it may have other members — preferably with expertise in the field of pollution control and environment protection — to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking measures with respect to the matters referred to in clauses (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the  
h authority before September 30, 1996.

2. The authority so constituted by the Central Government shall implement the "Precautionary Principle" and the "Polluter Pays Principle". The authority shall, with the help of expert opinion and after giving opportunity to the polluters concerned assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise. a  
b

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collectors/District Magistrates of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families. c  
d

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area. e

6. We impose pollution fine of Rs 10,000 each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chidambaram M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called "Environment Protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act, 1971. f  
g

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The h



VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA (*Kuldip Singh, J.*) 669

- expenditure shall be met from the "Environment Protection Fund" and from other sources provided by the State Government and the Central Government.
- a 8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries
- b in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.
- c 9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.
- d 10. Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.
- e 11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.
- f 26. We have issued comprehensive directions for achieving the end result in this case. It is not necessary for this Court to monitor these matters any further. We are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We, therefore, request the Chief Justice of the Madras High Court to constitute a Special Bench "Green Bench" to deal with this case and other environmental matters. We make it clear that it would be open to the Bench to pass any appropriate
- g order/orders keeping in view the directions issued by us. We may mention that "Green Benches" are already functioning in Calcutta, Madhya Pradesh and some other High Courts. We direct the Registry of this Court to send the records to the Registry of the Madras High Court within one week. The High Court shall treat this matter as a petition under Article 226 of the Constitution of India and deal with it in accordance with law and also in
- h terms of the directions issued by us. We give liberty to the parties to approach the High Court as and when necessary.

670

SUPREME COURT CASES

(1996) 5 SCC

27. Mr M.C. Mehta has been assisting this Court to our utmost satisfaction. We place on record our appreciation for Mr Mehta. We direct the State of Tamil Nadu to pay Rs 50,000 towards legal fees and other out of pocket expenses incurred by Mr Mehta. a

**(1996) 5 Supreme Court Cases 670**

(BEFORE B.P. JEEVAN REDDY AND SUHAS C. SEN, JJ.)

P. KANNADASAN AND OTHERS

.. Appellants/  
Petitioners; b

*Versus*

STATE OF T.N. AND OTHERS

.. Respondents. c

Civil Appeals No. 9847 of 1996 with Nos. 9849, 9780-81, 9905, 9851, 9906-07, 9777, W.Ps. Nos. 269 of 1995, 270 of 1994, 9908-09, 9850, 9778, 9910, 408, 9911-13 of 1996, 518, 9914-15 of 1996, 688 of 1992, 9848, 9774-76, 9916 and 9917 of 1996<sup>†</sup>, decided on July 26, 1996

**A. Mines and Minerals — Cess and Other Taxes on Minerals (Validation) Act, 1992 — S. 2(1), (2) & (3) and the Sch. — Validity — State laws imposing cess or other taxes on minerals found by the Supreme Court/High Courts to be beyond the legislative competence of the State Legislature — Provision in S. 2 validating such State laws, held, not beyond the legislative competence of Parliament — Contention that the said provision sought to overturn the judicial decisions, repelled — Constitution of India, Arts. 245 & 246, 265 and Sch. VII List I Entries 54 & 97 & List II Entries 23 and 50 — Statute Law — Validating statute — Constitutional law — Separation of powers — Words and phrases — “Checks and balances” — Mines and Minerals (Regulation and Development) Act, 1957, Ss. 2, 9 & 9-A and Sch. II — Panchayats and Zila Parishads — T.N. Panchayats Act, 1958 (35 of 1958), S. 115 — Tax — Cess d**

**B. Mines and Minerals — Cess and Other Taxes on Minerals (Validation) Act, 1992 — S. 2(1) and the Sch. — Validity — State laws imposing cess or other taxes on minerals found by the Supreme Court/High Courts to be beyond the legislative competence of the State Legislature — Provision in S. 2(1) validating such State laws from the date on which they were enacted by the State Legislature concerned, held, not bad for retrospectivity — Statute law — Validating statute — Statute validating a tax retrospectively — Validity — Taxation — Taxing statutes — Retrospective validation of an invalid taxing statute — Taxing Statutes — Constitution of India, Art. 265 e**

**C. Interpretation of the Constitution — Final arbiter on, held, is the Supreme Court — Constitution of India, Arts. 141, 32 and 136 — Interpretation of the Constitution f**

Certain States had enacted statutes imposing a local cess on minerals which were annulled by the Supreme Court/High Courts for want of legislative competence. Therefore, Parliament enacted the Cess and Other Taxes on Minerals (Validation) Act, 1992 deeming such Acts, including Tamil Nadu Panchayats Act, 1958, Section 115, always to have been valid as if enacted by Parliament. The 1992 g

<sup>†</sup> From the Judgment and Order dated 27-6-1994 of the Madras High Court in WP No 14178 of 1989 h



2015 SCC OnLine NGT 5

**Affirmed in *Mantri Techzone (P) Ltd. v. Forward Foundation*, (2019) 18 SCC 494**

In the National Green Tribunal, Principal Bench New Delhi  
(BEFORE SWATANTER KUMAR, CHAIRPERSON, U.D. SALVI, J.M., DR. D.K. AGRAWAL, E.M. AND  
PROFESSOR A.R. YOUSUF, E.M.)

In the Matter of:

Forward Foundation A Charitable Trust Having its registered office  
at 24/B, Haralur Village, HSR Layout Post Bangalore-560102  
Through its Secretary and Others ... Applicants;

*Versus*

State of Karnataka, Vidhana Soudha Bangalore-560001 Through  
its Chief Secretary and Others ... Respondents.

Original Application No. 222 of 2014

Decided on May 7, 2015, [Reserved on: January 27, 2015]

**Counsel for Applicant:**

Mr. Raj Pajwani, Sr. Adv. Along with Ms. Megha Mehta Agrawal, Advocate

**Counsel for Respondents:**

Mr. Devraj Ashok, Advocate for Respondent No. 1, 3, 4 & 5

Mr. B.R. Srinivasa G., Advocate for Respondent No. 7

Mr. R. Venkatramani, Sr. Advocate, Mr. Shekhar G. Devasa, Mr. D. Mahesh,  
Advocates for respondent No. 9

Mr. Raju Ramachandran, Mr. Devashish Bharuka, Mr. Vaibhav Niti and Mr. Suraj  
Govindraj, Advocates for Respondent No. 10

Mr. Sajan Poovayya, Sr. Advocate and Mr. Sumit Attri, Advocate for Respondent  
Nos. 11 & 12

**JUDGMENT**

1. Whether the judgment is allowed to be published on the net?

2. Whether the judgment is allowed to be published in the NGT Reporter?

SWATANTER KUMAR, (CHAIRPERSON):— All the three applicants have approached the Tribunal under the provisions of the National Green Tribunal Act, 2010 (for short 'the NGT Act'), with a common prayer that a direction be issued to respondent no. 1, the State of Karnataka to take cognizance of the Reports dated 12<sup>th</sup> June, 2013 and 14<sup>th</sup> August, 2013 prepared by respondent nos. 6 and 2 respectively, and take coercive and punitive action including restoration of the ecologically sensitive land. Further the applicants also prayed for issuance of a direction that the valley land is to be maintained as a sensitive area, without developments of any sort, so that the ecological balance of the area is not disturbed. Besides this, they even prayed for issuance of such other order or directions as the Tribunal may deem fit in the circumstances of the case and render justice.

The three applicants are either a registered charitable trust and/or a Society, registered under the relevant laws in force. They claim to be keenly interested in protecting the environment and ecology, particularly, in the State of Karnataka. Their principal grievance is in relation to certain commercial projects that are being developed by respondent nos. 9 & 10 in a large-sized, mixed use development project/building complex, including setting up of a SEZ park, Hotels, Residential

Apartments and a Mall, covering approximately 80 acres on the valley land immediately abutting the Agara Lake and more particularly identified as lying between Agara and Bellandur Lakes, exposing the entire eco system to severe threat of environmental degradation and consequential damage. According to them, it is of alarming significance that the Project has encroached an Ecologically Sensitive Area, namely, the valley and the catchment area and *Rajakaluves* (Storm Water Drains) which drains rain water into the Bellandur Lake. Thus, in the interest of environment and ecology, they have approached the Tribunal with the above prayers.

2. Shorn of any unnecessary details, the precise facts leading to the filing of this application are that, according to these applicants, the ecologically sensitive land was allotted by the Karnataka Industrial Area Development Board (for short the 'KIADB'), respondent no. 7 herein, to respondent nos. 9 & 10 vide Notifications dated 23<sup>rd</sup> April, 2004 and 7<sup>th</sup> May, 2004, respectively. This land was allotted 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'), respondent no. 8, identifies the allotted land as 'Residential Sensitive', though the same land was identified in the draft Master Plan as 'Protected Zone'. It is stated by the applicant that the Revenue Map in respect of properties as referred in the land lease Agreements has multiple *Rajakaluves*. The development projects in question sit right on the catchment and wetland areas which feeds the *Rajakaluves*, which in turn drain rain water into Bellandur Lake. The project will thus encroach two *Rajakaluves* of 1.38 acres and 1.23 acres each. The satellite digital images of the area from year 2000 to 2012 clearly show encroachment upon these *Rajakaluves*, as well as, the manner in which they are covered by this construction. The State Level Expert Appraisal Committee (for short the 'SEAC'), which was to assist State Level Environment Impact Assessment Authority (for short the 'SEIAA'), held its meetings on various dates to examine the project. It had required respondent no. 9 to submit a revised NOC from the Bangalore Water Supply and Sewerage Board (for short the 'BWSSB'), respondent no. 5 herein, for the project in question. It was 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 11<sup>th</sup> November, 2011, it was recorded that the project proposes car parking facility for 14,438 cars in that environmentally sensitive area.

3. It is the case of respondent no. 5 that such NOC was issued but it covers only an area of 17,404 sq mtr, whereas the total built-up area as noted by the SEAC is 13,50,454.98 sq mtr. It is alleged by the applicants 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 4<sup>th</sup> 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 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.

4. According to the applicants, respondent no. 9 violated the conditions and commenced construction of the project. There was also violation of the stipulations stated in the approval of the SEAC, in relation to buffer zone and construction over *Rajakaluves*. The construction has 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 submits 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*. It is also alleged that respondent nos. 9 & 10 have started to level the land by filling it with debris, thus causing damage to the drains. It is further stated that 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. This 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 also in violation of Rule 4 of Wetlands (Conservation and Management) Rules, 2010 (for short Rules of 2010). It is submitted that SEIAA in its meeting dated 29<sup>th</sup> September, 2012, decided to close the file pertaining to respondent nos. 10 due to non-submission of requisite information and the application therefore was rejected in November, 2012. Despite the rejection, respondent no. 10 commenced construction on the project in full swing.

5. The applicants have also relied on the findings of the Joint Legislative Committee, constituted under the chairmanship of Sh. A.T. Ramaswamy in the month of July, 2005, 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 have become sewage channels.

6. The Hon'ble High Court of Karnataka in *Environment Support Group v. State of Karnataka*, Writ Petition No. 817/2008 appointed a Committee under the Chairmanship of Hon'ble Mr. Justice N.K. Patil to suggest 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. 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, 1986 which recommended to maintain good water surface in Bellandur tank and to ensure that the water in the tanks is not polluted. The findings of the Environmental Information System (ENVIS), Centre for Ecological Science, Indian Institute of Sciences, Bangalore, in May 2013 on the Conservation of the Bellandur Wetlands obligation of Decision Makers is ensure Intergenerational Equity recommended restoration of wetlands and cessation of plan to set up the SEZ in the area. Even the Central Government in August 2013 had issued an advisory on conservation and restoration of water bodies in the urban areas.

7. The applicants claim to have obtained the monitoring report of the project by respondent no. 2 through RTI on 21<sup>st</sup> August, 2013. The report dated 14<sup>th</sup> August, 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 or operational phase of the project. This breach is particularly with regard to the major alteration in natural sloping pattern of the project site and natural hydrology of the area.

8. The Lake Development Authority (for short 'the LDA'), respondent no. 6 herein, had initiated an inspection in the catchment area of the Bellandur Lake. The report dated 12<sup>th</sup> June, 2013 confirms that the project will have disastrous impact, including deleterious effect on the Bellandur Lake. This report was brought to the notice of respondent no. 7 vide letter dated 7<sup>th</sup> July, 2013. Respondent no. 6 has also opined that the land should be classified and maintained as Sensitive Area. Respondent no. 7 in furtherance thereto had called upon respondent no. 9 to comply with rules of

Ecology and Environment Department and to obtain necessary approval from respondent nos. 6 and 4. It is alleged that a vague reply had been submitted by respondent no. 9 making certain misrepresentations. 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 also rely upon the fact that the revised Master Plan, 2013 issued by Respondent no. 8 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 is also the case pleaded by the applicant that Respondent no. 9 had obtained the NOC from Respondent no. 5 only with regard to residential units and not for the entire project and that the Environmental Clearance obtained by the Respondent No. 9 is based upon the said partial NOC issued by Respondent no. 5 which itself is a misrepresentation. The applicants have pleaded that the projects are bound to create water scarcity as the requirement of project of Respondent no. 9 alone is approximately 4.5 million liters per day, i.e. 135 million liters per month, which is more than what Respondent no. 5 supplies to the entire Agaram Ward. It is stated by the applicants 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.

The applicants have stated that they have filed the application against threat posed to the ecological balance from the ongoing commercial constructions project near Agara Lake and Bellandur Lake, and the same is continuing every day in violation of the law. With these allegations, the three applicants have instituted this application with prayers afore-noticed.

9. Different respondents in the application have filed independent replies as already noticed. Respondent nos. 9 and 10 are the Project Proponents against whom the applicant has raised the principal grievance. Thus, first we may notice the case advanced by respondent nos. 9 and 10. In its replys, respondent no. 9 has submitted that the said 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 centres and other allied infrastructure within a single compound. This respondent 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. Proposal of respondent no. 9 was considered in 78<sup>th</sup> High Level Committee meeting held on 21<sup>st</sup> June, 2000 and after examining the proposal, the same was approved by the government on 06<sup>th</sup> July, 2000. Before the State High Level Committee, the Respondent had mentioned that it would require 110 acres of land, 25MW of power from the Karnataka Power Transmission Corporation Limited (for short the 'KPTCL'), and 4 lakh litres of water per day from respondent no. 5. The lands for the project were initially notified by the BDA. However, later the lands were de-notified vide notification dated 10<sup>th</sup> February, 2004. Subsequently, the lands were allotted to the replying respondent vide letter dated 28<sup>th</sup> June, 2007 for which lease-cum-sale agreement was signed on 30<sup>th</sup> June, 2007. Considering the overall development of the State of Bangalore, the said 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 mtr. The Project was conceived as a zero waste discharge project. According to this Respondent, the project is located one and a half kilometres away

from the southern-side of the Bellandur Lake. Towards the North adjacent to the Project site, lie vast stretches of lands belonging to the Defence, and towards the East, which is completely developed lies the Project of Respondent no. 10 and that another developer is also developing a project on the western side. Respondent no. 9 has submitted that it has obtained sanction plan on 4<sup>th</sup> July, 2007 which was being renewed from time to time. The Respondent also claims that it has obtained No Objection Certificate from Airport Authority of India on 9<sup>th</sup> April, 2010, certificate dated 15<sup>th</sup> April, 2010 from Dr. Ambedkar Institute of Technology and that the Bharat Sanchar Nigam Ltd., vide its communication dated 16<sup>th</sup> April, 2010, granted clearance for the project construction. BWSSB, respondent no. 5 herein vide its communication dated 26<sup>th</sup> April, 2011 issued No Objection Certificate for portion of the proposed construction to be built. Bangalore Electricity Supply Company Limited also granted No Objection Certificate for arranging power supply to the proposed residential and commercial building in favour of the Respondent no.

10. Environmental Clearance was granted by SEIAA vide communication dated 17<sup>th</sup> February, 2012. Director General of Police issued No Objection Certificate and KSPCB vide order dated 4<sup>th</sup> September, 2012 accorded its consent for construction of the said project site subject to the conditions stated therein.

Respondent no. 9 further states that after grant of the Environmental Clearance on 17<sup>th</sup> February, 2012, the same was published in the leading newspapers "*Kannada Prabha*" and the "*Indian Express*" on 12<sup>th</sup> and 14<sup>th</sup> March, 2012 respectively.

11. Respondent no. 9 later modified the building plan and the same was approved by Respondent no. 7 vide its letter dated 30<sup>th</sup> August, 2012, which was valid up to 10<sup>th</sup> August, 2014. It is further claimed that 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 respondent further submitted that he has raised the constructions in accordance with the plans and conditions of the Environmental Clearance and consent orders. According to him, he has not violated any of the conditions and has not caused any adverse impact on the ecology and environment of the area. The allegation with regard to the covering and blocking the Rajakaluves (Storm Water Drains) drying the wetland and raising of the construction thereupon adversely affecting the lake, are specifically disputed and denied. The Respondent claims that 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., that it has availed financial assistance from various banks and financial institutions towards the construction and proper execution of the project and that various contracts have been signed with third parties.

12. It is specifically stated by this Respondent that certain print media had published articles stating that construction was unauthorized, illegal and that it was prejudicial to the environmental and ecological interest of that area. Not only this, 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). Besides making the above allegation, it was also alleged in those petitions that the project would adversely affect the Bellandur Lake and prayed for stay of the construction activity. The Hon'ble High Court of Karnataka after hearing the parties issued notice, however, denied to pass any interim order of stay as prayed by the petitioners. The said petition is stated to be pending before the Hon'ble High Court.

In the meanwhile, Bruhat Bengaluru Mahanagara Palike (for short the 'BMP') issued a stop work notice to the said respondent in regard to illegal and unauthorized construction as well as its adverse impacts on the lake. Aggrieved from the stop work



notice dated 23<sup>rd</sup> December, 2013, Respondent no. 9 filed a Writ Petition before the Hon'ble High Court being Writ Petition No. 366-367 of 2014 and 530-625/2014 in which the Hon'ble High Court vide its order dated 21<sup>st</sup> January, 2014 stayed the operation of the stop work notice dated 23<sup>rd</sup> December, 2013. Another notice was also issued by respondent no. 7 directing stoppage of work on 2<sup>nd</sup> January, 2014, which was again challenged by the respondent no. 9 in Writ Petition No. 792 of 2014 before the same High Court and vide its order dated 7<sup>th</sup> January, 2014 the operation of the stay order was also stayed by the Hon'ble High Court. Replying respondent has taken up specific pleas with regard to the present application being barred by time because the Environmental Clearance was granted on 17<sup>th</sup> February, 2012 and even article in the newspapers were published on 3<sup>rd</sup> June, 2013 as such the present petition has been filed beyond the prescribed period of limitation and the Tribunal has no power to condone the delay which in fact has not even been prayed by the Applicant. According to respondent no. 9, this Tribunal has no jurisdiction to entertain and decide this application in the form and content in which it has been filed, as no question or substantial question of environment has been raised in relation to the Scheduled Acts under the NGT Act, 2010. Another objection raised by respondent no. 9 is that the applicants are guilty of suppression and misrepresentation of material facts and have not approached the Tribunal with clean hands and also that the proceedings before the Tribunal ought to be dismissed in face of the proceedings pending before the Hon'ble High Court of Karnataka in the Writ Petitions afore-referred. If the dates as stated by the applicant are taken to be correct, even then the application should have been filed within 30 days of the constitution of the Tribunal i.e. 18<sup>th</sup> October, 2010 and in any case within 60 days thereafter, by showing that they were prevented by sufficient cause. Since the application has been filed much beyond the prescribed period, it is barred by time and suffers from the defect of laches.

13. Respondent no. 10 besides raising the same preliminary objection with regard to the maintainability of the application and jurisdiction of the Tribunal, as raised by respondent no. 9, has also stated that application of applicant is hit by the Principle of *Falsus in Uno, Falsus in Omnibus*. It is also averred that the present application is a cut-paste of the Public Interest Litigation filed before the Hon'ble High Court of Karnataka and that the allegations made therein and in the present application are similar. On merits it is contended that averments made in the application are factually incorrect.

According to respondent no. 10, crux of the dispute is with regard to the allocation of the land and its conversion from 'Protected Zone' to 'Residential Sensitive' in the Master Plan, without giving any reason, which does not fall within the jurisdiction of the Tribunal. The applicants have raised multifarious proceedings against respondent no. 10 which is an abuse of the process of law and are *mala fide*. The applicant has not only stated identical facts in their application before the Tribunal, but have even submitted the same set of documents as were filed before the Hon'ble High Court of Karnataka, which clearly shows that the application before the Tribunal lacks *bona fides* and there is suppression and misrepresentation of material facts.

14. On merits respondent no. 10 has stated that the State of Karnataka has formulated a policy to invite investment in Karnataka and for that purpose the Karnataka Industries (Facilitation) Act, 2002 had been promulgated. Under this Act, State Level Single Window Clearance Committee and State High Level Clearance Committee were created to examine and clear the projects. All investment projects submitted to Karnataka Udyoga Mitra were forwarded to Single Window Agency, if it was less than the value of Rs. 50.00 crores for necessary processing and clearance and for value above Rs. 50.00 crores, is placed before the State High Level Clearance Committee for processing and approval. Respondent no. 10 had submitted a proposal for developing of a Software Technology Park with an investment of 48.75 crores in 25

acres of land along the outer ring road in Bangalore to which the clearance certificate dated 27<sup>th</sup> March, 2004 was issued. Respondent no. 10 submitted a revised proposal in respect of the same project and to obtain fresh clearance on 31<sup>st</sup> August, 2007 and revised proposal was with the investment of Rs. 179.22 crores. The State High Level Committee had cleared the project which was communicated to Respondent no. 10 on 25<sup>th</sup> January, 2008. According to Respondent no. 10, 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 by respondent no. 10 seeking sanction of development and building plan in respect of the above properties into a Software Technology Park, Hospitality, Commercial and Residential Complex was also allowed and as per the directive of respondent no. 7, respondent no. 10 has deposited a sum of Rs. 1,28,56,830. Respondent no. 10 had also taken clearance from various authorities including Environmental Clearance and consent for establishment. The details of the same are as follows:

| Sl. No. | Date       | Document No.                                                    | Nature of Document       | Issued by                                                                                               | Annexure |
|---------|------------|-----------------------------------------------------------------|--------------------------|---------------------------------------------------------------------------------------------------------|----------|
| 1       | 17.3.2011  | ASC/CM(AO)/181/HAL: BG:58/2011                                  | No Objection Certificate | Airport Services Centre, Hindustan Aeronautics Limited, Bangalore Complex                               | 'R22'    |
| 2       | 30.07.2011 | AGM(TP)/S:6/IX/2010 -11.                                        | No Objection Certificate | Bharat Shanchar Nigal Ltd., CGM, Telecom, KTK Circle, Bangalore                                         | 'R23'    |
| 3       | 22.05.2012 | CEE(P&C)/SEE/ (Plg)/EEE(plg)/K CO-95/F-46611/2012-13./R-50 (75) | No Objection Certificate | Karnataka Power Transmission Corporation Ltd., Chief Engineer, Electric City, Cauvery Bhavan, Bangalore | 'R24'    |
| 4       | 03.08.2012 | GBC(1)478/2011                                                  | No Objection Certificate | Office of Director General, Karnataka State Fire & Emergency Services                                   | 'R25'    |
| 5       | 04.04.2013 | BWSSB/EIC/ACE ®/DCE(M)-II/TA(M)-II/137/2012-13.                 | No Objection Certificate | Bangalore Water Supply & Sewerage                                                                       | 'R26'    |

|   |            |                     |                                |                                                                                        |       |
|---|------------|---------------------|--------------------------------|----------------------------------------------------------------------------------------|-------|
|   |            |                     |                                | Board,<br>Cauvery<br>Bhavan,<br>Bangalore                                              |       |
| 6 | 03.06.2013 | PCB/136/CNP/12/H321 | No<br>Objection<br>Certificate | Karnataka<br>State<br>Pollution<br>Control<br>Board,<br>Church<br>Street,<br>Bangalore | 'R27' |
| 7 | 30.09.2013 | SEIAA:37:CON: 2012  | No<br>Objection<br>Certificate | State Level<br>Environment<br>Impact<br>Assessment<br>Authority,<br>Karnataka          | 'R28' |

Certain sections of the media had raised some queries to respondent no. 10 to furnish the copy of the Consent to Establish and Environmental Clearance certificate on 30th September, 2013. They had also expressed that the project had started without such clearances. However, upon issuance of Consent to Establish and Environmental Clearance dated 4th June, 2013 and 30th September, 2013 respectively, same were furnished to the reporter of newspaper. The Hindu', vide letter dated 11th October, 2013. According to respondent no. 10, around this project, much development has already taken place, even around various lakes, but it has not caused any damage to the lakes and similarly, project of respondent no. 10 would also not cause any damage to the area and the lakes. Respondent no. 10 has also referred to the Writ Petition 36567-36574 of 2013, where relief of resumption of land from both the respondent nos. 9 and 10 was prayed. Notice dated 28<sup>th</sup> February, 2014 was issued by respondent no. 7 to respondent no. 10 containing direction to stop work/construction activity against which respondent no. 10 had also filed a Writ Petition in the Hon'ble High Court of Karnataka, being Writ Petition No. 18119 of 2014. The Writ Petition was pending and Interim Order was passed. This Respondent claims that they are entitled to develop the projects, having received all clearances. It is specifically stated that the Bellandur Lake does not support any fishing activity or forms a source of water for domestic purpose nor is the agricultural activity carried out at the said area. There are no wetlands and none of the functional aspects of the wetland exist on the site in question. It is also denied that the project carried out by respondent no. 10 on the property belonging to it has any adverse impact on environment. Respondent no. 10 further states that the ENVIS report relied upon by the applicant is prepared by persons interested in opposing his project. In any case, the said report dated 14<sup>th</sup> August, 2013 stood superseded by the Environmental Clearance dated 30<sup>th</sup> September, 2013, wherein, respondent no. 3 has accorded consent to the project after considering the actual facts, after due application of mind and by subjecting respondent no. 10 to strict terms and conditions as mentioned in the clearance dated 30<sup>th</sup> September, 2013. On these averments, respondent no. 10 prays that the application should be dismissed and no relief should be granted by the Tribunal to the applicants.

15. Respondent no. 7 has filed a short reply. He submits that after the possession of the land was handed over to respondent no. 9 and 10, one year time was granted to implement the project, which was extended from time to time. According to



respondent no. 7, the building drawings were approved on 4<sup>th</sup> July, 2007, modified building drawings were approved on 26<sup>th</sup> April, 2011 and 30<sup>th</sup> August, 2012 with specific conditions. In the meeting of the KIADB held on 16<sup>th</sup> July, 2013, it was resolved to inform respondent no. 9 to fully comply with the Ecology and Environment rules as well as to obtain approvals from the respondent no. 6, LDA and respondent no. 4, KSPCB. Respondent no. 6, LDA vide its letter dated 24<sup>th</sup> September, 2013, had informed respondent no. 7 that the construction activity in the catchment area in the Bellandur Lake could drastically impact the Lake, with deleterious effects and asked the Respondent no. 7 to stop construction activity of respondent nos. 9 & 10, however, the validity of the building drawings was again extended up to 10<sup>th</sup> August, 2014. The Lokayukta on 17<sup>th</sup> December, 2013 had written a letter in respect of complaint filed by South East Forum for Sustainable Development where it had been averred that the decision had been taken by the Board on 21<sup>st</sup> December, 2013 to keep in abeyance the approval accorded and even the revalidations of plans. This was also informed to respondent no. 9. The Board took a decision which was communicated to respondent no. 9 on 2<sup>nd</sup> January, 2014, wherein it asked the said respondent no. 9 to stop all construction activities on the allotted lands. It is admitted that the said communication was challenged by respondent no. 9 and on the stop work notice, stay was granted by the Hon'ble High Court of Karnataka. Stop work notice issued by BBMP dated 23<sup>rd</sup> December, 2013 was also challenged before the Hon'ble High Court and operation of the said communication was stayed vide order dated 21<sup>st</sup> January, 2014. It is submitted by respondent no. 7 that the project of respondent nos. 9 and 10 had been approved by the Government. It is specifically submitted that the answering respondent had not acquired any '*Rajakaluves*' and the land allotted by respondent no. 7 to respondent no. 10 does not consist of the same. Respondent no. 7 further states that the Storm Water Drains are not always flowing in strict or permanent path and are prone to flow in different paths from time to time. Respondent no. 7 further states that it had allotted 17 acres 33½ guntas of land in favour of respondent no. 10 for the purpose of establishing Software Technology Park, Hospitality, Commercial and Residential Complex and has executed lease-cum-sale agreement on 20<sup>th</sup> March, 2008.

16. Respondent no. 6 has taken a stand that it was not at all aware of the project initiated by respondent no. 7, KIADB. The said respondent claims it came to know about the entire project only when certain newspaper reports surfaced during the month of June, 2013 and till that time respondent no. 6 was in the dark. After the complaints, the said respondent immediately inspected the Bellandur Lake and the Agara Lake on 12<sup>th</sup> June, 2013 and prepared an inspection report. In the report, it was noticed that the large scale construction activities in the catchment area of Bellandur Lake was going on and 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. Respondent no. 6, vide its letter dated 6<sup>th</sup> July, 2013, had questioned the decision of respondent no. 7 and even requested to stop the construction activity and to reclassify the land as non-SEZ area. It was thereafter on 31<sup>st</sup> August, 2013 that respondent no. 9 wrote a letter to respondent no. 6 for according approval for the proposed development projects. However, vide its letter dated 23<sup>rd</sup> September, 2013, respondent no. 6 informed respondent no. 7 that the replying respondent had no authority to grant or deny construction projects but at the same time it also communicated their objections to respondent no. 7, mentioning that construction activity would be in contravention to the directions of the Hon'ble High Court of Karnataka as well as of the Hon'ble Supreme Court. Despite these warnings, respondent no. 7 granted approval to the extension of building drawings of the project in favour of respondents no. 9 & 10 on 11<sup>th</sup> October, 2013 and 3<sup>rd</sup> January, 2013 respectively, 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, that the natural sloping pattern of the project site shall remain unaltered and the lakes and other water bodies within and/or at the vicinity of the project area should be protected and conserved. Despite these objections by respondent no. 6, the plans were approved and approvals extended from time to time. Therefore, respondent no. 6 submits that these projects, as approved by respondent no. 7 would have adverse impacts on Bellandur Lake and Agara Lake.

17. Respondent nos. 1, 3 and 5 though have filed separate replies but they have taken up the stand that the projects have been granted, No Objections Certificates and Environmental Clearance by SEIAA, subject to the conditions noticed above. According to these respondents, if there is any breach, the same would be dealt with in accordance with law. According to respondent nos. 1 & 3, the file of respondent no. 10 was closed by SEIAA, Karnataka on 16<sup>th</sup> November, 2012 for non-submission of the required information but was later revived in the meeting held on 27<sup>th</sup> June, 2013 and Environmental Clearance was granted on 30<sup>th</sup> September, 2013. Both the projects are ongoing projects. The proposals have been considered in accordance with law.

18. Vide order dated 25<sup>th</sup> July, 2014 of the Tribunal, respondent nos. 11 and 12 were impleaded on their applications. Both these respondents are registered as charitable trust or a society. Replies by both these respondents have been filed wherein they have raised specific objections with regard to allotment of land in Ecologically Sensitive Area in the catchments of the Bellandur Lake for the construction of IT Park and related infrastructure, in flagrant violation of the applicable rules and regulations. According to respondent nos. 11 and 12, the allotment of this land is in contravention of the directions laid down by the Hon'ble Supreme Court in the case of *Karnataka Industrial Areas Development Board v. Sri. C. Kenchappa*, (2006) 6 SCC 371. It is further stated that the fact that these projects would essentially result in alteration of natural hydrology of the area and sloping pattern of the project site, clearly shows that there was no application of mind on the part of the concerned authority for granting approvals. The plans sanctioned in favour of respondent nos. 9 and 10 are replete with irregularities and illegalities and despite objections from respondent no. 6, the plans have been renewed contrary to law. For instance, respondent no. 9 had first represented that the project will have a built up area of 1.75 lakh sq.ft. while seeking approval from respondent no. 6, while in reality the built up area is 1.30 crore sq. ft./9.54 lakh sq. mtr., which is evidenced by respondent no. 9's own admission, and is not even disputed by him. The water requirement of the project would be nearly 135 million litres per month, which would exert excessive pressure over the wetland and would also lead to scarcity of water for the residents of the nearby areas. As already stated, the execution of the project will necessarily result in altering the hydrology of the area and the natural sloping pattern of the project site. Therefore, the conditions imposed in the Environmental Clearance are incapable of being complied with. According to these respondents, the Google satellite images that have been placed on record, reveal that the excavation work by respondent nos. 9 and 10 commenced much prior to obtaining approvals by them in 2012 & 2013 respectively, making the construction unauthorised and illegal. The matters before the Hon'ble High Court are stated to be restricted to the prayer for resumption of land and not connected with these proceedings before the Tribunal. According to these respondents, the stop work orders for the construction of the project have been stayed in terms of the orders of the Hon'ble High Court of Karnataka and are subject to the result of the Writ Petition and the Project Proponents are entitled to claim their equities in the event they failed before the Hon'ble High Court. The Hon'ble High Court had granted the interim order staying the stop work orders primarily on the ground that BBMP did not have jurisdiction to issue such order. According to respondent nos. 11 and 12, respondent no. 10 obtained the

Environmental Clearance on 30<sup>th</sup> September, 2013, but it still does not have the mandated clearance from the BDA which was one of the conditions imposed by the State High Level Clearance Committee on 25<sup>th</sup> January, 2008. The project consists of residential block and commercial block, among other constructed areas. It is averred that as of present, a very small part of the project has been completed and if the construction of the project is permitted to be completed in all respects, the environment and ecology of the area would suffer and residents and public at large would have to face severe and fatal environmental consequences. These adverse consequences would not only be limited to flooding, water shortage, geological instability but would also affect the Bellandur Lake, which is one of the largest lakes in Bangalore, gathering an area of 338.28 hectares, with catchment area, of approximately 171.17 square kms.

As already noticed, respondent nos. 11 and 12 were ordered to be impleaded as respondents in this case on the condition that they would withdraw the Public Interest Litigation filed by them before the Hon'ble High Court of Karnataka. These Respondents had thus moved the Hon'ble High Court for withdrawal of the Writ Petitions. However, the Hon'ble High Court only permitted these two Respondents to withdraw themselves from the Writ Petitions in terms of the undertaking given by them before the Tribunal. The Petitioner before the Hon'ble High Court who had not given any undertaking before the Tribunal, their Writ Petitions are still continuing before the Hon'ble High Court. They have denied the allegation that any of them has committed violation of the order of the Tribunal or abused the process of law. It is also denied that the averments made and stand taken by them is false, incorrect and vexatious. Respondent no. 7 had first issued a letter dated 14<sup>th</sup> August, 2013 requiring respondent no. 9 to comply with the ecology and environmental rules and also to take necessary approval from the LDA, Bangalore and KSPCB before taking up any further activity of the project. Then, it issued the order dated 2<sup>nd</sup> January, 2014 informing the said respondent that the layout plan has been kept in abeyance and thus the Project Proponent should stop all construction activities in the allotted land until further orders. It is also the case of respondent nos. 11 and 12 that the report by Dr. T.V. Ramachandra is not a report by interested persons, but is part of scientist's social responsibility and the report published in May, 2013 gives the complete and correct position at site. It is their case that the cause of action has arisen on various dates, including first on 11<sup>th</sup> October, 2013 when respondent no. 7, despite objections from various authorities, extended its approval of plan, on the conditions stated therein. They have, therefore, submitted that the application is neither barred by time nor can it be contended that it does not raise a specific question of environment within the ambit of the Scheduled Acts under the NGT Act, 2010.

19. From the above pleaded case of the respective parties and the submissions advanced on their behalf, the following questions fall for consideration and determination 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?

Discussion on Merits

1. Whether the application filed by the applicants and supported by respondent nos. 11 and 12, is barred by time and thus, not maintainable?

20. According to respondent no. 9, it had submitted a proposal to establish Information Technology Park, R & D Centre, Residential Complex and other facilities and sought for allotment of lands for the project in the year 2000. On 15<sup>th</sup> January, 2001, the Government in exercise of powers conferred upon it under Section 3(1) of the Karnataka Industrial Area Development Act, 1966 declared the land in question as an Industrial Area. Preliminary notification for acquisition of land in question was issued on 15<sup>th</sup> January, 2001 by KIADB and final Notification for acquisition of the land was issued on 23<sup>rd</sup> April, 2004, which was preceded by a Global Investor meet held on 10<sup>th</sup> February, 2004. On 28<sup>th</sup> June, 2007, respondent no. 7 issued the letter of allotment to respondent no. 9 allotting 63 acres 37½ gunta in Agara and Jakkasandra village. The possession certificate in favour of respondent no. 9 was issued on 29<sup>th</sup> June, 2007 in furtherance to which said respondent had paid the amount and executed the lease-cum-sale agreement. Project lease was sanctioned on 4<sup>th</sup> July, 2007. Airport Authority issued the NOC on 9<sup>th</sup> April, 2010. Clearance for the project construction was issued by BSNL on 16<sup>th</sup> April, 2010. BWSSB issued NOC on 12<sup>th</sup> May, 2011. Bangalore Electricity Supply Company Ltd. issued NOC on 27<sup>th</sup> April, 2011. After meetings of the State Level Expert Appraisal Committee and SEIAA, proposal was considered and Environmental Clearance was granted to respondent no. 9 on 17<sup>th</sup> February, 2012 for which notice was published in 'Kannada Prabha' and 'Indian Express' on 12<sup>th</sup> March, 2012 and 14<sup>th</sup> March, 2012 respectively. Modified building plan had been approved by respondent no. 7 on 30<sup>th</sup> August, 2012 which was valid up to 10<sup>th</sup> August, 2014. On 4<sup>th</sup> September, 2012, KSPCB issued consent for establishment under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as per conditions stated in the NOC. On 12<sup>th</sup> June, 2013, the LDA made a report stating that the KIADB has initiated a colossal mixed-use development project in the catchment area of Bellandur Lake. With reference to these dates and events, respondent no. 9 had advanced the plea that the application is barred by limitation. It is the contention of respondent no. 9, that all material events that would give rise to filing of an application under the provisions of NGT Act, 2010, had occurred on and prior to 17<sup>th</sup> February, 2012 and as the application was filed before the Southern Zone Bench of the Tribunal on 13<sup>th</sup> March, 2014, thus, same is hopelessly barred by time and is liable to be rejected on that short ground alone.

Similar events had taken place in regard to the project of respondent no. 10 who had been granted Environmental Clearance on 30<sup>th</sup> September, 2013. The contention raised by this respondent, which is, without prejudice to its other contentions, is that the grant of Environmental Clearance would put an end to all other challenges and even if the reports dated 12<sup>th</sup> June, 2013 and 14<sup>th</sup> August, 2013 are taken into consideration, even then the application had to be filed within a period of 6 months from the date on which the 'cause of action for such dispute has first arisen' in terms of Section 14 of the NGT Act, 2010. Admittedly, present application has been filed in March, 2014 i.e. much beyond the prescribed period of limitation. Also, there is no application for condonation of delay accompanying the main application. Even otherwise, the period of 60 days beyond the prescribed period of limitation has long expired and as such the Tribunal will have no jurisdiction to condone the delay. The Applicants contend, which contention is also duly supported by respondent Nos. 11 and 12 that the present application is not an application simpliciter under Section 14 of the NGT Act. It is an application where a specific prayer has been made with reference to the reports dated 12<sup>th</sup> June, 2013 and 14<sup>th</sup> August, 2013 for restoration of

the Ecologically Sensitive Land and for maintaining the sensitive area in its natural condition, so that ecological balance of the area is not disturbed. This being a petition under Section 15 of the NGT Act, it could be filed within five years from the date on which the cause for such compensation or relief 'first arose'. According to the applicants, the present application is even filed within the period of limitation as contemplated under Section 14 of the NGT Act, 2010, for the reason that with reference to the inspection reports dated 12<sup>th</sup> June, 2013 by respondent no. 6 and 14<sup>th</sup> August, 2013 by respondent no. 2, various actions had been taken by different authorities, fully substantiating the plea of the applicant that such huge construction activity in the catchment area of the lakes is bound to have adverse impact on the environment and ecology. According to them, it is evident from the record that on 14<sup>th</sup> August, 2013, respondent no. 7 had issued a communication to respondent no. 9 to comply with Ecology and Environmental Rules, as well as to take approval from the LDA. Various letters were exchanged between different authorities and the Project Proponent about the progress of the project and its irregularities. A letter of stop work notice was issued by the BBMP on 23<sup>rd</sup> December, 2013. KIADB also issued a stop work notice to respondent no. 9 on 2<sup>nd</sup> January, 2014. According to these applicants, in light of these facts, it is the case of 'continuing and/or recurring' cause of action relatable to environmental issues. Thus, the application had been filed within the prescribed period of 6 months even in terms of Section 14 of the NGT Act and the limitation would trigger from each of these dates mentioned above.

21. Sections 14 and 15 of the NGT Act, 2010 to a large extent are self contained provisions. They deal with the remedies that an aggrieved person is entitled to invoke. The present application, if treated as an application under Section 15 of the NGT Act, viewed from any angle, is within the prescribed period of limitation. The Environmental Clearance was granted to respondent no. 9 vide order dated 17<sup>th</sup> February, 2012 and all events have occurred thereafter till institution of the petition. The applicant has prayed for relief and restoration of ecology particularly with reference to the catchment areas of Bellandur Lake & Agara Lake. The applicant could not have availed of any remedy before the Tribunal, prior to 2<sup>nd</sup> June, 2010 and/or 18<sup>th</sup> October, 2010 respectively, i.e. the dates on which the Act came into force and the Tribunal was constituted. Thus, the period of limitation would start running at best from these dates. The present application for the purposes of Section 15 has been filed within 5 years there-from and thus, has to be treated as within time.

However, what needs to be deliberated upon is whether in terms of Section 14 of the NGT Act, 2010, the present application has been filed within the prescribed period of limitation or not. Section 14(3) mandates that no application for adjudication of dispute under Section 14(1) shall be entertained by the Tribunal unless it is made within the period of 6 months from the date on which the 'cause of action for such dispute first arose'. The jurisdiction of the Tribunal under Section 14 is over civil cases where a substantial question relating to environment, including enforcement of any legal right relating to environment, is involved and such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. The dispute or questions that the Tribunal is required to settle must fall within the ambit and scope of Section 14(1) of the NGT Act. In other words, it must be a dispute raising a substantial question relating to environment.

22. The contesting respondents while relying upon the language of Section 14 read cumulatively, contend that the expression 'within the period of 6 months from the date of which the cause of action for such dispute first arose' mandates that the period of limitation has to be reckoned when the cause of action for such dispute first arose and not thereafter. In the present case, the Environmental Clearance had been granted to respondent no. 9 on 17<sup>th</sup> February, 2012 and therefore it is their contention



that the application could at best be filed by 16<sup>th</sup> August, 2012 and not thereafter.

23. 'Cause of Action' as understood in legal parlance is a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed. It is the foundation of a suit or an action. 'Cause of Action' is stated to be entire set of facts that give rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In other words, it is a bundle of facts which when taken with the law applicable to them gives the plaintiff, the right to relief against defendants. It must contain facts or acts done by the defendants to prove 'cause of action'. While construing or understanding the cause of action, it must be kept in mind that the pleadings must be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or passage and to read it out of the context, in isolation. Although, it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words, or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, from the pleading taken as a whole. [Ref. *Shri Udhav Singh v. Madhav Rao Scindia*, (1977) 1 SCC 511, *A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies*, AIR 1989 SC 1239].

24. The expression 'cause of action' as normally understood in civil jurisprudence has to be examined with some distinction, while construing it in relation to the provisions of the NGT Act. Such 'cause of action' should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of the NGT Act. A 'cause of action' might arise during the chain of events, in establishment of a project but would not be construed as a 'cause of action' under the provisions of the Section 14 of the NGT Act, 2010 unless it has a direct nexus to environment or it gives rise to a substantial environmental dispute. For example, acquisition of land *simpliciter* or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, 'being cause of action first arose'. A dispute giving rise to a 'cause of action' must essentially be an environmental dispute and should relate to either one or more of the Acts stated in Schedule I to the NGT Act, 2010. If such dispute leading to 'cause of action' is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under the NGT Act, 2010. [Ref: *Liverpool and London S.P. and I Asson. Ltd. v. M.V. Sea Success I*, (2004) 9 SCC 512, *J. Mehta v. Union of India*, 2013 ALL (I) NGT REPORTER (2) Delhi, 106, *Kehar Singh v. State of Haryana*, 2013 ALL (I) NGT REPORTER (DELHI) 556, *Goa Foundation v. Union of India*, 2013 ALL (I) NGT REPORTER DELHI 234].

Furthermore, the 'cause of action' has to be complete. For a dispute to culminate into a cause of action, actionable under Section 14 of the NGT Act, 2010, it has to be a 'composite cause of action' meaning that, it must combine all the ingredients spelled out under Section 14(1) and (2) of the NGT Act, 2010. It must satisfy all the legal requirements i.e. there must be a dispute. There should be a substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of the implementation of the enactments specified in Schedule I. Action before the Tribunal must be taken within the prescribed period of limitation triggering from the date when all such ingredients are satisfied along with other legal requirements. Accrual of 'cause of action' as afore-stated would have to be considered as to when it first arose.

25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action', 'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law. 'Cause of action first arose'

would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The 'Right to Sue' or 'right to take action' would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon'ble Supreme Court in the case of *Bal Krishna Savalram Pujari v. Sh. Dayaneshwar Maharaj Sansthan*, AIR 1959 SC 798.

26. In the case of *State of Bihar v. Deokaran Nenshi*, (1972) 2 SCC 890, Hon'ble Supreme Court was dealing with the provisions of Section 66 and 79 of the Mines Act, 1952. These provisions prescribed for a penalty to be imposed upon guilty, but provided that no Court shall take cognizance of an offence under Act unless a complaint thereof has been made within six months from the date on which the offence is alleged to have been committed or within six months from the date on which the alleged commission of the offence came to the knowledge of the Inspector, whichever is later. The Explanation to the provision specifically provided that if the offence in question is a continuing offence, the period of limitation shall be computed with reference to every point of time during which the said offence continues. The Hon'ble Supreme Court held as under:

"5. A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and recurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and an act or omission which continues and therefore, constitutes a fresh offence every time or occasion on which it continues. In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all."

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the premises were used as a factory. The Hon'ble Supreme Court in the case of *Maya Rani Punj v. Commissioner of Income Tax, Delhi*, (1986) 1 SCC 445, was considering, if not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as long as the default continued. The penalty is imposable as long as the default continues and as long as the assessee does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of *Mahavir Spinning Mills Ltd. v. Hb Leasing and Finances Co. Ltd.*, 199 (2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of a continuing breach, or of a continuing tort, a fresh period of limitation begins to run at every moment of time during which the breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' once all the ingredients are satisfied. Continuing cause of action thus, becomes relevant for even the determination of period of limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law.

Thus, the expressions 'cause of action first arose', 'continuing cause of action' and

'recurring cause of action' are well accepted canons of civil jurisprudence but they have to be understood and applied with reference to the facts and circumstances of a given case. It is not possible to lay down with absolute certainty or exactitude, their definitions or limitations. They would have to be construed with reference to the facts and circumstances of a given case. These are generic concepts of civil law which are to be applied with acceptable variations in law. In light of the above discussed position of law, we may revert to the facts of the case in hand.

28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will begin to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. [Ref: *Khatri Hotels Private Limited v. Union of India (UOI)*, (2011) 9 SCC 126, *Bal Krishna Savalram Pujari v. Sh. Dayaneshwar Maharaj Sansthan*, AIR 1959 SC 798, *G.C. Sharma v. Municipal Corporation of Delhi*, ILR 2 Delhi 771, *Kuchibotha Kanakamma v. Tadepalli Ptanga Rao*, AIR 1957 AP 419].

29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the 'joinder of causes of action' under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time. In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the 'cause of action first arose' even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may give rise to a fresh cause of action.

To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like 'cause of action first arose' in contradistinction to 'cause of action' simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions 'when right to sue first arose' or 'cause of action first arose' connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the



action to be brought within the prescribed period of limitation computed from the date when the cause of action 'first arose', it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.

30. Now, we would deal with the concept of recurring cause of action. The word 'recurring' means, something happening again and again and not that which occurs only once. Such reoccurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when 'cause of action first arose'. It could even have the same features but its reoccurrence is complete and composite. The recurring cause of action would not stand excluded by the expression 'cause of action first arose'. In some situation, it could even be a complete, distinct cause of action hardly having nexus to the first breach or wrong, thus, not inviting the implicit consequences of the expression 'cause of action first arose'. The Supreme Court clarified the distinction between continuing and recurring cause of action with some finesse in the case of *M.R. Gupta v. Union of India*, (1995) 5 SCC 628, the Court held that:

"The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action.

The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See *Thota China Subba Rao v. Mattapalli, Raju*, AIR (1950) FC 1."

31. The Continuing cause of action would refer to the same act or transaction or series of such acts or transactions. The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It

may have even be *de hors* the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. [Ref: *Ex. Sep. Roop Singh v. Union of India*, 2006 (91) DRJ 324, *Bengal Waterproof Limited v. Bombay Waterproof Manufacturing Company*, (1997) 1 SCC 99].

32. The principle that emerges from the above discussion is that the 'cause of action' satisfying the ingredients for an action which might arise subsequently to an earlier event give result in accrual of fresh right to sue and hence reckoning of fresh period of limitation. A recurring or continuous cause of action may give rise to a fresh cause of action resulting in fresh accrual of right to sue. In such cases, a subsequent wrong or injury would be independent of the first wrong or injury and a subsequent, composite and complete cause of action would not be hit by the expression 'cause of action first arose' as it is independent accrual of right to sue. In other words, a recurring cause of action is a distinct and completed occurrence made of a fact or blend of composite facts giving rise to a fresh legal injury, fresh right to sue and triggering a fresh lease of limitation. It would not materially alter the character of the preposition that it has a reference to an event which had occurred earlier and was a complete cause of action in itself. In that sense, recurring cause of action which is complete in itself and satisfies the requisite ingredients would trigger a fresh period of limitation. To such composite and complete cause of action that has arisen subsequently, the phraseology of the 'cause of action first arose' would not effect in computing the period of limitation. The concept of cause of action first arose must essentially relate to the same event or series of events which have a direct linkage and arise from the same event. To put it simply, it would be act or series of acts which arise from the same event, may be at different stages. This expression would not *de bar* a composite and complete cause of action that has arisen subsequently. To illustratively demonstrate, we may refer to the challenge to the grant of Environmental Clearance. When an appellant challenges the grant of Environmental Clearance, it cannot challenge its legality at one stage and its impacts at a subsequent stage. But, if the order granting Environmental Clearance is amended at a subsequent stage, then the appellant can challenge the subsequent amendments at a later stage, it being a complete and composite cause of action that has subsequently arisen and would not be hit by the concept of cause of action first arose.

33. The Environmental Clearance was granted to the project of Respondent no. 9 on 17<sup>th</sup> February, 2012 and to Respondent no. 10 on 30<sup>th</sup> September, 2013. Both these Environmental Clearances being appealable in terms of Section 16 of the NGT Act, 2010, their legality and correctness could be challenged within the prescribed period of limitation i.e. 30 days (or within the extended period of 60 days) which has not been done and as already noticed there is no challenge in this application to the grant of the Environmental Clearance. The applicants have primarily raised a challenge within the ambit and scope of Section 14 and 15 of the NGT Act. As already discussed, the application in so far as it prays for the relief of the restoration, it is within the period of limitation of 5 years. According to the applicants, the facts on record disclose violations of the condition of Environment Clearance and poses serious threat to the environment and ecology because of the reckless construction in the catchment areas of the lakes. During the period of August, 2012 to January, 2014, various notices have been issued by different authorities in relation to the modification of building plans. These stop work notices/orders and the inspection reports including report by LDA clearly demonstrates that the development project in the catchment area of Bellandur Lake as implemented would probably have adverse effect on the Bellandur Lake. The applicant may not challenge the grant of Environmental Clearance *per se* but upon commencement of the project and in view of their being definite documentary

evidence supported by data, that the Project Proponent has committed breaches and implementation of the project is bound to have serious adverse impacts on ecology, environment and particularly the water bodies would give an independent 'cause of action' to him *de hors* the grant of Environmental Clearance. The averments in the application and the record fully satisfy the ingredients of Section 14 of the NGT Act. From those occurrences particularly of January, 2014, a fresh period of limitation has to be reckoned. The applicant may rely upon various reports, notices and orders in support of its claim. Whether the applicant succeeds on merits or not, is a different issue. However, for the purpose of limitation, the dates of these reports, stop work orders and notices would be relevant dates, which would provide the 'recurring cause of action' to the applicant and thus, the application will be within the prescribed period of limitation. In addition to this, the applicant has also prayed for taking action in accordance with law on the basis of the report dated 14<sup>th</sup> August, 2013, communication letter of LDA dated 23<sup>rd</sup> September, 2013, communication dated 12<sup>th</sup> December, 2013 by LDA to Respondent No. 9, stop work notice dated 23<sup>rd</sup> December, 2013 issued by BBMP to Respondent No. 9 and stop work notice issued dated 2<sup>nd</sup> January, 2014 by KIADP to Respondent No. 9. Thus, the application having been instituted on 13<sup>th</sup> March, 2014 is well within the period of limitation under Section 14 of the NGT Act and for the reasons afore-recorded, we find no merit in the plea of limitation raised on behalf of the Respondents.

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?

34. It is a settled principle that while determining whether the application discloses a cause of action, which would squarely fall within the ambit and scope of the provisions of the NGT Act, the petition has to be read as a whole by the Court or the Tribunal. Thus, we have to examine the cumulative effect of the averments made in the application, read in conjunction with the prayer clause. If upon reading of the entire application together, such cause of action is disclosed, that would fall within the jurisdiction of this Tribunal, the Tribunal would be obliged to entertain and decide such pleas. In the case in hand, the applicant has made reference to various activities in general and illegal and unauthorised activities of respondent nos. 9 and 10 in particular, which are having adverse effect on the water bodies as well as the water supply to the city of Bangalore. It is alleged that the construction activity that is being carried on by respondent no. 9 is in violation of all the stipulations of the Environmental Clearance. Rampant construction work is being carried on in the buffer zone as well as over and around the Rajakaluves. While pointing out the blatant irregularities, it is also averred that the project is in the midst of fragile wetland area and is bound to severely disturb and damage the Rajakaluves. In terms of the Environmental Clearance, a condition has been imposed that the project proponent shall not disturb the storm water drains, natural valleys, etc. and buffer zone area around the Rajakaluves was to be maintained. However, according to the applicant, the project area is located between two lakes and therefore, the construction is in violation of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010. There has been violation of maintaining the buffer zone in accordance with the revised Master Plan of 2015. There has to be 30 meter buffer zone created around the lakes and 50 meter buffer zone created on either side of the Rajakaluves. This has also not been adhered to. Further, the consent had been granted to respondent no. 9 for residential units and not for other activities.

35. While referring the water shortage, the averment is that the project requires 4.5 million litres of water per day i.e. 135 million litre water per month. Such requirement of the project would be beyond the capacity of respondent no. 5, as the quantity of water required for the project would still be more than the water supply

being made by respondent no. 5 to the entire Agaram ward in Bangalore. The NOC issued by respondent no. 5 covers an area of only 17404 sq. meters whereas the total built up area of the construction is 13,50,454.98 sq. meters. Thus, the NOC was partial. Therefore, it is clear that even the Environmental Clearance had been obtained by respondent no. 9 without disclosure of correct facts. Further, the averments are that the construction activity has severely disturbed and damaged the Rajakaluves that run through the entire land and in fact is likely to result in disappearance of the Rajakaluves. Relying upon the two reports dated 12<sup>th</sup> June, 2013 and 14<sup>th</sup> August, 2013, it is averred that the project will have disastrous effect on the Agara Lake and the Bellandur Lake. If the construction is not stopped, the sensitive area and its ecology and environment would be at stake. Even the authorities had issued notices/stop work orders to the respondents for the breach of the conditions committed by them and for the construction activity being illegal.

On these averments, the two prayers that have been made is that the respondent - State of Karnataka - should take cognizance of the reports dated 12<sup>th</sup> June, 2013 and 14<sup>th</sup> August, 2013 and should take coercive and punitive actions against the respondents, as well as restore the ecology in the sensitive area. Further that, the Government should be directed to maintain the very land as a sensitive area and no development or construction activity should be allowed to be carried on, that would disturb the ecological balance of the area.

36. We have to examine whether on the facts afore-noticed, the prayers made would squarely fall within the scope of implementation of any of the Acts specified under Schedule I to the NGT Act. This Tribunal has three jurisdictions - original, appellate and special jurisdiction, enabling it to grant reliefs of compensation and restitution of property and environment both. Section 14 gives a very wide jurisdiction to the Tribunal to resolve and pass orders in all civil disputes, where substantial question relating to environment including enforcement of legal right relating to environment is involved and such question arises from the implementation of the enactments specified under Schedule I. Section 16 provides that appeal would lie to the Tribunal against the certain orders passed by authorities and Boards, in relation to the orders specified in clauses (a) to (j) of section 16, which also includes appeal against an order refusing or granting Environmental Clearance for carrying out of any activity, operation or process. Section 15 of the NGT Act gives to the Tribunal jurisdiction to grant relief, compensation and restitution in the event there is a victim of pollution and other environmental damage arising under the enactment specified in Schedule I of the NGT Act, for restitution of property damage as well as for restitution of environment in such areas.

37. The definition of 'environment' under Section 2(c) of the NGT Act again is widely framed. It is comprehensive enough to take within its ambit all matters in relation to environment. This definition practically covers every activity that will have water, air and land and inter-relationship, which exists among and between these and the human being, other living creatures, plants, microorganism and property. This definition is identical to the definition of 'environment' as provided under section 2(a) of the Act of 1986. In terms of the object and purpose of the Act of 1986, it has primarily been enacted to protect and improve the environment and for prevention of hazards to human being, other living creatures, plants and property.

Therefore, both protection and improvement of the environment are two very fundamental aspects of these legislations. Certainly, the applicant has not raised specific challenge to the Environmental Clearances dated 17<sup>th</sup> February, 2012 and 30<sup>th</sup> September, 2013 in the present appeal, but what is being questioned is the disappearance and further likelihood of complete extinction of the water bodies in the area in question in the city of Bangalore. Furthermore, since studies have shown

serious adverse impacts upon the ecology and environment of the area, the authorities concerned, including the State Government, should take appropriate steps in accordance with law and the ecological degradation or damage should be directed to be restored. Once these reliefs are read in conjunction with the averments made in the record and examined within the domain of Order VII Rule 11 of the Code of Civil Procedure, 1908, then it is not possible to hold that the petition does not disclose a cause of action that would squarely fall within the ambit of the jurisdiction conferred upon the Tribunal in terms of Sections 14 and 15 of the NGT Act.

38. Section 15 of the NGT Act provides not only for relief and compensation to victims of pollution and other environmental damage arising under the enactments specified under Schedule I, but also for restitution of property and damage and restitution of environment for such area or areas. It is a general provision and covers victims of the pollution generally. In contradistinction thereto, Section 17 is a specific provision relating to death or specific injury which has occurred to a person, to a property or environment. Such death or injury has to result from an accident or adverse impact of activity or operation or a process, under any enactment specified under Schedule I, then the person responsible shall be liable to pay such relief or compensation for death, injury or damage, in terms of all or any of the heads specified in Schedule II of the Act and as determined by the Tribunal. This provision is person-specific and relates to such injury which results from an activity, operation or process and imposes liability on the person responsible for that activity, operation or process. Furthermore, when the provision of Section 14 and 15 of the NGT Act are examined in light of the Scheme of the Act, then it becomes clear beyond ambiguity that both these provisions operate in independent fields. They are mutually exclusive and not interconnected. Section 15 is not essentially dependent upon an order being passed under Section 14 as a condition precedent. In other words, remedy under Section 15 is not a consequential remedy to the provisions under Section 14. The legislature has provided distinct criteria, procedure and limitation under both these sections. If they were to be treated interconnected or inter dependent, there was no occasion to provide entirely different limitation within which an aggrieved person can invoke the jurisdiction of the Tribunal. The essentials to be pleaded and proved under these provisions are notably different. While under Section 14, an applicant has to show that he has raised a substantial question relating to environment, which arises out of the implementation of the enactments specified under Schedule I, under Section 15, an applicant is called upon only to show that he is victim of pollution or other environmental damage.

39. Another contention raised before the Tribunal by the respondents is that as far as grant of restoration under Section 15 is concerned, the applicant has not made out a case invoking the said jurisdiction and furthermore, that Section 15 comes into play post event. This argument cannot be accepted. Firstly, we have already noticed in some detail that the factual matrix of the case as pleaded by the applicant brings out a case for invoking the jurisdiction of the Tribunal under Sections 14 and 15 both. Secondly, Section 15 when construed on its plain language does not mandate a jurisdiction which can be invoked only post event. We are persuaded to hold so because of the clear distinction in language of Sections 15 and 17 of the NGT Act. Section 17 specifically requires that there ought to have been death, injury to any person or damage to any property or environment from an accident or adverse impact of an activity or operation or process where on the liability of the person to pay such relief or compensation shall be computed on the principle of no fault i.e. strict liability. In contradistinction thereto, Section 15 would operate both to a damage that has occurred as well as the damage which is likely to occur in relation to a property or environment. Of course, such damage will be to the victim of the pollution or other environmental damage arising under the enactments specified in Schedule I. Section



20 of the Act places an obligation on this Tribunal to apply the three principles of Sustainable Development, Precautionary Principle and the Polluter Pays Principle, in settlement of disputes before it. Since the precautionary principle will also be part of Section 15, its applicability in a likely damage to environment or property cannot be excluded. The legislature in its wisdom has enacted two different and distinct provisions. They have to operate in their respective fields, particularly, when their language is distinct and different. A clear distinction between two is that Section 17 would operate only for compensation while Section 15 would deal both with compensation and restitution.

40. The expression 'dispute' is relatable to a question which is a substantial question of environment and such question should arise out of the implementation of the scheduled enactments under the NGT Act. It is a term of wide connotation and once a fact is asserted by one party and disputed by the other it gives rise to a 'dispute'.

41. Wherever a dispute as afore-noticed would arise, it would certainly give rise to a cause of action and accrue a right to sue in favour of an applicant in order to invoke one or the other jurisdictions of the Tribunal. At this stage it may be useful to refer to the decision of the Tribunal in the case of *Kehar Singh v. State of Haryana*, 2013 ALL (I) NGT REPORTER (DELHI) 556, wherein it was held:

"16. 'Cause of action', therefore, must be read in conjunction with and should take colour from the expression 'such dispute'. Such dispute will in turn draw its meaning from Section 14(2) and consequently Section 14(1) of the NGT Act. These are inter-connected and inter-dependent. 'Such dispute' has to be considered as a dispute which is relating to environment. The NGT Act is a specific Act with a specific purpose and object, and therefore, the cause of action which is specific to other laws or other objects and does not directly relate to environmental issues would not be 'such dispute' as contemplated under the provisions of the NGT Act. The dispute must essentially be an environmental dispute and must relate to either of the Acts stated in Schedule I to the NGT Act and the 'cause of action' referred to under Sub-section (3) of Section 14 should be the cause of action for 'such dispute' and not alien or foreign to the substantial question of environment. The cause of action must have a nexus to such dispute which relates to the issue of environment/substantial question relating to environment, or any such proceeding, to trigger the prescribed period of limitation. A cause of action, which in its true spirit and substance, does not relate to the issue of environment/substantial question relating to environment arising out of the specified legislations, thus, in law cannot trigger the prescribed period of limitation under Section 14(3) of the NGT Act. The term 'cause of action' has to be understood in distinction to the nature or form of the suit. A cause of action means every fact which is necessary to establish to support the right to obtain a judgment. It is a bundle of facts which are to be pleaded and proved for the purpose of obtaining the relief claimed in the suit. It is what a plaintiff must plead and then prove for obtaining the relief. It is the factual situation, the existence of which entitles one person to obtain from the court remedy against another. A cause of action means every fact which, if traversed, would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which, taken with the law applicable to them, gives the plaintiff a right to relief against the defendant. It does not comprise evidence necessary to prove such facts but every fact necessary for the plaintiff to prove to enable him to obtain a decree. The expression 'cause of action' has acquired a judicially settled meaning. In the restricted sense, cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In wider sense, it means

the necessary conditions for the maintenance of the suit including not only the infraction coupled with the right itself. To put it more clearly, the material facts which are imperative for the suitor to allege and prove constitute the cause of action. (Refer: *Rajasthan High Court Advocates Assn. v. Union of India* [(2001) 2 SCC 294], *Sri Nasiruddin v. State Transport Appellate Tribunal and Ramai v. State of Uttar Pradesh* [(1975) 2 SCC 671]; *A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies, Salem* [(1989) 2 SCC 163]; *Bloom Dekor Limited v. Sujbhash Himatlal Desai with Bloom Dekor Limited v. Arvind B. Sheth* [(1994) 6 SCC 322]; *Kunjan Nair Sivaraman Nair v. Narayanan Nair* [(2004) 3 SCC 277]; *Y. Abraham Ajith v. Inspector of Police, Chennai* [(2004) 8 SCC 100]; *Liverpool and London S.P. and I. Asson Ltd. v. M.V. Sea Success I* [(2004) 9 SCC 512]; *Prem Chand Vijay Kumar v. Yashpal Singh* [(2005) 4 SCC 417]; *Mayar (H.K.) Ltd. v. Owners and Parties, Vessel M.V. Fortune Express* [(2006) 3 SCC 100].

17. Upon analysis of the above judgments of the Supreme Court, it is clear that the factual situation that existed, the facts which are imperative for the applicant to state and prove that give him a right to obtain an order of the Tribunal, are the bundle of facts which will constitute 'cause of action'. This obviously means that those material facts and situations must have relevancy to the essentials or pre-requisites provided under the Act to claim the relief. Under the NGT Act, in order to establish the cause of action, prerequisites are that the question must relate to environment or it should be a substantial question relating to environment or enforcement of any legal right relating to environment. If this is not satisfied, then the provisions of Section 14 of the NGT Act cannot be called in aid by the applicant to claim relief from the Tribunal. Such question must fall within the ambit of jurisdiction of the Tribunal i.e. it must arise from one of the legislations in Schedule I to the NGT Act or any other relevant provision of the NGT Act. For instance, the Tribunal would have no jurisdiction to determine any question relating to acquisition of land or compensation payable in that regard. However, it would have jurisdiction to award compensation for environmental degradation and for restoration of the property damaged. Thus, the cause of action has to have relevancy to the dispute sought to be raised, right to raise such dispute and the jurisdiction of the forum before which such dispute is sought to be raised."

42. The plea raised by the respondents that the application does not disclose any cause of action within the four corners of the statutory jurisdiction of the Tribunal is, therefore, liable to be rejected. The respondent can raise such plea only while on the assumption that the allegations made in the application are correct. In other words, such plea of rejection of plaint is a plea of demurer. Whether the applicant would ultimately be entitled to any relief or not, is a matter different from rejecting the application on the ground of non-disclosure of any cause of action.

43. Specific averments have been made in the application with regard to the construction activities being carried on in an irregular manner, in violation of Environmental Clearance conditions and its adverse impacts upon environment and ecology, particularly, the water bodies in the area. Furthermore, submissions have been made on the basis of reports that refer to the restitution of degraded and damaged ecology and environment, particularly with reference to the water bodies in the concerned areas. A general question with regard to adverse impacts on water supply and water bodies has been prominently raised. These averments have been denied by the project proponents. The authorities which had issued stop work notices to the project proponents have partly supported the case of the applicant, while some other respondents, including official respondents, have supported the project. Thus, these are the matters which certainly raise a substantial question relating to environment and which arise in relation to implementation of the enactments specified

in the Schedule to the NGT Act. Once, such disputes are raised which require determination by the Tribunal, it can hardly be contended that the application does not disclose any cause of action falling within the jurisdiction of the Tribunal.

44. Applicant can make a prayer of restitution of property damaged or of environment of such area under Section 15 of NGT Act. However, applicant has to show that it arises under the enactments specified under Schedule I. Thus, there is hardly any commonality in cause of action and ingredients thereto, required to be pleaded and proved and in the scope of jurisdiction exercisable by the Tribunal under sections 14 and 15 of the NGT Act. Therefore, these provisions are mutually exclusive and contentions of the Respondents that jurisdiction under Section 15 can only be invoked as a consequence of invocation of jurisdiction and orders of the Tribunal either under Section 14 or Section 16 of the Act is devoid of any merit.

45. The Learned Counsel appearing for the respondents, particularly the Project Proponents, while relying upon the judgement of the Hon'ble Supreme Court in the case of *T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467 and *ITC Ltd. v. Debt Recovery Tribunal*, (1998) 2 SCC 70, contended that the application before the Tribunal does not disclose a cause of action, is a vexatious litigation without merits and is cleverly drafted to create an illusion of a cause of action and therefore the application should be rejected. In our considered opinion, the respondents cannot take any advantage from any of the judgements cited by them. Firstly, these were the judgements on their own peculiar facts. In the case of *T. Arivandandam* (supra), the Hon'ble Supreme Court was dealing with an appeal against the order of Hon'ble High Court of Karnataka dismissing the revision petition of the petitioner for granting injunction or stay on the order of the Trial Court directing vacation of premises. The Apex Court observed that it was an audacious attempt by the petitioner for seeking more and more time in vacating premises by filing these fake litigations. It was held by the Hon'ble Supreme Court that the plaint was manifestly vexatious and meritless in the sense of not disclosing a clear right to sue and, therefore, the plaint should be rejected. On the other hand, in the case of *ITC Ltd.* (supra), the appeal was filed against the judgment of the Learned Single Judge of High Court of Karnataka, dismissing the Writ Petition filed by the appellant against the orders of the Debt Recovery Tribunal and Appellate Tribunal, rejecting the application of the appellant under Order VII Rule 11 of the Code of Civil Procedure, 1908. The Hon'ble Supreme Court had therein observed that non-movement of goods can be for a variety of tenable or untenable reasons but that by itself will not give a reason to the plaintiff to use the word "fraud" in the plaint and cleverly get over any objections that may be raised by way of filing an application under Order VII Rule 11. In these circumstances, it was held that if the plaint in fact did not disclose a cause of action, clever drafting cannot create illusory cause of action. Hon'ble Supreme Court also stated that there was gross abuse of process of law repeatedly and observed that a plaint on a meaningful and not formal reading, should disclose the cause of action.

46. In the case in hand, as has already been held by us before, the litigation pending before the Hon'ble High Court of Karnataka and the Tribunal, fall under different jurisdictions. Even the Project Proponents themselves have filed Writ Petitions before the Hon'ble High Court of Karnataka challenging the stop work notices issued to them. In our considered view, on a meaningful reading of the application, particularly seen in light of the reports and other documents placed on record, the application does disclose a cause of action that would squarely fall within the ambit of jurisdiction of this Tribunal vested in it under Sections 14 and 15 of the NGT Act.

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?

47. The Respondents have raised the plea that the present application of the applicant is barred by the Principles of *res judicata*, constructive *res judicata* and in any case principle analogous thereto. This plea is found on the averment that some petitioners including Respondent Nos. 11 and 12 had filed a Writ Petition being Writ Petition No. 36567-574 of 2013, before the Hon'ble High Court of Karnataka with the following prayers:—

“PRAYER

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

- (a) Issue a writ of mandamus or any other appropriate writ or order, directing the Respondent no. 2 to resume the land which has been allotted in favour of Respondent no. 8 vide Lease cum sale agreement dated 30.06.2007 at Annexure “B”, more fully described in the schedule to the said agreement;
- (b) Issue a writ of mandamus or any other appropriate writ or order, directing the Respondent no. 2 to resume the land which has been allotted in favour of Respondent no. 9 vide Lease cum sale agreement dated 20.03.2008 at annexure “C”, more fully described in the schedule to the said agreement.
- (c) Issue a writ of mandamus or any other appropriate writ or order, restraining the Respondent Nos. 1 and 2 from, in any manner, further alienating the public land, described in the schedule of the Lease cum Sale Agreement at Annexure B and C, in the vicinity of Agara lake to any private individual/institution/trust/societies/nongovernmental associates and organizations without following the due process of law;
- (d) Issue a writ of mandamus or any other appropriate writ or order, restraining the Respondent Nos. 1 and 2 from allotting the said land, described in the schedule to the Lease cum Sale Agreement at Annexure B and C, for purpose which may have an adverse consequences on the environment and, in particular the land in issue;
- (e) Direct the Respondent no. 1 to appoint a Task Force to look into illegal allotment of land in favour of private persons at the cost of environment and ecology and report to the Respondent no. 1 take action over them;
- (f) Pass such other orders and further orders as may be deemed necessary in the facts and in the circumstances of the case.

INTERIM PRAYERS

Pending consideration of this writ petition, this Hon'ble Court be pleased to:

- (a) Pass an order staying all construction activity under the project being carried out on the land in issue;
- (b) Pass an order restraining the Respondent Nos. 8 and 9 from alienating the land described in the schedule to the Lease cum Sale Agreement at Annexures B and C, or creating any third party rights or encumbrances on the land in issue; and
- (c) Pass such other orders and further orders as may be deemed necessary in the facts and in the circumstances of the case.”

48. It is alleged that in the above mentioned Writ Petition, averments similar to that of present application had been made and in fact averments identical to the present petition were made in paragraphs 52 to 55 of the Writ Petition. Furthermore, the applicants did not disclose the factum of filing the Writ Petition before the Hon'ble High Court to this Tribunal. Also, the parties to both the proceedings to some extent are common.

It is also argued that respondent nos. 9 and 10 have also filed two Writ Petitions

before the Hon'ble High Court of Karnataka being Writ Petition No. 792 of 2014 and Writ Petition No. 366-367 of 2014, challenging the stop work notices issued to the respective respondents on 23<sup>rd</sup> December, 2013 and 2<sup>nd</sup> January, 2014 and that the operation of these notices have been stayed by the Hon'ble High Court on 21<sup>st</sup> January, 2014.

Thus, it is contended that the issues in the present application are directly and substantially in issue before the Hon'ble High Court of Karnataka and therefore, the present proceedings are barred by the Principle of *res judicata* and/or constructive *res judicata*. Neither the applicant nor respondent nos. 11 and 12 have disputed the filing of these Writ Petitions before the Hon'ble High Court, but have vehemently contended that neither the parties are common nor the issues in both the applications are directly and substantially the same. According to them, there is no commonality of cause of action or likelihood of a conflict between the judgments. It is therefore, their contention that the application is not liable to be rejected on that ground.

49. The pendency of the Writ Petitions before the Hon'ble High Court would not directly or incidentally render the proceedings before the Tribunal unsustainable. The scope of those Writ Petitions and the reliefs claimed therein are distinct and different. The matters relating to environment or the matters raising serious environmental issues are to be more appropriately tried before the Tribunal. We may at this stage refer to a recent judgment of the Supreme Court of India in the case of *Union of India v. Shrikant Sharma*, Civil Appeal No. 7400 of 2013 decided on 11<sup>th</sup> March, 2015. The Supreme Court in that case was dealing with a question of law whether the right of appeal under Section 30 of the Armed Forces Tribunal Act, 2007 against an order of the Tribunal with the leave granted by the Supreme Court against such orders, under Article 136(2) of the Constitution of India will bar the jurisdiction of the High Court Under Article 226 of the Constitution of India. After discussing the various provisions of the Act and various judgments of the Supreme Court in relation to basic principle for exercising power under Article 226 of the Constitution stated:

"34.

(iii) When a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

(Refer: *Nivedita Sharma*).

(iv) The High Court will not entertain a petition Under

Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance. (Refer: *Nivedita Sharma*).

36. In *Executive Engineer, Southern Electricity Supply Company of Orissa Limited (SOUTHCO)* this Court observed that it should only be for the specialised tribunal or the appellate authorities to examine the merits of assessment or even the factual matrix of the case.

In *Chhabil Dass Agrawal* this Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

The Court then proceeded to examine the likelihood of analogous situation that could arise by exercise of such jurisdiction and finally concluded held as under:

"37.

...Once, the High Court entertains a petition Under Article 226 of the Constitution against the order of Armed Forces Tribunal and decides the matter, the person who thus approached the High Court, will also be precluded from filing an appeal Under Section 30 with leave to appeal Under Section 31 of the Act against the

order of the Armed Forces Tribunal as he cannot challenge the order passed by the High Court Under Article 226 of the Constitution Under Section 30 read with Section 31 of the Act. Thereby, there is a chance of anomalous situation. Therefore, it is always desirable for the High Court to act in terms of the law laid down by this Court as referred to above, which is binding on the High Court Under Article 141 of the Constitution of India, allowing the aggrieved person to avail the remedy Under Section 30 read with Section 31 Armed Forces Act.

38. The High Court (Delhi High Court) while entertaining the writ petition Under Article 226 of the Constitution bypassed the machinery created Under Sections 30 and 31 of Act. However, we find that Andhra Pradesh High Court and the Allahabad High Court had not entertained the petitions Under Article 226 and directed the writ Petitioners to seek resort Under Sections 30 and 31 of the Act. Further, the law laid down by this Court, as referred to above, being binding on the High Court, we are of the view that Delhi High Court was not justified in entertaining the petition Under Article 226 of the Constitution of India.

39. For the reasons aforesaid, we set aside the impugned judgments passed by the Delhi High Court and upheld the judgments and orders passed by the Andhra Pradesh High Court and Allahabad High Court. Aggrieved persons are given liberty to avail the remedy Under Section 30 with leave to appeal Under Section 31 of the Act, and if so necessary may file petition for condonation of delay to avail remedy before this Court."

50. Now firstly, let us examine if the parties in both these proceedings are common. The present application was instituted by 3 applicants and none of them is a party to the Writ Petition before Hon'ble High Court of Karnataka. The official Respondents are common in both the proceedings. Respondent Nos. 11 and 12 were the petitioners No. 1 and 2 in the Writ Petition before the Hon'ble High Court. However, at a later stage of pendency of this application, they filed M.A. No. 139 and 140 for being impleaded as party to the present application. This application was contested by the respondents including Respondent no. 9 and 10 in the present application and the same was allowed vide order dated 25<sup>th</sup> July, 2014 passed by the Tribunal. In the said order, it was recorded that both these Respondent Nos. 11 and 12 have given an undertaking to the Tribunal that they would withdraw the Writ Petition that they had filed before the Hon'ble High Court of Karnataka. In compliance to the undertaking given to the Tribunal, these two Respondents filed an application before the Hon'ble High Court and vide order dated 1<sup>st</sup> August, 2014 passed in Writ Petition No. 36567 of 2013, the name of these two Respondents as Petitioner Nos. 1 and 2 were ordered to be deleted. Thus, as of today, none of the above applicants is the party in the Writ Petition before the High Court and in fact, they have been impleaded as Respondent Nos. 11 and 12 in consonance with the order of the Tribunal and that of the High Court as afore-referred. Now, we may proceed to deal with the content and scope of these proceedings. Undisputedly, the jurisdiction of the High Court under Article 226 of the Constitution of India is very wide. The jurisdiction of the Tribunal is very limited and it has to exercise it within the limitation of the Statute that created it. There are similar and at some places even identical contentions raised by the applicants in the present application, to the facts averred in the Writ Petition by the Petitioners before the High Court of Karnataka. The prayers in the Writ Petition as referred to above, both generally and substantially relate to acquisition of land, requiring the respondent authorities to resume the land in question, to examine the question of illegal allotment of the land and stop allotment and alienation of land. While the prayers before the Tribunal are and have to be restricted to environmental degradation and its restoration along with treating the areas in question as sensitive areas. The rampant development activities carried out by Respondent Nos. 9 and 10 are stated to have adverse impact on ecology, environment and the water bodies. It is

further prayed before tribunal that there should be restoration of ecology of sensitive area. Thus, it is evident from the prayers and genesis of the respective proceedings that they are entirely distinct and different in their scope and relief. The issues before the Tribunal would essentially relate to environment, ecology and its restoration and have to be essentially a civil proceeding. While the proceedings before the High Court relate to entirely different issues i.e. the acquisition of land, its allotment and its transfer to third party. Thus, the issues in both the proceedings are neither substantially nor materially identical. Both jurisdictions have to operate in different fields governed by different and distinct laws. The objection taken by the Respondent does not satisfy the basic ingredients to attract the application of *res judicata* or constructive *res judicata*.

51. One of the tests in regard to the above is that a 'cause of action' should culminate into a judgment and lose its identity by merging into the result of the judgment. Once a 'cause of action' is culminated into the judgment, the general principle of *res judicata* or *constructive res judicata* bars re-agitating the same issue all over again. The object is to prevent abuse of process of law by re-agitating the same issues in different courts.

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 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.

In light of the above law enunciated by the Supreme Court of India, the contention raised on behalf of the applicant that this Tribunal should entertain and decide the application despite pendency of Writ Petitions before the High Court, deserves to be accepted.

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?

52. Discussion on this issue with reference to the facts of the case would require the Tribunal to decide as to what relief, if any, could be granted to the applicant and whether there is any need for the Tribunal to pass any direction in the interest of environment and ecology in the peculiar facts and circumstances of the case. As already noticed in the afore-indicated discussions, the serious objection herein is that these projects commenced their construction activities without seeking Environmental Clearance and therefore, the constructions are illegal and unauthorised. These huge constructions of residential, commercial and other purposes are located on the wetlands of different water bodies in the city of Bengaluru. The constructions have been raised even on the catchment areas of the water bodies. With reference to the

reports afore-noticed, averments are that these constructions have adversely affected the environment, ecology and particularly the water bodies and their biodiversity. These constructions would have tremendous impact on the water supply to the city of Bengaluru and that there is a likelihood of complete extinguishment of these historical lakes, which have been the basic factor behind maintaining the environmental and ecological balance in the city of Bengaluru.

53. One of the most important facets of deliberation on this issue would be the alleged construction on the wetlands and catchment areas of the water bodies, i.e. the Agara and the Bellandur Lakes. In common parlance, 'wetlands' are the areas where water is the primary factor controlling the environment and the associated plant and animal life. They occur where the water table is at or near the surface of the land or where the land is covered by water.

54. Ramsar Convention uses a broad definition of wetlands. It includes all lakes and rivers, underground aquifers, swamps and marshes, wet grasslands, peatlands, oases, estuaries, deltas and tidal flats, mangroves and other coastal areas, coral reefs, and all human-made sites such as fish ponds, rice paddies, reservoirs and salt pans.

55. The Indian definition of a 'wetland' means "an area or of marsh, fen, peatland or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six meters and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wetland and zone of direct influence on wetlands that is to say the drainage area or catchment region of the wetlands as determined by the authority but does not include main river channels, paddy fields and the coastal wetland covered under the notification of the Government of India in the Ministry of environment and Forest, S.O. number 114(E) dated the 19th February, 1991."

56. Wetlands are amongst the most productive ecosystems on the Earth, and provide many important services to human society. However, they are also ecologically sensitive and adaptive systems. "Free" services provided by wetlands are often taken for granted, but they can easily be lost as wetlands are altered or degraded in a watershed. Estimates of the per acre value of wetland services run as high as \$370,000/acre in 1992 dollars (Heimlich *et al.* 1998). The exact value can be attributed to the type and location of the wetland, the services it provides, and the economic methods and assumptions used.

57. Ecosystem goods provided by the wetlands mainly include: water for irrigation; fisheries; non-timber forest products; water supply; Pollutant removal, Flood attenuation, Groundwater recharge, Shoreline protection, Wildlife habitat and recreation. Major services include: carbon sequestration, flood control, groundwater recharge, nutrient removal, toxics retention and biodiversity maintenance (Turner *et al.*, 2000).

58. Various services provided by wetlands include Carbon Cycle/Carbon Sequestration: Swamps, mangroves, peat lands, mires and marshes play an important role in carbon cycle. Though wetlands contribute about 40% of the global methane (CH<sub>4</sub>) emissions, they have the highest carbon (C) density among terrestrial ecosystems and relatively greater capacities to sequester additional carbon dioxide (CO<sub>2</sub>). Wetlands provide for habitat for more aquatic, terrestrial, and avian species on an area basis than any other habitat type, making them one of the most ecologically and economically important ecosystems on earth. Thus, wetlands provide for soil life, habitat, biodiversity maintenance and recreation. Wetlands are a service provider to Nutrient Removal, Flood attenuation and Water supply and Ground water recharge and even are a source of employment [Ref: Pant *et. al*, 2003; Groffman and Crawford, 2003; Juliano and Simonovic, 1999; Olewiler, 2004; MFPED, 2004]. It is essential to



provide an effective institutional framework to manage water bodies through governmental and even non-governmental organizations.

59. Bengaluru has many artificial lakes, built for various hydrological purposes and mainly to serve the needs of irrigated agriculture and other allied purposes. The studies placed on record show that lakes of Bengaluru occupy about 4.8 per cent of the city's geographical area (640 square meters) covering both urban and non-urban areas (Krishna M.B. *et al.*, 1996). The number of these lakes has rapidly fallen from 262 in 1960 to 81 in 1985. The quality of water has reduced due to discharge of industrial effluents and domestic sewage. Conversion of lakes for residential, agricultural and industrial purposes has engulfed many lakes. Similarly, between 1973 and 2007, this region lost 66 lakes with a water spread area of around 1100 hectares due to urban sprawl (Nitin Bassi *et al.*, 2014). General factors affecting wetlands especially lakes are Eutrophication, low dissolved oxygen and pH, sedimentation and heavy metal pollution, biodiversity loss, etc.

60. Studies also reflect that a comparative analysis of drainage network between the Bengaluru urban and rural areas showed that the water bodies in Bengaluru urban district were subjected to intense pressure due to the process of urbanization and increasing population, resulting in loss of interconnectivity, in contrast to water bodies in rural Bangalore, where less pressures from direct human activities were noticed. At Madivala and Bellandur, there is interconnectivity of lakes with the adjacent lakes. Due to conversion and encroachment of two water bodies, connectivity between Yelchenahallikere and Madivala is lost as in the case of *Bellandur* and *Ulsoor* lakes with the conversion of Challegatta tank into a golf course. The GIS analysis revealed that due to developmental activities in the catchment area, the drainage connectivity between the water bodies has been lost.

61. The loss in wetland interconnectivity in Bangalore district is attributed to the enormous increase in population and the reclamation of tanks for various developmental activities. Analysis of Madivala and Bellandur drainage network revealed that encroachment and conversion has resulted in the loss of connectivity between Yelchenahallikere and Madivala. Similarly the drainage network between Bellandur and Ulsoor is lost due to conversion of Chelgatta tank into a golf course (Status of wetlands in Bangalore).

62. In 1995, the National Lake Conservation Authority (NLCA) came up with National Lakes Conservation Plan (NLCP) for Bangalore, specifically aimed at raising the highest state of environmental alarm for dwindling quality of the remnants of the city's lakes. The National Lake Conservation Plan for Bangalore came with the theme of "*Integrated Lake Ecology with Water Quality*". This plan aimed at improving urban sanitation and health conditions, especially for the weaker sections of the society living within the lake catchment area. The plan also called for eco-friendly, low-cost, waste management bio-systems like "engineered wetlands". A total of 4 sub-systems comprising of around 20 lakes were selected for the first phase of the NLCP. These four subsystems included Agara Lake System (Hulimavu, Doddabegur, Madiwala, Puttenahalli; Agara Kere); Hebbal System (Narasipura I and II; Dodda Bomassandra, Hebbal Kere, and Nagavara); Bellandur Lake System (Ulsoor, Bellandur, Vartur); and Dorekere System (Vasanthapura, Janardhana, Dorekere, Moggekere). Rs. 5.542 Crore were sanctioned for the restoration of the Bellandur Lake under NLCP in January 2003. The proposal specified the following tasks for the restoration: de-silting of lakes, fencing around the lakes, afforestation and gardening, sewage water treatment, interception chambers, diversion channels, oxidation ponds, de-weeding of lakes, community sanitation, solid waste and garbage disposal, recreational facilities. This was to be a five year phasing project (1995–2000.) divided into the catchment area development (CAD); Sewage diversion channels; De-silting and Weed control; Face-lifting of lake; Biological studies and public awareness program; land acquisition. and

others. The total cost for five years was estimated at Rupees Twenty-One Crores, Twenty Lakhs and Thirty five thousands.

63. In late 2000, the Research and Development wing of KSPCB published its report on comprehensive monitoring of lakes in and around Bangalore Metropolitan area to assess the state of the water quality. This was an interesting report given the weight of the output carried after the first phase of the city's lakes restoration process. KSPCB's results as a result of water quality monitoring on 44 selected lakes (including all but 2 in the NLCP list) revealed that most lakes still remained highly polluted.

64. The LDA instituted in January 2002, identified about 60 lakes for immediate restoration soon after it was established. This program, like the NCLP one previously was proposed to be a five year phasing project costing Rs. 250 Crores, almost ten times the estimated cost proposed by the NLCA in 1995. These selected lakes included Ulsoor Lake, Sankey tank, Agara Lake, Narasipura Lake, Lal Bagh Lake, Dodda Bamasandra Lake, Hebbal Lake, Nagavara Lake and Bellandur Lake. The LDA's main objectives were: Resuscitation of lakes to boost aquifers, Diversion and treatment of sewage to generate alternative sources of raw water; improving sanitation and health conditions; and preserving the habitat of aquatic life.

65. The wetland management program generally involves activities to protect, restore, manipulate, and provide for the functions and values emphasizing both quality and acreage by still advocating sustainable usage of them [Walters, C. 1986.]. Management of wetland ecosystems requires an intense monitoring, increased interaction and co-operation among the various agencies (state departments concerned with environment, soil, natural resource management, public interest groups, citizen groups, agriculture, forestry, urban planning and development, research institutions, government, policy makers, etc.). Such management goals should not only involve buffering wetlands from any direct human pressures that could affect the wetlands normal functions, but also in maintaining important natural processes that operate on them that may be altered by human activities. Wetland management has to be an integrated approach in terms of planning, execution and monitoring requiring effective knowledge on a range of subjects from ecology, economics, watershed management, and planners and decision makers, etc. All this would help in understanding wetlands better and evolving a more comprehensive solution for long-term conservation and management strategies.

We have noticed the above studies on record to bring clarity in regard to the importance of these water bodies and need-oriented significance to maintain the wetlands and catchment areas in the interest of environment, ecology, biodiversity and hydrological balance. The merit or otherwise, of these cases have to be examined in light of these studies, which is a matter of record.

66. It is alleged that respondents 9 and 10 had started the construction activity of their projects without grant of Environmental Clearance and it is sought to be substantiated by placing the Google Images on record. However, it cannot be disputed that subsequently both these respondents obtained ECs for the projects in question on 17<sup>th</sup> February, 2012 and 30<sup>th</sup> September, 2013, respectively. After the grant of Environmental Clearance, the respondents were expected to carry on with the projects strictly as per the terms and conditions of the orders granting them Environmental Clearance. The allegation is that they have carried out the constructions in violation of the conditions of the Environmental Clearance and have encroached upon the wetlands and catchment areas of the lakes.

67. The Environmental Information System (ENVIS), Centre for Ecological Sciences, Indian Institute of Science, Bangalore had carried out a study and submitted a report on the need for 'Conservation of Bellandur Wetlands: Obligation of Decision Makers to Ensure Intergenerational Equity'. This report had specifically dealt with the activity of

the SEZ projects by Karnataka Industrial Area Development Board in six zones. It was opined that this activity is contrary to Sustainable Development as the natural resources, lakes and wetlands get affected due to such activity. Removal of Rajakaluve (storm water drains) and gradual encroachment over them amounts to removal of lake connectivity, which enhances the episodes of flood and associated disasters. The Supreme Court of India, in Civil Appeal No. 1132/2011 while expressing concern regarding encroachment, particularly over lakes, had directed the State Governments to remove encroachments on all community lands. Even the High Court of Karnataka in Writ Petition No. 817/2008 had directed that the lakes should be protected across Karnataka, prohibited dumping of garbage and sewage in lakes, removal of encroachments, plantation of trees in consultation with experts lake surroundings and to declare it a 'No Development Zone' around the lakes. The report also speaks of water shortage by stating that BWSSB had not given NOC to respondent no. 9 and had communicated inability to supply such huge quantity of water on regular basis, as these projects require 4,587 kilolitres water per day (4.58 MLD per day). In this report, the Institute did not approve of the decision of the authorities to go ahead with such huge project, but also made reference to the ecological and environmental implications as follows:—

**"Ecological and Environmental Implications:**

- Land use change: Conversion of watershed area especially valley regions of the lake to paved surfaces would alter the hydrological regime.
- Loss of Drainage Network: Removal of drain (Rajakaluve) and reducing the width of the drain would flood the surrounding residential as the interconnectivities among lakes are lost and there are no mechanisms for the excessive storm water to drain and thus the water stagnates flooding in the surroundings.
- Alteration in landscape topography: This activity alters the integrity of the region affecting the lake catchment. This would also have serious implications on the storm water flow in the catchment.

The dumping of construction waste along the lakebed and lake has altered the natural topography thus rendering the storm water runoff to take a new course that might get into the existing residential areas. Such alteration of topography would not be geologically stable apart from causing soil erosion and lead to siltation in the lake.

- Loss of Shoreline: The loss of shoreline along the lakebed results in the habitat destruction for most of the shoreline birds that wade in this region. Some of the shoreline wading birds like the Stilts, Sandpipers; etc will be devoid of their habitat forcing them to move out such disturbed habitats. It was also apparent from the field investigations that with the illogical land filling and dumping taking place in the Bellandur lakebed, the shoreline are gobbled up by these activities.
- Loss of livelihood: Local people are dependent on the wetlands for fodder, fish etc. estimate shows that wetlands provide goods and services worth Rs. 10500 per hectare per day (Ramachandra et al., 2005).

Decision makers need to learn from the similar historical blunder of plundering ecosystems as in the case of *Black Swan* event ([http://blackswanevents.org/?page\\_id=26](http://blackswanevents.org/?page_id=26)) of evacuating half of the city in 10 years due to water scarcity, contaminated water, etc. or abandoning of Fatehpur Sikhri and fading out of AdilShahi's Bijapur, or ecological disaster at Easter Island or Vijayanagara empire.

It is the responsibility of Bangalore citizens (for intergenerational equity, sustenance of natural resources and to prevent human-made disasters such as floods, etc.) to stall the irrational conversion of land in the name of development



and restrict the decision makers taking the system (ecosystem including humans) for granted as in the case of *Bellandur wetlands* by KIADB.”

This report also highlighted the threats faced by the wetlands in Bengaluru with particular reference to SEZ Bellandur wetlands, which is the land in question. The report recorded as follows:

“Greater Bangalore had 207 water bodies in 1973 (Figure 6), which declined to 93 (in 2010). The rapid development of urban sprawl has many potentially detrimental effects including the loss of valuable agricultural and eco-sensitive (e.g. wetlands, forests) lands, enhanced energy consumption and greenhouse gas emissions from increasing private vehicle use (Ramachandra and Shwetmala, 2009). Vegetation has decreased by 32% (during 1973 to 1992), 38% (1992 to 2002) and 63% (2002 to 2010).

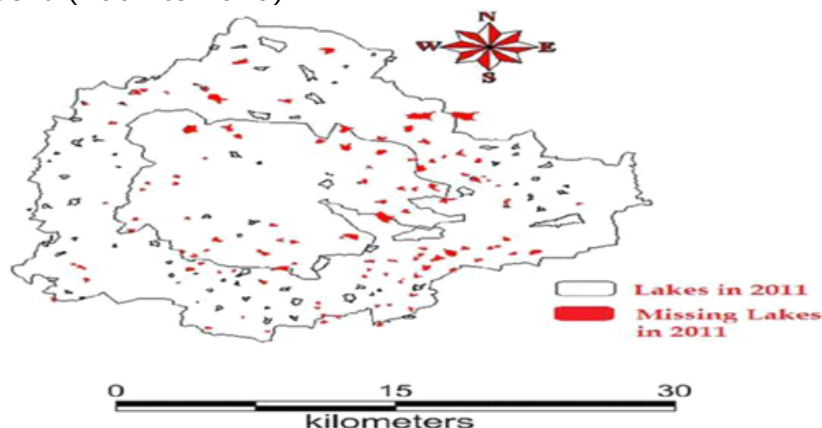


Figure 6: Lakes encroached by land mafia

Disappearance of water bodies or sharp decline in the number of water bodies in Bangalore is mainly due to intense urbanisation and urban sprawl. Many lakes (54%) were encroached for illegal buildings. Field survey of all lakes (in 2007) shows that nearly 66% of lakes are sewage fed, 14% surrounded by slums and 72% showed loss of catchment area. Also, lake catchments were used as dumping yards for either municipal solid waste or building debris (Ramachandra, 2009a; 2012a). The surrounding of these lakes have illegal constructions of buildings and most of the times, slum dwellers occupy the adjoining areas. At many sites, water is used for washing and household activities and even fishing was observed at one of these sites. Multi-storied buildings have come up on some lake beds that have totally intervene the natural catchment flow leading to sharp decline and deteriorating quality of water bodies. This is correlated with the increase in built up area from the concentrated growth model focusing on Bangalore, adopted by the state machinery, affecting severely open spaces and in particular water bodies. Some of the lakes have been restored by the city corporation and the concerned authorities in recent times. Threats faced by lakes and drainages of Bangalore:

1. Encroachment of lakebed, flood plains, and lake itself;
2. Encroachment of rajakaluves/storm water drains and loss of interconnectivity;
3. Lake reclamation for infrastructure activities;
4. Topography alterations in lake catchment;
5. Unauthorised dumping of municipal solid waste and building debris;
6. Sustained inflow of untreated or partially treated sewage and industrial effluents;

7. Removal of shoreline riparian vegetation;
8. Pollution due to enhanced vehicular traffic.

These anthropogenic activities particularly, indiscriminate disposal of industrial effluents and sewage wastes, dumping of building debris have altered the physical, chemical as well as biological integrity of the ecosystem. This has resulted in the ecological degradation, which is evident from the current ecosystem valuation of wetlands. Global valuation of coastal wetland ecosystem shows a total of 14,785/ha US\$ annual economic value. Valuation of relatively pristine wetland in Bangalore shows the value of Rs. 10,435/ha/day while the polluted wetland shows the value of Rs. 20/ha/day (Ramachandra et al., 2005). In contrast to this, Varthur, a sewage fed wetland has a value of Rs. 118.9/ha/day (Ramachandra et al., 2011). The pollutants and subsequent contamination of the wetland has telling effects such as disappearance of native species, dominance of invasive exotic species (such as African catfish, water hyacinth, etc.), in addition to profuse breeding of disease vectors and pathogens. Water quality analyses revealed of high phosphates (4.22-5.76 ppm) levels in addition to the enhanced BOD (119-140 ppm) and decreased DO (0-1.06 ppm). The amplified decline of ecosystem goods and services with degradation of water quality necessitates the implementation of sustainable management strategies to recover the lost wetland benefits.

SEZ in Bellandur Wetlands: Irrational decision of setting up SEZ at Bellandur wetland would affect the lake. The Mixed Use Development Project - SEZ (figure 6) is proposed along Sarjapur Road in a wetland between Bellandur and Agara Lake, extending from 77°38'28.96" E to 77°38'57.99"E of Longitude and 12°55'24.98" N to 12°55'44.43" N of Latitude with an area of 33 hectare. The proposal of the project is to construct residential areas, offices, and retail and hotel buildings in this area.



Figure 6: SEZ

#### Significance of the Region:

1. Wetlands with remediation functional ability (function as *kidneys* of the landscape). Removal of wetlands will affect the functional ability of the lake and would result in the death of Bellandur lake;
2. Considering severe water shortage to meet the drinking water requirement in Bangalore, there is a need to remove deposited silt in the Bellandur lake, which will enhance the storage capacity and in turn helps in mitigating the water

requirement;

3. Wetlands aid in recharging groundwater as soil are permeable;
4. Belanduru lake provide food (fish, etc.) and fodder;
5. Retain the excess water and prevent flooding in the vicinity;
6. Large number of farmers in the downstream is dependent on Belanduru lake water for agriculture, vegetable, etc.

Realizing these, BDA has aptly earmarked these regions in CDP 2005 for "ENVIRONMENT PROTECTION AND HERITAGE CONSERVATION". The masterplan includes the protection of valleys and tanks as part of the vision and enforcing the ban on construction over protected areas. CDP 2015: As per CDP 2015, valley region are "No Development Zone"

1. 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.
2. 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.
3. Rajakaluve/storm water drains 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. No activities shall be permitted in the buffer zone."

This technical report was prepared in the year 2013 when these projects had already commenced their constructions. Of course, as per the case of the project proponents themselves, the construction activity was not in full swing.

68. After inspection of the projects in question, another report was prepared by the Regional Office, Southern Zone (Bengaluru) of the Ministry of Environment and Forests, Government of India, in relation to the building project undertaken by respondents No. 9, which was sent to the Additional Principal Chief Conservator of Forests (Central), Ministry of Environment and Forests, Bangalore, on 14<sup>th</sup> August, 2013. It reported on the construction of mixed use development with residential, retail, hotel office, SEZ and Non-SEZ by respondent No. 9. In part III of this report, the MoEF commented upon each condition of the order granting Environmental Clearance and compliance thereto. It noticed that the projects are under initial stages, i.e. only levelling and excavation works are going on. It will be useful to refer to some of the significant observations relating to the compliance of the conditions of the Environmental Clearance in relation to the project of Respondent No. 9 in this Report. They read as follows:

| Sl. No. | Conditions                                                                                                                                                                                                                                                            | Compliance                                                                                                                                                                                                                                                                                                                                 |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| xiv)    | Disposal of muck, construction debris during construction phase should not neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority | The project authorities stated that, the excavated soil from the project site would be stored in Rachenahalli village, K.R. Puram Hobli, Bangalore East Taluk which is about 10 km away from the site and further stated that, the construction debris will be reused/recycled for back filling/sub base work for roads, pavements, drains |

|        |                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                                                                                                                                                                                                                                                           | etc., within the project site and the earth work excavated material will be managed through back filling between foundations on the back side of retaining walls and underground tanks/sumps and also will be reused for filling up low lying areas within the site. As on today the levelling and excavation works are going on. The foundation work of commercial block in Phase-I has been started from here the excavated earth is kept just adjacent to this foundation work within the site and agreed to reuse back. |
| xv)    | Soil and ground water samples should be tested at the project site during the construction phase to ascertain that there is no threat to ground water quality by leaching of heavy metals and or other toxic contaminants and reports submitted to SIEAA. | Soil (one location) and ground water (.....location) samples are being tested on monthly basis through the third party. The heavy metal has not been analyzed yet and agreed to analyse in future.                                                                                                                                                                                                                                                                                                                          |
| xvi)   | Construction spoils, including bituminous material and other hazardous materials, must not be allowed to contaminate water courses and the dumpsites for such material must be secured so that they should not leach into the ground water.               | The project authorities assured that hazardous material will not be used in the site.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| xx)    | Fly ash should be used as building material in construction as per the provisions of fly Ash Notification of September 1999 and amended as on August, 2003.                                                                                               | Fly ash bricks are not used because there is no coal based thermal power plant located within 200 km of the project site.                                                                                                                                                                                                                                                                                                                                                                                                   |
| xxiv)  | No ground water is to be drawn without permission from the Central Ground Water Authority.                                                                                                                                                                | Agreed to comply. The project construction activities are under initial stages. As gathered that, the ground water is purchased from outside for drinking and sanitation purpose.                                                                                                                                                                                                                                                                                                                                           |
| xxxiv) | The project authority shall maintain and operate the common infrastructure facilities created including STP and solid waste management facility for a period of 5 years after commissioning the project.                                                  | Agreed to comply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| xxxix) | The natural sloping pattern of the project site shall remain unaltered and the natural hydrology of the area be                                                                                                                                           | Execution of the project will necessarily sloping pattern of the project site and the natural                                                                                                                                                                                                                                                                                                                                                                                                                               |

|                              |                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                   |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                              | maintained as it is to ensure natural flow of storm water.                                                                                                                                                 | hydrology of the area and hence specific condition no xxxix cannot be complied.                                                                                                                                                                                                   |
| xi)                          | Lakes and other water bodies (if any) within and/or at the vicinity of the project area shall be protected and conserved.                                                                                  | The project area is in the catchment area of 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 the project activities either during construction or during operation phase. |
| <b>B. General Conditions</b> |                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                   |
| ii)                          | All commitments made by the proponents in their application, and subsequent letters addressed to the SEAC/SEIAA should be accomplished before the construction work of the project is completed.           | The project authorities have agreed to implement all the commitments made to the SEAC/SEIAA before the construction work of the project is completed.                                                                                                                             |
| v)                           | In case of any changes(s) in the scope of the project, the project would require a fresh appraisal by this Authority                                                                                       | Agreed to comply.                                                                                                                                                                                                                                                                 |
| xii)                         | The issuance of Environmental Clearance doesn't confer any right to the project proponent to operate/run the project without obtaining Statutory clearance/sanctions from all other concerned authorities. | Agreed to comply.                                                                                                                                                                                                                                                                 |

There does not appear to be any such similar report in relation to the project of respondent no. 10. However, there are other general reports which deal with the project properties of respondent No. 10.

69. We have also noticed above that the High Court of Karnataka in W.P. No. 817/2008 had passed certain directions in regard to the preservation of lakes and wetlands in the State of Karnataka. These directions were based upon the report dated 21<sup>st</sup> February, 2011, submitted to the High Court by the Committee Chaired by Justice N.K. Patil, in relation to the preservation and restoration of lakes in and around the city of Bangalore. In the report, recommendation had been made with regard to preservation of lakes, noticing rapid urbanisation of Bangalore city as the main cause for reduction in water bodies. While referring to an earlier report of 1985, prepared by Shri N. Lakshman Rau Expert Committee, constituted by the Government of Karnataka, it was emphatically stated that necessity of lake preservation is more pronounced in the context of urbanization, when city takes more and more villages into its fold, as in case of Bangalore city. It stated that the lakes are the lung spaces of a city and climate moderators, adding to thermal ambience. Most importantly in this report, emphasis was made on the role of the LDA in preservation of lakes. It was referred that the LDA was constituted in the year 2002 as a registered society. Its jurisdiction extends over lakes in metropolitan cities area of Bangalore inclusive of Bangalore Metropolitan Region Development Authority area, besides this LDA has jurisdiction over the lakes in other Municipal Corporations and Town Municipal Councils within the State. It is the regulatory, planning and policy making body with nodal

functions for protection, conservation, reclamation, restoration, regeneration and integrated development of lakes in its jurisdiction. Another important feature of this report was in relation to augmenting water supply to Bangalore city from these lakes. It stated that Bangalore population was likely to exceed 12 million by 2020 and at the current growth rate, the water shortage may lead to water crisis, if the problem is not tackled with advance planning. Report further stated that, the ground water was depleting and that bore-wells of 700 to 1000 feet deep were quite common in this city. These all were indicators of a grave situation.

70. The Hindu newspaper on 3<sup>rd</sup> June, 2013 had widely raised the issue of environmental degradation in the catchment area of the Bellandur Lake due to construction of mixed use development projects, as also undertaken by both the respondents no. 9 and 10. After this report, instructions were issued by the CEO of LDA on 4<sup>th</sup> June, 2013 to inspect the lake premises. Inspection was conducted by Shri S.R. Nagraj, EE, LDA and Sh. C. Nagesh Rao, AEE, LDA. After the inspection, a report dated on 12<sup>th</sup> June, 2013 was prepared which concluded as under:

At the time of inspection it was observed that huge construction activities were observed in this catchment area and on enquiry it was informed that the above said land was acquired by the KIADB for SEZ and allotted for different agencies for construction of apartment complexes, malls, etc., Due to huge construction activities in this catchment area there is change of land use and directly impacting the catchment of Bellandur lake.

As per the Para 2 of the report, it is reported that the wet land (a marshland ecosystem typically found around water bodies) has shrunk. It is not the wetland of Bellandur lake. It is a catchment area of Agara lake. Originally Bellandur lake was with MI Department and MI has not constructed any wetland in Bellandur lake. It is catchment area which was shrunk due to allotment of agricultural land by KIADB to different agencies for construction of apartment complexes, malls etc.

Hence KIADB's colossal "mixed - use development project in the catchment area of Bellandur will probably have adverse effect to Bellandur lake.

The above conclusions suggest that these multi-purpose construction activities of huge dimensions could have adverse environmental and ecological impacts. Of course, the report submitted by the MoEF primarily deals with the construction activity and projects of respondent No. 9 only. However, the other reports are of general nature which deals with the construction of multi-purpose projects and their adverse impacts on environment, ecology with particular reference to the water bodies like lakes etc.

71. In order to analyse the environmental and ecological impacts of these multipurpose projects appropriately, the case can be divided into two parts: First, what are the irregularities or breaches which the project proponents, i.e. respondent nos. 9 and 10 as stated to have been committed. Secondly, the likely impacts of these projects upon the environment and ecology of the area in question, particularly on the water bodies.

Proposed Mixed Use Development Project is located at Agara Village and Jakkasandra Village, Begur Hobli, Bangalore South. Special Economic Zone (SEZ) is located between the Agara Lake & Bellandur lake. The Mixed Use Development Project - SEZ is proposed along Sarjapur Road in the catchment of lakes Bellandur and Agara Lake, extending from 77°38'28.96" E to 77°38'57.99" E of Longitude and 12°55'44.43" N of Latitude with an area of 33 hectare. Agara Lake is located at other side of 45 m wide road whereas Bellandur Lake is just 50 m away from the project boundary. Rajakaluve (Natural Drain) is running all along the project site.

Proposal envisages for 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 sqm. 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.

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 13<sup>th</sup> November, 2000 and 23<sup>rd</sup> 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.

73. There are four reports on record which are suggestive enough that there would be adverse impacts of these projects upon the environment and ecology of the area, particularly on the lakes and the wetlands. The report prepared by the Committee chaired by Justice N.K. Patil filed before the Tribunal states that the lakes and the wetlands should be protected in the city of Bangalore. Measures were required to be taken in that direction and to remove encroachment in lake area and *Rajakaluves*. The large construction activity was stated to be prejudicial to the environment in those areas. Contents of this report are neither denied nor admitted by respondent no. 9 who, in its reply, has required contents of the report to be proved by the applicants. On the other hand, respondent no. 10 has submitted that there are no *Rajakaluves* or canal in his property and thus the above recommendations are not applicable to respondent no. 10. The other report on record is prepared by ENVIS, Centre for Ecological Sciences, Indian Institute of Science, Bangalore. This report focuses on possible consequences for setting up SEZ in Bellandur Lake area and also recommends restoration of wetlands in that area. In this report, how the land use changed from

2007 to 2012 was illustrated, stating that the wetlands have decreased from 32.80 ha to 5.95 ha, whereas the Open land (Conversion of Wetlands to SEZ Construction site) has increased from 0.6 ha to 27.46 ha. Noticing the major violations, it was recorded that development in wetland violates the CDP 2015, which would result into flooding in the vicinity due to encroachment of drains, alterations in topography, encroachment of lake-bed and encroachment of lake itself by dumping debris and filling up of same; there was violation of 30 metre buffer (lake floodplain); traffic congestion and filling of a portion of lake with building debris. While respondent no. 9 termed the report as speculative and based on presumptions, respondent no. 10 denied it as frivolous and baseless and termed it as tailor made to support the case of the applicants. At this stage, we may also notice that in the column of 'Acknowledgement' of this Report, the name of Koramangala Residents Association has been mentioned. It is contended that this Association had approached Dr. T.V. Ramachandran to prepare the Report. The said Resident Association is a party to one of the Writ Petitions before the Hon'ble High Court of Karnataka. Therefore, it is argued that the report stand vitiated because of the self-interest of Dr. T.V. Ramachandran who was a member of the Committee which prepared the said report. On the other hand, the contention of the applicant and respondent nos. 11 and 12 is that Dr. T.V. Ramachandran prepared the said Report as a part of scientists' social responsibility and that the observations and findings of the report by the scientists do not become invalid/*non est* merely because the study was undertaken at the request of a concerned group of citizens.

74. The objection taken by the respondents does not appeal to us. This report was not prepared by an individual but by a team of scientists from a Government Institute. Apparently, it appears to be in discharge of his scientists' social responsibility that Dr. T.V. Ramachandran participated in preparing this report. However, this issue loses its significance, because it is the content of the report which is to be considered by the Tribunal and not the persons who have prepared the report. There is a vague denial to the contents of the report by the respondents, who have not placed any report on record to contradict the contents of this report, which itself is largely supported by three other reports placed on record.

75. Report which is placed on record by respondent no. 10 is prepared by a Private Consultant, which only mentions that there will be no adverse impacts on environment. This report does not inspire confidence, as it is not data based and in fact, does not meet any of the issues raised in the four reports placed by the applicant on record. The other two reports are the MoEF Monitoring Committee report and the inspection report prepared by the LDA, which we have already discussed in some detail above.

76. The MoEF monitoring report prepared by regional office of MoEF has forwarded on 14<sup>th</sup> August, 2013 mentions two most significant conditions which have a substantial bearing on the matters in issue before us is with regard to the preservation of the water bodies in Bengaluru and the natural slopping pattern and natural hydrology of the area to remain unaltered. These conditions having been noticed as not possible to be adhered to, we really do not understand as to how these projects have been permitted to progress any further.

77. Lastly, it is the report of LDA, which as already noticed is the Society created by the Government of Karnataka with a specific purpose of protecting the lakes and the wetlands. This report had specifically recorded that the projects are bound to have adverse impacts on the catchment area of Bellandur Lake. This report has also been denied by the respondents stating that it is frivolous and according to respondent no. 10, there are no wetlands around Bellandur Lake.

78. There is sufficient material by way of reports, google images and other documents that the Bellandur Lake and even other lakes for that matter have wetlands



and catchment areas. There are encroachments on the Rajakaluves as well as on the catchment areas of the water bodies. The adverse impacts of this colossal mixed development projects had got the attention of all concerned, including the Press and the issue was widely raised. This resulted in the inspection by the LDA as well as other authorities, which commented on the adverse impacts of this project in the interest of environment and ecology. Furthermore, the stop-work notices issued by different authorities from time to time also suggest that the work and progress of the projects was in violation of the laws in force. Of course, these stop-work notices have been challenged before the Hon'ble High Court of Karnataka which has granted stay on these notices, but the fact of the matter remains that various authorities including the BBMP and the KIADB have found out and observed that the construction should be stopped forthwith.

79. The cumulative effect of the above discussion would be that there is a definite possibility of environment, ecology, lakes and the wetlands being adversely affected by these projects. There are multiple public authorities including SEIAA involved in regulating such projects and they are also responsible for protecting interest of environment and ecology while keeping in mind the settled canon of sustainable development. It is the contention of the respondent nos. 9 and 10 that there are large numbers of other projects located around these lakes. If that be so, then we have no hesitation in observing that various regulatory authorities including SEIAA ought to have examined the cumulative Environmental Impact Assessment in these cases on the water bodies as the protection of the water bodies, the wetland and the catchment areas of the lakes is the obligation of these authorities.

80. It was vehemently contended before us that the construction of the projects is nearing completion and huge money of respondent nos. 9 and 10 including investments made by various land and other area purchasers is at stake. Thus, according to these respondents, the application should be declined by the Tribunal only on that fact. We are not impressed with this contention at all. The respondents have started the construction even prior to the grant of Environmental Clearance and instigated the public to invest money. They cannot be permitted to take advantage of their own wrong. However, it may also not be in the interest of justice and particularly, while applying the Principle of Sustainable Development in terms of Section 20 of the NGT Act, that these properties be demolished but that does not mean that they should not be directed to take all measures and precautions, even if it results in necessary demolition of some parts of the projects in the interest of environment, ecology and protection of lakes and wetlands. It cannot be disputed that there is serious scarcity of water in the city of Bangalore. Impact of these projects on water bodies ought to have been of fundamental consideration before the authorities concerned. In our considered view, they have failed to take complete notice of this fact and act objectively in light of the laws in force.

81. The project proponents, i.e. respondent nos. 9 and 10 submitted their respective applications for grant of Environmental Clearance to the concerned authorities in the year 2011 and 2012 respectively. The Environmental Clearance was granted to the Project proponents on 17<sup>th</sup> February, 2012 and 30<sup>th</sup> September, 2013 respectively. However, construction activities had been carried out by the project proponents much prior to the grant of Environmental Clearance. There is not even an iota, much less valid, reason placed by the project proponents before the Tribunal as to why the applications for Environmental Clearance were moved at such belated stage and why construction was started prior to grant of Environmental Clearance. The provisions of the EIA Notification, 2006 which was in force at all relevant times does not permit carrying on of any construction or any other activity in relation to the project prior to the grant of Environmental Clearance. The provisions of this Notification admit of no ambiguity that specific project or activities shall not require

prior Environmental Clearance. All steps in that direction, including site selection, are the subject matter of scrutiny at the time of grant of Environmental Clearance. The project proponents are clear defaulters of compliance of the statutory provisions. They cannot take advantage of their own wrong of raising construction prior to submission of the application for Environmental Clearance and even grant of Environmental Clearance. The respondent nos. 9 & 10 are intentional defaulters. They violated the law being fully conscious of their obligations under different laws in force. The authorities concerned had sanctioned the building plans of these respondents subject to a specific stipulation that such sanction was subject to grant of other clearances including Environmental Clearance under different laws. Since the construction and allied activities were being carried on contrary to law, they even would be deemed to have caused pollution not only of the environment but more particularly of the lakes and caused obstructions of the Rajakaluves in the area. Applying the Principle of 'Polluter Pays' as contemplated under Section 20 of the NGT Act, the project proponents must be held liable to pay compensation for restoration and restitution of the environmental pollution and degradation. There is sufficient material on record to show that there has been environmental degradation. From the date of grant of Environmental Clearance, the construction is supposed to be carried on in accordance the conditions of the Environmental Clearance and with due protection of the environment, which the respondents have failed to comply with. The project proponents are liable to pay compensation under the 'Polluter Pays' Principle, for the illegal and unauthorised construction carried on in violation of the environmental laws and prior to grant of Environmental Clearance. One who violates law renders itself liable for consequences of such violations.— Respondent nos. 9 & 10 commenced excavation and even construction prior to submission of their application for grant of Environmental Clearance. Obviously at that stage they did not take any protections in the interest of environment and ecology in relation to the project activities. The terms & conditions in that behalf came to be stipulated only in the order granting Environmental Clearance; prior thereto the entire project activity was illegal and unauthorised. The mining, excavation and construction work adversely affected the Lakes and the Rajakaluves. The possible risk and degradation, due to construction and operation of the project include actual damage and even threats to environment and ecology pertaining to pollution, encroachment, eutrophication, illegal mining of soil, loss of Biodiversity, ungoverned human activities and cultural misuse. The consequential damage and degradation of environment and ecology from the activities of these projects can broadly be placed under two distinct heads, while invoking the Polluter Pays Principle. First being the damage that has already been caused because of such activity, particularly, for the period when the activity was carried out in an illegal and unauthorised manner and without sanction of the competent authorities. Secondly, the damage and environmental degradation that is likely to occur upon completion of these projects and the liability of the concerned respondents in regard to restoration and restitution of environment. 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 xl (or alike conditions) in the order granting the Environmental Clearance. This has even been noticed by the MoEF in its monitoring report dated 14<sup>th</sup> 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.

82. It may not be possible to determine the above compensation with exactitude but that does not mean that the project proponents can avoid liability in that regard. The Supreme Court in the case of *Sterlite Industries (India) Ltd. v. Tamil Nadu PCB, JT*

2013 (4) SC 388, had directed payment of Rs. 100 crores by the Company which operated without consent of the Board. It needs to be noticed that M/s Sterlite Industries was possessed of the consent from the Board prior as well as subsequent to the period for which the compensation was imposed. In order to comply with the principle stated by the Hon'ble Supreme Court in the case of *Sterlite Industries* (supra) and as followed in the case of *Sarang Yadwadkar v. The Commissioner, Pune Municipal Corporation*, 2013 ALL (I) NGT REPORTER (DELHI) 299, discussed hereafter, we may refer to some relevant facts and figures from the records before us. The project area of respondent no. 9 is nearly 2,92,636.03 sq. m, while the built-up area is 13,50,454.98 sq.m., with a project cost of Rs. 2,347 Crores. While in the case of respondent no. 10 the plot area is 33,333.00 sq.m., while the built-up area is 72,180.64 sq. m., with a project cost of Rs. 450 Crores. The afore-noticed project activities and construction started much prior to moving of application and grant of Environmental Clearance. The principle which has often been adopted by the Courts, including the Hon'ble Supreme Court in the case of *Goa Foundation v. Union of India*, (2014) 6 SCC 590, is to direct deposit of certain percentage of the cost of the project at the first instance. In the case of *Goa Foundation*, the Supreme Court had directed deposit of 10 per cent of the value of the mineral extracted. In the case of *Krishankant Singh v. National Ganga River Basin Authority*, 2014 ALL (I) NGT REPORTER 3 DELHI 1, this Tribunal directed Simbhaoli Sugar Mills which had operated without consent of the concerned Board for a long period and had polluted the environment, Phuldera drain as well as the underground water, to pay a compensation of Rs. Five Crores. The said sugar factory had operated with the consent of the Board prior and subsequent to this period. The compensation was imposed for flouting the law and for causing the pollution. It may be noticed that the appeal against the said judgment of the Tribunal was dismissed by the Supreme Court in Civil Appeal No. Civil Appeal No. 10434 of 2014 vide its order dated 21<sup>st</sup> January, 2015. This liability primarily accrues on account of the illegal and unauthorised activities carried on by the Project Proponents. These are purely commercial ventures of respondent nos. 9 & 10 to make high profits, while causing environmental and ecological degradation and also by carrying on illegal and unauthorised activities, particularly, for the period prior to grant of Environmental Clearance.

83. The drawings and construction plans had been approved by respondent no. 7 vide its letter dated 4<sup>th</sup> July, 2007 and 22<sup>nd</sup> April, 2008, for respondent nos. 9 and 10 respectively. Despite this, the applications for seeking Environmental Clearance were moved much later i.e. on 3<sup>rd</sup> March, 2011 and 4<sup>th</sup> February, 2012. Even these letters granting approval of drawing and plans had mandated that these Respondents are expected to comply with all bye-laws and even other laws in force. When they applied for renewal of building plans and drawings, the same were granted vide letter dated 11<sup>th</sup> October, 2013 and 3<sup>rd</sup> January, 2013 respectively, where specific conditions were stipulated that other laws in force relating to construction and use of premises should be complied with and they were required to install ETP/STPs and use of recycled water for washing and flushing was mandated. From this, it emerges that there was clear onus on the part of these respondents to seek Environmental Clearance before commencing construction, which they intentionally and flagrantly violated and furthermore, there is nothing on record to show that the conditions with regard to setting up of ETP/STP and recycling of water have fully been satisfied. Furthermore, respondent no. 10 has been issued a specific letter on 18<sup>th</sup> March, 2013 by respondent no. 7 directing it that no construction works should commence prior to obtaining Environmental Clearance. They were also directed to obtain Consent for Establishment from KSPCB which was also not adhered to. They were required to furnish the requisite information within 7 days. These are the apparent violations of law committed by respondent nos. 9 and 10.

84. We are conscious of the fact that the projects in question have already been granted the Environmental Clearances and that they have raised constructions in furtherance to such Environmental Clearances. Still as discussed above, the matters in relation to conditions of the orders granting Environmental Clearances, adverse impacts of these projects upon the environment, ecology, lakes and wetlands, need for taking preventive and remedial measures for restoration of the environment and ecology as well as protection of the water bodies in future, are the matters which have been examined by us above. We may also appropriately make reference to the judgment of this Tribunal in the case of *Sarang Yadwadkar v. The Commissioner, Pune Municipal Corporation*, 2013 ALL (I) NGT REPORTER (DELHI) 299, wherein under somewhat similar circumstances, the Tribunal had while declining to demolish the construction raised in the project, issued substantive directions in the interest of environment and ecology and for protection of River Mutha in Pune. The Respondent Corporation had preferred an appeal before the Supreme Court of India being Civil Appeal Diary No. 3445 of 2015, which was dismissed on merits on 12<sup>th</sup> February, 2015. The Project Proponent was thus directed to comply with the directions of the Tribunal including partial demolition of the project in question. We have already indicated that at this stage the entire amount of compensation payable on various counts by the Project Proponent cannot be determined with exactitude, however, liability to pay for violation of law, raising construction unauthorizedly and illegally, renders the Project Proponent liable to pay the environmental compensation forthwith. The final amounts for restoration of environment and ecology would be determined by the Committee constituted in this judgment. We are of the considered view that 10 per cent of the project cost may be somewhat on the higher side and to maintain the equitable balance between the default and the consequential liability of the applicant, we direct the Project Proponents to pay at the first instance compensation for their default at the rate of 5 per cent of the cost of the project. In light of this, Respondent No. 10 would be liable to pay a sum of Rs. 22.5 crores and Respondent No. 9 would be liable to pay a sum of 117.35 crores.

85. This is a fit case where in exercise of its jurisdiction in terms of Section 20 of the NGT Act, the Tribunal has to invoke both polluter pays principle as well as precautionary principle. Further, where the Tribunal should also apply the principles of law enunciated by the Supreme Court and this Tribunal in the case of *Sterlite Industries* (supra), *Krishankant Singh* (supra) and *Sarang Yadwadkar* (supra) and issue 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 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 4<sup>th</sup> July, 2007 and 22<sup>nd</sup> 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 11<sup>th</sup> October, 2013 and 3<sup>rd</sup> 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 3<sup>rd</sup> 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, 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.
86. Thus, we dispose of the Original Application No. 222 of 2014 in the above terms while leaving the parties to bear their own costs.

---

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

494 SUPREME COURT CASES (2019) 18 SCC  
3-Judge Bench  
2019  
March 5

**(2019) 18 Supreme Court Cases 494**

(BEFORE DR A.K. SIKRI, S. ABDUL NAZEER AND M.R. SHAH, JJ.)

MANTRI TECHZONE PRIVATE LIMITED . . Appellant; a

*Versus*

FORWARD FOUNDATION AND OTHERS . . Respondents.

Civil Appeals No. 5016 of 2016<sup>†</sup> with Nos. 8002-8003, 9227,  
10992-95, 12152, 12156-60, 12326 of 2016, 1343, 4923-24 and  
14966 of 2017 and 2246 of 2018, decided on March 5, 2019 b

**A. Environment Law — Polluter Pays Principle and Remedial/Compensatory/Punitive Measures — Nature and Scope — Power of NGT to direct Remedial/Compensatory/Punitive Measures**

— NGT's power to grant and give directions for relief, compensation and restitution under NGT Act, 2010 — Scope of — Overriding effect of NGT Act, 2010 over State legislation in cases of conflict — Extent of c

— Held, NGT while directing restoration of environment can specify buffer zones around specific lakes and water bodies in contradiction to zoning regulations under the State Municipal Corporation Act or Master Plan framed under town planning laws, as NGT Act has overriding effect — NGT Act being a Central Act enacted under Sch. VII List I Entry 13 of the Constitution shall have overriding effect over State legislation — Therefore, specific directions of NGT relating to penalty (on basis of pollution pays principle) and environmental restoration (liability being on project proponents, who had caused damage to water bodies), affirmed even if NGT's direction relating to buffer zones (no construction zones of various lengths specified for water body types concerned) was different from zoning regulations of State Government d

— But general direction of NGT relating to all buffer zones not relating to project proponents and differing from State zoning regulations, set aside — Thus Direction/Condition (1) in order dt. 4-5-2016 in *Forward Foundation*, 2016 SCC OnLine NGT 1409, set aside except directions issued against R-9 & R-10 e

— Constitution of India — Sch. VII List I Entry 13 — Water/River/Coastal Pollution — Water Conservation/Preservation, Development Projects and Interlinking of Rivers — Primacy of environmental laws over town planning laws — Wetlands (Conservation and Management) Rules, 2010 — Local Government, Municipalities and Panchayats — Town Planning — Ecology/Environmental clearance — Layout/Master/Zonal Plan — Primacy of environmental laws over — National Green Tribunal Act, 2010, Ss. 33, 14, 15, 20 and 22 (Paras 39 to 47 and 60 to 63) f

[**Ed.**: Project proponents are Respondents 9 and 10 in Original Application No. 222 of 2014 and appellants in Civil Appeals Nos. 5016 and 8002-03 of 2016.] g

<sup>†</sup> Arising from the Judgment and Order in *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5 (National Green Tribunal, Principal Bench at New Delhi, Original Application No. 222 of 2014, dt. 7-5-2015) and *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409 (National Green Tribunal, Principal Bench at New Delhi, Original Application No. 222 of 2014, dt. 4-5-2016) h

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION

495

**B. Environment Law — National Green Tribunal Act, 2010 — S. 22 — Appeal to Supreme Court under — Scope**

- a* — Held, appeal under S. 22 has to be read subject to conditions provided therein — Thus appeal restricted to substantial question of law arising from judgment of NGT — Merely because remedy of appeal is provided, it does not ipso facto permit appellants to agitate their appeal to seek re-appreciation of factual matrix of entire matter — Civil Procedure Code, 1908, S. 100 (Paras 35 to 38 and 55)

*b* **C. Environment Law — National Green Tribunal Act, 2010 — S. 22 — Appeal to Supreme Court under — Whether raises substantial question(s) of law — Test**

- c* — It has to be tested whether the question (i) is of general public importance, (ii) directly and substantially affects rights of parties and (iii) is an open question or is not free from difficulty or calls for discussion of alternative views — If question is settled by highest court or plea raised is palpably absurd, it would not be substantial question — Civil Procedure Code, 1908, S. 100 (Paras 35 to 38)

*d* **D. Environment Law — National Green Tribunal Act, 2010 — S. 15 r/w Ss. 20, 33, 14 and 22 — Limitation of 6 months under S. 14 or 5 yrs under S. 15 — As matter related to environmental degradation and its restoration, limitation of 5 yrs under S. 15, held, would apply — A broad construction should apply to such beneficial legislation — Application before Tribunal not barred by limitation**

- e* — Considering specific prayer of applicants before NGT, evidence supported by data, findings arrived at by NGT, and jurisdiction of NGT it is not an application under S. 14 simpliciter — It was a petition under S. 15 — Non-mention of or erroneous mention of provision of law, not a bar to pass appropriate orders, if NGT had jurisdiction in respect of same — Directions issued by NGT against both project proponents in present case did not suffer from any perversity — General Principles of Environmental Law — Polluter Pays Principle and Remedial/Compensatory/Punitive Measures —
- f* **Nature and Scope — Limitation period for approaching NGT — Reckoning of** (Paras 48 to 55)

**E. Environment Law — National Green Tribunal Act, 2010 — S. 15 r/w Ss. 20 and 33 — Application before Tribunal, when not barred by res judicata due to earlier writ petition**

- g* — Parties, not common — Issues not directly and substantially same, writ petition related to land acquisition, present application related to environment, ecology and their restoration — No commonality of cause of action or likelihood of conflict between judgments — Prayer and genesis entirely different in their scope and relief — Practice and Procedure — Res Judicata (Paras 56 to 59)

*h*



496

SUPREME COURT CASES

(2019) 18 SCC

The present appeals were filed under Section 22 of the National Green Tribunal Act, 2010 (the NGT Act, 2010) against the judgment of restoration and penalty of the Tribunal.

Disposing of the appeals, the Supreme Court

*Held :*

***Appeal to Supreme Court***

The proper test for determining whether a question of law raised in the case is substantial would be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so whether it is either an open question in the sense that it is not finally settled by the 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. (Para 37)

*Chunilal V. Mehta & Sons Ltd. v. Century Spg. & Mfg. Co. Ltd.*, 1962 Supp (3) SCR 549 : AIR 1962 SC 1314, *relied on*

Further, 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 reappreciation of the factual matrix of the entire matter. The appellants cannot seek to re-argue their entire case to seek wholesale reappreciation of evidence and the factual matrix that has been considered by the Tribunal is *ex facie* impermissible under Section 22 of the NGT Act, 2010. There cannot be fresh appreciation or reappreciation of facts and evidence in a statutory appeal under this provision. (Paras 36 to 38)

***Jurisdiction of Tribunal***

The first question is in relation to the maintainability of the application before the Tribunal. (Para 39)

The Tribunal has been established under a constitutional mandate provided in Schedule VII List I Entry 13 of the Constitution, to implement the decision taken at the United Nations Conference on Environment and Development. The Tribunal is a specialised 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. (Para 40)

The jurisdiction of the Tribunal is provided under Sections 14, 15 and 16 of the NGT Act, 2010. (Para 41)

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 jeopardised, the Tribunal can apply Section 20 of the NGT Act, 2010 for taking restorative measures in the interest of the environment. (Para 43)

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. The existence of the Tribunal

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION

497

- a without its broad restorative powers under Section 15(1)(c) read with Section 20 of the NGT Act, 2010, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialised 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. (Para 44)

*Kishore Lal v. ESI Corpn.*, (2007) 4 SCC 579 : (2007) 2 SCC (L&S) 1, *relied on*

- b Section 15 of the NGT Act, 2010 provides power and jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the NGT Act, 2010, 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 NGT Act, 2010) 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. (Para 45)

- c Further, Section 18 of the NGT Act, 2010 recognises the right to file applications each under Section 14 as well as Section 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. 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. (Para 46)

- d Section 33 of the NGT Act, 2010 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, the Planning Act, the Karnataka Municipal Corporations Act, 1976; and the Revised Master Plan of Bengaluru, 2015 (RMP). A Central legislation enacted under Entry 13 of Schedule VII List I of the Constitution 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 and waterbodies in contradiction with zoning regulations under these statutes or RMP. (Para 47)

- f The State of Karnataka is aggrieved by the Direction/Condition (1) of the order dated 4-5-2016 of the Tribunal in *Forward Foundation*, 2016 SCC OnLine NGT 1409. The applicants have no objection to set aside the aforesaid impugned portion of the order insofar as the appellants in all the appeals except the appeals filed by Respondents 9 and 10 are concerned. The aforesaid portion of the order contains not only general directions but also certain directions against Respondents 9 and 10. Therefore, only that portion of the order which does not pertain to Respondents 9 and 10 needs to be quashed. Civil Appeals Nos. 5016 and 8002-03 of 2016 filed by appellant-Respondents 9 and 10 are dismissed. The impugned judgment and order insofar as appellant-Respondents 9 and 10 are concerned is sustained. All the other appeals are allowed and Direction/Condition (1) in the order dated 4-5-2016 is set aside except the direction issued against Respondents 9 and 10. (Paras 60 to 62)

- g *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409, *partly reversed*  
h *Core Mind Software & Services (P) Ltd. v. Forward Foundation*, 2015 SCC OnLine SC 1778, *referred to*

498

SUPREME COURT CASES

(2019) 18 SCC

**Limitation**

OA No. 222 of 2014 was not an application simpliciter under Section 14 of the NGT Act, 2010. It was an application where a specific prayer has been made with reference to Lake Development Authority's (LDA) Report dated 12-6-2013 and the Ministry of Environment, Forests and Climate Change (MoEF) Monitoring Committee Report dated 14-8-2013 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 established from the documents would give rise to an independent cause of action. Therefore, this was a petition under Section 15 of the NGT Act, 2010 and thus it could be filed within 5 years from the date on which the cause for such compensation or relief first arose. (Para 49)

In fact, in the original application before the Tribunal there was no mention of the provision under which it was being filed. 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. (Para 50)

The Tribunal has pointed out on the basis of the Committee Report of August 2015, that the appellant had encroached 3 ac 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. (Paras 52 and 51)

*Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5, *affirmed*

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 report and the inspection note of the expert members. 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. (Para 54)

*Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5, *affirmed*

It is impermissible for the appellants to seek a factual review through the methodology of reappreciation of factual matrix by the Supreme Court under Section 22 of the NGT Act, 2010. (Para 55)

*Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 637, *referred to*

SS-D/62061/S

Advocates who appeared in this case :

Udaya Holla, Advocate General, Shashi Kiran Shetty, Maninder Singh, Dhruv Mehta, Mukul Rohatgi, Neeraj Kishan Kaul, R. Venkataramani, Sajan Poovayya, Ms Kiran Suri and Basavaprabhu S. Patil, Senior Advocates [Mahesh Thakur, Ms Anuparna Bordoloi, Savyasachi Sahai, Ms Vipasha Singh, Gaurav Goel, V.N. Raghupathy, M/s Devasa & Co., Devashish Bharuka, Justine George, Prabhas Bajaj, Ms Kanika

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 499

a S., Ravi Bharuka, Ms Sarushree, Satish Kumar, Gaurav Agrawal, George Thomas, Anurag Gharote, A.S. Bhasme, Abid Ali Beeran P., Nishanth Patil, Rohit Prasad, Ananth Suresh, S.K. Kulkarni, M. Gireesh Kumar, Ankur S. Kulkarni, Shekhar G. Devasa, Bhuvanendra K.V., S. Mahesh, Manish Tiwari, Luv Kumar, Praveen Vignesh, Priyadarshi Banerjee, Pratibhanu Singh Kharola, Saransh Jain, Meka V. Ramakrishna, Madhavam Sharma, Ms Sriparna Dutta Choudhury, Udayaditya Banerjee, Mahesh Agrawal, Ankur Saigal, Ms Tanvi Manchanda, Nithin P., Ms Priyanka M.P., E.C. Agrawala, S.J. Amith, Ms Rithika Gambir, A. Shwarya Kumar, Dr (Ms) Vipin Gupta, Parikshit P. Angadi, Chinmay Deshpande, Geet Ahuja, Parikshit Angadi, Anup Kumar, O.P. Bhadani, Rajesh Mahale, Anand Sanjay M. Nuli, Dharm Singh, Sandeep Grover, b Ms Pankhuri Bhardwaj and Pai Amit, Advocates] for the appearing parties.

**Chronological list of cases cited**

**on page(s)**

1. 2016 SCC OnLine NGT 1409, *Forward Foundation v. State of Karnataka* (**partly reversed**) 499e, 499g, 509a, 514e, 522e-f, 523e-f
2. 2016 SCC OnLine NGT 637, *Forward Foundation v. State of Karnataka* 508e
- c 3. 2015 SCC OnLine SC 1778, *Core Mind Software & Services (P) Ltd. v. Forward Foundation* 507f-g
4. 2015 SCC OnLine NGT 5, *Forward Foundation v. State of Karnataka* 499e, 505e-f, 508c, 520a-b, 521a, 522a
5. (2007) 4 SCC 579 : (2007) 2 SCC (L&S) 1, *Kishore Lal v. ESI Corpn.* 518a
- d 6. 1962 Supp (3) SCR 549 : AIR 1962 SC 1314, *Chunilal V. Mehta & Sons Ltd. v. Century Spg. & Mfg. Co. Ltd.* 516e-f

The Judgment of the Court was delivered by

e **S. ABDUL NAZEER, J.**— These appeals have been preferred under Section 22 of the National Green Tribunal Act, 2010 (for brevity “the NGT Act”) challenging the judgment and order dated 7-5-2015<sup>1</sup> and 4-5-2016<sup>2</sup> respectively passed by the Principal Bench of the National Green Tribunal, New Delhi (for short “the Tribunal”).

f **2.** The appellants in Civil Appeals Nos. 5016 of 2016 and 8002-03 of 2016 are Respondents 9 and 10 in Original Application No. 222 of 2014 (hereinafter referred to as “Respondents 9 and 10”). The said application was filed by Respondents 1 to 3 herein (hereinafter referred to as “the applicants”). Respondents 4 to 7 in these appeals are the State of Karnataka and other authorities. They were arrayed as Respondents 1 to 4 in the application. Respondents 12 and 13 herein were subsequently impleaded in the application (for short “the impleaded respondents”).

g **3.** The State of Karnataka has filed Civil Appeals Nos. 4923-24 of 2017, challenging the general condition and Direction (1) contained in the order of the Tribunal dated 4-5-2016<sup>2</sup>. The other appeals have been filed by different entities, who were not parties before the Tribunal challenging the order of the Tribunal dated 4-5-2016<sup>2</sup> insofar as it directs a buffer/green zone of 75 m in respect of lakes, 50 m in respect of primary Rajakaluves, 35 m in

h

<sup>1</sup> *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

<sup>2</sup> *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409

500

SUPREME COURT CASES

(2019) 18 SCC

case of secondary Rajakaluves and 25 m 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 OA No. 222 of 2014 by contending that ecologically sensitive land was allotted by the Karnataka Industrial Area Development Board (for short “KIADB”) to Respondents 9 and 10 vide Notifications dated 23-4-2004 and 7-5-2004 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 “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 rainwater into Bellandur Lake. The project will thus encroach two Rajakaluves of 1.38 ac and 1.23 ac 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 Appellant 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 Bellandur Lake and Agara Lake. Respondent 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 m whereas the built-up area, as noted by SEAC, is 13,50,454.98 sq m. Respondent 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 9 had approached the Karnataka State Pollution Control Board (for short “KSPCB”) for obtaining clearance, which was granted on 4-9-2012 subject to the fulfilment 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 KSPCB to Respondent 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. The applicants further contended that Respondent 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



MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 501

- a 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. Respondents 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 groundwater table and borewells 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 the Wetlands (Conservation of Management) Rules, 2010 (for short “the 2010 Rules”).
- b
- c

- d 8. It was submitted that SEIAA in its meeting dated 29-9-2012, decided to close the file pertaining to Respondent 10 due to non-submission of requisite information and the application thereof was rejected in November 2012. Despite the rejection, Respondent 10 commenced construction on the project in full swing.

- e 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 waterbodies in Bangalore City in 1961 which drastically came down because of trespass and encroachments. It was also affirmed that about 840 km 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 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 waterbodies in the urban areas. The applicants claim to have obtained monitoring report of the project by Respondent 5, Ministry of Environment and Forests, through RTI on 21-8-2013. The report dated 14-8-2013 revealed that the project proponents are in clear breach of their undertaking to carry out all precautionary measures to ensure that 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.
- f
- g
- h

502

SUPREME COURT CASES

(2019) 18 SCC

**10.** The Lake Development Authority (for short “LDA”), after inspection in the catchment area of Bellandur Lake submitted its report dated 12-6-2013 which confirms that the project will have disastrous impact, including deleterious effect on Bellandur Lake. This report was brought to the notice of KIADB. LDA has also opined that the land should be classified and maintained as sensitive area. KIADB called upon Respondent 9 to comply with the rules of Ecology and Environment Department and to obtain necessary approval from KSPCB and LDA. Despite all this, Respondents 9 and 10 have continued with their illegal constructions and have caused damage to the ecology and the environment by irreparably jeopardising the ecological balance in this sensitive area. The applicants rely upon the Revised Master Plan, 2013 issued by BDA which specifically provides that 30 m buffer zone is to be created around the lakes and 50 m buffer zone to be created on either side of the Rajakaluves. It was also pleaded that Respondent 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 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 9 alone is approximately 4.5 million litres per day i.e. 135 million litres per month, which is more than what BWSSB supplies to the entire Agaram Ward. The construction of respective projects by Respondents 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 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 waterbodies.

**11.** Respondent 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 21-6-2000 and after examining the proposal, it was approved by the Government on 6-7-2000. Before the State High-Level Committee, it had informed that its requirement was 110 ac of land, 25 MW of power from the Karnataka Power Transmission Corpn. Ltd. (for short “KPTCL”), and four lakh litres of water per day from BWSSB. The lands for the project were initially notified vide Notification dated 10-2-2004. Subsequently, the lands were allotted vide letter dated 28-6-2007 for which lease-cum-sale agreement was signed on 30-6-2007. Considering the overall development of the State of Bangalore, this respondent proposed a Mixed Use Development Project consisting of an information

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 503

- technology park, residential apartments, retail, hotel and office buildings with a total built-up area of 13,50,454.98 sq m. The Project was conceived as a zero waste discharge project. The Project is located one-and-a-half kilometres away from the southern side of 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 10 and another developer is also developing a project on the western side. It has obtained sanction plan on 4-7-2007 which was renewed from time to time.
- a* 12. Respondent 9 claims that it has obtained NOC from Airport Authority of India on 9-4-2010. Bharat Sanchar Nigam Ltd., vide its communication dated 16-4-2010, granted clearance for the project construction. BWSSB, vide its communication dated 26-4-2011 issued NOC for portion of the proposed construction to be built. Bangalore Electricity Supply Co. 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 17-4-2012. The Director General of Police has issued NOC and KSPCB vide order dated 4-9-2012 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 17-9-2012, the same was published in the leading newspapers *Kannada Prabha* and *The Indian Express* on 12-3-2012 and 14-3-2014 respectively.
- c* 13. It submitted a modified building plan which was approved by KIADB vide its letter dated 30-8-2012, which was valid up to 10-8-2014. 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 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.
- e* 14. Respondent 10 pleaded that the applicants raised multifarious proceedings against it which is an abuse of the process of law and mala fides. It had submitted a revised proposal in respect of its project in question and to obtain fresh clearance on 31-8-2007 with an investment of Rs 179.22 crores. The State High-Level Committee had cleared the project which was communicated to it on 25-1-2008. Its properties are located in between Bellandur Lake and Agara Lake but there are no primary storm water drains
- f*
- g*
- h*



504

SUPREME COURT CASES

(2019) 18 SCC

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 Respondents 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 4-7-2007, and the modified building drawings were approved on 26-4-2011 and 30-8-2012 with specific conditions. In its meeting held on 16-7-2013, it was resolved to inform Respondents 9 to fully comply with the Ecology and Environment Rules and to obtain approvals from LDA and KSPCB. LDA vide its letter dated 24-9-2013, had informed KIADB that the construction activity in the catchment area in Bellandur Lake could drastically impact the lake with deleterious effects and asked it to stop construction activity of Respondents 9 and 10. However, the validity of the building drawings was again extended up to 10-8-2014. 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 9. The Board took a decision which was communicated to Respondent 9 on 2-1-2014, wherein it asked Respondent 9 to stop all construction activities on the allotted lands. The said communication was challenged by Respondent 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 "BBMP") was also stayed vide order dated 21-1-2014. The proposal submitted by Respondents 9 and 10 had been approved by the State Government. The land allotted to Respondents 9 and 10 does not consist of any Rajakaluves.

**16.** 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 Bellandur Lake and Agara Lake on 12-6-2013 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 6-7-2013 and even requested it to stop the construction activity and to re-classify the land as non-SEZ area. It was thereafter on 31-8-2013, that Respondent 9 wrote a letter for according approval for the proposed development projects. However, vide its letter dated 23-9-2013, LDA informed KIADB that it had no authority to grant or deny construction projects, but it also communicated its objections to KIADB mentioning that construction activity

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 505

- 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 waterbodies 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 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:

- 17.1. Whether the application filed by the applicants and supported by Respondents 11 and 12, is barred by time and thus, not maintainable?

17.2. 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?

- 17.3. Whether the present application is barred by the principle of res judicata and/or constructive res judicata?

17.4. 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 Writ Petitions Nos. 36567-74 of 2013, before the Hon'ble High Court of Karnataka? and

- 17.5. 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 7-5-2015<sup>1</sup> at Annexure A-2, disposed of the applications with the following directions: (*Forward Foundation case*<sup>1</sup>, SCC Online NGT para 85)

- “85. ... (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.

<sup>1</sup> *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

506

SUPREME COURT CASES

(2019) 18 SCC

(e) Sr. Scientist (Ecology) from the Indian Institute of Sciences, Bangalore.

(f) Dr Siddharth Kaul, former Advisor to MoEF.

a

(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.

b

(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 waterbodies, 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 Respondents 9 and 10 or by any of the projects in the area in question.

c

d

(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 Respondents 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.

e

(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 waterbodies.

f

(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.

g

(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 4-7-2007 and 22-4-2008 respectively. Further, the Committee would also report whether both Respondents 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

h

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 507

dated 11-10-2013 and 3-1-2013, issued by the Karnataka Industrial Area Development Board to Respondents 9 and 10 respectively.

a (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 waterbodies.

b (11) Till the submission of the report by the Committee and directions passed by the Tribunal in that regard, both Respondents 9 and 10 are hereby restrained from creating any third party interests or part with the possession of the property in question or any part thereof, in favour of any person.

c (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 waterbodies 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 waterbodies in and around of the area in question.

d (14) For the reasons stated in the judgment Respondent 9 is liable and shall pay a sum of Rs 117.35 crores, while Respondent 10 shall pay a sum of Rs 22.5 crores respectively being 5% of the project value, within two weeks from today. The said amount would be paid to 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.

e (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 unauthorisedly.”

f **19.** Feeling aggrieved by the said order, Respondents 9 and 10 filed Civil Appeals Nos. 4829 and 4832 of 2015 before this Court. This Court by its order dated 20-5-2015<sup>3</sup> passed the following order: [*Core Mind Software & Services (P) Ltd. case*<sup>3</sup>, SCC OnLine SC paras 2-5]

g “2. 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 9 (the appellant in CA No. 4832 of

h

3 *Core Mind Software & Services (P) Ltd. v. Forward Foundation*, 2015 SCC OnLine SC 1778

508

SUPREME COURT CASES

(2019) 18 SCC

2015) and Rs 22.5 crores against original Respondent 10 (the appellant in CA No. 4829/2015) is imposed.

3. 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. a

4. 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<sup>1</sup> can also be raised. b  
c

5. 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.” d

20. In relation to Issue 5, an opportunity of hearing was granted to the respondents. The Tribunal passed order dated 6-4-2016<sup>4</sup> on these applications as under: (*Forward Foundation case*<sup>4</sup>, SCC OnLine NGT) e

**“MA No. 603 of 2015 and MA No. 596 of 2015**

These applications have been filed on behalf of Respondents 9 and 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. f

With the above directions MA No. 603 of 2015 and MA No. 596 of 2015 stand disposed of without any order as to cost.” g

21. It is evident from the above orders that the Tribunal had granted opportunity to the parties to address it “limited question”, as aforementioned.

1 *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

4 *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 637

h

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 509

The Tribunal after hearing the parties passed an order dated 4-5-2016<sup>2</sup> as under:  
(*Forward Foundation case*<sup>2</sup>, SCC OnLine NGT)

*a* “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 waterbodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP 2015 provides 50 m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25 m in the case of secondary Rajkulewas and 15 m in the tertiary Rajkulewas in contradiction to 30 m in the case of lake which is certainly much bigger waterbody and its utility as a waterbody/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents 9 and 10 from Rajkulewas, waterbodies and wetlands shall be maintained as below—

*c* (i) In the case of lakes, 75 m from the periphery of waterbody to be maintained as green belt and buffer zone for all the existing waterbodies i.e. lakes/wetlands.

(ii) 50 m from the edge of the primary Rajkulewas.

(iii) 35 m from the edges in the case of secondary Rajkulewas.

*d* (iv) 25 m 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.

*e* All the offending constructions raised by Respondents 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.

*f* All authorities particularly Lake Development Authority shall carry out this operation in respect of all the waterbodies/lakes of Bangalore.

*g* 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.

*h* 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 groundwater 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

<sup>2</sup> *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409



510

SUPREME COURT CASES

(2019) 18 SCC

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 prerequisite 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 9 and 10, following specific conditions shall apply to Respondent 9:

(i) Reclaimed area of the lake to the extent of 3 ac 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 9 to the authorities concerned 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 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 Agara Lake and Belandur Lake, Respondent 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 metres in the depth range of 0 to 9 m. This has created huge hillock like structure obstructing the natural flow pattern of surface runoff from Agara Lake side to Balandur 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

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 511

SEIAA shall be prepared. In any case the plan should ensure that no muck/sediment flows into Rajkalewas and/or Belandur Lake.

a (v) The kharab land identified by Revenue Department admeasuring 1 ac 2 guntas should be demarcated and maintained separately as green belt.

b (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.

c (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.

\*

\*

\*

d 10. Though, at the time of hearing prior to passing of the judgment, we had heard the parties on all aspects but still we have provided rehearing 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 9 calls for no variation and Respondent 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 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.

e Thus, considering cumulative effect on environment and ecology due to various breaches in that behalf by Respondent 10 and the fact that the remedial measures can more effectively be taken by Respondent 10, we reduce environmental compensation payable by Respondent 10 to Rs 13.5 crores (3% of the stated project cost instead of 5% as imposed in the original judgment).

f **General directions**

g 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.

h 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.



512

SUPREME COURT CASES

(2019) 18 SCC

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.

a

4. We hereby direct the State of Karnataka to submit a proposal to MoEF for demarcating wetlands in terms of the Wetland Rules, 2010 as revised from time to time. Such proposal shall be submitted by the State within four weeks from today and 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.

b

5. Both Respondents 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.

c

6. There is a serious discrepancy even in regard to the measurement of land as far as Respondent 9 is concerned. Admittedly the respondent has been allotted and is in possession of land admeasuring 63.94 ac, though environmental clearance has been granted for 2,92,636.03 sq m which is equivalent to 72.22 ac. 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 9 to submit a fresh layout plant and the entire project may be revised in accordance with law.

d

e

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.

f

With the above directions, Original Application No. 222 of 2014 and Miscellaneous Applications Nos. 596 of 2016 and 603 of 2016 are finally disposed of while leaving the parties to bear their own costs.”  
(emphasis in original)

22. Appearing for the appellants in CA 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 “the 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 28-6-2007, the land was allotted to the appellant by KIADB. SEIAA granted environmental clearance which was followed by public notice concerning clearance on 14-3-2012.

g

h

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 513

- 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 Sections 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 the 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 17-2-2012 and it was published in two leading newspapers on 12-3-2012 and 14-3-2012, modified plan was approved by KIADB on 30-8-2012, 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 NGT is substantially higher as compared to buffer zone which is required to be maintained as per the Revised Master Plan, 2015 issued on 22-6-2007. 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 waterbody 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 CAs 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. 30-9-2013. Hence, imposing penalty/compensation is entirely unsustainable.

- 27.** The learned Advocate General, Shri Udaya Holla, appearing for the appellant State of Karnataka in CAs Nos. 4923-24 of 2017, has submitted that the State of Karnataka is also aggrieved by the order of NGT to the extent of setting aside the buffer zone in respect of waterbodies and drains specified in

514

SUPREME COURT CASES

(2019) 18 SCC

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 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 validity or vires of any statutory provision/regulation. Therefore, the order of NGT to that extent is liable to be set aside.

**28.** The 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 m buffer zone around the lakes and a buffer zone of 50 m, 25 m and 15 m from the primary, secondary and tertiary drains, respectively to be measured from the centre of the drain. Vide the impugned judgment, NGT has revised these buffer zones and has directed that the buffer zone be maintained for 75 m around the lake and 50, 35 and 25 m respectively from the primary, secondary and tertiary drain, respectively. Variation of buffer zone, as directed by 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 CAs Nos. 5016 and 8002-03 of 2016 (Respondents 9 and 10). He has no objection to set aside the order insofar 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 NGT in para 1 of the order dated 4-5-2016<sup>2</sup> except the directions issued against Respondents 9 and 10. In view of the above, it is not necessary to examine the contentions of the learned Advocate General in Civil Appeals Nos. 4923-24 of 2017. It is also not necessary to consider the contentions urged in the other civil appeals except the appeals filed by Respondents 9 and 10.

**30.** Shri Poovayya has strongly opposed the submissions made by the learned Senior Counsel appearing for the appellants in CA No. 5016 of 2016 and CAs Nos. 8002-03 of 2016. It is submitted that the Tribunal is a specialised 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

<sup>2</sup> *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 515

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 jeopardised, 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 the KIAD Act, Planning Act, Revised Master Plan of Bangalore, 2015 and Karnataka Municipal Corporation Act, 1976 (for short “the KMC Act”). Therefore, the Tribunal while providing for restoration of environment in an area can specify buffer zone around specific lakes and waterbodies in contravention with zoning regulation.

32. Regarding limitation, he has submitted that the application filed by Respondents 1 to 3 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 report dated 12-6-2013 and the Ministry of Environment, Forests and Climate Change Monitoring Committee Report dated 14-8-2013 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 fulfilment 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 “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. 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.

516

SUPREME COURT CASES

(2019) 18 SCC

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 fulfilment 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 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 *Chunilal V. Mehta & Sons Ltd. v. Century Spg. & Mfg. Co. Ltd.*<sup>5</sup> This Court has laid down the test as under: (AIR p. 1318, para 6)

“6. ... 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 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

<sup>5</sup> 1962 Supp (3) SCR 549 : AIR 1962 SC 1314



MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 517

seek reappreciation of the factual matrix of the entire matter. The appellants cannot seek to re-argue their entire case to seek wholesale reappreciation 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 reappreciation 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 specialised 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 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. It is noteworthy that Sections 15(1)(b) and (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 jeopardised, 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*

518

SUPREME COURT CASES

(2019) 18 SCC

*Lal v. ESI Corpn.*<sup>6</sup>, 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 specialised 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 and 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 Sections 14 and 15 as self-contained jurisdictions.

46. Further, Section 18 of the Act recognises the right to file applications each under Section 14 as well as Section 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, leave 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, the Planning Act, the Karnataka Municipal Corporations Act, 1976 (the KMC Act); and the Revised Master Plan of Bengaluru, 2015 (RMP). A Central legislation enacted under Entry 13 of Schedule VII List I 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 and waterbodies in contradiction with zoning regulations under these statutes or RMP.

48. The second question raised by the appellants is that the petition is barred by time. According to the appellants, environmental clearance was granted to Respondent 9 on 17-2-2012 for which notice was published in the leading newspaper on 12-3-2012 and 14-3-2012. Modified building plan was approved on 30-8-2012, which was followed up to 10-8-2014. Similar events had taken place in regard to the project of Respondent 10 who had been

<sup>6</sup> (2007) 4 SCC 579 : (2007) 2 SCC (L&S) 1

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 519

granted environmental clearance on 30-9-2013. 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.** 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 12-6-2013 and the Ministry of Environment, Forests and Climate Change (MoEF) Monitoring Committee Report dated 14-8-2013 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 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 11-1-2012 of the Chairman of 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 ac 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



520

SUPREME COURT CASES

(2019) 18 SCC

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<sup>1</sup> as under: (*Forward Foundation case*<sup>1</sup>, SCC OnLine NGT para 72)

“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 operationalisation 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 13-11-2000 and 23-11-2010. Secondly, it reveals the excavation work carried out by Respondents 9 and 10 commenced prior to obtaining environmental clearance.

(6) Restriction in regard to extraction of groundwater 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 waterbodies within and/or at the vicinity of the project area to be protected and conserved. The inspection report by MoEF clearly notes that Conditions (xxxix) and (xl) in the environmental clearance of Respondent 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.”

<sup>1</sup> *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 521

**53.** In para 81, the Tribunal has observed as under: (*Forward Foundation case*<sup>1</sup>, SCC OnLine NGT para 81)

*a* “81. ... Another very important aspect which cannot be overlooked by the Tribunal is with regard to Respondents 9 and 10 carrying on their project activity fully knowing that they were incapable of or it was not possible for them to comply with Conditions (xxxix) and (xl) (or alike conditions) in the order granting the environmental clearance. This has even been noticed by MoEF in its monitoring report dated 14-8-2013. 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.”

*c* **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.

*d* **55.** We are also of the view that it is impermissible for the appellants to seek a factual review through the methodology of reappraisal of factual matrix by this Court under Section 22 of the NGT Act.

*e* **56.** Shri R. Venkataramani, learned Senior Counsel has also raised a subsidiary issue relating to res judicata. According to him, Respondents 12 and 13 filed Writ Petitions Nos. 3656-57 of 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.

*f* **57.** The Tribunal has answered this issue in paras 47 to 51 of the order. There was no dispute insofar 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.

*h*

<sup>1</sup> *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

522

SUPREME COURT CASES

(2019) 18 SCC

**58.** After elaborately considering this question, the Tribunal has concluded as under: (*Forward Foundation case*<sup>1</sup>, SCC OnLine NGT para 51)

“51. ... For these reasons, we find no merit in this contention of Respondents 9 and 10. The purpose of the doctrine of res judicata is to provide finality and conclusiveness to the judicial decisions as well as to avoid multiplicity of litigation. In the present case, the question of reagitating 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 insofar 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 Respondents 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 4-5-2016<sup>2</sup>: (*Forward Foundation case*<sup>2</sup>, SCC OnLine NGT)

“1. In view of our discussion in the main judgment, we are of the considered view that the fixation of distance from waterbodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP 2015 provides 50 m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25 m in the case of secondary Rajkulewas and 15 m in the tertiary Rajkulewas in contradiction to the 30 m in the case of lake which is certainly much bigger waterbody and its utility as a waterbody/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents 9 and 10 from Rajkulewas, waterbodies and wetlands shall be maintained as below—

(i) In the case of *lakes*, 75 m from the periphery of waterbody to be maintained as green belt and buffer zone for all the existing waterbodies i.e. lakes/wetlands.

1 *Forward Foundation v. State of Karnataka*, 2015 SCC OnLine NGT 5

2 *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409

MANTRI TECHZONE (P) LTD. v. FORWARD FOUNDATION (*Abdul Nazeer, J.*) 523

(ii) 50 m from the edge of the primary Rajkulewas.

(iii) 35 m from the edges in the case of secondary Rajkulewas.

a (iv) 25 m 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.

b All the offending constructions raised by Respondents 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.

c All authorities particularly Lake Development Authority shall carry out this operation in respect of all the waterbodies/lakes of Bangalore.” (emphasis in original)

d 61. We have already noticed that Shri Poovayya has no objection to set aside the aforesaid impugned portion of the order insofar as the appellants in all the appeals except the appeals filed by Respondents 9 and 10 are concerned. The aforesaid portion of the order contains not only general directions but also certain directions against Respondents 9 and 10. Therefore, only that portion of the order which does not pertain to Respondents 9 and 10 needs to be quashed.

62. In the light of the above discussion, we pass the following order:

e 62.1. Civil Appeal No. 5016 of 2016 and Civil Appeals Nos. 8002-03 of 2016 filed by the appellant-Respondents 9 and 10 are hereby dismissed. The impugned judgment and order insofar as the appellant-Respondents 9 and 10 are concerned is sustained.

f 62.2. All the other appeals are hereby allowed and Direction/Condition (1) in the order dated 4-5-2016<sup>2</sup> is hereby set aside except the direction issued against Respondents 9 and 10.

63. There will be no order as to costs.

g

h

<sup>2</sup> *Forward Foundation v. State of Karnataka*, 2016 SCC OnLine NGT 1409

2021 SCC OnLine SC 897

In the Supreme Court of India  
(BEFORE A.M. KHANWILKAR, HRISHIKESH ROY AND C.T. RAVIKUMAR, JJ.)

Civil Appeal Nos. 12122-12123 of 2018  
Municipal Corporation of Greater Mumbai ... Appellant(s);  
*Versus*  
Ankita Sinha and Others ... Respondent(s).

With

Civil Appeal No. 86/2019  
Civil Appeal No. 5902/2019  
Civil Appeal No. 6273 of 2021  
(Arising out of SLP(C) No. 6732/2021)  
Civil Appeal No. 6274 of 2021  
(Arising out of SLP(C) No. 5930/2021)  
Civil Appeal No. 6275 of 2021  
(Arising out of SLP(C) No. 6733/2021)  
Civil Appeal No. 6276 of 2021  
(Arising out of SLP(C) No. 16448 of 2021)  
Diary No. 11655/2021  
Civil Appeal No. 6277-6278 of 2021  
(Arising out of SLP(C) No. 16449-16450 of 2021)  
Diary No. 13789/2021  
Civil Appeal No. 6279 of 2021  
(Arising out of SLP(C) No. 16451 of 2021)  
Diary No. 13811/2021  
Civil Appeal No. 6280-6281 of 2021  
(Arising out of SLP(C) No. 16452-16453 of 2021)  
Diary No. 13890/2021  
Civil Appeal No. 2897/2021  
Civil Appeal No. 6282 of 2021  
(Arising out of SLP(C) No. 11426 of 2021)  
Civil Appeal No. 6283 of 2021  
(Arising out of SLP(C) No. 11427 of 2021)  
Civil Appeal No. 6262 of 2021  
Diary No. 16948 of 2021  
Civil Appeal No. 6284 of 2021  
(Arising out of SLP(C) No. 11798 of 2021)  
Civil Appeal No. 6285 of 2021  
(Arising out of SLP(C) No. 12669 of 2021)  
Civil Appeal No. 6286 of 2021  
(Arising out of SLP(C) No. 16454 of 2021)  
Diary No. 19534/2021

Civil Appeal Nos. 12122-12123 of 2018, Civil Appeal No. 86/2019, Civil Appeal  
No. 5902/2019, Civil Appeal No. 6273 of 2021 (Arising out of SLP(C) No.

6732/2021), Civil Appeal No. 6274 of 2021 (Arising out of SLP(C) No. 5930/2021), Civil Appeal No. 6275 of 2021 (Arising out of SLP(C) No. 6733/2021), Civil Appeal No. 6276 of 2021 (Arising out of SLP(C) No. 16448 of 2021), Diary No. 11655/2021, Civil Appeal No. 6277-6278 of 2021 (Arising out of SLP(C) No. 16449-16450 of 2021), Diary No. 13789/2021, Civil Appeal No. 6279 of 2021 (Arising out of SLP(C) No. 16451 of 2021), Diary No. 13811/2021, Civil Appeal No. 6280-6281 of 2021 (Arising out of SLP(C) No. 16452-16453 of 2021), Diary No. 13890/2021, Civil Appeal No. 2897/2021, Civil Appeal No. 6282 of 2021 (Arising out of SLP(C) No. 11426 of 2021), Civil Appeal No. 6283 of 2021 (Arising out of SLP(C) No. 11427 of 2021), Civil Appeal No. 6262 of 2021, Diary No. 16948 of 2021, Civil Appeal No. 6284 of 2021 (Arising out of SLP(C) No. 11798 of 2021), Civil Appeal No. 6285 of 2021 (Arising out of SLP(C) No. 12669 of 2021), Civil Appeal No. 6286 of 2021 (Arising out of SLP(C) No. 16454 of 2021) and Diary No. 19534/2021

Decided on October 7, 2021

The Judgment of the Court was delivered by

HRISHIKESH ROY, J.:—

*“Estragon : Let's go.*

*Vladimir : We can't.*

*Estragon : Why not?*

*Vladimir : We're waiting for Godot.”<sup>1</sup>*

2. Leave granted in the Special Leave Petitions.

3. The consideration to be made in these matters is whether the National Green Tribunal (for short “the NGT”) has the power to exercise *Suo Motu* jurisdiction in discharge of its functions under the National Green Tribunal Act, 2010 (for short, “the NGT Act 2010”).

4. In the lead case in this group, i.e. the Civil Appeal No. 86 of 2019, the NGT noticed an article titled “*Garbage Gangs of Deonar : The Kingpins and Their Multi-Crore Trade*” in the online news portal, *The Quint*. The article spoke of how mismanagement of solid waste had an adverse impact on the environment, public health and lives of individuals living in the vicinity of the dumping ground in Mumbai city.

5. The NGT took *suo motu* cognizance of the above article vide order dated 07.08.2018 and directed that the article writer Ankita Sinha be the applicant in the case OA No. 510 of 2018, registered at the NGT's instance. Thereafter, steps were taken for inspection of the Deonar Dumping site by the representative of the Central Pollution Control Board, Maharashtra Pollution Control Board, the District Collector of the area and also the representative of the Municipal Corporation of Greater Mumbai (for short “the MCGM”). Pursuant to the Report of the inspecting team which highlighted that the landfill site failed to comply with the provisions of the Solid Waste Management Rules, 2016, the NGT vide order dated 30.10.2018 noted that ‘*damage to the environment and public health is self-evident*’ and ordered MCGM to pay compensation to the tune of Rs. 5 crores.

6. This Court while entertaining the Civil Appeal No. 86/2019 of MCGM, ordered stay on the operation of the order passed by the NGT and thereafter arranged for analogous consideration of the related cases where the common threshold jurisdictional issue arises on whether the NGT has the power to exercise *suo motu* jurisdiction.

7. Mr. Mukul Rohatgi, Mr. Dushyant Dave, Mr. Jaideep Gupta, Mr. Dhruv Mehta, Mr. Atmaram Nadkarni, Mr. Krishnan Venugopal, Mr. V. Giri, Mr. Sajan Poovayya and Mr. Sidhartha Dave, learned Senior Counsel together with Mr. E.M.S Anam, Ms. Amrita



Sharma, Mr. S. Thananjayan have taken a common stand. They have argued that the NGT is a Tribunal and a creature of statute and as such, it cannot act on its own motion or exercise the power of judicial review or act *suo motu*, in discharge of its function. Being a creature of the statute, the forum cannot assume inherent powers as under Article 32 and Article 226 and its domain is circumscribed by the limitations so imposed. The learned counsel also argue that the NGT has an adjudicatory role to decide disputes which necessarily mean involvement of two or more contesting parties. Therefore, the NGT by acting *suo motu* cannot transpose itself to the shoes of one such party. The absence of general power of judicial review with the NGT (which is available with superior courts) is highlighted to keep away *suo motu* power from the NGT. Various judgments relating to the Tribunal's power and role are cited by the counsel and those would be discussed in later part of this order.

8. Projecting the contrary view, Mr. Nidhesh Gupta, the learned Senior Counsel appearing for the aggrieved party in SLP(C) No. 6732/2021, Mr. Sanjay Parikh, learned Senior Counsel for the Intervener in C.A. No. 86/2019 and Mr. Gopal Sankaranarayanan, learned Senior Counsel appearing for the Impleader I.A. No. 71482/2021 in the SLP(C) No. 6732/2021, by referring to the special role envisaged for the NGT and the history of its incorporation, make equally powerful submission in support of exercise of *suo motu* jurisdiction, by the NGT.

9. Mr. Anand Grover, the learned Senior Counsel was appointed as the *Amicus Curiae* to assist the Court and he was heard at length. The counsel acknowledges the NGT's role and position under the Act and its wide jurisdiction over environmental matters but Mr. Grover is of the view that the NGT is incapable of triggering action on its own. In other words, the NGT cannot act *suo motu* without someone moving the Forum as otherwise the forum then would be perceived to be judging its own cause. Since *suo motu* power is not conferred under the NGT Act, the specialized tribunal has to be moved by an outside party. But the format of the application is not important and even a letter addressed by an interested party, will clothe the NGT with power to take action is the concessional submission of Mr. Grover.

10. Representing the Central Government, Ms. Aishwarya Bhati, the learned Additional Solicitor General of India submitted that *Suo Motu* power is not exercisable by the NGT since the same has not been conferred on the forum under the NGT Act, unlike the situation in the now repealed *National Environment Tribunal Act, 1995* (hereinafter referred to as the "NET Act"). The counsel refers to the provisions of the NGT Act and submits that the concept of *locus standi* was expanded for NGT's intervention under Section 18(2)(e) but the tribunal is not vested with *suo motu* power to take action on its own unlike the High Courts and the Supreme Court. The learned ASG, however, submits that even on receipt of a letter, the NGT can commence action on environmental matters. Thus, on exercise of epistolary jurisdiction by the NGT, the ASG is on the same page as the *amicus curiae* but as earlier noted both counsel argue for keeping away the *suo motu* power from the NGT.

11. Having summarized the positions taken by the respective Counsel, we may now refer to the specific grounds of challenge to keep away *suo motu* power from the NGT. The concerned counsel project that NGT is a creature of the statute and just like other such statutory tribunals, the NGT is also bound within statutory confines. They have relied upon *Standard Chartered v. Dharminder Bhohi*<sup>2</sup> wherein, provisions of the *Recovery of the Debts Due to Banks and Financial Institutions Act, 1993* were analysed to note the limitations of the Debt Recovery Tribunal and Appellate Tribunal. From the analysis of Justice Dipak Misra (as his Lordship then was) for the Division Bench, it can be inferred that the Tribunal was given power under the statute to pass such other orders and give such directions to give effect to its orders or to prevent abuse of its process or to secure the ends of justice but in discharge of its functions the Tribunal was required to confine itself to within the statutory parameters. Thus. Section 19(25)



conferred limited powers and the submission thus is that the Tribunal does not have any inherent powers.

12. Similarly, Justice S.H. Kapadia (as his Lordship then was) in *Transcore v. Union of India*<sup>3</sup>, opined on behalf of a Division Bench that,

“67. ...The DRT is a tribunal, it is the creature of the statute, it has no inherent power which exists in the civil courts.”

13. The counsel also projects that in the context of Consumer Forums, Justice Dalveer Bhandari (as his Lordship then was) speaking for a three judge bench in *Rajeev Hitendra Pathak v. Achyut Kashinath*<sup>4</sup>, observed as under:—

“34. On a careful analysis of the provisions of the Act, it is abundantly clear that the Tribunals are creatures of the statute and derive their power from the express provisions of the statute. The District Forums and the State Commissions have not been given any power to set aside ex parte orders and the power of review and the powers which have not been expressly given by the statute cannot be exercised.”

14. The second limb of contention is that the Act is applicable to ‘disputes’ as, necessarily referring to a *lis* between two parties. The counsel has relied upon *Techi Tagi Tara v. Rajendra Singh Bhandari*<sup>5</sup> wherein the term ‘substantial question relating to environment’ was interpreted in an attenuated fashion to mean a question arising as part of a dispute. The submission therefore is that a dispute must necessitate a claimant or an applicant. Further, this dispute must also be capable of settlement by the NGT. In the cited case the proposition is articulated in the following fashion,

“19. On a combined reading of all these provisions, it is clear to us that there must be a substantial question relating to the environment and that question must arise in a dispute — it should not be an academic question. There must also be a claimant raising that dispute which dispute is capable of settlement by the NGT by the grant of some relief which could be in the nature of compensation or restitution of property damaged or restitution of the environment and any other incidental or ancillary relief connected therewith.

20. ...In *Prabhakar v. Deptt. of Sericulture* [*Prabhakar v. Deptt. of Sericulture*, [(2015) 15 SCC 1 : (2016) 2 SCC (L&S) 149] the following definition of “dispute” was noted in paras 34 and 35 of the Report : (SCC p. 21)

“34. To understand the meaning of the word “dispute”, it would be appropriate to start with the grammatical or dictionary meaning of the term:

“*Dispute*”—to argue about, to contend for, to oppose by argument, to call in question — to argue or debate (with, about or over) — a contest with words; an argument; a debate; a quarrel;”

35. *Black’s Law Dictionary*, 5<sup>th</sup> Edn., p. 424 defines “dispute” as under:

‘*Dispute*.—A conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other. The subject of litigation; the matter for which a suit is brought and upon which issue is joined, and in relation to which jurors are called and witnesses examined.’”

15. The *amicus curiae* has also addressed this issue, by defining a dispute as necessitating an assertion and a denial. By this reasoning, it is submitted that function of Section 14 of the NGT Act is available only to adjudicate upon disputes, as in an adversarial system but not for any other ameliorative, restorative or preventative functions.

16. Thirdly, the lack of general power of Judicial Review has been argued to show legislative intent to curb *suo motu* powers. Counsel have stated that the NGT, as a Tribunal with prescribed authority under a statute, does not have any general power of judicial review. Thus, it is not within the category of Writ Courts as under Article 226

and Article 32 of the Constitution of India. In the relied upon judgment *Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd.*<sup>6</sup> Justice R.F. Nariman speaking about the NGT for a Division Bench of this Court has observed the following,

"41. ...Suffice it to say that the NGT is not a tribunal set up either under Article 323-A or Article 323-B of the Constitution, but is a statutory tribunal set up under the NGT Act. That such a tribunal does not exercise the jurisdiction of all courts except the Supreme Court is clear from a reading of Section 29 of the NGT Act.....

43. ...In the present case, it is clear that Section 16 of the NGT Act is cast in terms that are similar to Section 14(b) of the Telecom Regulatory Authority of India Act, 1997, in that appeals are against the orders, decisions, directions, or determinations made under the various Acts mentioned in Section 16. It is clear, therefore, that under the NGT Act, the Tribunal exercising appellate jurisdiction cannot strike down rules or regulations made under this Act. Therefore, it would be fallacious to state that the Tribunal has powers of judicial review akin to that of a High Court exercising constitutional powers under Article 226 of the Constitution of India. We must never forget the distinction between a superior court of record and courts of limited jurisdiction that was, in the felicitous language of Gajendragadkar, C.J., in *Powers, Privileges and Immunities of State Legislatures, In re [Powers, Privileges and Immunities of State Legislatures, In re, [(1965) 1 SCR 413 : AIR 1965 SC 745]*, made in the following words : (SCR p. 499 : AIR p. 789, para 138)

"138. We ought to make it clear that we are dealing with the question of jurisdiction and are not concerned with the propriety or reasonableness of the exercise of such jurisdiction. Besides, in the case of a superior court of record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited jurisdiction, the superior court is entitled to determine for itself questions about its own jurisdiction.

'Prima facie', says Halsbury, 'no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court [*Halsbury's Laws of England*, Vol. 9, p. 349]'."

For this reason also, we are of the view that the State Government order made under Section 18 of the Water Act, not being the subject-matter of any appeal under Section 16 of the NGT Act, cannot be "judicially reviewed" by the NGT. Following the judgment in *BSNL [BSNL v. TRAI, [(2014) 3 SCC 222]*, we are of the view that the NGT has no general power of judicial review akin to that vested under Article 226 of the Constitution of India possessed by the High Courts of this country. Shri Sundaram's strong reliance on the NGT judgment dated 17-7-2014 in *Wilfred J. v. Ministry of Environment & Forests [Wilfred J. v. Ministry of Environment & Forests, [2014 SCC OnLine NGT 6860]* must also be rejected as this NGT judgment does not state the law on this aspect correctly. This contention is also without merit, and therefore, rejected."

17. The argument has been that the superior Courts exercising discretionary powers under Article 32 and Article 226, to safeguard fundamental rights, can venture into judicial review. But such a power not being expressly conferred on the NGT would suggest the limited nature of the Forum's powers, which would exclude any *suo motu* exercise.

#### I. THE BACKDROP OF THE NATIONAL GREEN TRIBUNAL

18. In order to understand the contours of jurisdiction of the NGT, we have thought it necessary to refer to the history of the legislation and also the Preamble and the Statement of Objects and Reasons of the NGT Act. The parliamentary intent which

shaped the creation of the NGT and the broad issues that they sought to address through the specialized institution should now be brought to the fore.

19. The precursor to the NGT Act was the 186<sup>th</sup> Report of the Law Commission of India dated 23.9.2003 where the Law Commission had made the following pertinent observation espousing the case for the creation of a specialized Court to deal with environmental issues:—

“It is true that the High Court and Supreme Court have been taking up these and other complex environmental issues and deciding them. But, though they are judicial bodies, they do not have an independent statutory panel of environmental scientists to help and advise them on a permanent basis. They are prone to apply principles like the Wednesbury Principle and refuse to go into the merits. They do not also make spot inspections or receive oral evidence to see for themselves the facts as they exist on ground. On the other hand, if Environmental Courts are established in each State, these Courts can make spot inspections and receive oral evidence. They can receive independent advice on scientific matters by a panel of scientists.

These Environmental Courts need not be Courts of exclusive jurisdiction. However, the High Courts, even if they are approached under Art. 226 either in individual cases or in PIL cases, where orders of environmental authorities could be questioned, may refuse to intervene on the ground that there is an effective alternative remedy before the specialist Environmental Court. As of now, when we have consumer Courts at the District and State level, the High Courts have consistently refused to entertain writ petitions under Art. 226 because parties have a remedy before the fora established under the Consumer Protection Act, 1986. We have also the example of special environmental courts in Australia, New Zealand and in some other countries and these are manned by Judges and expert commissioners. The Royal Commission in UK is also of the view that if environmental courts are established, the High Courts may refuse to entertain applications for judicial review on the ground that there is an effective alternative remedy before these Courts.

It is for the above reasons we are proposing the establishment of separate environmental courts in each State. In Chapter IX, we propose to give the details of the constitution, power and jurisdiction of these Courts.”

20. The above would suggest that the Law Commission was of the opinion that it is not convenient for the High Courts and the Supreme Court to make local inquiries or receive evidence. Moreover, the superior courts will not have access to expert environmental scientists on permanent basis to assist them. Therefore, NGT was conceived as a complimentary specialized forum to deal with all environmental multi-disciplinary issues both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and the Supreme Court.

21. The NGT, therefore, was intended to be the competent forum for dealing with environmental issues instead of those being canvassed under the writ jurisdiction of the Courts. It was explicitly noted that the creation of the NGT would allow for the Supreme Court and High Court to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialized forum. The 186<sup>th</sup> Law Commission Report provided the following reasoning,

“Likewise, we have not thought it fit to enable the Environmental Courts, to have judicial review powers exercised by the High Court under Art. 226 of the Constitution of India. We have felt that it is sufficient to vest original civil jurisdiction as exercisable by a Civil Court, in the Environmental Courts. If we vest powers of Judicial review as under Art. 226, then there may be need to subject the orders to the writ jurisdiction of High Courts as held in *L. Chandra Kumar v. Union*

of India, [(1997) 3 SCC 261.

No doubt, the Environment Court exercising powers of a Civil Court or as an appellate Court in civil jurisdiction, may be technically amenable to writ jurisdiction of the High Court but inasmuch as we are providing an appeal to the Supreme Court, the High Courts may decline to interfere on the ground that there is an effective alternative remedy of appeal on law and fact to the Supreme Court, as explained later in this Chapter.”<sup>2</sup>

22. Thus, the power of judicial review was omitted to ensure avoidance of High Courts' interference with the Tribunal's orders by way of a mid-way scrutiny by the High Court, before the matter travels to the Supreme Court where NGT's orders can be challenged. The streamlining of the mechanism was to arrest the growing tide of litigation before High Courts and the Supreme Court and shift such issues to the domain of the NGT.

23. This is how the proposed forum was made free from the rules of evidence and the NGT was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts etc. The observance of the principles of natural justice was however mandated.

## II. PREAMBLE & STATEMENT OF OBJECTS AND REASONS

24. The Statement of Objects and Reasons of the NGT Act will now require attention. Paras 2, 3, 4, 5 and 6 of the Statement of Objects and Reasons being relevant are extracted hereinbelow:—

“2. India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at *Rio de Janeiro* in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

3. The right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.

4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environmental Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a

specialized tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.”

25. A reading of the Statement of Objects and Reasons shows that paragraph 4 thereof refers to the *National Environmental Tribunal Act, 1995 (NET)* which provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. In the same context it was observed that the NET had a very limited and narrow mandate and jurisdiction. Thereafter, in Para 5 it has been recorded that a large number of environmental cases are pending in higher Courts which involve multi-disciplinary issues and, in such cases, the Supreme Court had requested the Law Commission of India to consider the need for constitution of specialized environmental Courts.

26. Significantly, the Statement of Objects and Reasons also refers to right to a healthy environment being a part of the right to life under Article 21 of the Constitution of India. This was consistent with the earlier mentioned 186<sup>th</sup> Law Commission Report highlighting that the body so created, would aim to “*achieve the objectives of Article 21, 47, 48A, 51A (g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure*”. An institution concerned with a significant aspect of right to life necessarily should be given the most liberal construction.

27. The paragraph 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment. The mandate and jurisdiction of the NGT is therefore conceived to be of the widest amplitude and it is in the nature of a *sui generis* forum.

28. The United Nations Conference on Environment and Development held at Rio De Janeiro in June, 1992 where India participated, impressed upon the States to provide effective access to judicial and administrative proceedings, lay out redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The Preamble of the Act significantly emphasized on construing the right to healthy environment as a part of the Right to Life under Article 21 of the Constitution which was accepted by various judicial pronouncements in India. The National Green Tribunal was born in our country with such lofty dreams to deal with multi-disciplinary issues, relating to the environment.

29. The limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of the NGT.

### III. THE NEED FOR PURPOSIVE INTERPRETATION

30. While adequate clarity is discernible in the phraseology that is employed under Section 14 and other provisions of the NGT Act, as shall be discussed in later parts of the judgement, the intention behind the statute should receive our careful attention. Tracing the legislative history for creation of the NGT it is seen that the NGT is intended to address wide ranging societal concerns and these have prompted us to opt



for purposive interpretation. The Statue will have to be read in its entirety and each provision of the Act must be given its due meaning by comprehending the mischief it intends to remedy. The chosen interpretive exercise is best understood from the treatise *Interpretation of Statutes*, authored by Justice G.P. Singh who explained thus,

“When the question arises as to the meaning of certain provision in statute, it is not only legitimate but proper to read that provision in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute, and the mischief that it was intended to remedy. This statement of the rule was later fully adopted by the Supreme Court.

It is a rule now firmly established that the intention of the Legislature must be found by reading the statute as a whole. The rule is referred to as an ‘elementary rule’ by Viscount Simonds : a compelling rule by Lord Sommervell of Harrow; and a “settled rule” by B.K. Mukherjee J. “I agree” said Lord Halsbury, “that you must look at the whole in order to give effect, if it be possible to do so, to the intention of the framer of it.”

31. The mischief that the NGT Act attempted to remedy were underscored in the legislative history, and the pronouncements of the constitutional Courts flagging their environmental concerns.

32. The application of the *Heydon's Rule* could adequately aid us here as the Rule directs adoption of that construction which “*shall suppress the mischief and advance the remedy*” as was pertinently observed by Justice S.R. Das, for a seven judge bench in *Bengal Immunity Co. v. State of Bihar*<sup>8</sup>,

“...the office of all judges is to make such construction as shall suppresses the mischief and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief; and *pro privato commodo*, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, *pro bono publico*.”

33. Francis Bennion in his book *Statutory Interpretation* described ‘purposive interpretation’ as under:

‘A purposive construction of an enactment is one which gives effect to the legislative purpose by—

- (a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose, or
- (b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose.’

34. Justice Frankfurter of US Supreme Court in ‘*Some Reflections on the Reading of Statutes*’, has elucidated on the principles to ascertain the contextual meaning of statutes in the following manner,

‘The purpose of construction being the ascertainment of meaning, every consideration brought to bear for the solution of that problem must be devoted to that end alone.

...

Judge Learned Hand speaks of the art of interpretation as ‘the proliferation of purpose’.”<sup>9</sup>

35. Eventually, Justice Frankfurter relied upon Justice Benjamin Cardozo's phraseology in *Panama Refining Co. v. Ryan*, and the same is taken as a lodestar in our quest,

“the meaning of a statute is to be looked for, not in any single section, but in all the parts together and in their relation to the end in view”<sup>10</sup>.

36. The laudatory objectives for creation of the NGT would implore us to adopt such an interpretive process which will achieve the legislative purpose and will eschew

procedural impediment or so to say incapacity. The precedents of this Court, suggest a construction which fulfills the object of the Act.<sup>11</sup> The choice for this Court would be to lean towards the interpretation that would allow fructification of the legislative intention and is forward looking. The provisions must be read with the intention to accentuate them, especially as they concern protections of rights under Article 21 and also deal with vital environmental policy and its regulatory aspects.

#### IV. SALIENT STATUTORY FEATURES OF NGT ACT

37. Applying the chosen tool of interpretation to the statutory layout of the NGT Act, following provisions will require the Court's attention. Section 2(1)(c) of the NGT Act defines the term "environment"; Section 2(1)(m) defines "substantial question relating to environment". Chapter III relates to jurisdiction, power and proceedings of the Tribunal. The Section 14 gives original jurisdiction to the NGT to decide a substantial question relating to environment; Section 15 deals with relief, compensation and restitution whereby besides providing relief to the victims of pollution, the NGT can direct restitution of property damage and restitution of environment for such area(s) "*as the Tribunal may think fit*". Section 16 gives appellate jurisdiction to the Tribunal against the orders passed under various enactments. Section 17 provides for liability to pay relief or compensation in certain cases, Section 18 specifies who can move application/appeal before the Tribunal. It includes, among others, 18(2)(d) "*any person aggrieved including any representative body/organization*" and the *locus standi* is not limited only to the aggrieved party. Section 19 provides for procedure and powers of the Tribunal. Section 19(1) significantly says that the Tribunal shall not be bound by procedures laid down in the CPC and shall be bound by the Principles of Natural Justice. Section 19(2) provides that subject to the provisions of the Act, the Tribunal shall have powers to regulate its own procedure. Section 19(3) mentions that the Tribunal shall not be bound by the rules of evidence contained in the Evidence Act, 1872. While discharging functions under Section 19(4), besides summoning, enforcing attendance, examining persons on oath, requiring discovery and production of documents, receiving evidence on oath, the NGT also has powers to review its decision, to pass interim orders as well as pass cease and desist orders. Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development principles, precautionary principles and polluter pays principle. Under Section 25, the Tribunal can execute its order/decision as a decree of the Civil Court and for that purpose shall have all the powers of a Civil Court. Section 29 bars the jurisdiction of the Civil Court to entertain all environmental matters covered by the Tribunal. Under Section 33, the NGT Act has an overriding effect over other laws.

38. While on the statutory provisions, it is seen that the Central Government has framed the *National Green Tribunal (Practice & Procedure) Rules, 2011* (for short "the NGT Rules"). For our purpose, Rule 24 is important which reads thus:

*"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."*

39. The said Rules make it clear that the NGT has been given wide discretionary powers to *secure the ends of justice*. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

40. By choosing to employ a phrase of wide import, i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses *inter alia*, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to



the environmental principles and even hauling up authorities for inaction, when need be.

41. Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

42. Another distinguishing feature of the environmental forum is on the aspect of *locus standi* which was made as wide as is available to the High Courts and the Supreme Court. Thus, any person or organization who may be interested in the subject matter is permitted to approach the NGT.

43. The provisions of the NGT Act and the NGT Rules demonstrate that myriad roles are to be discharged by the NGT, as was encapsulated in the Law Commission Report, the Preamble and the Statement of Objects and Reasons. This is also forthcoming from the international obligation and commitment by India to implement the decision taken at the Stockholm and the Rio De Janeiro Conventions towards protection of the environmental rights under Article 21 of the Constitution.

#### V. NON-ADJUDICATORY ROLES OF NGT

44. As can be seen, the Parliament intended to confer wide jurisdiction on the NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by the High Courts under Article 226 of the Constitution or by the Supreme Court under Article 32 of the Constitution. The Tribunal is also expected to proceed with such matters with the understanding that environment and environmental principles are part of Article 21 of the Constitution. [See *Vellore Citizens' Welfare Forum v. UOI*<sup>12</sup>; *M.C. Mehta v. UOI*<sup>13</sup> etc.]

45. The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air Act, the Environment Act, the Forest Conservation Act etc. As one looks at these enactments, an expanded role for the NGT is clearly discernible. The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation.

46. For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I of the NGT Act, the concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment. Therefore, the NGT is primarily concerned with protection of the environment and also preservation of the natural resources. As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions.

47. The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration. This aspect was specifically flagged in the 186<sup>th</sup> Law Commission Report,

"The Environment Court, in our view, must have power to frame schemes and monitor them and also have power to modify the schemes from time to time. If one looks at the problems raised in several cases and the directions issued by the Supreme Court, it will be observed that such a power is necessary to be vested in these Courts. .... The Environment Court must be able to provide an "environmental solution" to grave problems like the one mentioned above and unless it has power to frame comprehensive schemes which will involve issuing directions to various departments, the solution cannot be implemented. Such a comprehensive

jurisdiction is now being exercised both by the Supreme Court and High Courts. In our view, the proposed Courts must have similar powers. They will also have to monitor the schemes till they are successfully implemented on ground and, if necessary, modify the schemes from time to time.”

48. We have earlier discussed that the NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events. The larger discourse which informs such functions is related to distributive and corrective justice, as will be elaborated in later paragraphs. Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without adversarial significance. Importantly, many of these functions do not require an active “*dispute*”, but the formulation of *decisions*.

49. With the constitution of the NGT, many cases pending before the High Courts were transferred to the NGT. Apprehending the possibility of conflict between the High Courts and the NGT (in matters concerning environment and the statutes mentioned in Schedule I of the NGT Act), Justice Swatanter Kumar speaking for the three Judge Bench in *Bhopal Gas Peedith Mahila Udyog Sangathan v. Union of India*<sup>14</sup>, highlighted the NGT's role in the context, in the following words:—

“40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short “the NGT Act”) particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short “NGT”). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice.”

50. In the above case, this Court mandated transfer of all cases concerning the statutes mentioned in Schedule I of the NGT Act to the specialized forum as otherwise there can be conflicts with the High Courts. Notably, some of those cases were originally registered *suo motu* by the Courts.

#### VI EXERCISE OF SUO MOTU POWER BY NGT

51. Let us now explore whether the NGT in discharge of its functions, should also have *suo motu* power. The specialized tribunal's exercise of *suo motu* powers is somewhat distinct from those exercised by the constitutional Courts. The Supreme Court and High Courts can foray into any issues under their constitutional mandate but the NGT cannot naturally travel beyond its environmental domain in reference to the scheduled enactments. However, As long as the sphere of action is not breached, the NGT's powers must be understood to be of the widest amplitude.

52. Explaining the purpose for constituting the special court to deal with environmental issues, in *Mantri Techzone (P) Ltd. v. Forward Foundation*<sup>15</sup>, Justice S. Abdul Nazeer writing for the three Judge Bench, made the following pertinent observations on the status of the NGT:—

“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 specialised 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 the 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.”

53. As can be seen from the quoted passage, this Court recognized that the NGT is set up under the constitutional mandate in Entry 13 of List I in Schedule VII to enforce Article 21 with respect to the environment and in the context observed that the Tribunal has special jurisdiction for enforcement of environmental rights.

54. Elaborating further, in paragraphs 44-46, the Supreme Court expressed that the interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction. It was specifically noted that,

“46. ... 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.”

55. Such being the wide contour of the NGT's powers, the exposition in *Rajeev Suri v. DDA*<sup>16</sup> was not to constrict the *suo motu* powers of the NGT. To appreciate the implication of the ratio in *Rajeev Suri*, it must be noticed that it was in the specific context of ‘Merits Review’ and the NGT transgressing beyond its environmental mandate. This is why, one of us, Justice A.M. Khanwilkar observed that,

“503. NGT is not a plenary body with inherent powers to address concerns of a residuary character. It is a statutory body with limited mandate over environmental matters as and when they arise for its consideration. In a cause before it, NGT cannot directly go on to adjudicate on concerns of violation of fundamental rights and once the contours of a subject matter traverse the scope of appeal from a grant of EC, the merits review by tribunal cannot traverse beyond the scope of jurisdiction vested in it by the statute.”

56. Thus, the ratio in *Rajeev Suri* to the quoted extent will not clash with the view propounded here as the exposition is not to allow any inherent power of residuary character for the NGT. In its own domain, as crystalized by the statute, the role of the NGT is clearly discernible.

57. The need for an expert body with extensive functions and the sources of inspiration behind it was articulated in *Andhra Pradesh Pollution Control Board v. Prof. M. V. Nayudu (Retd.)*<sup>17</sup> where Justice M. Jagannadha Rao speaking for a Division Bench referred to a comparable court in Australia and noted the following,

“The Land and Environment Court of New South Wales in Australia, established in 1980, could be the ideal. It is a superior court of record and is composed of four Judges and nine technical and conciliation assessors. Its jurisdiction combines appeal, judicial review and enforcement functions. Such a composition in our opinion is necessary and ideal in environmental matters.”

58. The above would show that from the very inception, the role of the NGT was not simply adjudicatory in the nature of a *lis* but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate.

## VII. UNIQUENESS OF NGT VIS-A-VIS OTHER TRIBUNALS

59. While we see many tribunals functioning within their specified domains, variances do exist in the manner in which they are designed to function. The statutory Tribunals were categorized to fall under four subheads; Administrative Tribunals under Article 323A; Tribunals under Article 323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Article 21. As already noted, the duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.

60. The ideal was to create a fairly proactive and responsive Institution which could step into varying roles, as the situation demanded. Commenting on the specialized and unique role of the NGT, Justice Ashok Bhushan in *State of Meghalaya v. All Dimas Students Union*<sup>18</sup>, fittingly observed thus:—

“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)

“14. The High Court observed that under Section 35 of the Indian Income Tax Act, 1922, the jurisdiction of the Income Tax Officer is discretionary. If thereby it is intended that the Income Tax Officer has discretion to exercise or not to exercise the power to rectify, that view is in our judgment erroneous. Section 35 enacts that the Commissioner or Appellate Assistant Commissioner or the Income Tax Officer may rectify any mistake apparent from the record. If a statute invests a public officer with authority to do an act in a specified set of circumstances, it is imperative upon him to exercise his authority in a manner appropriate to the case when a party interested and having a right to apply moves in that behalf and circumstances for exercise of authority are shown to exist. Even if the words used in the statute are *prima facie* enabling, the courts will readily infer a duty to exercise power which is invested in aid of enforcement of a right—public or private— of a citizen.”

61. Reflecting on the expanded role of NGT unlike other Tribunals, this Court so appositely observed that the forum has a duty to do justice while exercising “*wide range of jurisdiction*” and the “*wide range of powers*”, given to it by the statute.

62. During the course of its functioning, the NGT has been recognized as one of the most progressive Tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers. To understand how the NGT is perceived globally, we may usefully refer to the views of Chief Justice Brian Preston of the Land and Environment Court of NSW Australia,

“The NGT is an example of a specialized court to better achieve the goals of ensuring access to justice, upholding the rule of law and promoting good governance.”<sup>19</sup>

## VIII. THE SUI GENERIS ROLE OF NGT

63. The NGT being one of its own kind of forum, commends us to consider the concept of a *sui generis* role, for the institution. The structure of *Sui generis* institutions was explained in *Paramjit Kaur v. State of Punjab*<sup>20</sup>, wherein Justice S. Saghir Ahmad spoke thus for a Division Bench,

“14. The concept of *sui generis* is applied quite often with reference to resolution of disputes in the context of international law. When the conventions formulated by compacting nations do not cover any area territorially or any subject topically, then the body to which such power to arbitrate is entrusted acts *sui generis*, that is, on its own and not under any law.”

64. In *DG NHA v. Aam Aadmi Lokmanch*<sup>21</sup>, Justice S. Ravindra Bhat commenting on the *sui generis* role of the NGT, so appropriately stated as follows:—

“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.

\*\*\*\*\*  
\*\*\*\*\*

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 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.”

65. In that case, this Court repelled the argument for a restricted jurisdiction for the NGT, and fittingly observed in paragraph 76 that the powers conferred on the NGT are both reflexive and preventive and the role of the NGT was recognized in paragraph 77 as “an expert regulatory body”, which can issue general directions also *albeit* within the statutory framework.

66. The above discussion would advise us to say that the NGT was conceived as a specialized forum not only as a like substitute for a civil court but more importantly to take over all the environment related cases from the High Courts and the Supreme Court. Many of those cases transferred to the NGT, emanated in the superior courts and it would be appropriate thus to assume that similar power to initiate *suo motu* proceedings should also be available with the NGT.

67. The NGT is a Tribunal with *sui generis* characteristic, with the special and all-encompassing jurisdiction to protect the environment. Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge role of supervisory body and to decide substantial questions relating to the environment. The necessity of having a specialized body, with the expertise to handle multidimensional environmental issues allows for an all-encompassing framework for environmental justice. The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise.

#### IX. AUTHORITY WITH SELF-ACTIVATING CAPABILITY



68. Given the multifarious role envisaged for the NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard the NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with the authority to take *suo motu* cognizance of matters, for effective discharge of its mandate.

69. The analysis for this segment should commence with Section 14 of the NGT Act and the same being of great relevance is being extracted hereunder,

“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 within a further period not exceeding sixty days.”

70. The Section 14(1) of the NGT Act deals with jurisdiction, and the jurisdictional provision conspicuously omits to specify that an application is necessary to trigger the NGT into action. In situations where the three prerequisites of Section 14(1) i.e., Civil cases; involvement of substantial question of environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of the NGT gets activated. On these material aspects, the NGT is not required to be triggered into action by an aggrieved or interested party alone. It would therefore be logical to conclude that the exercise of power by the NGT is not circumscribed by receipt of application. When substantial questions relating to the environment arise and the issue is civil in nature and those relate to the enactments in Schedule I of the Act, the NGT in our opinion even in the absence of an application, can self-ignite action either towards amelioration or towards prevention of harm.

71. In the same spirit, we find merit in the arguments that Section 14(1) exists as a standalone feature, not constricted by the operational mechanism of the subsequent subsections. The sub Section (2) of Section 14 functions as a corollary and comes into play when a dispute arises from the questions referred to in Section 14(1). Likewise sub Section (3) thereafter, refers to the period of limitation concerning applications, when they are addressed to the NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play. When it is a case warranting NGT's intervention, or may be a situation calling for decisions to meet certain exigencies, the functions under Section 14(1) can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT's functioning.

72. The other pertinent provisions relating to, *inter-alia*, jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for the NGT to pass necessary orders. These crucial powers are expected to be exercised by the NGT, would logically suggest that the action/orders of the NGT need not always involve any application or appeal. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum.

73. It may also be relevant to bear in mind that while dealing with contested cases,

the NGT is required to pass “award” and “order” and the statute repeatedly uses the word “decision”. Therefore, it is appropriate to correlate the word “decision” to the NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognized in *DG, NHAI* (supra).

74. The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialized forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to the NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application. In the context, Justice V.R. Krishna Iyer speaking for a Division Bench in *State of Punjab v. Shamlal Murari*<sup>22</sup> has so correctly prioritized the substantive rights and observed succinctly,

“8. ...We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”

75. While discussing the NGT's power and responsibility, it is essential to keep in mind the *Principle 10 of the Rio Declaration* which speaks of three fundamental rights i.e., access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional.

#### X. THE PRECAUTIONARY PRINCIPLE

76. Tracing the origin of the *Precautionary Principle*, Scott Lafranchi in his treatise<sup>23</sup> has expounded on the proactive role of the authorities in the following passage:—

“Many consider the German development of *Vorsorgeprinzip* to signify the true creation of the precautionary principle, in light of the attention it focuses on “long term planning to avoid damage to the environment, early detection of dangers to health and environment through comprehensive research, and acting in advance of conclusive scientific evidence of harm.”<sup>16</sup> The precautionary foundation of *Vorsorgeprinzip* has been described as an “action principle” that holds public authorities responsible for protecting the natural foundations of life and preserving the physical world for the present and future generations, and “can therefore be used to counter the short-termism endemic in all democratic, consumption oriented societies.”

77. The origin of the *Precautionary Principle* itself is rooted as an institutional obligation, by holding them primarily responsible for the environmental concerns and remedies.

78. As earlier seen, S.20 of the NGT Act which includes the term “decision”, in addition to “order” and “award”, also require the Tribunal to apply the ‘*Precautionary Principle*’ and the statutory mandate being relevant is extracted:—

“20. Tribunal to apply certain principles. - The Tribunal shall, while passing any order or decisions or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.”

79. The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other ‘*decisions*’ or ‘*orders*’ to governmental authorities or polluters, when they fail to “*to anticipate*,



prevent and attack the causes of environmental degradation”<sup>24</sup>. Two aspects must therefore be emphasized i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain.

80. It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as nonadversarial. It would be apposite here to refer to Justice Benjamin Cardozo, of the United States Supreme Court, who in his seminal treatise, ‘*The Nature of the Judicial Process*’, stated thus,

“It is true that codes and statutes do not render the judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided.”

81. The above could be a pointer towards the preemptive functions of the NGT as a *sui generis* body.

#### XI. ENVIRONMENTAL JUSTICE AND ENVIRONMENTAL EQUITY

82. The conceptual frameworks of environmental justice and equity should merit consideration vis-à-vis the NGT's domain and how its functioning and decisions can have wide implications in socio-economic dimensions of people at large. The concept of environmental justice is a trifecta of distributive justice, procedural justice and justice as recognition.<sup>25</sup> Environmental equity as a developing concept has focused on the disproportionate implications of environmental harms on the economically or socially marginalized groups. The concerns of human rights and environmental degradation overlap under this umbrella term, to highlight the human element, apart from economic and environmental ramifications. Environmental equity thus stands to ensure a balanced distribution of environmental risks as well as protections, including application of sustainable development principles.

83. Voicing concerns about the disproportionate harm for the poor segments, Lois J. Schiffer (then Assistant Attorney General, Environment & Natural Resources Division (ENRD), U.S. Department of Justice) and Timothy J. Dowling (then Attorney at ENRD) in their *Reflections on the Role of the Courts in Environmental Law*, wrote the following evocative passage on the concept of environmental justice,

“Environmental Justice, which focuses on whether minorities and low-income people bear a disproportionate burden of exposure to environmental harms and any resulting health effects. In the past ten to fifteen years, this issue has crystallized a grass-roots movement that combines civil rights issues with environmental issues, with a goal of achieving “environmental justice” or “environmental equity”, which is understood to mean the fair distribution of environmental risks and protection from environmental harms.”<sup>26</sup>

84. There is also a need to focus on the interconnection between principles of procedural justice and distributive justice. The concern is to create a system which is affirmative enough to balance the disproportionate wielding of power between polluters and affected people.

“Environmental justice starts with distributive justice, or more accurately, distributive injustice. The rich and powerful derive the most benefit while suffering the least harm from environmentally harmful activities; conversely, the poor and minorities derive the least benefit but suffer the most harm. Further, those who benefit cause harm to the places where people “live, work, play, and go to school”,

whereas the people who reside there do little or nothing to harm their community.”<sup>27</sup>

85. When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An “*equal footing*” conception may not therefore be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalized classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice.

86. The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which this Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach to the heart of environmental concerns. This Court has previously moulded the jurisdictional jurisprudence in favour of larger societal interest, whether that be in the form of ‘Public Interest Litigation’ or widening the scope of *locus standi*.

“The identification of potential environmental justice issues is very important in determining how our enforcement efforts are working in minority and low-income communities, and whether they are comparable to the enforcement efforts in other communities.”<sup>28</sup>

87. In the backdrop of the above weighty concerns, this Court should advert to what Schiffer and Dowling have stated on the ‘*Blindfold of Lady Justice*’, which symbolizes “*the ideal of administering equal justice to everyone who comes to our Courts, regardless of race, creed, or economic class.*”<sup>29</sup> The relevance of this concept is particularly apposite when we consider the inability of most marginalized communities, to access the legal machinery.

#### IX. ENVIRONMENTAL JURISPRUDENCE IN INDIA

88. Proceeding with the above understating, we can comfortably place the NGT within the rubric of the larger environmental jurisprudence which has been informing this unique institution. The role of this Court in establishing the legal connect between matters of environmental concern and fundamental rights of citizens, has produced much academic literature. Amongst others, Armin Rosenzanz and Shyam Divan in their writing- *Environmental Law And Policy In India*, have noted that the field of laws pertaining to environmental concerns has been a fairly fertile ground for judicial innovations by this Court; moving the concept of Environmental law from the realm of torts to interlink it with fundamental rights<sup>30</sup>, liberalizing the concept of *locus standi* in environmental matters, exercising *suo motu* powers to reign in polluters, using expert committees to monitor implementation of Court orders, etc.<sup>31</sup>

89. By expanding the scope of Articles 21, 32, 48A, 51A(g), this Court has guaranteed the right to a pollution free environment for a holistic existence.<sup>32</sup> Most crucially, the expansion of Right to Life under Article 21 by this Court has become a touchstone to determine many environmental concerns. In *Subhash Kumar v. State of Bihar*, this Court explicitly held the following,

“Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life.”<sup>33</sup>

90. Adopting international principles and moulding them to Indian realities also became a focal concern, given the lacunae in regimes which may be exploited by those who may not have much concern for environmental degradation. Creation of the ‘*Absolute Liability Principle*’<sup>34</sup> by this Court is a well recognized testament for this. It would thus be appropriate to state that much of the principles, institutions and

mechanisms in this sphere have been created, on account of this Court's initiative.

"The constitutionally-protected fundamental right to life and liberty has been extended through judicial creativity to cover unarticulated but implicit rights such as the right to a wholesome environment. ...The right was recognized as part of the right to life in 1991. ... The court has since fleshed out the right to a wholesome environment by integrating into Indian environmental jurisprudence not just established but even nascent principles of international environmental law."<sup>35</sup>

91. It has been noted that the Supreme Court adopted the role of an "amicus environment" by threading together human rights and environmental concerns, resultingly developing a *sui generis* environmental discourse.<sup>36</sup> There were both procedural and substantive innovations made, by entertaining PIL petitions, seeking remedies, including guidelines and directions in the absence of legislation. Many of the landmark cases which hold the fort to this day, were in recognition of the 'at risk' nature of some populations. The creation of the NGT itself was due in large part to the need expressed by this Court for such a forum.<sup>37</sup>

92. Justice T.S. Doabia in *Environmental & Pollution Laws in India*, has highlighted the larger societal concerns which have informed this Court's deliberation when dealing with environmental matters,

"The Supreme Court of India, in its interpretation of Article 21 of the Constitution of India, has facilitated the emergence of an environmental jurisprudence in India, while also strengthening human rights jurisprudence.

...The Courts have successfully isolated specific environmental law principles upon the interpretation of Indian statutes and the Constitution, combined with a liberal view towards ensuring social justice and the protection of human rights. The principles have often found reflection in the Constitution in some form, and are usually justified even when not explicitly mentioned in the statute concerned."<sup>38</sup>

93. Environmental jurisprudence in India has therefore been intrinsic to advancing a democratic, welfare oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters, as has been noted, stood transferred to the NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior Court was surely expected to be seen in the Tribunal's approach.

94. Analyzing the concept of the functioning of the NGT and its role within the broader concept of the environmental rule of law, Justice D.Y. Chandrachud speaking for a three judges Bench in *H.P. Bus Stand Management & Development Authority v. Central Empowered Committee*<sup>39</sup> so succinctly said that,

"40. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are *sui generis*. The environmental rule of law seeks to create essential tools - conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges - of how they have been shaped by humanity's interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity's actions have charted. The environmental rule of law seeks to facilitate a multi-disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognizes that the 'law' element in the environmental rule of law does not make the concept peculiarly the

preserve of lawyers and judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts.”

95. It is this environmental rule of law that has been encapsulated with the NGT's creation at this Court's behest. Professor Domenico Amirante in a comparative analysis of similar bodies across the world, notes that,

“With reference to the judicial enforcement of environmental law - which as we have seen should be considered an important condition not only for sustainable development but also for the sustainability of the legal environmental order - the National Green Tribunal of India seems to be the most comprehensive and promising among the specialized environmental Courts created in Asia over the last decade.”<sup>40</sup>

96. The NGT therefore, is the institutionalization of the developments made by this Court in the field of environment law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence.

#### X. CONCLUSION:

97. Before we set out our conclusion, we acknowledge the able contribution of Mr. Anand Grover as *amicus curiae*, assisted by Ms. Astha Sharma, AOR who were requested to assist the Court on the central issue of *suo motu* jurisdiction of NGT.

98. The NGT Act, when read as a whole, gives much leeway to the NGT to go beyond a mere adjudicatory role. The Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies. Accordingly, the principles of environmental justice and environmental equity must be explicitly acknowledged as pivotal threads of the NGT's fabric. The NGT must be seen as a *sui generis* institution and not *unus multorum*, and its special and exclusive role to foster public interest in the area of environmental domain delineated in the enactment of 2010 must necessarily receive legal recognition of this Court.

99. The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish fresh water resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the near future also exists<sup>41</sup> with many countries declaring climate emergencies and many others being urged to follow suit<sup>42</sup>.

100. Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the future may not be capable of being handled within the frontiers set forth today. The long term and very often irreparable environmental damage which are expected to be arrested by the NGT, urge this Court to advert to what is termed as the ‘*Seventh Generation*’ sustainability principle, or the ‘*Great Law of the Iroquois*’ (as it originates from the Iroquois Tribe) which requires all decision making to withstand for the benefit of seven generations down the line.

101. It is vital for the wellbeing of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

102. In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum

created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the “*global impacts of climate change will fall disproportionately on minority and low-income communities*”.<sup>43</sup> Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for *serving the ends of environmental justice*, as the statute itself requires of the NGT. We cannot validate an argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

103. The NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no-one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for the NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice.

104. It would be procedural hairsplitting to argue (as it has been) that the NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger the NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated.

105. When the Registry of the NGT does indeed receive a communication or letter, including matters published in media, it may cause to initiate *suo motu* action by inviting attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist the NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of *suo motu* jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders.

106. One could admit to the argument of danger of *suo motu* jurisdiction, if the NGT was acting outside its domain. But when it is legitimately working within the contours of its statutory mandate and with procedural safeguards clarified above in play, the nature of the trigger itself viz. a letter or a ‘*suo motu*’ initiation, cannot be the basis to curtail the role and responsibility of the specialized forum.

107. Institutions which are often addressing urgent concerns gain little from procedural nitpicking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective.

108. Let us now hark back to the dialogues of the two protagonists, in *Waiting for Godot*, the play written by Samuel Beckett with which, we started this judgment. At the end of the deliberations, we find ourselves saying that the National Green Tribunal must act, if the exigencies so demand, without indefinitely waiting for the metaphorical *Godot* to knock on its portal. The preceding discussion advises us to answer the pointed question in the affirmative. It is accordingly declared that the NGT is vested with *suo motu* power in discharge of its functions under the NGT Act.

109. Having answered the common legal issue involved in all these cases regarding the *suo motu* jurisdiction of NGT, we direct delinking of these cases for now being



heard separately on merits. Indeed, if the cases(s) emanate from same/common order of NGT, such case(s) be heard together. Registry may do the needful and post the matters on 25.10.2021 for direction and fixing date of hearing, before the Bench presided over by one of us (Justice A.M. Khanwilkar). For the purpose of further hearing, the respective cases shall not be treated as part-heard before this Bench.

<sup>1</sup> *Beckett, S.* (1954). *Waiting for Godot : Tragicomedy in 2 Acts.*

<sup>2</sup> (2013) 15 SCC 341

<sup>3</sup> (2008) 1 SCC 125

<sup>4</sup> (2011) 9 SCC 541

<sup>5</sup> (2018) 11 SCC 734

<sup>6</sup> (2019) 19 SCC 479

<sup>7</sup> Chapter II, 186<sup>th</sup> Law Commission Report.

<sup>8</sup> (1955) 2 SCR 603; AIR 1955 SC 661

<sup>9</sup> 47 Columbia Law Review 527

<sup>10</sup> 293 US 388 (1935) (dissenting)

<sup>11</sup> *Sarah Mathew v. Institute of Cardio Vascular Diseases*, (2014) 2 SCC 62, *New India Assurance Co. Ltd. v. Nusli Neville Wadia*, (2008) 3 SCC 279.

<sup>12</sup> (1996) 5 SCC 647

<sup>13</sup> (1997) 2 SCC 353

<sup>14</sup> (2012) 8 SCC 326

<sup>15</sup> (2019) 18 SCC 494

<sup>16</sup> 2021 SCC OnLine SC 7.

<sup>17</sup> (1999) 2 SCC 718

<sup>18</sup> (2019) 8 SCC 177

<sup>19</sup> GILL, G. (2020). Mapping the Power Struggles of the National Green Tribunal of India : The Rise and Fall? *Asian Journal of Law and Society*, 7(1), 85-126.

<sup>20</sup> (1999) 2 SCC 131

<sup>21</sup> 2020 SCC OnLine SC 572

<sup>22</sup> (1976) 1 SCC 719

<sup>23</sup> Scott La Franchi, *Surveying the Precautionary Principle's Ongoing Global Development : The Evolution of an Emergent Environmental Management Tool*, [32 B.C. Env'tl. Aff. L. Rev. 679 (2005)

<sup>24</sup> *Vellore Citizens (supra)*, *S. Jagannathan v. Union of India*, (1997) 2 SCC 87, *Karnataka Industrial Areas Development Board v. C Kenchappa*, (2006) 6 SCC 371.

<sup>25</sup> Schlosberg D, *Defining Environmental Justice : Theories, Movements, and Nature* (Oxford University Press 2009)

<sup>26</sup> Schiffer, L. J., & Dowling, T. J. (1997). Reflections On The Role Of The Courts In Environmental Law. *Environmental Law*, 27(2), 327-342.

<sup>27</sup> Jeff Todd, A "Sense of Equity" in *Environmental Justice Litigation*, [44 HARV. ENVTL. L. REV. 169, 193 (2020).

<sup>28</sup> Supra Note 26.

<sup>29</sup> Ibid

<sup>30</sup> *Rural Litigation And Entitlement Kendra v. State Of U. P.*, AIR 1985 SC 652, *Charan Lal Sahu v. Union of India*, (1990) 1 SCC 613, *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577

<sup>31</sup> See M.A.A. Baig, *Environmental Law And Justice*(1996). Domenico Amirante, *Environmental Courts In Comparative Perspective : Preliminary Reflections On The National Green Tribunal Of India* (2012). M.K. Ramesh, *Environmental Justice : Courts And Beyond*, Indian Jo. Of Env'tl. L. 20(2002).

<sup>32</sup> Maheshwara Swamy, N. *Law Relating to Environmental Pollution and Protection*. India, Thompson Reuters, Vol.I, Ed.5.

<sup>33</sup> (1991) 1 SCC 74.

<sup>34</sup> *M.C. Mehta v. Union of India*, [(1987) 1 SCC 395.

<sup>35</sup> Rajamani, Lavanya. 2007. *Public Interest Environmental Litigation in India : Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability*. *Journal of Environmental Law*

<sup>36</sup> *Supra*, Note 19.

<sup>37</sup> *M.C. Mehta v. Union of India*, (1986) 2 SCC 176, *Indian Council for Environmental-Legal Action v. Union of India*, (1996) 3 SCC 212, *A.P. Pollution Control Board v. M.V. Nayudu*, (1999) 2 SCC 718, *A.P. Pollution Control Board II v. M.V. Nayudu*, (2001) 2 SCC 62.

<sup>38</sup> Justice T.S. Doabia, *Environmental & Pollution Laws in India*, 3<sup>rd</sup> Ed., Vol 2 (2017).

<sup>39</sup> (2021) 4 SCC 309

<sup>40</sup> Domenico Amirante, *Environmental Courts in Comparative Perspective : Preliminary Reflections on the National Green Tribunal of India*, 29 *Pace Env'tl. L. Rev.* 441 (2012)

<sup>41</sup> Indian Network for Climate Change Assessment, *Climate Change and India : A 4X4 Assessment - A sectoral and regional analysis for 2030s*, Ministry of Environment and Forests, Government of India, 16 November 2010

<sup>42</sup> Secretary-General's Remarks at the Climate Ambition Summit. United Nations. United Nations, December 12, 2020.

<sup>43</sup> *Supra* Note 23.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.



Reportable

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 814 of 2022**  
(Arising out of SLP (C) No 26930 of 2019)

**M/s Mongia Realty and Buildwell Private Limited**

**Appellant**

**Versus**

**Manik Sethi**

**Respondent**

**J U D G M E N T**

**Dr Dhananjaya Y Chandrachud, J**

- 1 Leave granted.
- 2 This appeal arises from a judgment of a Single Judge of the High Court of Delhi in RFA No 5 of 2019. The trial Court dismissed the suit instituted by the appellant on the ground of limitation, by a judgment dated 16 August 2018. The High Court upheld the dismissal of the suit on that ground.

- 3 The appellant instituted a suit against the respondent on 31 March 2017 (Civil Suit No 76 of 2017 (new number 355 of 2017)) under Order 37 of the Code of Civil Procedure 1908<sup>1</sup> for the recovery of an amount of Rs 1,11,63,633 together with interest at the rate of 18% per annum from the date of the institution of the suit till the realization of the full amount. The respondent filed a written statement on 24 May 2017. An application was filed under Order 7 Rule 11 of the CPC for the rejection of the plaint on the ground that the suit was barred by limitation. On 4 January 2018, the trial Court framed a preliminary issue on whether the suit was barred by limitation. On 15 March 2018, the appellant was granted an opportunity to file its replication and the suit was adjourned to 26 April 2018 for addressing arguments on the preliminary issue. The appellant filed its replication on 20 April 2018. On 26 April 2018 and 23 May 2018, an adjournment was granted by the trial Court. On 26 July 2018, the trial Court rejected a plea for an adjournment made by the appellant. Oral arguments were heard on behalf of the respondent and the appellant was granted fifteen days' time to file written arguments. The appellant failed to file the written arguments before 10 August 2018. On 16 August 2018, the trial Court declined to grant any further time and by its judgment decided the issue of limitation against the appellant. The appellant carried the matter in appeal in RFA No 5 of 2019. The Single Judge of the High Court dismissed the appeal by the impugned judgment dated 4

---

<sup>1</sup> “CPC”

September 2019.

- 4 The case of the appellant is that the respondent had requested the appellant to grant a business loan from time to time, and the request was acceded to by the appellant. The loans were stated to be repayable with interest at the rate of 18% per annum. The appellant claims to have advanced an amount of Rs 10 lakhs on 13 June 2012, 18 lakhs on 11 July 2012 and Rs 15 lakhs on 21 December 2012 by cheques drawn on Axis Bank, and a further amount of Rs 39 lakhs. The case of the appellant is that the respondent partly discharged his liability and that he is entitled to a decree for the balance in the amount of Rs. 1,11,63,633 along with an interest at 18% per annum. Paragraph 5 of the plaint contains the following averments:

"The aforesaid loans have been given by the plaintiff to the defendant always with an understanding that aforesaid loans shall be returned along with interest @ 18% p.a. That the aforesaid loans were repayable within one year from the date of payment of the last instalment of the loan i.e. latest by 9th of April, 2014. However, the defendant was to pay interest on the aforesaid loan amounts on half yearly basis @ 18% p.a. to the plaintiff."

- 5 In paragraph 10 of the plaint, it has been pleaded that though two and a half years had elapsed since the date for repayment of the loan, the respondent had failed to pay the outstanding amount. The appellant has also set up the case that a running account has been maintained between the parties in

pursuance of which, the last payment was made on 24 October 2013.

- 6 The defense in the written statement filed by the respondent is that the respondent provided real estate services to the appellant for which commission was being paid by the appellant. It was alleged that payments made for business transactions are in a malafide manner portrayed as loan transactions. On some occasions, it is alleged, payments were made for carrying out renovation work in the properties. The respondent has denied that there were any loan transactions, and on the contrary, set up the plea that the transactions between the parties pertain to the payment of commission by the appellant to the respondent in connection with real estate transactions.
- 7 On the preliminary issue framed on the question of limitation, no evidence was adduced by the respondent. The trial Judge heard the preliminary issue only on the basis of arguments at the Bar, noting that the appellant had failed to file written arguments. The trial Judge held that the admission in paragraph 10 of the plaint is that the last payment was made on 20 June 2013 by the appellant and since the suit was instituted on 1 April 2017, three years nine months and ten days thereafter, it is barred by limitation.
- 8 In appeal, the High Court has also held that since the last payment was made on 24 October 2013 in the amount of Rs 3 lakhs, the suit which was instituted on 31 March 2017 was beyond three years of the last repayment. While dealing

with the averment in paragraph 5 of the plaint, which has been extracted above, the High Court has held that since the appellant is a company, "it is not expected of a company to have oral mutual understandings with its customers". Noting that that there is no written agreement to the effect that the loan would be repayable within one year from the date of payment of the last installment, the High Court held that it would be difficult to hold that such a condition formed part of the contract between the parties. Finally, the Single Judge of the High Court took the view that accepting the case of the appellant would lead to a wrong precedent since it would then be open to the plaintiff to take a plea that a loan given in 2000 was orally agreed to be paid in 2019 and hence a suit filed in 2020 is within limitation.

- 9 Two submissions have been urged on behalf of the appellant by Mr Udai Gupta, learned counsel. Firstly, it has been submitted that the averments in paragraph 5 of the plaint set up an express plea to the effect that the loan was repayable within one year from the date of the payment of the last installment that is, by 9 April 2014. Hence, the suit which was instituted on 31 March 2017 is within limitation. On this limb of the submission, it has been urged that in any event, this is a matter which has to be tried on the basis of evidence and could not have been disposed of purely on the basis of oral arguments. Secondly, it has been submitted that the contention that there was an open and running current account between the parties having been set up in the plaint, it has to be

decided on the basis of evidence adduced at the trial.

- 10 Opposing these submissions, Mr Sanjay Sehgal, learned counsel appearing on behalf of the respondent submitted that (i) there is admittedly no written agreement between the parties evidencing the terms of an alleged loan transaction; (ii) there was no loan transaction at all and the payments which were made by the appellant to the respondent were on account of commission towards real estate transactions; (iii) the last payment having been made on 24 October 2013, the suit which was instituted on 31 March 2017 is barred by limitation; (iv) Article 1 of the Limitation Act has no application whatsoever since there was no open, running and mutual current account envisaging mutual payments and receipts between the parties; and (v) this is evident from the averments contained in paragraph 3 of the plaint where the appellant has set up the plea that it was only the appellant who was making payments to the respondent.
- 11 The appellant has specifically set up a plea in paragraph 5 of the plaint that the loans were to be repaid within one year from the date of the payment of the last installment. The case of the appellant has to be proved on the basis of evidence adduced in the suit. Such an issue could not have been decided purely on the basis of oral arguments urged on behalf of the contesting parties. The respondent has denied the existence of loan transactions and has set up the plea that the payments made by the appellant were on account of

commission. There are two conflicting versions on the nature of the business transactions between the parties, the appellant alleging that it was a loan, while the respondent alleges that it was in the nature of a commission for real estate services.

- 12 The issue as to whether the claim of the appellant is barred by limitation cannot be isolated from the nature of the transactions between the parties. In any event, whether the plea of the appellant as set up in paragraph 5 of the plaint is proved would depend upon evidence adduced at the trial. The course of action which was followed by the learned trial Judge of directing the parties to address arguments on the issue of limitation was irregular. The issue of limitation in the present case would require evidence to be adduced.
- 13 Order XIV Rule 2 of the CPC stipulates that when issues of both law and facts arise in the same suit, the Court may dispose the suit by trying the issue of law first. For this purpose, the provision specifies two questions of law, which are (i) jurisdiction of the Court; and (ii) a bar to the suit created by any law for the time being in force. The provision is extracted below:

**2. Court to pronounce judgment on all issues.—**(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues. (2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to—



(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.]

- 14 Before this Court in **Nusli Neville Wadia v. Ivory Properties**<sup>2</sup>, the issue was whether the issue of limitation can be determined as a preliminary issue under Order XIV Rule 2. The three-judge bench of this court observed that if the issue of limitation is based on an admitted fact, it can be decided as a preliminary issue under Order XIV Rule(2)(b). However, if the facts surrounding the issue of limitation are disputed, it cannot be decided as a preliminary issue. This Court observed as follows:

51. [...] As per Order 14 Rule 1, issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. The issues are framed on the material proposition, denied by another party. There are issues of facts and issues of law. In case specific facts are admitted, and if the question of law arises which is dependent upon the outcome of admitted facts, it is open to the court to pronounce the judgment based on admitted facts and the preliminary question of law under the provisions of Order 14 Rule 2. In Order 14 Rule 2(1), the court may decide the case on a preliminary issue. It has to pronounce the judgment on all issues. Order 14 Rule 2(2) makes a departure and the court may decide the question of law as to jurisdiction of the court or a bar created to the suit by any law for the time being in force, such as under the Limitation Act.

---

<sup>2</sup> (2020) 6 SCC 557

52. In a case, question of limitation can be decided based on admitted facts, it can be decided as a preliminary issue under Order 14 Rule 2(2)(b). Once facts are disputed about limitation, the determination of the question of limitation also cannot be made under Order 14 Rule 2(2) as a preliminary issue or any other such issue of law which requires examination of the disputed facts. In case of dispute as to facts, is necessary to be determined to give a finding on a question of law. Such question cannot be decided as a preliminary issue. In a case, the question of jurisdiction also depends upon the proof of facts which are disputed. It cannot be decided as a preliminary issue if the facts are disputed and the question of law is dependent upon the outcome of the investigation of facts, such question of law cannot be decided as a preliminary issue, is settled proposition of law either before the amendment of CPC and post amendment in the year 1976.

- 15 Since the determination of the issue of limitation in this case is not a pure question of law, it cannot be decided as preliminary issue under Order XIV Rule 2 of the CPC. Hence, we allow the appeal and set aside the judgment of the trial Judge dated 16 August 2018 and of the Single Judge of the High Court dated 4 September 2019. The issue of limitation which has been framed by the learned trial Judge may be decided, along with other issues at trial. The appeal shall stand allowed in the above terms.

16 Pending applications, if any, stand disposed of.

.....J.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Surya Kant]

New Delhi;  
January 31, 2022  
CKB

**IN THE SUPREME COURT OF INDIA****CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO.3680 OF 2022**  
**(ARISING OUT OF SLP (CIVIL) NO. 20375 OF 2021)**

SATHYANATH &amp; ANR.

.....APPELLANT (S)

SAROJAMANI

.....RESPONDENT(S)

**J U D G M E N T****HEMANT GUPTA, J.**

1. The challenge in the present appeal is to an order dated 3.9.2021 whereby in the revision petition filed by the defendant under Article 227 of the Constitution of India, the trial court was directed to frame preliminary issue as to whether the suit is barred by res judicata.
2. The plaintiffs-appellants filed O.S. No. 95 of 2016 against the respondent, their paternal aunt. The appellants claimed a declaration for declaring the appellants as absolute owners of the suit property, judgment and decree in O.S. No. 65 of 2003 as null and void, and, for permanent injunction restraining the defendant and their agents in disturbing the peaceful possession and enjoyment of the suit property

by the appellants in any manner. Initially, the defendant filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908<sup>1</sup> for rejection of the plaint but the same was dismissed by the trial court on 20.6.2017. It is thereafter, the defendant filed an application to frame issues under Order XIV Rule 2(2) of the Code to treat the following as the preliminary issues:

- “1. Whether the suit is not hit by resjudicata and estoppel as claimed by the defendant in the written statement in Para- 10 & 11.
2. Whether the suit is not hit by resjudicata and estoppel as claimed by the defendant in the written statement in Para-12.
3. Whether the suit is not barred by limitation as contented by the defendant in the written statement in Para-13.
4. Whether the Plaintiffs have deliberately and wantonly abused the process of the court, as contented by the defendant in the written statement in Para-15 and 16.
5. Whether the suit is not valued properly and court fee paid is deficient as claimed by the defendant in Para 18 of the Written statement.”

3. The learned trial court dismissed the application of the defendant on 3.10.2019. Such order of the learned trial court was challenged in revision petition under Article 227 of the Constitution of India wherein the High Court ordered the framing of issue of res judicata as preliminary issue.
4. Learned counsel for the appellants relied upon provisions of Order XIV Rule 2 of the Code to contend such Order XIV Rule 2 has been

---

<sup>1</sup> For short, the ‘Code’

substituted by Central Act No. 104 of 1976, whereby the Court is mandated to pronounce judgment on all issues, even though the suit can be disposed of on a preliminary issue. It was argued that such amendment was necessitated to avoid delay in the disposal of the proceedings inasmuch as if only a preliminary issue is decided, the further appeal and revision would be preferred only against the preliminary issue and after the preliminary issue is decided in favour of the plaintiffs, the evidence has to be led on the remaining issues. Therefore, to ensure expeditious disposal of the proceedings and to avoid possibility of remand by the appellate or revisional jurisdiction, it was made mandatory for the Court to record reasons on all the issues. Such finding would oblivate the possibility of remand at appellate or revisional stage, even if the finding on preliminary or other issues are to be reversed.

5. Order XIV Rule 2 before amendment by the Act No. 104 of 1976 reads thus:

“R. 2. Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.”

6. The said provision came up for consideration before this Court in a judgment reported as ***Major S. S. Khanna v. Brig. F. J. Dillon***<sup>2</sup>. It was held that under Order XIV Rule 2 of the Code where issues both of

---

<sup>2</sup> AIR 1964 SC 497

law and of fact arise in the same suit and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and postpone the settlement of the issues of fact until other issues of law have been determined. It was held as under:

“18. .... Under Order 14 Rule 2 Code of Civil Procedure, where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined. The jurisdiction to try issues of law apart from the issues of fact may be exercised only where in the opinion of the Court the whole suit may be disposed of on the issues of law alone, but the Code confers no jurisdiction upon the Court to try a suit on mixed issues of law and fact as preliminary issues. Normally all the issues in a suit should be tried by the Court: not to do so, especially when the decision on issues even of law depend upon the decision of issues of fact, would result in a lopsided trial of the suit.”

7. The Order XIV Rule 2 after the substitution of Rule 2 by the Act No. 104 of 1976, effective from 1.4.1977, reads thus:

“2. Court to pronounce judgment on all issues.—(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to—

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in



force,

and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

8. Some other provisions of the Code, which are relevant to decide the issues raised in the preset appeal are as follows:

“ORDER XX  
JUDGMENT AND DECREE

“5. Court to state its decision on each issue. – In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issue is sufficient for the decision of the suit.

ORDER XLI

APPEALS FROM ORIGINAL DECREES

24. Where evidence on record sufficient, Appellate Court may determine case finally. - Where the evidence, upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court may, after resettling the issues, if necessary, finally determine the suit, notwithstanding that the judgment of the Court from whose decree the appeal is preferred has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

25. Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from. - Where the Court from whose decree the appeal is preferred has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, the Appellate Court may, if necessary, frame issues, and refer the same for trial to the Court from whose decree the appeal is preferred, and in such case shall direct such Court to take the additional evidence required;

and such Court shall proceed to try such issues, and shall return

the evidence to the Appellate Court together with its findings thereon and the reasons therefor [within such time as may be fixed by the Appellate Court or extended by it from time to time.”

9. The amended provision of Order XIV came up for consideration before the Full Bench of Allahabad High Court in a judgment reported as ***Sunni Central Waqf Board and Ors. v. Gopal Singh Vishrad and Ors.***<sup>3</sup> It was held that material changes had been brought about by substituting Order XIV Rule 2 of the Code. The word ‘shall’ in the unamended provision has been replaced by the word ‘may’ in the substituted provision, therefore, it is now discretionary for the Court to decide the issue of law as a preliminary issue, or to decide it along with the other issues. It was further held that even all issues of law cannot be decided as preliminary issues and only those issues of law falling within the ambit of clause (a) and (b) of sub-rule (2) of Rule 2 could be decided. The High Court held as under:

“22. Under the above provision once the court came to the conclusion that the case or any part thereof could be disposed of on the issues of law only it was obliged to try those issues first and the other issues could be taken up only thereafter, if necessity survived. The court had no discretion in the matter. This flows from the use of the word “it shall try those issues first”. Material change has been brought about in legal position by amended O. 14, R. 2 which reads as follows:—

xxx

xxx

xxx

24. The word “shall” used in old O. 14, R. 2 has been replaced in the present Rule by the word “may”. Thus now it is discretionary for the Court to decide the issue of law as a preliminary issue or to decide it along with the other issues. It is no longer obligatory

---

3 AIR 1991 ALL 89

for the Court to decide an issue of law as a preliminary issue.

25. Another Change brought about by the amended provision is that not all issues of law can be decided as preliminary issues. Only those issues of law can be decided as preliminary issues which fell within the ambit of cls. (a) and (b) of sub-r. (2) of R. 2 of O. 14. Cl. (a) mentions “jurisdiction of the Court” and clause (b) deals with “bar to the suit created by any law for the time being in force.” In the present case cl. (a) is not attracted. The case is sought to be brought within the ambit of cl. (b). For bringing it under cl. (b) Limitation Act and the Muslim Waqf Act have been invoked.”

10. A Full Bench of Himachal Pradesh High Court in a judgment reported as

***Prithvi Raj Jhingta & Anr. v. Gopal Singh & Anr.***<sup>4</sup>, held as under:

“8. The legislative mandate is very clear and unambiguous. In the light of the past experience that the old Rule 2 whereby, in the fact-situation of the trial Court deciding only preliminary issues and neither trying nor deciding other issues, whenever an appeal against the judgment was filed before the Appeal Court and the Appeal Court on finding that the decision of the trial Court on preliminary issues deserved to be reversed, the case per force had to be remanded to the trial Court for trial on other issues. This resulted in delay in the disposal of the cases. To eliminate this delay and to ensure the expeditious disposal of the suits, both at the stage of the trial as well as at the appeal stage, the legislature decided to provide for a mechanism whereby, subject to the exception created under sub-rule (2), all issues, both of law and fact were required to be decided together and the suit had to be disposed of as a whole, of course based upon the findings of the trial Court on all the issues, both of law and fact.

9. Based upon the aforesaid reasons therefor, and in the light of legislative background of Rule 2 and the legislative intent as well as mandate based upon such background, as well as on its plain reading, we have no doubt in our minds that except in situations perceived or warranted under sub-rule (2) where a Court in fact frames only issues of law in the first instance and postpones

---

4 AIR 2007 HP 11

settlement of other issues, under sub-rule (1), clearly and explicitly in situations where the Court has framed all issues together, both of law as well as facts and has also tried all these issues together, it is not open to the Court in such a situation to adopt the principle of severability and proceed to decide issues of law first, without taking up simultaneously other issues for decision. This course of action is not available to a Court because sub-rule (1) does not permit the Court to adopt any such principle of severability and to dispose of a suit only on preliminary issues, or what can be termed as issues of law. Sub-rule (1) clearly mandates that in a situation contemplated under it, where all the issues have been framed together and have also been taken up for adjudication during the course of the trial, these must be decided together and the judgment in the suit as a whole must be pronounced by the Court covering all the issues framed in the suit.”

11. A Single Bench of Punjab and Haryana High Court in a judgment reported as ***Hardwari Lal v. Pohkar Mal and Ors.***<sup>5</sup> compared the provision of Order XIV Rule 2 prior to and after the amendment and held as under:

“5. A comparative reading of the said provision as it existed earlier to the amendment and the one after amendment would clearly indicate that the consideration of an issue and its disposal as preliminary issue has now been made permissible only in limited cases. In the unamended Code, the categorisation was only between issues of law and of fact and it was mandatory for the Court to try the issues of law in the first instance and to postpone the settlement of the issues of fact until after the issues of law had been determined. On the other hand, in the amended provision there is a mandate to the Court that notwithstanding that a case may be disposed of on a preliminary issue, the Court has to pronounce judgment on all the issues. The only exception to this is contained in sub-rule (2). This sub-rule relaxes the mandate to a limited extent by conferring a discretion upon the Court that if it is of opinion that the case or any part thereof may be disposed of “on an issue of law only,” it may try that issue first. The exercise of this discretion is further

---

5 AIR 1978 P&H 230

limited to the contingency that the issue to be so tried must relate to the jurisdiction of the Court or a bar to the suit created by a law in force.”

12. A Single Bench of Patna High Court in a judgment reported as ***Dhirendranath Chandra v. Apurba Krishna Chandra and Ors.***<sup>6</sup> held that even if the case may be disposed of on a preliminary issue, the Court is bound to pronounce judgment on all the issues, subject to the provision in sub-rule (2) according to which if the case or any part thereof may be disposed of on issue of law only and if that issue relates to jurisdiction of the Court or a bar to the suit created by law for the time being in force, the Court may try such issue first. The High Court held as under:

“6. A plain reading of R. 2 will show that ordinarily even if the case may be disposed of on a preliminary issue, the Court is bound to pronounce judgement on all issues. This ordinary rule is subject to only one exception which has been provided in sub-rule (2) according to which if the case or any part thereof may be disposed of on issue of law only and if that issue of law relates to the jurisdiction of the Court or a bar to the suit created by any law for the time being in force the court may try such issue first. It is, therefore, clear that a departure from the ordinary rule provided in sub-rule (1) of R. 2 can be made by the Court only in the circumstances mentioned in sub-rule (2) and even in these circumstances the Court has only a discretion that it may try an issue of law relating to the points mentioned in clauses (a) and (b) of sub-rule (2) as a preliminary issue before framing other issues. There is, however, nothing in sub-rule (2) which in my opinion makes it obligatory for the Court to try such an issue first in all cases. If, therefore, the Court is of opinion that in any particular case it will be more expedient to try all the issues together and therefore, if it refuses to try and decide any issue of law even on the points referred to in cls. (a) and (b) of sub-rule (2) as a preliminary issue before taking up other issues.

---

6 AIR 1979 Pat 34

xxxx "

13. A Single Bench of Bombay High Court in a judgment reported as ***Usha Sales Ltd. v. Malcolm Gomes and Ors.***<sup>7</sup> held that after the amendment, a duty is cast upon the Court that it must proceed to hear all the issues and pronounce the judgment on the same, except that the Court may try an issue relating to the jurisdiction of the Court or to the legal bar to the suit as a preliminary issue. It was held to be more in the nature of discretion rather than a duty. It was held as under:

"11. From the above it is easily seen that there is an obligation cast upon the Court that even though a case may be disposed of on a preliminary issue the Courts shall subject to the provision of sub-rule (2) pronounce judgment on all issues. In other words, the obligation to decide a question of law as a preliminary issue if that decision disposes of the case or part of the case is no longer, there. Similarly, the discretion to decide any other issue as a preliminary issue has been taken away totally from the Court. On the other hand, a duty is cast upon the Court that it must proceed to hear all the issues and pronounce judgment on the same.

12. There is, however, a small exception carved out to the above provision. The Court may try an issue relating to the jurisdiction of the Court or to the legal bar to the suit as a preliminary issue but this is more in the nature of a discretion rather than a duty and the Court is not bound to try any issue despite the provision contained in sub-r. (2) of R. 2 of O. 14 of the Code. The words "it may try" are clearly indicative of the fact that discretion is given to the Court and no duty is cast upon the Court to decide any issue as a preliminary issue."

14. A Single Bench of Jammu and Kashmir High Court in a judgment reported as ***Smt. Aruna Kumari v. Ajay Kumar***<sup>8</sup> held as under:

"4. ....Admittedly both the parties have to lead evidence

---

<sup>7</sup> AIR 1984 Bom 60

<sup>8</sup> AIR 1991 J&K 1

regarding both the issues. In case issue No. 2 is allowed to be treated as preliminary the parties will certainly lead evidence in the case and instead of disposing of the case expeditiously it will prolong the matter and frustrate the very basis of law contained in Order XIV, Rule 2, Civil Procedure Code. The evidence to be led by both the parties will almost cover both the issues and it cannot, therefore, be said that by allowing issue No. 2 to be treated as preliminary the trial of the case would be expedited. When we review the whole law on the point it becomes clear that where issue of jurisdiction is a mixed question of law and fact requiring evidence to be recorded by both the sides same cannot be treated as a preliminary issue."

15. The matter has also been examined by this Court in a judgment reported as ***Ramesh B. Desai and Ors. v. Bipin Vadilal Mehta and Ors.***<sup>9</sup> wherein it was held as under:

"13. Sub-rule (2) of Order 14 Rule 2 CPC lays down that where issues both of law and of fact arise in the same suit, and the court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to (a) the jurisdiction of the court, or (b) a bar to the suit created by any law for the time being in force. The provisions of this Rule came up for consideration before this Court in *Major S.S. Khanna v. Brig. F.J. Dillon* [(1964) 4 SCR 409 : AIR 1964 SC 497] and it was held as under: (SCR p. 421)

"xxx

xxx"

Though there has been a slight amendment in the language of Order 14 Rule 2 CPC by the amending Act, 1976 but the principle enunciated in the above quoted decision still holds good and there can be no departure from the principle that the Code confers no jurisdiction upon the court to try a suit on mixed issues of law and fact as a preliminary issue and where the decision on issue of law depends upon decision of fact, it cannot be tried as a preliminary issue."

16. This Court in ***Ramesh B. Desai*** held that the principles enunciated in ***Major S. S. Khanna*** still hold good and the Code confers no

---

9 (2006) 5 SCC 638



jurisdiction upon the Court to try a suit on mixed issues of law and fact as a preliminary issue and where the decision on issue depends upon the question of fact, it cannot be tried as a preliminary issue. The said finding arises from the provision of Order XIV Rule 2 clause (a) and (b). After the amendment, discretion has been given to the Court by the expression 'may' used in sub-rule (2) to try the issue relating to the jurisdiction of the Court i.e. territorial and pecuniary jurisdiction, or a bar to the suit created by any law for the time being in force i.e., the bar to file a suit before the Civil Court such as under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and numerous other laws particularly relating to land reforms. Hence, if Order XIV Rule 2 is read along with Order XII Rule 5, the Court is expected to decide all the issues together unless the bar of jurisdiction of the Court or bar to the suit in terms of sub-rule (2) clause (a) and (b) arises. The intention to substitute Rule 2 is the speedy disposal of the */is* on a question which oust either the jurisdiction of the Court or bars the plaintiff to sue before the Civil Court.

17. We may state that the First Schedule appended to the Code contains the procedure to be applied in respect of the matters coming for adjudication before the Civil Court. Such procedure is handmaid of justice as laid down by the Constitution Bench judgment of this Court reported as ***Sardar Amarjit Singh Kalra (Dead) by Lrs. v. Pramod Gupta (Smt) (Dead) by Lrs. & Anr.***<sup>10</sup> wherein it was observed as

---

10 (2003) 3 SCC 272

under:

“26. Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.....”

18. A three Judge Bench in a subsequent judgment reported as ***Kailash v. Nanhku & Ors.***<sup>11</sup> held that all rules of procedure are handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent but the object of prescribing procedure is to advance the cause of justice. The Court held as under:

“28. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice. The observations made by Krishna Iyer, J. in *Sushil Kumar Sen v. State of Bihar* [(1975) 1 SCC 774] are pertinent: (SCC p. 777, paras 5-6)

“The mortality of justice at the hands of law troubles a judge's conscience and points an angry interrogation at the law reformer.

The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to

---

11 (2005) 4 SCC 480

act ex debito justitiae where the tragic sequel otherwise would be wholly inequitable. ... Justice is the goal of jurisprudence — processual, as much as substantive.”

29. In *State of Punjab v. Shamlal Murari* [(1976) 1 SCC 719 : 1976 SCC (L&S) 118] the Court approved in no unmistakable terms the approach of moderating into wholesome directions what is regarded as mandatory on the principle that: (SCC p. 720)

“Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”

In *Ghanshyam Dass v. Dominion of India* [(1984) 3 SCC 46] the Court reiterated the need for interpreting a part of the adjective law dealing with procedure alone in such a manner as to subserve and advance the cause of justice rather than to defeat it as all the laws of procedure are based on this principle.”

19. This Court in ***Sugandhi v. P. Rajkumar***<sup>12</sup> held that if the procedural violation does not seriously cause prejudice to the adversary party, Courts must lean towards doing substantial justice rather than relying upon procedural and technical violations. It is not to be forgotten that litigation is nothing but a journey towards truth which is the foundation of justice and the Court is required to take appropriate steps to thrash out the underlying truth in every dispute. It was held as under:

“9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey

---

12 (2020) 10 SCC 706

towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3)."

20. The provisions of Order XIV Rule 2 are part of the procedural law, but the fact remains that such procedural law had been enacted to ensure expeditious disposal of the *lis* and in the event of setting aside of findings on preliminary issue, the possibility of remand can be avoided, as was the language prior to the unamended Order XIV Rule 2. If the issue is a mixed issue of law and fact, or issue of law depends upon the decision of fact, such issue cannot be tried as a preliminary issue. In other words, preliminary issues can be those where no evidence is required and on the basis of reading of the plaint or the applicable law, if the jurisdiction of the Court or the bar to the suit is made out, the Court may decide such issues with the sole objective for the expeditious decision. Thus, if the Court lacks jurisdiction or there is a statutory bar, such issue is required to be decided in the first instance so that the process of civil court is not abused by the litigants, who may approach the civil court to delay the proceedings on false pretext.
21. In fact, in a judgment reported as ***A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam & Ors.***<sup>13</sup>, this Court held as under:

"39. Our courts are usually short of time because of huge

---

<sup>13</sup> (2012) 6 SCC 430

pendency of cases and at times the courts arrive at an erroneous conclusion because of false pleas, claims, defences and irrelevant facts. A litigant could deviate from the facts which are liable for all the conclusions. In the journey of discovering the truth, at times, this Court, at a later stage, but once discovered, it is the duty of the court to take appropriate remedial and preventive steps so that no one should derive benefits or advantages by abusing the process of law. The court must effectively discourage fraudulent and dishonest litigants.”

22. The different judgments of the High Court referred to above are in consonance with the principles laid down by this Court in **Ramesh B. Desai** that not all issues of law can be decided as preliminary issues. Only those issues of law can be decided as preliminary issues which fell within the ambit of clause (a) relating to the “jurisdiction of the Court” and (b) which deal with the “bar to the suit created by any law for the time being in force.” The reason to substitute Rule 2 is to avoid piecemeal trial, protracted litigation and possibility of remand of the case, where the appellate court differs with the decision of the trial court on the preliminary issues upon which the trial court had decided.
23. On the other hand, learned counsel for the respondent relies upon the judgments of this Court reported as **Abdul Rahman v. Prasony Bai & Anr.**<sup>14</sup>, **Srihari Hanumandas Totala v. Hemant Vithal Kamat & Ors.**<sup>15</sup> and **Jamia Masjid v. K.V. Rudrappa (Since Dead) by LRs. & Ors.**<sup>16</sup> to contend that on a question of res judicata, the preliminary issue needs to be framed.

---

14 (2003) 1 SCC 488

15 (2021) 9 SCC 99

16 2021 SCC OnLine SC 792

24. In ***Abdul Rahman***, this Court was examining a suit filed by the appellant in the year 1999 to declare that the defendant is not the daughter of Mangal Singh and that the appellant is in adverse possession even during the life time of Mangal Singh. An additional issue was framed regarding the jurisdiction of the civil suit to try the said suit. The High Court in proceedings passed an order on 29.11.2001 dismissing the suit on the preliminary issue whether the dispute to the present civil suit has already been decided and adjudicated by the Court and is barred by the principles of res judicata. An intra court appeal was filed which was dismissed on 4.12.2001 and thereafter, the matter travelled to this Court. In these circumstances, this Court held as under:

“21. For the purpose of disposal of the suit on the admitted facts, particularly when the suit can be disposed of on preliminary issues, no particular procedure was required to be followed by the High Court. In terms of Order 14 Rule 1 of the Code of Civil Procedure, a civil court can dispose of a suit on preliminary issues. It is neither in doubt nor in dispute that the issues of res judicata and/or constructive res judicata as also the maintainability of the suit can be adjudicated upon as preliminary issues. Such issues, in fact, when facts are admitted, ordinarily should be decided as preliminary issues.”

25. A perusal of the above judgment of this Court shows that it was an admitted fact that issue of res judicata and of constructive res judicata can be adjudicated as preliminary issue. Since it was an admitted fact, it cannot be said that principle of law has been enunciated that a plea

of res judicata can be decided as a preliminary issue.

26. In ***Srihari Hanumandas Totala***, the property was mortgaged in favour of Karnataka State Finance Corporation<sup>17</sup>. The Corporation auctioned the property as the loan was not repaid. The legal heirs of the borrower filed a suit in OS No. 138 of 2008 challenging the sale deed dated 8.8.2006 executed by the Corporation and partition of the suit property. A separate OS No. 103 of 2007 was filed by the purchaser from the Corporation. Such suit of the purchaser was decreed on 26.2.2009. The decree in the said suit was affirmed by the High Court on 11.8.2007. The purchaser from the Corporation filed an application under Order VII Rule 11 for rejection of the plaint of OS No. 138 of 2008. Such application was dismissed by the learned trial court. The order was affirmed in revision by the High Court holding that the ground of res judicata could not be decided merely by looking averments in the plaint. It is the said order which became subject matter of challenge before this Court. This Court found that the plea of res judicata requires consideration of the pleadings, issues and decision in the previous suit and such a plea would be beyond the scope of Order VII Rule 11. However, in the operative paragraph, it was observed that the trial court shall consider whether a preliminary issue should be framed under Order XIV, and if so, to decide it within a period of three months of raising the preliminary issue. The operative part of the order reads thus:

---

<sup>17</sup> For short, the 'Corporation'



“28. For the above reasons, we hold that the plaint was not liable to be rejected under Order 7 Rule 11(a) and affirm the findings of the trial court and the High Court. We clarify however, that we have expressed no opinion on whether the subsequent suit is barred by the principles of res judicata. We grant liberty to the appellant, who claims as an assignee of the bona fide purchaser of the suit property in an auction conducted by KSFC, to raise an issue of the maintainability of the suit before the Additional Civil Judge, Belgaum in OS No. 138 of 2008. The Additional Civil Judge, Belgaum shall consider whether a preliminary issue should be framed under Order 14, and if so, decide it within a period of 3 months of raising the preliminary issue. In any event, the suit shall be finally adjudicated upon within the outer limit of 31-3-2022.”

27. This Court was thus examining the scope of Order VII Rule 11 of the Code, whereas such is not the issue in the present appeal. In fact, the defendant has filed an application for framing of preliminary issues. The direction of the High Court is on such application. Therefore, such application needs to be considered in the light of the provisions of Order XIV Rule 2 of the Code.
28. In ***Jamia Masjid***, the judgment and decree in a second appeal holding that the suit is barred by the principle of res judicata was the subject matter of challenge before this Court. The learned trial court decided Issue Nos. 5 and 6 related to res judicata and limitation as preliminary issue. It was held that suit was not barred by limitation but barred by res judicata. In appeal, such finding was affirmed. However, in second appeal, the matter was remanded to the trial court for disposal of the suit in accordance with law holding that the suit is not barred by res

judicata. In appeal against such judgment and decree, appeal was remanded to the High Court. The High Court after remand held that the judgment in a representative suit under Section 92 of the Code binds the parties to the suit and would thus operate as *res judicata*.

29. In appeal before this Court, it was considered whether *res judicata* raises a mixed question of law and facts. The Court held as under:

“26. The court while undertaking an analysis of the applicability of the plea of *res judicata* determines first, if the requirements of section 11 CPC are fulfilled; and if this is answered in the affirmative, it will have to be determined if there has been any material alteration in law or facts since the first suit was decreed as a result of which the principle of *res judicata* would be inapplicable. We are unable to accept the submission of the appellants that *res judicata* can never be decided as a preliminary issue. In certain cases, particularly when a mixed question of law or fact is raised, the issue should await a full-fledged trial after evidence is adduced. In the present case, a determination of the components of *res judicata* turns on the pleadings and judgments in the earlier suits which have been brought on the record. The issue has been argued on that basis before the Trial court and the first appellate court; followed by two rounds of proceedings before the High Court (the second following upon an order of remand by this court on the ground that all parties were not heard). All the documentary material necessary to decide the issue is before the court and arguments have been addressed by the contesting sides fully on that basis.

xx

xx

xx

62. In view of the discussion above, we summarise our findings below:

(i) Issues that arise in a subsequent suit may either be questions of fact or of law or mixed questions of law and fact. An alteration in the circumstances after the decision in the first suit, will require a trial for the determination of the plea of *res judicata* if there arises a new fact which has to be proved. However, the plea of *res judicata* may in an appropriate case be determined as

a preliminary issue when neither a disputed question of fact nor a mixed question of law or fact has to be adjudicated for resolving it;"

30. A perusal of the said judgment would show that only issue Nos. 5 and 6 were decided relating to res judicata and limitation as preliminary issues by judgment dated 3.2.2006. This Court set aside the finding on the preliminary issue by judgment dated 23.9.2021 i.e., almost more than 15 years later when the matter was remanded back to the trial court. The absence of the decision on all issues have necessitated the matter to be remanded back, defeating the object of expeditious disposal of *lis* between the parties. The conclusion in Para 62(i) is that the plea of res judicata in appropriate cases may be determined as preliminary issue when it is neither a disputed question of fact nor a mixed question of law and fact. Such finding is what this Court held in ***Ramesh B. Desai***.
31. We find that the order of the High Court to direct the learned trial court to frame preliminary issue on the issue of res judicata is not desirable to ensure speedy disposal of the *lis* between parties. Order XIV Rule 2 of the Code had salutary object in mind that mandates the Court to pronounce judgments on all issues subject to the provisions of sub-Rule (2). However, in case where the issues of both law and fact arise in the same suit and the Court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that suit first, if it relates to jurisdiction of the Court or a bar to the suit created

by any law for the time being in force. It is only in those circumstances that the findings on other issues can be deferred. It is not disputed that *res judicata* is a mixed question of law and fact depending upon the pleadings of the parties, the parties to the suit etc. It is not a plea in law alone or which bars the jurisdiction of the Court or is a statutory bar under clause (b) of sub-Rule (2).

32. The objective of the provisions of Order XLI Rules 24 and 25 is that if evidence is recorded by the learned Trial Court on all the issues, it would facilitate the first Appellate Court to decide the questions of fact even by reformulating the issues. It is only when the first Appellate Court finds that there is no evidence led by the parties, the first Appellate Court can call upon the parties to lead evidence on such additional issues, either before the Appellate Court or before the Trial Court. All such provisions of law and the amendments are to ensure one objective i.e., early finality to the *lis* between the parties.
33. Keeping in view the object of substitution of sub-Rule (2) to avoid the possibility of remanding back the matter after the decision on the preliminary issues, it is mandated for the trial court under Order XIV Rule 2 and Order XX Rule 5, and for the first appellate court in terms of Order XLI Rules 24 and 25 to record findings on all the issues.
34. Therefore, the order of the High Court remanding the matter to the learned trial court to frame preliminary issues runs counter to the

mandate of Order XIV Rule 2 of the Code and thus, not sustainable in law. The learned trial court shall record findings on all the issues so that the first appellate court has the advantage of the findings so recorded and to oblivate the possibility of remand if the suit is decided only on the preliminary issue.

35. Consequently, the appeal is allowed. The order passed by the High Court is hereby set aside.

.....J.  
(HEMANT GUPTA)

.....J.  
(V. RAMASUBRAMANIAN)

**NEW DELHI;  
MAY 06, 2022.**

Item No. 2

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Original Application No. 38/2020(WZ)  
I.A. No. 48/2020(WZ)

Tanaji B. Gambhire

.....Applicant

Versus

Union of India &amp; Ors.

....Respondent(s)

Date of hearing: 23.02.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

|               |   |                                                                                                                                                                                                                                                                                |
|---------------|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant     | : | Applicant in-person along-with Mr. Vijay Mhaske, Advocate                                                                                                                                                                                                                      |
| Respondent(s) | : | Mr. Rahul Garg, Advocate for R-1/MoEF&CC &<br>R-9 & 10/PMC<br>Mr. Aniruddha Kulkarni, Advocate for R-3/Env't. Deptt. &<br>R-4/SEIAA & R-5/SEAC-III<br>Ms. Manasi Joshi, Advocate for R-6 & 7/MPCB<br>Mr. R. B. Mahabal along-with Mr. Sachin S. Gore,<br>Advocates for R-12/PP |

**ORDER**

1. As per our previous order dated 12.01.2023, we have to hear this matter only on the preliminary issue of limitation. There is no separate application filed from the side of Respondent No. 12/Project Proponent in respect of rejecting the present application on the ground of being barred by limitation but in the counter affidavit dated 07.01.2023 filed by the Respondent No. 12/Project Proponent, which is annexed at page nos. 332 to 379 of the paper book, in para no. 6, it is stated that the first Environmental Clearance was granted to the Answering Respondent on 25.06.2007. The construction was completed as per the sanctioned plans, including the parking floors in the year 2009, which included basement parking floors of an area of 12,110 m<sup>2</sup>. The date on which the cause of

action first arose is 09.09.2009, when the 1<sup>st</sup> part of the Completion Certificate of PMC was given and from that date, there is 3953 days delay in filing the present Original Application i.e. on 06.07.2020.

2. From the side of Applicant, it is mentioned in relevant para no. 30 sub-clause (b) of the Original Application that the present application has been filed raising substantial questions relating to environment and this application is filed within five years from the cause of action first arose on 17.12.2019, when the Project Proponent procured the Consent to Establish and initiated construction for expansion. The present application is filed within six months from 17.12.2019 (excluding the period from 23.03.2020 to 08.06.2020 of Lockdown due to COVID-19, which is exempted by the Hon'ble Supreme Court of India).

3. Heard the arguments of the learned Counsel for the Applicant as well as learned Counsel for the Respondent No. 12/Project Proponent.

4. The learned Counsel for the Respondent No. 12 has argued that the land was purchased for the project in question in the year 2005 and the building plan was got sanctioned from the PMC on 12.07.2006, which was prior to come into force of EIA Notification dated 14.09.2006. Therefore, no area was required to be considered while granting the EC because the said provision came into force only after 14.09.2006. The Project Proponent has been granted EC under the EIA Notification, 2004, which provided that if footfall exceeded 1000 persons or it exceeded effluent of 50 cubic meters per day or the investment exceeded Rs. 50 crores, the EC would be required. The Project Proponent did not raise any construction between the period from the year 2009 to 2019. As on 20.09.2019, the EC for expansion was granted for the project in question (commercial project). The Applicant could not have challenged the earlier



constructions/work done by the Project Proponent, which was completed prior to 17.12.2019. It is further argued by him that the part of the project, which was completed earlier i.e. Building A, B, C & D of the residential projects, were handed over and the residents have also formed their association. He has also drawn our attention to the definition provided under Section 2 (d) of the Water (Prevention and Control of Pollution) Act, 1974, which says as follows:-

*“ "occupier", in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance;”*

5. Therefore, it is argued by the learned Counsel for the Respondent No. 12/Project Proponent that since the building has been handed over to the occupants and it was the responsibility of the occupiers to operate the STP and OWC etc. and that it was no longer the burden of the Project Proponent/Developer.

6. Thereafter, the learned Counsel for the Respondent No. 12/Project Proponent has drawn our attention to page no. 419 of the paper book, which is a Judgment dated 03.10.2012 passed by the Principal Bench of this Tribunal in *Appeal No. 37 of 2012 (Real Gem Buildtech Pvt. Ltd. vs. State of Maharashtra)* and reliance is placed at para no. 5 of the said Judgment, which is quoted herein below:-

*“Upon hearing learned Counsel for the parties, it is amply clear that the impugned order does not reflect as to whether rejection of the EC for three basements was done on ground of any adverse environmental impact. In fact, we find that no environmental issue is involved in the matter. The material on record does not show that the third basement is likely to cause any serious impact on the environment. The Counsel for the respondent submits that the question of proper muck disposal, the disposal of debris and the disposal of earth excavation from the building and basement is also required to be considered. He submits that proper disposal of such waste material has to be ensured from the appellant. He further submits that if the third basement has been constructed without the EC then the*

*appellant is liable for appropriate penalty under Section 15 of The Environment (Protection) Act, 1986.”*

7. Having relying upon the above ruling, it is argued that in the present case as well, no environmental issue is involved. Thereafter, he has drawn our attention to page no. 610 of the paper book, which is a Judgment dated 10.02.2022 delivered by the Tribunal in *Original Application No. 31/2020 (WZ) (Shashikant Kamble vs. M/s. Embassy Property Developers Pvt. Ltd.)*, where-in in part no. 5, following is held:

*“The PP has filed a reply inter alia raising the plea of limitation. It is submitted that no part of cause of action has arisen within five years prior to filing of the OA. No continued violation pointed out. Thus, the Tribunal cannot entertain the application beyond statutory limitation.”*

8. We do not find the facts of this case narrated in this Original Application, therefore, we cannot compare the facts in the present case with the facts of Original Application No. 31/2022 and hence, under what circumstances, it was held by the Tribunal that the application was beyond statutory limitation, cannot be appreciated by us.

9. Much emphasis was laid down by the Respondent No. 12/Project Proponent that the present project is a different one than the project, which has already been completed earlier i.e. Building A, B, C & D on the ground that the buildings which were permitted to be constructed in accordance with the DCR of the year 1989, under that full utilization had been made of the Floor Space Index (FSI). The present project is allowed under DCR of 2015, which has given additional FSI, which could not have been done earlier. Therefore, the two projects should be treated to be separate and not one. Hence, present application deserves to be dismissed being time barred.

10. On the other hand, learned Counsel for the Applicant has drawn our attention to page no. 279 of the paper book, where-in the Applicant

has challenged the Consent to Establish and Consent to Operate and the present petition has been filed under Section 15 of the National Green Tribunal Act, 2010. He has drawn our attention to page no. 282 of the paper book, where-in following is held by the Joint Committee:-

*“It is observed that after handing over of the said completed project, PP has renewed CTO from time to time (with gaps of few years) till dated 31/12/2016, as per condition no. 2 (III) of CTO granted on 02/08/2010 by MPCB i.e. “The project proponent shall operate STP for five years from the date of Occupation certificate”. However, the joint committee opined that though the PP has made “Deed of Declaration” and mentioned that necessary renewals shall be done by the office bearers/elected committee members. However, the project proponent name, various licenses & clearances (viz. environmental clearance, CTO etc.) in the name of M/s Paranjape Schemes (Construction) Ltd., Pune have not yet been transferred in the name of “Magnolia Apartments”. Also, presently (as per expansion EC dated 20/09/2019), the PP is utilizing additional FSI of whole plot area and for which the PP has applied for CTE to MPCB on 17/12/2019 for expansion of residential & commercial project of total plot area of 17,400 sq-m for total proposed built-up area of 35,966.35 sq-m (FSI: 24,274.35 sq.m & Non-FSI: 11,692 sq.m). Hence, the earlier project including the expanded project may be treated in a holistic manner rather treating as a separate component.”*

11. Having drawn our attention to the above, it is argued that the Joint Committee itself has recommended that the expanded project be treated in holistic manner rather than be treated as a separate component. Thereafter, our attention is drawn to page no. 382 of the paper book, which is the Sanction Plan of the project and it is indicated by him that in this plan, the area which is shown as podium level, is forming part of the original plan, which is said to have been completed earlier i.e. Building A, B, C & D and that above podium, now fresh construction is being made, which should be treated to be one project as a whole, rather than a different project. Besides that, it is further argued by him that at

page no. 279 of the paper book, it is recorded in the Joint Committee report that BOD and COD were found to be exceeding the prescribed discharge standards, which clearly indicated of the fact that the STP was not in operation. It is further pointed out by him that he has challenged all the violations, which are narrated by him in the application, which pertain to Consent to Establish and Consent to Operate and it is apparent that there were gaps in obtaining the Consent to Operate by the Project Proponent. Therefore, in the light of the law laid down in *The Forward Foundation & Others vs. State of Karnataka & Others*, this should be treated to be the recurring cause of action and should not be treated to be time barred. The relevant portion of the said case law is reproduced here-in below for the sake of convenience:-

*“24. For a dispute to culminate into a cause of action, actionable under Section 14 of the NGT Act, 2010, it has to be a ‘composite cause of action’ meaning that, it must combine all the ingredients spelled out under Section 14(1) and (2) of the NGT Act, 2010. It must satisfy all the legal requirements i.e. there must be a dispute. There should be a substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of the implementation of the enactments specified in Schedule I. Action before the Tribunal must be taken within the prescribed period of limitation triggering from the date when all such ingredients are satisfied along with other legal requirements. Accrual of ‘cause of action’ as afore-stated would have to be considered as to when it first arose.*

*25. In contradistinction to ‘cause of action first arose’, there could be ‘continuing cause of action’, ‘recurring cause of action’ or ‘successive cause of action’. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, ‘Cause of action first arose’ would refer to a definite point of time when requisite ingredients constituting that ‘cause of action’ were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The ‘Right to Sue’ or ‘right to take action’ would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon’ble Supreme Court in the case of *Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors.*, AIR 1959 SC 798.*

26. In the case of *State of Bihar v. Deokaran Nenshi and Anr.*, (1972) 2 SCC 890, Hon'ble Supreme Court was dealing with the provisions of Section 66 and 79 of the Mines Act, 1952. These provisions prescribed for a penalty to be imposed upon guilty, but provided that no Court shall take cognizance of an offence under Act unless a complaint thereof has been made within six months from the date on which the offence is alleged to have been committed or within six months from the date on which the alleged commission of the offence came to the knowledge of the Inspector, whichever is later. The Explanation to the provision specifically provided that if the offence in question is a continuing offence, the period of limitation shall be computed with reference to every point of time during which the said offence continues. The Hon'ble Supreme Court held as under:

“5. A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and recurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and an act or omission which continues and therefore, constitutes a fresh offence every time or occasion on which it continues. In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all.”

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the premises were used as a factory. The Hon'ble Supreme Court in the case of *Maya Rani Punj v. Commissioner of Income Tax, Delhi*, (1986) 1 SCC 445, was considering, if not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as long as the default continued. The penalty is imposable as long as the default continues and as long as the assessee does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of *Mahavir Spinning Mills Ltd. v. Hb Leasing And Finances Co. Ltd.*, 199 (2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of a continuing breach, or of a continuing tort, a fresh period of limitation begins to run at every moment of

time during which the breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' once all the ingredients are satisfied. Continuing cause of action thus, becomes relevant for even the determination of period of limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law.

Thus, the expressions 'cause of action first arose', 'continuing cause of action' and 'recurring cause of action' are well accepted canons of civil jurisprudence but they have to be understood and applied with reference to the facts and circumstances of a given case. It is not possible to lay down with absolute certainty or exactitude, their definitions or limitations. They would have to be construed with

reference to the facts and circumstances of a given case. These are generic concepts of civil law which are to be applied with acceptable variations in law. In light of the above discussed position of law, we may revert to the facts of the case in hand.

28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will began to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. [Ref: *Khatri Hotels Private Limited and Anr. v. Union of India (UOI) and Anr.*, (2011) 9 SCC 126, *Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors*, AIR 1959 SC 798, *G.C. Sharma v. Municipal Corporation of Delhi*, (1979) ILR 2 Delhi 771, *Kuchibotha Kanakamma and Anr. v Tadepalli Ptanga Rao and Ors.*, AIR 1957 AP 419].

29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the 'joinder of causes of action' under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time.

*In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the 'cause of action first arose' even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may gives rise to a fresh cause of action.*

*To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like 'cause of action first arose' in contradistinction to 'cause of action' simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions 'when right to sue first arose' or 'cause of action first arose' connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the action to be brought within the prescribed period of limitation computed from the date when the cause of action 'first arose', it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.*

*30. Now, we would deal with the concept of recurring cause of action. The word 'recurring' means, something happening again and again and not that which occurs only once. Such reoccurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when 'cause of action first arose'. It could even have the same features but its reoccurrence is complete and composite. The recurring cause of action would not stand excluded by the expression 'cause of action first arose'. In some situation, it could even be a complete, distinct cause of action hardly having nexus to the first breach or wrong, thus, not inviting the implicit consequences of the expression 'cause of action first arose'. The Supreme Court clarified the distinction between continuing and recurring cause of action with some*

*finesse in the case of M. R. Gupta v. Union of India and others, (1995) 5 SCC 628, the Court held that:*

*“The appellant’s grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant’s claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant’s claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action.*

*The Tribunal misdirected itself when it treated the appellant’s claim as ‘one time action’ meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See Thota China Subba Rao and Ors. v. Mattapalli, Raju and Ors. AIR (1950) F C1.”*

**31. The Continuing cause of action would refer to the same act or transaction or series of such acts or**



**transactions.** The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It may have even be de hors the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. [Ref: Ex. Sep. Roop Singh v. Union of India and Ors., 2006 (91) DRJ 324, M/s. Bengal Waterproof Limited v. M/s. Bombay Waterproof Manufacturing Company and Another, (1997) 1 SCC 99].

32. The principle that emerges from the above discussion is that the 'cause of action' satisfying the ingredients for an action which might arise subsequently to an earlier event give result in accrual of fresh right to sue and hence reckoning of fresh period of limitation. **A recurring or continuous cause of action may give rise to a fresh cause of action resulting in fresh accrual of right to sue. In such cases, a subsequent wrong or injury would be independent of the first wrong or injury and a subsequent, composite and complete cause of action would not be hit by the expression 'cause of action first arose' as it is independent accrual of right to sue.** In other words, a recurring cause of action is a distinct and completed occurrence made of a fact or blend of composite facts giving rise to a fresh legal injury, fresh right to sue and triggering a fresh lease of limitation. It would not materially alter the character of the preposition that it has a reference to an event which had occurred earlier and was a complete cause of action in itself. In that sense, recurring cause of action which is complete in itself and satisfies the requisite ingredients would trigger a fresh period of limitation. To such composite and complete cause of action that has arisen subsequently, the phraseology of the 'cause of action first arose' would not effect in computing the period of limitation. The concept of cause of action first arose must essentially relate to the same event or series of events which have a direct linkage and arise from the same event. **To put it simply, it would be act or series of acts which arise from the same event, may be at different stages.** This expression would not de bar a composite and complete cause of action that has arisen subsequently. To illustratively demonstrate, we may refer to the challenge to the grant of Environmental Clearance. When an appellant challenges the grant of Environmental Clearance, it cannot challenge its legality at one stage and its impacts at a subsequent stage. But, **if the order granting Environmental Clearance is amended at a subsequent stage, then the appellant can challenge the subsequent amendments at a later stage, it being a complete and composite cause of action that has subsequently arisen and would not be hit by the concept of cause of action first arose."**

12. After having heard the rival contentions, we are of the view that in view of the recommendations made by the Joint Committee, the present project is nothing but an expansion of the earlier project and should be treated in holistic manner. We are of the view that the date which has been mentioned by the Applicant i.e. 17.12.2019 for expansion when the Consent to Establish of the said project was allowed, can be said to be a valid date for calculating of the period of limitation and since this Application has been filed under Section 15 of the National Green Tribunal Act, 2010, which provides 5 years period + 60 days at the discretion of the Tribunal on being shown satisfactory ground for the delay, we find that taking into consideration the recurring cause of action, the principle of which has been laid down by this Tribunal in *Forward Foundation v. State of Karnataka case (supra)*, this application is not found to be time barred. This issue is decided accordingly.

Put up this matter on 24.04.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 23, 2023  
Original Application No. 38/2020(WZ)  
I.A. No. 48/2020(WZ)  
P.Kr

Item No.4

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

**I.A. NO.68 2023 (WZ)  
IN  
ORIGINAL APPLICATION NO.65 OF 2019 (WZ)**

Mr. Ajay Jayvantrao Bhosale

.... Applicant

Versus

Union of India through Secretary &amp; Ors.

....Respondents

Date of Hearing : 24.04.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate

Respondents : Mr. Rahul Garg, Advocate for R-1, R-8 and R-9  
Ms. Manasi Joshi, Advocate for R-6 and R-7  
Mr. Aniruddha Kulkarni, Standing Advocate for R-4  
Mr. R.B. Mahabal, Advocate for R-11

**ORDER**

1. By this application, the applicant has prayed to recall the order dated 09.11.2022 passed by us in the present Original Application No.65/2023 whereby we had observed in paragraph No.11 of the said order that it would be appropriate for us to deal with limitation issue first as has been pressed by the learned counsel for the Project Proponent.

2. In this application (I.A.), it is submitted by the learned counsel for the applicant that the limitation is a mixed question of law and fact. Therefore, it has to be decided at final stage as it is required to go through the entire record and evidence in the matter. It is further submitted that this is an admitted case of violation by the Project Proponent – respondent No.11, which has caused substantial damage to the environment and ecology. The preliminary issues can be those where

no evidence is required and on the basis of pleadings or the applicable law, if the jurisdiction of the court or the bar to the suit is made out, the court may decide such issues with the sole objective for the expeditious decision. Such is not the case in the present matter. The facts surrounding the limitation are disputed.

3. Against the above plea of the applicant, learned counsel for respondent No.11 – Project Proponent has filed written submissions (Pages 1260 to 1264 of the paper-book) wherein it is submitted that this Tribunal has recently passed an order dated 01.12.2022 in Original Application No.63/2019 (Ajay Bhosale Vs. Union of India), which was not available when the earlier submissions were made on 24.10.2021 and 09.08.2022. The facts of the said matter are absolutely similar to the facts of the present case. Both matters are initiated by the same applicant. Both projects are that of construction under EIA Notification, 2006 under Category 8(a). The above order dated 01.12.2022 has dealt with the submissions of the applicant at point No.14 on the basis of Judgment dated 07.05.2015 in the case of **“Forward Foundation vs. State of Karnataka” in Original Application No.222/2014**, reported in **2015 SCC OnLine NGT 5**. In the present case, the plans (new) were approved on 21.09.2005. The buildings A, B, D and E had been completed and Completion Certificate had been issued on 22.10.2007. The buildings were completed (except “C” building) in the year 2009. The present application has been filed on 18.09.2019, almost 10 years later while limitation under Section 14 of the National Green Tribunal Act, 2010 is of six months and under Section 15, it is of five years. It is further submitted that application of respondent No.11 – Project Proponent is pending before the SEAC-3 and SEIAA for consideration under Violation Category under Standard Operating Procedure (SOP)

dated 07.07.2021. In the circumstances, the preliminary issue should be decided first, this matter being time barred.

4. We have heard the arguments of the learned counsel for the parties and we are of the view that it cannot be denied that limitation in the present case is a mixed question of law and fact and it would require that the entire pleadings are heard as all the parties have filed their respective reply-affidavits. Therefore, it would be appropriate to hear the matter in its entirety. The earlier observation made by us in the impugned order dated 09.11.2022 that “it would be appropriate to hear the matter on limitation issue first” is set aside and we allow this application (I.A.No.68/2023) and direct that the parties may argue this matter (O.A. No.65/2019) finally on the next date as learned counsel for respondent No.11 – Project Proponent submits that he has not come prepared for final arguments today.

5. I.A. No.68/2023 (WZ) is disposed of.

6. Put up the matter (O.A. No.65/2019) for final arguments on 28.07.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 24, 2023  
I.A. No.68/2023 (WZ)  
npj

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

**Original Application No. 38/2020 (WZ)  
I.A. No. 48/2020(WZ)**

**IN THE MATTER OF :**

**1. Mrs. Tanaji Balasaheb Gambhire**

Age: Adult, Occupation: Self Employed,  
R/o- CTS-296, Shukrawar Peth, Laxmi Apartment,  
White House Lane, Near Shivaji Maratha High School,  
E-mail: [tanaji\\_9june@yahoo.com](mailto:tanaji_9june@yahoo.com)

**.....Applicant**

**Versus**

**1. Union of India Through Secretary,**

Ministry of Environment and Forest  
Paryavaran Bhawan, CGO Complex,  
Lodhi Road, New Delhi-110001  
Email: [secy-moef@nic.in](mailto:secy-moef@nic.in)

**2. Chief Secretary,**

Government of Maharashtra,  
Annex Building, Mantralaya, Fort,  
Madham Kama Road, Mumbai-400032, Maharashtra  
E-mail- [chiefsecretary@maharashtra.gov.in](mailto:chiefsecretary@maharashtra.gov.in)

**3. The Principle Secretary, Environment Department,**

Government of Maharashtra,  
Room No. 217, 2<sup>nd</sup> Floor, Annex Building,  
Mantralaya, Fort, madham Kama Road,  
Mumbai-400032, Maharashtra,  
Email: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

**4. State Level Environment Impact Assessment Authority-  
Maharashtra(SEIAA)**

Through Member Secretary  
15<sup>th</sup> Floor, New Administrative Building,  
Mantralaya, Fort, Madham kama Road,  
Mumbai-400032, Maharashtra,  
E-mail: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

**5. State Expert Appraisal committee (III) Maharashtra (SEAC-III)**

Through Member Secretary  
15<sup>th</sup> Floor, New Administrative Building,  
Mantralaya, Fort, Madham Kama Road,  
Mumbai-400032, Maharashtra,

E-mail: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

**6. Maharashtra Pollution Control Board,**

Through Member Secretary,  
Laptaru Point, 3<sup>rd</sup> Floor, Near Sion Circle,  
Opp. Cine Planet Cinema, Sion (E),  
Mumbai-400022, Maharashtra,  
Email: [ms@mpcb.gov.in](mailto:ms@mpcb.gov.in)

**7. Maharashtra Pollution Control Board,**

Through Regional officer,  
Jog Centre, 3<sup>rd</sup> Floor, Mumbai- Pune Old Highway,  
Wakadewadi, Pune-411003, Maharashtra,  
E-mail: [ropune@mpcb.gov.in](mailto:ropune@mpcb.gov.in)

**8. M/s. Mahabal Enviro Engineers Private Limited**

**Having its office at:** Plot No. F-7 Road No. 21, MIDC  
Wagle Estate, Thane west- 400604, Maharashtra  
Email: [thane@mahabal.com](mailto:thane@mahabal.com)

**9. Pune Municipal corporation**

Through Municipal Commissioner,  
Main Building, Shivaji Nagar, Pune-4110005  
E-Mail: [pmcmco@gamil.com](mailto:pmcmco@gamil.com)

**10. Mr. Prashant Waghmare- City Engineer**

Pune Municipal Corporation,  
Shivaji Nagar, Pune- 411005  
Email: [prashant.waghmare@punecorporation.org](mailto:prashant.waghmare@punecorporation.org).

**11. Collector Of Pune**

As Collector and President of District Environment  
Protection Committee- Pune, Collector Office, Bund Garden  
Pune- 411001,  
Email: [rdc.pune-mh@gov.in](mailto:rdc.pune-mh@gov.in)

**12. M/s Paranjape Schemes(Construction) LTD.**

A Limited Company registered under Indian Company  
Act, 1956 with CIN : U70100MH1987PLC044721  
**Having registered office at-** 1, Somnath CTS No 988,  
Rammandir Road, Vile Parle East, Mumbai- 400057.  
**Having also office at-** "PSC House", CTS No. 111+111/2,  
Anand Colony, Near Suvarnrekha Dining Hall, Karnataka  
High School Lane, Off Prabhat Road, Erandvane, Pune- 411004

**Also Having Office At:** 'Magnolia' by Paranjape Scheme,  
**S. No.** 136/2, Baner Pashan Link Road, Village: Pashan,  
**Taluka:** Haveli, District: Pune- 411021,

**Also Having Office At:** 'Paranjape Schemes (Construction) Ltd.' Blue  
Ridge, near Cognizant, Rajiv Gandhi Infotec Park- PhaseI, Hinjawadi,  
Pune- 411057  
E-mail: [cs@pscl,inf@pscl](mailto:cs@pscl,inf@pscl)

Through its Directors  
12A. Shrikant Purushottam Paranjape Shashank,  
12B. Purushottam Paranjape  
12C. Subodh Govardhan Apte  
12D. Pratibha Gurudatta Deshpande  
12E. Padma Ganesh Gokhale  
12F. Sudhir Bhimsingh Kadam

**....Respondents****Counsel for Applicants :**

Applicant in- person along with Mr. Vijay Mhaske, Advocate

**Counsel for Respondent(s):**

Mr. Rahul Garg, Advocate for R-1/MoEF&CC & R-9 & 10/PMC

Mr. Aniruddha Kulkarni, Standing Advocate for R-3/Envtt. Deptt, R-4/ SEIAA & R-5/SEAC-III

Ms. Manasi Joshi, Advocate for R-6 & 7/MPCB

Mr. R. B. Mahabal along –with Mr. Sachin S. Gore, Advocate for R-12/PP

**PRESENT:**

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

**Reserved on : 24.04.2023**

**Pronounced on : 08.05.2023**

**JUDGMENT**

1. This Application has been filed under Section 14,15,18 and 20 of the NGT Act, 2010 with the prayers that a direction be issued to Respondents to demolish the illegal structures at site at Survey No. 136/2, Baner-Pashan Link Road, Village: Pashan, Taluka: Haveli, District: Pune and restore the same to its original position; direct Respondent No.12/PP to deposit heavy environmental compensation on the principle of sustainable development and 'polluter pays'; the exemplary damages be levied from the Respondent No.12/PP on account of non developing 10% landscape area as per norms, non plantation of 189 trees and also for concretization of marginal spaces, open spaces, damage to ground level; all the benefits arising out of above project including FSI & TDR etc., be forfeited by Respondent No.9/PMC; the Respondent No.4/SEIAA, Respondent No.6 & 7/MPCB be directed to initiate prosecution against the Project Proponent; the license of the Respondent No.8/ M/S Mahabal Enviro Engineers Private Limited be cancelled permanently for misleading the SEAC-III & SEIAA; the Respondent No.9/Commissioner PMC be directed to initiate action against



Respondent No.10/Mr. Prashant Waghmare, City Engineer for allowing illegal construction and damages be recovered from salary.

2. The brief facts of this case as submitted by the Applicant, are as follows:

a) The Respondent No.12/M/s Paranjape Schemes (Construction) Ltd.,(PP) has carried out illegal building construction by the name “Magnoli” at Survey No. 136/2, on Baner Pashan Link Road, Village- Pashan, Taluka- Haveli, District Pune while making gross intentional violation of terms and conditions of Environment Clearances (EC) dated 25.06.2007 & 20.09.2019 as well as Consents to Establish dated 02.12.2009 & 17.12.2019 and Consents to Operate dated 02.08.2010 & 09.11.2015. The said project is residential & commercial building in area admeasuring of 17400 sq. mtrs. The details of the actual construction at the site in violation of the EC are as follows:

| Description             | EC<br>25.06.2007                                                                                                | EC<br>20.09.2019     | Completed                                                                  | On Going               | Total Net               |
|-------------------------|-----------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------|------------------------|-------------------------|
| Plot Area               | 17400 M <sup>2</sup>                                                                                            | 17400 M <sup>2</sup> | 11220.77<br>M <sup>2</sup>                                                 | 1578.519M <sup>2</sup> | 12799 M <sup>2</sup>    |
| Total BUA               | 22592.86M <sup>2</sup>                                                                                          | 36756 M <sup>2</sup> | 44053.49M <sup>2</sup>                                                     | 4722.52 M <sup>2</sup> | 48776.01M <sup>2</sup>  |
| Total Water Requirement | 190 CMD                                                                                                         | 35 CMD               | Ground Water extraction from Bore well                                     |                        | 225 CMD                 |
| Total Waste Water       | 152 CMD                                                                                                         | 33 CMD               | No treatment                                                               |                        | 185 CMD                 |
| STP Capacity            | 160 CMD                                                                                                         | 35 CMD               |                                                                            |                        | 195 CMD                 |
| Total Solid Waste       | 540KGPd                                                                                                         | 155 KGPd             | Waste is thrown to PMC dump yard, No Compost pit for Wet Garbage treatment |                        | 595KGPd                 |
| Degradable Waste        | Compost                                                                                                         | Compost              |                                                                            |                        | No Compost pit at site. |
| Condition of EC dated   | “6. In the case of any change(s) in the project, the project would require a fresh appraisal by this Ministry.” |                      |                                                                            |                        |                         |

|                                  |                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25.06.2007                       | PP has carried out the construction of 44053.49M <sup>2</sup> against the total BUA of 22592.86 M <sup>2</sup> permitted in EC dated 25.06.2007.                                                                                                                                                                                                                                              |
| Condition of EC dated 20.09.2019 | “XLVI. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Department.”<br><br>PP has procured the revalidation and amendment in EC on 20.09.2019 from SEIAA and suppressed the actual construction of 44053.49 M <sup>2</sup> & proposed BUA of 4722.52 M <sup>2</sup> having total BUA of project will be 48776.01 M <sup>2</sup> |

b) The actual construction carried out at the site in violation of Consent to Establish is as follows:

| Description             | CTE<br>02.12.2009 | CTE<br>17.12.2019 | TOTAL                             |
|-------------------------|-------------------|-------------------|-----------------------------------|
| Plot Area               | 17400             | 17400             | 12799 M <sup>2</sup>              |
| Total BUA               | 22592.86          | 36756             | <b>44053.49<br/>M<sup>2</sup></b> |
| Total Water Requirement | 190               | 35 CMD            | 225 CMD                           |
| Total Waste Water       | <b>152</b>        | <b>33</b> CMD     | 185 CMD                           |
| STP Capacity            | 80%               | 35 CMD            | 195 CMD                           |
| Total Solid Waste       | 540 KGPD          | 155 KGPD          | 595 KGPD                          |
| Degradable Waste        | Composting        | OWC               | No Compost Pit /<br>OWC at site   |

c) The actual construction carried out at site in violation of Consent to Operate is as follows :

| Description             | CTO<br>02.08.2010 | CTO<br>09.11.2015 | Total                                                                              |
|-------------------------|-------------------|-------------------|------------------------------------------------------------------------------------|
| Validity                | <b>31.12.2011</b> | <b>31.12.2016</b> | <b>No CTO for<br/>01.01.2012 to<br/>08.11.2015 and<br/>01.01.2017 to till date</b> |
| Plot Area               | 17400             | 17400             | Net Plot: 12799 M <sup>2</sup>                                                     |
| Total BUA               | 22592.86          | 22592.86          | 44053.49M <sup>2</sup>                                                             |
| Total Water Requirement | 190 CMD           | 190 CMD           | Extraction of ground water                                                         |
| Total Waste Water       | 152 CMD           | 152 CMD           | Waste water is more                                                                |
| STP Capacity            | 80 %              | 160 CMD           | STP is not in operation                                                            |

|                             |                                                                                                                                                                                                                            |          |                                 |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---------------------------------|
| Total Solid Waste           | 540 KGPD                                                                                                                                                                                                                   | 540 KGPD | Direct dumping to PMC Dump yard |
| Degradable Waste            | Composting                                                                                                                                                                                                                 | OWC      | No compost Pit/ OWC at site     |
| Condition in CTO 09.11.2015 | “9. Project Proponent shall install Organic Waste Converter within 3 months if fails to provide the OWC within stipulated time period then this consent shall be treated as canceled”. PP has not installed OWC till date. |          |                                 |

- d) Total completed BUA of project as on the date of filing of this application is more than 44053.49 Sq.mtrs. comprising of 4 residential building, 238 flats against the permissible BUA of 22592.86 Sq. Mtrs. in Environment Clearance (EC) dated 25.06.2007, which is substantial increase in the scope of the project. The Project Proponent procured the ex-post facto Environment Clearance dated 20.09.2019 for total BUA of 36756 Sq. Mtrs. for expansion of one additional commercial building and suppressing the fact that actual total completed BUA of project till that time was more than 44053.49 sq. mtrs.
- e) Total BUA of the Project is more than 48776.01 Sq. Mtrs. (Existing 44053.49 M<sup>2</sup> + Proposed- 4722.52 M<sup>2</sup>) and this amounts to violation of terms and conditions of Environment Clearance (EC) dated 25.06.2007 & 20.09.2019 and above mentioned Consents to Establish and Consents to Operate.
- f) The Respondent No.12/PP has carried out illegal construction of more than 21460.63 Sq.Mtrs in violation of terms and conditions of Environment Clearance, Consent to Establish and Consent to Operate.
- g) SEAC-III & SEIAA have not explained the revalidation of Environment Clearance (EC) dated 25.06.2007 after expiry of validity of EC on 24.06.2012. The Project Proponent has operated project without

Consent to Operate from 01.01.2012 to 08.11.2015 and 01.01.2017 till date.

- h) The Respondent No.12/PP did not install OWC within three months from Consent to Operate dated 08.11.2015, as per condition No.9 of the said Consent.
- i) The Respondent No.12/PP is extracting huge quantity of ground water from two bore wells without any permission from competent authority for construction of project as well as domestic use of occupied part. The composting pits shown in half yearly Compliance Report dated 10.01.2019, photographs of which are annexed, show that those are bogus. The said report also shows that there was no “Rain Water Harvesting” at the project site. The “Plantation” is also totally bogus as per the photographs.
- j) The Ambient Air Quality Monitoring, Noise Level, Water Sample Analysis (Drinking & Bore Well), Stack Emission and Effluent Analysis etc. from June-2018 to September-2018 are false. No test has been conducted of underground water contamination.
- k) The Respondent No.12/PP has not provided Solid Waste Management System like OWS / Compost pits and waste generated is dumped in Pune Municipal Corporation (PMC) waste yard creating burden on public systems. Solid waste is generating various greenhouse gases and there is no scientific disposal of the solid waste generated from project.
- l) The Respondent No.12/PP has provided swimming tank giving additional burden on the ground water consumption. The Project Proponent has not provided fire and safety system. The Project Proponent has not provided the ramp slope in the ratio of 1:10. The Project Proponent has not provided side margin as per the DC Rules. It has not provided mandatory 15 % amenity spaces under DC Rules.

- m) The damage which has been caused to Environment and Ecology have been quantified at Rs. 200 Crores which should be levied from the Project Proponent.
- n) The Environmental Clearance (EC) which has been granted to the Project Proponent mentions of grant of EC under EIA Notification 2004. But it seems that the same is erroneous as the Environment Clearance has been granted after publication of EIA Notification 2006, which came into force with effect from 14.09.2006.
- o) The Project Proponent has procured prior Environment Clearance dated 25.06.2007 from MoEF showing the total built up area as 22,592.86 Sq.mtr, total water requirement will be 190 cu.m/day. Total wastewater generation is 152 cu.m/day. The wastewater would be treated in a STP, having capacity of 160 cu.m per day. The total solid waste generated would be 540 kg/day. The bio-degradable waste would be composted and inert material would be disposed of for land filling.
- p) It is further submitted that, as per the condition No. 6 of the said EC, it was mandatory for the Project Proponent to go for fresh appraisal from the Ministry as it contains change in scope of the project, which was not done.
- q) The Project Proponent has filed an application on 10.07.2018 before SEIAA for expansion of project by seeking amendment in the EC dated 25.06.2007 wherein area statement disclosed is given as follow:

| <b>Details</b>  | <b>Existing as per EC</b> | <b>Proposed Expansion</b> | <b>Total</b> | <b>Unit</b>    |
|-----------------|---------------------------|---------------------------|--------------|----------------|
| Total plot area | 17,400                    | 0                         | 17,400       | M <sup>2</sup> |
| Total deduction | Not mentioned             | 4601                      | 4601         | M <sup>2</sup> |

|                         |               |       |       |                |
|-------------------------|---------------|-------|-------|----------------|
| Net Plot area           | Not mentioned | 12799 | 12799 | M <sup>2</sup> |
| FSI                     | Not mentioned | 2471  | 25064 | M <sup>2</sup> |
| Non FSI                 | Not mentioned | 4116  | 4116  | M <sup>2</sup> |
| Total Construction area | 22,593        | 6587  | 29180 | M <sup>2</sup> |

- r) Referring to the above chart, it is further submitted that the said statement is totally false and baseless as compared to the sanctioned plans of PMC, SEAC-II & SEIAA minutes. It is further reiterated that the Project Proponent has carried out the construction of 44053.49 Sq.Mtrs. and has undertaken expansion of 4722.52 Sq. Mtrs, having total BUA of the Project 48776.01 Sq. Mtrs., therefore the Project Proponent has carried out the construction beyond permissible limit under EC dated 25.06.2007.
- s) The expansion of the project is considered by SEAC -III in its 80<sup>th</sup> Meeting held on 15.01.2019 and 90<sup>th</sup> SEAC-III meeting held on 10.07.2019, wherein Project Proponent made false submission regarding total BUA of the project and the same were recorded in the minutes of meeting as shown below:

|                                                        |                                                                                                                                                                   |
|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>18(a). Proposed Built-up Area (FSI&amp;Non-FSI)</b> | <b>a.</b> FSI area (sq.m): 25,064 m <sup>2</sup><br><b>b.</b> Non FSI area (sq.m): 11,692 m <sup>2</sup><br><b>c.</b> Total BUA area (sq.m): 36756 m <sup>2</sup> |
| <b>18 (b). Approved Built up area as per DCR</b>       | Approved FSI area (sq.m):-<br>Approved Non FSI area (sq.m):-<br>Date of Approval : 10.10.2018                                                                     |
| <b>43. Green Belt Development</b>                      | Total RG area: 1,461 m <sup>2</sup><br>Number of trees to be planted: 184 Nos. (planted at site)<br>Timeline for completion                                       |

|                                                      |                                                                                                                                                                                                                                                                |
|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                      | Plantation: completed.                                                                                                                                                                                                                                         |
| <b>36. Solid Waste Management</b>                    | Disposal of the construction waste debris: Top soil will be used for landscaping.<br>Mode of Disposal of waste: Dry garbage will be segregated and will be handed over to recycler.<br>Wet waste will be composted and used as organic manure for landscaping. |
| <b>48. Energy saving by non-conventional method:</b> | 1. Installation of Solar PV panels at 1% of Demand load.                                                                                                                                                                                                       |

- t) By above information, it is submitted that the Project Proponent has suppressed the information regarding existing environmental infrastructure as well as the total BUA of the construction already carried out and proposed BUA.
- u) Layout and building plan are sanctioned by PMC in illegal manner to overcome the violation of Environment Clearance and consents. To clarify, the details of the same are given below :

| Sr. No. | Total BUA of Project as per PMC sanction Vide No. CC/0395/19 dated 17.05.2019 |                                |                                |                                       |
|---------|-------------------------------------------------------------------------------|--------------------------------|--------------------------------|---------------------------------------|
|         | Particular                                                                    | Existing BUA (M <sup>2</sup> ) | Proposed BUA (M <sup>2</sup> ) | <b>Sub-total Area (M<sup>2</sup>)</b> |
| 1       | FSI                                                                           | 20974.93                       | 2801.15                        | <b>23776.08</b>                       |
| 2       | Balcony                                                                       | 3173.58                        | 420.17                         | <b>3593.75</b>                        |
| 3       | Passage                                                                       | 1894.04                        | 0                              | <b>1894.04</b>                        |
| 4       | Lobby                                                                         | 193.95                         | 0                              | <b>193.95</b>                         |
| 5       | Staircase                                                                     | 521.73                         | 109.31                         | <b>631.04</b>                         |
| 6       | Fire Staircase                                                                | 0                              | 171.82                         | <b>171.82</b>                         |
| 7       | Lift Duct                                                                     | 28.88                          | 6.07                           | <b>34.95</b>                          |

|     |                   |          |         |          |
|-----|-------------------|----------|---------|----------|
| 8   | Lift M.<br>Room   | 108.72   | 31.50   | 140.22   |
| 9   | Terrace           | 4828.20  | 0       | 4828.2   |
| 10  | Parking<br>Area   | 12110.31 | 1182.50 | 13292.81 |
| 11  | Club House        | 219.15   | 0       | 219.15   |
|     |                   |          |         |          |
| 12  | Total BUA         | 44053.49 | 4722.52 | 48776.01 |
|     |                   |          |         |          |
| 13. | No of<br>building | 4        | 1       | 5        |
| 14  | No of Flats       | 238      | 0       | 238      |
| 15  | No of Shops       | 0        | 22      | 22       |
| 16. | No of Offices     | 0        | 33      | 33       |

- v) The construction is recurring activity as it increases the scope of the project from excavation to the full potential construction, therefore it is apparent that the Project Proponent has committed the violation of EIA Notification-2006.
- w) In the Minutes of SEIAA in its 174<sup>th</sup> meeting held on 29.08.2019 following is recorded, which amounts to suppression of actual BUA:

|                                             |                                                                                                                                                       |
|---------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18(a). Proposed Built-up Area (FSI&Non-FSI) | a. FSI area (sq.m): 25,064 m <sup>2</sup><br>b. Non FSI area (sq.m): 11,692 m <sup>2</sup><br>c. Total BUA area (sq.m): 36756 m <sup>2</sup>          |
| 18 (b). Approved Built up area as per DCR   | Approved FSI area (sq.m):-<br>Approved Non FSI area (sq.m):-<br>Date of Approval : 10.10.2018                                                         |
| 43. Green Belt Development                  | Total RG area: 1,461 m <sup>2</sup><br>Number of trees to be planted: 184 Nos. (planted at site)<br>Timeline for completion<br>Plantation: completed. |
| 36. Solid Waste                             | Disposal of the construction waste                                                                                                                    |



|                                                      |                                                                                                                                                                                                                             |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Management</b>                                    | debris: Top soil will be used for landscaping.<br>Mode of Disposal of waste: Dry garbage will be segregated and will be handed over to recycler.<br>Wet waste will be composted and used as organic manure for landscaping. |
| <b>48. Energy saving by non-conventional method:</b> | 1. Installation of Solar PV panels at 1% of Demand load.                                                                                                                                                                    |

- x) The facts from the table make it clear that the Project Proponent has suppressed the information regarding existing environmental infrastructure as well as the total BUA. The SEIAA did not apply its mind on expiry of old EC dated 25.06.2007 after five years i.e. on 24.06.2012. The PMC has also sanctioned plan dated 12.05.2019 which shows clearly that the total BUA of the project is more than 22592.86 Sq.Mtrs. Therefore, there is intentional negligence by SEIAA members while adopting recommendation of the SEAC-III and decided to grant EC.
- y) The grant of EC dated 20.09.2019, therefore, stands in the category of *Ex-post facto*, for which there is no provision under EIA Notification 2006.
- z) Therefore, the Applicant has raised substantial question relating to environment in the present application which has been moved within five years from the date on which cause of action first arose on 17.12.2019, when the Project Proponent procured the Consent to Establish and initiated construction for expansion. The Applicant has filed application within six months from said date excluding the period from 23.03.2020 to 08.06.2020 of Lockdown due to COVID-19, exempted by the judgment of the Hon'ble Apex Court.

3. The matter was first taken up by our predecessor Bench on 06.07.2021 and only Joint Committee was directed to be constituted comprising of four members, i.e. CPCB, SEIAA Maharashtra, District Magistrate, Pune and State PCB with direction to the Committee to submit an action taken report before the next date, pursuant to which the Joint Committee submitted its report. The following is the extract of the said report which is being found relevant:

### **3.0 Observations and findings**

*Based on the preliminary information received from various organisations, and followed by site inspection to assess the various violations mentioned in the aforesaid Hon`ble NGT Order, the observations & findings of the joint committee are given as below:*

#### **A. Observations w.r.t Environmental Clearance (EC) and violations thereto, if any**

*The project proponent i.e. M/s Paranjape Schemes (Construction) Ltd., has been granted EC by Ministry of Environment and Forests (IA Division) vide dated 25/06/2007 for the total plot area of 17,400 sq-m and total built-up area of 22,592.86 sq-m for developing housing project - "Magnolia" at Survey No. 136/2 on Baner Pashan Link Road, Village Pashan, Taluka Haveli, District Pune, Maharashtra stipulating Layout Sanction details granted by PMC vide no. DPO/2795/IV/322, dated 04/07/2006 for total plot area of 17,400 sq-m and total potential FSI with TDR of 20,101.5 sq-m wherein building no. A, B, C & D was sanctioned.*

*As per the information provided by PMC vide letter dated 09/02/2022 (Copy of PMC letter dated 09/02/2022 is given at **Annexure-II**), subsequent to the said EC, the PP has obtained first building plan sanctioned vide commencement certificate no. CC/1325/06, dated 12/07/2006 granted by PMC for FSI of 8,975.082 sq-m. However, it is inferred that the PP has not obtained any*

*Plinth Check Certificate based on the aforesaid building sanctioned plan dated 12/07/2006. The PP has obtained first Plinth Check Certificate (part-1) vide no. BCO/6/PC, dated 25/05/2007 for Building no. A & D and part-2 Plinth Check Certificate has obtained vide no. BCO/6/PC/10, dated 06/05/2008 for building no. B & C, which are as per the revised building plan sanctioned vide commencement certificate no. CC/4397/06, dated 16/03/2007 granted by PMC for FSI of 14,937.985 sq-m.*

*It is observed from the first plinth checking certificate that the PP has started the construction of the project without obtaining prior EC which is required as per S. no. 2 of the Notification no S.O. 1533 (E) dated 14/9/2006 related to the requirements of prior environmental clearance notified under the Environment (Protection) Act, 1986. (Refer s.no.2 of Table-1).*

*PP has obtained revised layout sanctioned by PMC vide commencement certificate no. DPO/IV/0437/08/466, dated 12/11/2008 with potential FSI of 23,034.755 Sq-m. Wherein, PP supposed to amend the earlier EC dated 25/06/2007; as the revised layout sanctioned by PMC dated 12/11/2008 with potential FSI of 23,034.755 Sq-m was exceeding the limit of total built-up area of 22,592.86 sq-m as per earlier EC dated 25/06/2007.*

*PP has obtained Plinth Check Certificate from PMC vide no. BPDP/Zone1/109, dated 05.11.2009 for podium of building A, B, C and D, which are as per the revised building plan sanctioned vide commencement certificate no. CC/3832/08, dated 30/03/2009 for total FSI of 21,002.28 Sq.m. Further, PP has obtained Plinth Check Certificate from PMC vide dated 15/04/2009 for club house and swimming pool in open space vide commencement certificate no. CC/3179, dated 17/01/2008 and CC/1153/09, dated 11/08/2009 for free of FSI of 209.316 sq-m.*

*PP has obtained part completion certificate from PMC vide no. Part-1 No.BPDP/ Zone1/72, dated 09/09/2009 for 233 flats in 4 buildings with 2 parking floors + 11 upper floors: A (64); B (64); C (41) and D (64). Similarly,*

*obtained completion certificate from PMC vide no. Part-2 No.BPDP/ Zone1/110, dated 05/11/2009 for remaining 05 flats. Further, PP has obtained Part 3 (Final) completion certificate from PMC vide no. BPDP/ Aundh /OC/98, dated 17/12/2009 for clubhouse & swimming pool, which are as per the aforesaid revised layout & building sanctioned plans issued by PMC.*

*Thereafter, PP has obtained revised layout from PMC vide commencement certificate no. CC/0320/19, dated 17/05/2019 for total FSI of 23,803.43 sq-m and revised building permission vide commencement certificate no. CC/0319/19, dated 17/05/2019. Accordingly, PP further obtained EC for the proposed expansion of the project vide letter dated 20/09/2019 from SEIAA, Maharashtra based on revised layout obtained from PMC plan approval no. CC/0319/19, dated 17/05/2019 for FSI of 24,274.35 sq-m, Non-FSI of 11,692 sq-m and Total BUA of 35,966.35 sq-m. Copy of the aforesaid EC dated 25/06/2007 and EC for the proposed expansion of the project dated 20/09/2019 is given at **Annexure-III**.*

*PMC vide letter dated 09/02/2022 provided the status of construction of completed building i.e. Wings-A, B, C, D and Club House, wherein it is mentioned that the total built-up area of the completed project i.e. aforesaid building is 45,132.831sq-m and mentioned that the said total built-up area is as per the definition, defined under Notification no. S.O. 695 (E) dated 04/04/2011 issued by MOEF&CC. Also, provided the current status of project under construction i.e. Wing-F (almost completed), wherein it is mentioned that the total built-up area of the project under construction i.e. aforesaid building is 3,936.719 sq-m and mentioned that the said total built-up area is as per the definition, defined under Notification no. S.O. 695 (E) dated 04/04/2011 issued by MOEF&CC.*

*From the aforesaid statement provided by PMC vide letter dated 09/02/2022 that as on dated 09/02/2022 that total built-up area in sq-m of the aforesaid project i.e. Wings-A, B, C, D, Club House and Wing-F is*

49,069.55 sq-m. As per the aforesaid PMC letter dated 09/02/2022, the total built-up area of the project is observed to be more than the sanctioned total built-up area of 35,966.35 sq-m as per EC dated 20/09/2019. Further, it is observed that present total FSI area of the project i.e. 23, 803.433 sq-m (as per the PMC letter dated 09/02/2022) is within the sanctioned FSI of 24,274.35 sq-m (as per EC dated 20/09/2019) whereas it is observed that an increase in Non-FSI area of 13,574.171 sq-m was observed (25,266.171 sq-m, as per PMC letter dated 09/02/2022 **Minus** 11,692 sq-m, as per EC dated 20/09/2019) and apparently PP has inadvertently not disclosed/mentioned the Non-FSI area (reportedly of parking & services) of 13,574.171 sq-m while making an application to obtain the recent EC for expansion of the aforesaid project. However, parking area of 12,110.314 sq-m has been mentioned in the revised building sanctioned plan vide commencement certificate no. CC/3832/08, dated 30/03/2009 and also in the revised (latest) layout sanctioned plan vide commencement certificate no. CC/0320/19, dated 17/05/2019.

As per the information provided by PMC vide letter dated 09/02/2022, subsequent to the said EC dated 20/09/2019, the PP has obtained last Plinth Check Certificate vide no. PCC/0138/21, dated 24/06/2021, which is as per the revised layout from PMC vide commencement certificate no. CC/0320/19, dated 17/05/2019 for total FSI of 23,803.43 sq-m.

During the visit on 08/12/2021, the committee observed that the project was completed & occupied except commercial building, which is almost completed. Details of EC and current status of the project as verified and provided by PMC vide letter no. Zone-6/6775, dated 09/02/2022 is given in Table No. 1.

**Table No 1: Details of EC and Current Status of the project.**

| Total Built-up area for Environmental Clearance based on revised layout sanctioned vide CC No. 0319/19, dated 17/05/2019 |        |           |                |                    |                 |                   |
|--------------------------------------------------------------------------------------------------------------------------|--------|-----------|----------------|--------------------|-----------------|-------------------|
| I. Total Built-up Area for Existing Constructed Area Wings A, B, C, D, Club House                                        |        |           |                |                    |                 |                   |
| Type of Bldg.                                                                                                            | Floors | Tenements | FSI Area, Sq-m | Non-FSI Area, Sq-m | Total BUA, Sq-m | Grand Total, Sq-m |
| Parking                                                                                                                  | LP+UP  | –         | –              | 12110.314          | 12110.314       | Constructed       |

|                                                            |        |           |                |                    |                 |                                                                    |
|------------------------------------------------------------|--------|-----------|----------------|--------------------|-----------------|--------------------------------------------------------------------|
| Wing A                                                     | 11     | 65        | 5623.093       | 2923.905           | 8547            | Building No. A, B, C & D-2009 Total Existing B/U Area = 45,132.831 |
| Wing B                                                     | 11     | 65        | 5507.734       | 2788.595           | 8296            |                                                                    |
| Wing C                                                     | 11     | 43        | 4248.365       | 2085.365           | 6334            |                                                                    |
| Wing D                                                     | 11     | 65        | 5623.091       | 2923.906           | 8547            |                                                                    |
| Club House                                                 | G+1    | –         | –              | 209.316            | 209.316         |                                                                    |
| Ramp                                                       | –      | –         | –              | 567                | 567             |                                                                    |
| MSEB                                                       | –      | –         | –              | 350                | 350             |                                                                    |
| OHWT                                                       | –      | –         | –              | 66.59              | 66.59           |                                                                    |
| UGWT                                                       | –      | –         | –              | 105.611            | 105.611         |                                                                    |
|                                                            | Total  | 238       | 21002.283      | 24130.602          | 45132.831       |                                                                    |
| II. Total Built-up Area for Under Construction Area-Wing F |        |           |                |                    |                 |                                                                    |
| Type of Bldg.                                              | Floors | Tenements | FSI Area, Sq-m | Non-FSI Area, Sq-m | Total BUA, Sq-m | Grand Total, Sq-m                                                  |
| Parking                                                    | Lower  | –         | –              | 661.71             | 661.71          | Under Constructed Building No. F-2009, Total B/U Area = 3,936.719  |
| Wing F                                                     | G+4    | 19        | 2801.15        | 324.794            | 3125.944        |                                                                    |
| STP & OWC for commercial building F                        |        | 44        |                | 43.6               | 43.6            |                                                                    |
| Ramp                                                       | –      | –         | –              | 21.86              | 21.86           |                                                                    |
| OHWT                                                       | –      | –         | –              | 34.365             | 34.365          |                                                                    |
| UGWT                                                       | –      | –         | 2801.15        | 49.24              | 49.24           |                                                                    |
|                                                            | Total  | 19        | 2801.15        | 1135.569           | 3936.719        |                                                                    |
| Total Existing +Under Constructed Built-up Area (I + II)   |        |           |                |                    |                 |                                                                    |

Details of sanctioned plans, plinth certificate and completion certificate of the project are given in Table No. 2 and Table No. 3 respectively.

Table No. 2: Details of sanctioned plans and plinth certificate of the project.

| S. No. | Building                      | Plinth Checking Certificate Date | As per Sanction plan no.                              |
|--------|-------------------------------|----------------------------------|-------------------------------------------------------|
| 1.     | Buildings A & D (Residential) | 25-05-2007                       | 4397/06, dated 16/03/2007                             |
| 2.     | Buildings B & C (Residential) | 06-05-2008                       | 4397/06, dated 16/03/2007                             |
| 3.     | Clubhouse (For A,B,C,D)       | 15-04-2009                       | 3179/07, dated 17/01/2008                             |
| 4.     | Podium for Buildings A,B,C,D  | 05-11-2009                       | 1325/06, dated 12/07/2006 & 3832/08, dated 30/03/2009 |
| 5.     | Building F (Commercial)       | 24-06-2021                       | CC/319/19, dated 12/06/2019                           |

Table No. 3: Details of completion certificate of the project.

| S. No. | Building & No. of Flats                                                                             | Completion Certificate No.            | Date       | As per Sanction plan no.                                                                     |
|--------|-----------------------------------------------------------------------------------------------------|---------------------------------------|------------|----------------------------------------------------------------------------------------------|
| 1.     | For 233 flats in 4 buildings with 2 parking floors + 11 upper floors A (64); B (64); C (41); D (64) | Part-1 No.BPDP/ Zone1/72              | 09/09/2009 | CC/1325/06, dated 12/07/2006<br>CC/4397/06, dated 16/03/2007<br>CC/3832/08, dated 30/03/2009 |
| 2.     | For 5 remaining flats in above buildings A (1); B (1); C (2); D (1)                                 | Part-2 No.BPDP/ Zone1/110             | 05/11/2009 | CC/1325/06, dated 12/07/2006<br>CC/4397/06, dated 16/03/2007<br>CC/3832/08, dated 30/03/2009 |
| 3.     | For Clubhouse & Swimming Pool                                                                       | Part 3 (Final) - No.BPDP/ Aundh/OC/98 | 17/12/2009 | CC/3179/07, dated 17/01/2008<br>CC/1553/09, dated 11/08/2009                                 |

**B. Compliance of Consent required under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981**

*PP has applied for Consent to Establish (CTE) to MPCB on 31/07/2008 and granted vide No. BO/RO(P&P)/EIC No. PN-2504-08/E/CC-454, dated 02/12/2009, which was valid till commissioning of the project or five years (02/12/2014) whichever is earlier.*

*Thereafter, PP obtained Consent To Operate (CTO) from MPCB vide No. BO/RO(P&P)/EIC No. PN-5243-10/O/CC-285, dated 02/08/2010, which was valid till 31/12/2011. Later, PP has applied for auto renewal of CTO vide application dated 16/04/2013, MPCB has informed PP about non consideration of said application on 26/07/2013 and informed to resubmit application. Accordingly, PP has applied for renewal of CTO on 11/10/2013 and granted CTO vide No. BO/RO-HQ/PN-19584-14/CR/CC-6844, dated 21/07/2014, which was valid till 31/12/2014.*

*PP has applied for renewal of CTO on 04/04/2015 and obtained CTO from MPCB vide no. Format 1.0/BO/ROHQ/PN-25079-15/CR/CC-14323, dated 09/11/2015, which was valid till 31/12/2016. Later, PP has not applied & obtained subsequent CTO from MPCB for the aforesaid residential building project till date of Hon<sup>ble</sup> NGT order dated, 06/07/2021 or till the date of joint committee visit dated 08/12/2021.*

*PP had handed over the completed portion of the project (4 Residential building A, B, C, D) to "Magnolia Apartments" by executing Deed of Declaration vide Registered Doc no. Haveli-4/9009/2009 dated*

11/12/2009. After the handover of said completed project, PP has obtained consent to operate till dated 31/12/2016 as per condition no. 2 (III) of CTO granted on 02/08/2010 by MPCB i.e. "The project proponent shall operate STP for five years from the date of Occupation certificate".

Further, during the proposed expansion of project, PP has obtained CTE, vide No. Format1.0/BO/JD (WPC)/UAN-067422/CE/CC-1912000907, dated 17/12/2019 for construction of residential & commercial project of total plot area of 17,400 sq-m for total built-up area of 35,966.35 sq-m (FSI: 24,274.35 sq.m & Non-FSI: 11,692 sq.m, as per the EC dated 20/09/2019) which is valid till the commissioning of project or five years (16/12/2024) whichever is earlier.

Point-wise observation and compliance of the alleged issues as mentioned by the applicant in the Hon'ble NGT order is depicted in the below Table-4. Some of the photographs taken during joint committee inspection dated 08/12/2021 are given at **Annexure-IV**.

**Table-4: Point-wise compliance of the alleged issues as mentioned in the Hon'ble NGT order.**

| <b>S. no.</b> | <b>Allegations of the applicant as mentioned in the Hon'ble NGT Order, dated 06/07/2021</b>                                                                                                                                                                                                                                                                                                                                                 | <b>Present status as on joint committee inspection dated 08/12/2021</b>            |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <i>a</i>      | Total completed BUA of project till today is more than 44053.49 sq. Mtrs.<br><br>Comprising 4 residential building, 238 flats against the permissible BUA of 22592.86 sq. Mtrs. in is Environmental Clearance dated 25.06.2007. This is substantial increase in the scope of the project. This is violation of the terms and conditions of the EC dated 25.06.2007.                                                                         | <b>Please refer s. no. A (including Tables-1 to 3) of paragraph 3.0, as above.</b> |
| <i>b</i>      | PP procured the ex-post facto Environment Clearance dated 20.09.2019 for total BUA of 36756 Sq. Mtrs. for expansion of one additional commercial building and suppressed actual total completed BUA of project till today is more than 44053.49 sq. Mtrs. comprising 4 residential building, 238 flats. This is substantial increase in the scope of the project. This is violation of the terms and conditions of the EC dated 20.09.2019. |                                                                                    |
| <i>c</i>      | Total BUA of the project is more than 48776.01 Sq. Mtrs. (Existing -44053.49 M2 + Proposed-4722.52 M) and this amounts to violation of terms and conditions of Environment Clearance to Establish dated 02.12.2009 & 17.12.2019 and Consent to Operate dated 02.08.2010 & 09.11.2015                                                                                                                                                        |                                                                                    |
| <i>D</i>      | PP has carried out illegal construction of                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                    |



|          |                                                                                                                                                                                                                                                                                 |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | <i>more than 21460.63 Sq. Mtrs. in violation of terms and conditions of Environment Clearance, Consent to Establish and Consent to Operate.</i>                                                                                                                                 |
| <i>e</i> | <i>PP has carried out the construction of 44053.49 M<sup>2</sup> and have undertaken expansion of 4722.52 M<sup>2</sup> having total BUA of the Project 48776.01 M<sup>2</sup> therefore PP have carried out the construction beyond permissible limits of EC and Consents.</i> |
| <i>f</i> | <i>SEAC-II &amp; SEIAA have not explained the revalidation of EC dated 25.06.2007 after expiry of validity of EC on 24.06.2012</i>                                                                                                                                              |
| <i>g</i> | <i>PP has obtained ex-post facto EC dated 20.09.2019 by suppressing actual construction total BUA.</i>                                                                                                                                                                          |

|   |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| h | <p>PP has obtained ex-post facto Consent to Establish dated 17.12.2019 by suppressing actual construction total BUA.</p> | <p>PP has applied for Consent to Establish (CTE) to MPCB on 31/07/2008 and granted vide No. BO/RO(P&amp;P)/EIC No. PN-2504-08/E/CC-454, 02/12/2009, which was valid till commissioning of the project or five years (02/12/2014) whichever is earlier. Thereafter, PP has obtained part completion certificate from PMC vide no. Part-1 No.BPDP/Zone1/72, dated 09/09/2009 for 233 flats in 4 buildings with 2 parking floors + 11 upper floors: A (64); B (64); C (41) and D (64). Similarly, obtained completion certificate from PMC vide no. Part-2 No.BPDP/Zone1/110, dated 05/11/2009 for remaining 05 flats. Further, PP has obtained Part 3 (Final) completion certificate from PMC vide no. BPDP/Aundh/OC/98, dated 17/12/2009 for clubhouse &amp; swimming pool, which are as per the aforesaid revised layout &amp; building sanctioned plans issued by PMC. Based on the above completion certificates issued by PMC, it is evident that PP has completed the project before the expiry of CTE, dated 02/12/2009.</p> <p>Further, PP has obtained CTE, vide No.Format1.0/BO/JD (WPC)/UAN-067422/CE/CC-1912000907, 17/12/2019 for construction of residential &amp; commercial project of total plot area of 17,400 sq-m for total proposed built-up area of 35,966.35 sq-m (FSI: 24,274.35 sq.m &amp; Non-FSI: 11,692 sq.m, as per EC dated</p> |
|---|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|   |                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                                                                                                                                       | 20/09/2019) which is valid till the commissioning of project or five years (16/12/2024) whichever is earlier                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| i | PP has operated project without Consent to Operate from 01.01.2012 to till 08.11.2015.                                                                | <p>PP obtained Consent To Operate (CTO) from MPCB vide No. BO/RO(P&amp;P)/EIC No. PN-5243-10/O/CC-285, dated 02/08/2010, which was valid till 31/12/2011. Later, PP has applied for auto renewal of CTO vide application dated 16/04/2013, MPCB has informed PP about non consideration of said application on 26/07/2013 and informed to resubmit application. Accordingly, PP has applied for renewal of CTO on 11/10/2013 and granted CTO vide No. BO/RO-HQ/PN-19584-14/CR/CC-6844, dated 21/07/2014, which was valid till 31/12/2014.</p> <p>PP has applied for renewal of CTO on 04/04/2015 and obtained CTO from MPCB vide no. Format 1.0/BO/ROHQ/PN-25079-15/CR/CC-14323, dated 09/11/2015, which was valid till 31/12/2016.</p> <p>Later, PP has not applied &amp; obtained subsequent CTO from MPCB for the aforesaid residential building project till date of Hon'ble NGT order dated, 06/07/2021 or till the date of joint committee visit dated 08/12/2021.</p> |
| j | PP did not installed OWC within three months from consent to operate dated 08.11.2015 as per condition no. 9 imposed by MPCB in CTO dated 08.11.2015. | <p>As per the condition under s.no. 9 of the CTO, dated 08/11/2015 (08/11/2016) PP has not installed OWC for processing of organic waste. However, as per s. no. iv of first CTO obtained by PP, dated 02/08/2010; PP has installed vermin composting for treatment of organic waste. PP has provided 28 vermicomposting pits.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|   |                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                        |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| k | PP is extracting huge quantity of ground water from two have wells without any permission from competitive authority for construction of project as well as domestic use of occupied part and                                                                                | The PP has not commissioned bore well within the project site. Water supply during operation phase of the project is being met through PMC and PP has obtained NOC from PMC vide letter dated 15/10/2007 for the same.                                                                                                                                                                                 |
| l | Half-yearly Compliance report dated 10.01.2019 having Photograph of “Solid Waste Management” system at internal Page-33 showing composting pits is totally bogus photographs and having no concern with this project site.                                                   | <b>Please refer s. no. j of the Table-4, asabove.</b>                                                                                                                                                                                                                                                                                                                                                  |
| m | Half-yearly Compliance report dated 10.01.2019 having Photograph of “Rain Water Harvesting” system at internal Page-33 showing rain water outlets from terrace is clearly showing that there is no rain water harvesting at project site and this photographs is misleading. | It is observed that the PP is submitting Half-yearly environmental compliance reports to MoEF&CC. Violations/non- compliances if any; with the conditions of EC to be dealt appropriately by MoEF&CC. Further, it is observed that the PP has installed rain water harvesting system.                                                                                                                  |
| n | Half-yearly Compliance report dated 10.01.2019 having Photograph of “Plantation” system at internal Page-34 Showing plantation is totally bogus photographs and having no concern with this project site.                                                                    | It is observed that the PP is submitting Half-yearly environmental compliance reports to MoEF&CC. Violations/non- compliances if any; with the conditions of EC to be dealt appropriately by MoEF&CC. Further, it is observed that the PP has obtained NOC dated 05/10/2009 from the Tree Authority of PMC and it is mentioned that total 184 no. of trees are planted and preserved in existing site. |
| o | Reports on Ambient Air Quality Monitoring, Noise Level, Water Sample Analysis (Drinking & Bore Well), Stack Emission and Effluent Analysis etc. from June-2018 to September -2018 are false and bogus and prepared withoutcollecting samples.                                | It is observed that the PP is submitting Half-yearly environmental compliance reports w.r.t. ambient air quality monitoring, noise level, water sample analysis (drinking & bore well), stack emission and effluent analysis etc. to MoEF&CC. Violations/non- compliances if any; with the conditions of EC to be dealt appropriately by MoEF&CC.                                                      |
| p | Half-yearly compliance report dated 10.01.2019 is nothing but the compromised statement to overcome the illegality & violations committed by PP. Therefore PP has played fraud and cheating on Authority.                                                                    | It is observed that the PP is submitting Half-yearly environmental compliance reports to MoEF&CC. Violations/non- compliances if any; with the conditions of EC to be dealt appropriately by MoEF&CC.                                                                                                                                                                                                  |

|   |                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| q | PP has not made any test for ground water contamination and quality of water and there is serious ground water contamination.                                                                                                                                                                       | As per the Half-yearly environmental compliance report of April to September, 2021 dated 30/11/2021 the PP has carried- out ground water monitoring of surrounding area of the project site through M/s Mahabal Enviro Engineers Pvt. Ltd., - Engineers, Consultants, Environmental Monitoring Laboratory & Contractors.                                                                                                                                                                                                                                                                                                                                                          |
| r | PP has not provided any solid waste management system like OWS/Compost pits and waste generated is dumped to PMC waste yard creating burden on public systems and solid waste is generating various greenhouse gases and there is no scientific disposal of the solid waste generated from project. | <b>Please refer s. no. j of the Table-4, as above.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| s | PP has done concretization of marginal spaces, open spaces                                                                                                                                                                                                                                          | <b>Please refer s. no. w &amp; of the Table-4, as below.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| t | PP has used traditional clay bricks and PP has not used any scientific construction method.                                                                                                                                                                                                         | It is observed that the PP has completed the project as per the EC dated 25/06/2007 and obtained completion certificates vide no. Part-1 No. BPDP/ Zone1/72, dated 09/09/2009; Part-2 No. BPDP/ Zone1/110, dated 05/1/2009 and Part 3 (Final) - No. BPDP/ Aundh/OC/98, dated 17/12/2009 respectively. Since the said project is completed during 2009 as per EC dated 25/06/2007 the joint committee is unable to offer comments in this regard. However, as per the information submitted by PP, traditional clay bricks have not used in the project instead they have used fly Ash bricks. Whereas for the on-going commercial building project PP is using AAC cement blocks. |
| u | PP has not installed solar system for energy conservation system.                                                                                                                                                                                                                                   | As per the condition no. xv of EC dated 25/06/2007 and s. no. 35 of EC dated 20/09/2019, PP has installed solar panels for conservation of energy. Reportedly, about total 88 nos. of solar panels are installed on building terrace to generate approx. 28 KW of energy which is used for lighting of common utilities.                                                                                                                                                                                                                                                                                                                                                          |
| v | PP has not provided any rain water harvesting system for ground water recharge.                                                                                                                                                                                                                     | <b>Please refer s. no. m of the Table-4, as above.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|   |                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| w | PP has not developed 10% recreational open space as per norms and PP has not made tree plantation of 189 trees as per the norms. PP has made illegal treecutting. | It is observed that PP has provided recreational open space in accordance with the approved sanction plans. As per the information provided by PMC vide letter dated 09/02/2022, PP has obtained NOC from the Tree Authority vide no. 3160, dated 05/10/2009 wherein it is mentioned that 184 no. of trees are planted at the project site. In addition to this, PP has planted additional 9 no. of trees as per NOC issued by Tree Authority vide no. 8344, dated 27/12/2018.                                                              |
| x | PP has not preserved top layer of fertile soil and there is no X. soil test for contamination.                                                                    | It is observed that the PP has completed the project as per the EC dated 25/06/2007 and obtained completion certificate vide no. Part-1 No. BPDP/Zone1/72, dated 09/09/2009; Part-2 No. BPDP/Zone1/110, dated 05/1/2009 and Part 3 (Final) - No. BPDP/Aundh/OC/98, dated 17/12/2009 respectively. Since the said project is completed during 2009 as per EC dated 25/06/2007 and also the construction of present project as per EC dated 20/09/2019 is in completion stage the joint committee is unable to offer comments in this regard. |
| y | PP has provided swimming tank giving additional burden on the ground water consumption.                                                                           | PP has provided swimming pool as per PMC approval and obtained completion certificate vide no. Part 3 (Final) - No. BPDP/Aundh/OC/98, dated 17/12/2009, which is as per building sanctioned plans no. CC/3179/07, dated 17/01/2008 and CC/1553/09, dated 11/08/2009.                                                                                                                                                                                                                                                                        |
| z | Huge quantity of sewage water is generated and there is no scientific treatment of sewage water in STP. It is just scrape skeleton.                               | As per the EC dated 25/06/2007, total wastewater generation from the said project is 152 m <sup>3</sup> /day. Accordingly, PP has provided STP of reported design capacity of 160 m <sup>3</sup> /day consisting of MBBR technology and also provided tertiary treatment facility with chlorination. During joint committee inspection, all the treatment units of STP were found in operation. As per conditions of CTO, treated wastewater                                                                                                |

|     |                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                                                                            | is being used for gardening and flushing purpose. As informed, M/s Magnolia Apartment Society is operating the aforesaid STP. MPCB collected JVS sample (treated effluent sample) from the final outlet of STP on 09/12/2021 and analysed for consented parameters. It is observed from the analysis results that concentration of BOD: (44 > 30 mg/L) and COD: (112 > 100 mg/L) is found to be exceeding the prescribed discharge standards meant for reusing. |
| aa  | PP is creating huge burden on the environment due to day to day waste generation by consumption of natural resources and it is causing huge burden on the public facilities and services on account of environment damage. | Please refer s. no. j of the Table-4, as above.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| bb  | PP has committed the illegal activities and given rise to the violation of environmental protection enactments and further caused degradation of environment & ecology intentionally.                                      | Please refer s. no. a to z of the Table-4, as above.                                                                                                                                                                                                                                                                                                                                                                                                            |
| cc  | PP has not complied with the conditions of commencement certificate related to the installation of environment infrastructure to avoid the degradation.                                                                    | Please refer s. no. j, m, u & z of the Table-4, as above.                                                                                                                                                                                                                                                                                                                                                                                                       |
| dd  | PP has not provided fire and safety system at site and there is no approach road for fire engine.                                                                                                                          | PP has provided fire hydrant system and also obtained NOC from fire department vide no. FB/1063 dated 18/07/2009.                                                                                                                                                                                                                                                                                                                                               |
| ee  | PP has not provided the ramp slope in the ratio of 1:10                                                                                                                                                                    | As per the information provided by PMC vide letter dated 09/02/2022 PP has provided slope in the ratio of 1:8, is permissible for vehicles in terms of section 9.12.2 in the UDCPR 2020. Further mentioned that all the ramps existing at project site are as per sanctioned layout plan with a minimum slope 1:10 or above.                                                                                                                                    |
| ff  | PP has not provided site margin as per the DC Rules                                                                                                                                                                        | As per the information provided by PMC that site margin at project site is provided as per aforesaid sanctioned layout plans mentioned in S. No. A of Paragraph 3.0 as above.                                                                                                                                                                                                                                                                                   |
| gg. | PP has not provided mandatory 15% Amenity space under DC Rules of PMC                                                                                                                                                      | As per the information provided by PMC that the provision of amenity space is not applicable for the said project. As the said land comes under industrial (Brick Klin) zone. The provisions for residential development in such industrial zones (specifically                                                                                                                                                                                                 |

|  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <p>for brick klin zone) as per the DCR rules (Appendix R-7 : Modifications under Government Gazette, dated 5<sup>th</sup> January, 1987) of the DC Rules, It is stated that – Appendix R-7 Serial No.11 ( Page 246)-“ In according with the sanctioned Regional Plan of Pune it has been devised as a policy to reduce industrial acreage in Pune Metropolitan Region. In view of this owners of all the lands in industrial zone including Brick Clin zone shall be allowed to develop such lands for residential uses if they so desire. The Municipal Commissioner shall independently entertain development permission for residential use for such lands”. Accordingly, the PP has paid total amount of Rs. 43,83,300/- (Rs.300/sq-m) on 20.07.2006 in lieu of provision of amenity space.</p> |
|--|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### **a. Conclusions**

- i. PP has obtained first Plinth Check Certificate (part-1) vide no. BCO/6/PC, dated 25/05/2007 for Building no. A & D and part-2 Plinth Check Certificate has obtained vide no. BCO/6/PC/10, dated 06/05/2008 for building no. B & C, which are as per the revised building plan sanctioned vide commencement certificate no. CC/4397/06, dated 16/03/2007 granted by PMC for FSI of 14,937.985 sq-m. It is observed from the aforesaid first plinth checking certificates that PP has started the construction of the project without obtaining prior EC which is required as per S. no. 2 of the Notification no S.O. 1533 (E) dated 14/9/2006 related to the requirements of prior environmental clearance notified under the Environment (Protection) Act, 1986.
- ii. PP has obtained revised layout sanctioned by PMC vide commencement certificate no. DPO/IV/0437/08/466, dated 12/11/2008 with potential FSI of 23,034.755 Sq-m. However, PP has not obtained amendment of earlier EC dated 25/06/2007; as the revised layout sanctioned by PMC, dated 12/11/2008 with potential FSI of 23,034.755 Sq-m was exceeding the limit of total built-up area of 22,592.86 sq-m as per the earlier EC dated 25/06/2007.
- iii. As per the statement provided by PMC vide letter dated 09/02/2022 that as on dated 09/02/2022 total built-up area in sq-m of the aforesaid project i.e. Wings-A, B, C, D, Club House and Wing-F is 49,069.55 sq-m. As per the aforesaid PMC letter dated 09/02/2022, the total built-up area of the project is observed to be more than the sanctioned total built-up area of 35,966.35 sq-m as per



EC dated 20/09/2019.

Further, it is observed that present total FSI area of the project i.e. 23, 803.433 sq-m (as per the PMC letter dated 09/02/2022) is within the sanctioned FSI of 24,274.35 sq-m (as per EC dated 20/09/2019) whereas it is observed that an increase in Non-FSI area of 13,574.171 sq-m was observed (25,266.171 sq-m, as per PMC letter dated 09/02/2022 **Minus** 11,692 sq-m, as per EC dated 20/09/2019) and apparently PP has not disclosed/mentioned the Non-FSI area (reportedly of parking & services) of 13,574.171 sq-m while making an application to obtain the recent EC for expansion of the aforesaid project. However, parking area of 12,110.314 sq-m has been mentioned in the revised building sanctioned plan vide commencement certificate no. CC/3832/08, dated 30/03/2009 and also in the revised (latest) layout sanctioned plan vide commencement certificate no. CC/0320/19, dated 17/05/2019.

- iv. PP has obtained Consent to Establish (CTE) from MPCB vide No. BO/RO(P&P)/EIC No. PN-2504-08/E/CC-454, dated 02/12/2009, which was valid till commissioning of the project or five years (02/12/2014) whichever is earlier. Thereafter, PP has obtained part completion certificate from PMC vide no. Part-1 No.BPDP/ Zone1/72, dated 09/09/2009 for 233 flats in 4 buildings with 2 parking floors + 11 upper floors: A (64); B (64); C (41) and D (64). Similarly, obtained completion certificate from PMC vide no. Part-2 No.BPDP/ Zone1/110, dated 05/11/2009 for remaining 05 flats, which are as per the aforesaid revised layout & building sanctioned plans issued by PMC (Kindly refer s. no. A of paragraph 3, as above). Based on the above completion certificates issued by PMC, it is evident that PP has completed the project before obtaining the CTE, dated 02/12/2009 from MPCB.
- v. PP obtained Consent To Operate (CTO) from MPCB vide No. BO/RO(P&P)/EIC No. PN-5243-10/O/CC-285, dated 02/08/2010, which was valid till 31/12/2011. Later, PP has applied for auto renewal of CTO vide application dated 16/04/2013, MPCB has informed PP about non consideration of said application on 26/07/2013 and informed to resubmit application. Accordingly, PP has applied for renewal of CTO on 11/10/2013 and granted CTO vide No. BO/RO-HQ/PN- 19584-14/CR/CC-6844, dated 21/07/2014, which was valid till 31/12/2014. PP has applied for renewal of CTO on 04/04/2015 and obtained CTO from MPCB vide no. Format 1.0/BO/ROHQ/PN-25079-15/CR/CC-14323, dated 09/11/2015, which was valid till 31/12/2016. Later, PP has not applied & obtained subsequent CTO from MPCB for the aforesaid residential building project till date of Hon<sup>ble</sup> NGT order dated, 06/07/2021 or till the date of joint committee visit dated 08/12/2021.

Whereas, it is observed that PP had handed over the completed portion of the project (4 Residential building A, B, C, D) to “Magnolia Apartments” by executing Deed of Declaration vide Registered Doc no. Haveli-4/9009/2009 dated 11/12/2009. Further, as per the aforesaid “Deed of Declaration”, page no. 11 under s. no. 1) common areas and facilities to the Magnolia apartments, it is mentioned that “The office bearers/elected committee members shall be responsible for renewal of the said No object Certificates, Licenses, certificates timely, repairs and maintenance of all common amenities...”.

It is observed that after handing over of the said completed project, PP has renewed CTO from time to time (with gaps of few years) till dated 31/12/2016, as per condition no. 2 (III) of CTO granted on 02/08/2010 by MPCB i.e. “The project proponent shall operate STP for five years from the date of Occupation certificate”. However, the joint committee opined that though the PP has made “Deed of Declaration” and mentioned that necessary renewals shall be done by the office bearers/elected committee members. However, the project proponent name, various licenses & clearances (viz. environmental clearance, CTO etc.) in the name of M/s Paranjape Schemes (Construction) Ltd., Pune have not yet been transferred in the name of “Magnolia Apartments”. Also, presently (as per expansion EC dated 20/09/2019), the PP is utilizing additional FSI of whole plot area and for which the PP has applied for CTE to MPCB on 17/12/2019 for expansion of residential & commercial project of total plot area of 17,400 sq-m for total proposed built-up area of 35,966.35 sq-m (FSI: 24,274.35 sq.m & Non- FSI: 11,692 sq.m). Hence, the earlier project including the expanded project may be treated in a holistic manner rather treating as a separate component.

#### **5.0 Approach for penalty and remedial measures for prior environmental clearance (EC) violation**

Hon'ble NGT in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24/05/2021 has directed that "...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country".

In compliance to the aforesaid directions of the Hon'ble NGT, a Standard Operating Procedure (SoP) for dealing with violation cases were issued by the MoEF&CC vide Office Memorandum (OM) F. No. 22-21/2020-IA.III dated 07/07/202. As per the aforesaid SOP, it outlines the penalties including closure of operations that are

*operating without prior environment clearance including demolition of projects. It also outlines a procedure for the grant of environmental clearance to projects that have come up without obtaining prior environment clearance required under the Environmental Impact Assessment (EIA) Notification, 2006. As per the aforesaid SOP, the different approaches for dealing the violation cases are summarised as follows;*

- i. *Closure or revision*
  - a. *If the project proponent has not taken prior EC, then the action shall be initiated to close the operation.*
  - b. *If the project proponent has taken prior EC for existing/old unit, then order to revert the activity/production to permissible limits.*
  - c. *If the project doesn't require EC for earlier production level but required at present, then restricting activity/production to extent to which prior EC was not required.*
- ii. *Action under section 15 read with section 19 of the E (P) A, 1986 shall be initiated against the violators.*
- iii. *Appraisal under EIA Notification, 2006: The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC;*
  - a. ***If not permissible:*** *If a project is under prohibited area notified by Central/State Govt., then the such project shall be ordered for the demolition/closure after issuing show-cause notice and providing an opportunity of hearing.*
  - b. *If permissible, then such violation projects shall be issued with directions to complete the impact assessment studies and submit EIA report & EMP in a time bound manner. Also, such cases of violation shall be subject to appropriate: Damage Assessment, Remediation plan and community Augmentation Plan ( to restore environmental damage caused including the social aspects)*

*The competent authority shall issue directions u/s 5 of The Environment (Protection) Act, 1986 for mandating payment of such amount (based on polluter's pay principle), undertaking activities relating to aforesaid plans and its appraisal by the Central sectoral expert appraisal committee or the State/UT level expert appraisal committee, as the case may be. However, even though the project may be permissible but not environmentally sustainable in its present form/configuration/features then such projects shall be directed to be modified so that the project*

would be environmentally sustainable. Further, if the project is not considered appropriate to issue EC, such project shall be directed to be demolished/closed.

The PP will be required to submit a bank guarantee equivalent to the amount of Remediation Plan and Natural and Community Resource Augmentation Plan with Central/State Pollution Control Board (depending on whether the project under reference is appraised at MoEF&CC or by SEIAA) prior to the grant of EC. The quantification of such liability will be recommended by EAC and finalized by the Regulatory Authority and the bank guarantee will be released after successful implementation of the Remediation Plan & Natural and Community Resource Augmentation Plan.

iv. *Penalty provisions for violation cases and applications*

a. *For new projects:*

- *Where operation has not commenced: 1% of the total project cost incurred up to date of filing of application along with EIA/EMP report.*
- *When operations have commenced without EC: 1% of the total cost incurred up to the date of filing application along with EIA/EMP report PLUS 0.25% of the total turnover during period of violation.*

b. *For expansion projects:*

- *When operation/production with expanded capacity has not commenced: 1% of the project cost, (attributable to the expansion activity), incurred up to date of filing application along with EIA/ EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/ capacity) involved during the period of violation.*

***Approach for damages (in addition to the environmental compensation as given at para 5) for contravening mandatory provisions of environmental laws***

*MPCB has issued Circular vide letter no. BO/MPCB/AS(T)/Circular/B- 220712FTS0047 dated 12/07/2022 to discourage the defaulting industries by adopting "Polluter Pays" principal by imposing appropriate cost of violation of provision of Environment enactments for violation as below: -*

- a) *To take effective steps towards establishment of project/unit without*

obtaining Consent to Establish from the Board.

- b) To take effective steps without revalidating Consent to Establish from the Board.
- c) To start Commercial production/to hand over occupancy without obtaining Consent to Operate from the Board.
- d) To carry out expansion activity and applying directly for Consent to Operate without obtaining Consent to Establish of the Board.
- e) To operate the activity without valid consent to operate of the Board and applying after lapse of validity period.

**Cost of Violation:-**

**Red Category-** 5 times of one term consent fee X no. of years of violation\*

**Orange Category-** 3 times of one term consent fee X no. of years of violation\*

**Green Category-** 1 times of one term consent fee X no. of years of violation\*

\* Calculations of number of years shall be calculated on the basis of number of days of non-compliance. Copy of the said circular is attached as **Annexure- V.**

Considering the period when PP has started construction activities without obtaining CTE from MPCB i.e. as it is evident from the 1<sup>st</sup> plinth checking certificate was issued vide, dated 25/05/2007 by PMC as per the first Layout Sanctioned vide no. DPO/2795/IV/322, dated 04/07/2006 for total potential FSI with TDR of 20,101.5 sq- m, which is beyond 20,000 sq-m issued by PMC till the date of obtaining CTE from MPCB i.e. till 02/12/2009. Besides considering the aforesaid period of violation for starting the construction activities without obtaining CTE from MPCB, the joint committee recommends considering the period of violation for not obtaining valid CTO i.e. when PP has not applied and obtained renewal of CTO from time to time from MPCB. Accordingly, the total period of violation is tabulated as below:

| S. no. | Period of violation                                                                    |                                                                                      | No. of days of violation | Remarks                                                           | Capital investment (CI) in Crore & consent fees | Penal fees calculation                                                                                 | Penal fees  |
|--------|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------------------------------------------------------|-------------|
| 1      | 25/05/2007 (date of 1 <sup>st</sup> plinth checking certificate PCC obtained from PMC) | 31/07/2008 (till date of application for CTE). Whereas CTE was granted on 02/12/2009 | 433                      | Starting construction activities without obtaining CTE from MPCB. | CI- 38 crore<br>Consent Fees- 50000/-           | Orange category = 3 times of one term consent fee X no. of years of violation<br>= 3 X 50000 X 433/365 | 1,77,945.20 |

|                                              |                                                                                 |                                                                                                                                          |       |                                                                            |                                       |                                                                                                  |                     |
|----------------------------------------------|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|-------|----------------------------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------|---------------------|
| 2                                            | 01-01-2012<br>(starting date of lapse of CTO, which was valid till 31/12/2011 ) | 11/10/2013<br>(till date of application for renewal of CTO). Whereas renewal of CTO was granted on 21/07/2014 and valid up to 31/12/2014 | 649   | Operation of the residential building project without valid CTO from MPCB. | CI- 38.19 crore consent Fees- 75000/- | Orange category = 3 times of one term consent fee X no. Of years of violation =3 X75000 X649/365 | 4,00,068.49         |
| 3                                            | 01-01-2015<br>(starting date of lapse of CTO, which was valid till 31/12/2014 ) | 04/04/2015<br>(till date of application for renewal of CTO). Whereas renewal of CTO was granted on 09/11/2015 and valid up to 31/12/2016 | 93    | Operation of the residential building project without valid CTO from MPCB. | CI- 61.22 crore Fees- 100000/-        | Orange category = 3 times of one term consent fee X no. Of years of violation =3 X100000 X93/365 | 76,438.35           |
| <b>Total no. of days of violation: 1,175</b> |                                                                                 |                                                                                                                                          |       |                                                                            |                                       | <b>Total Penal fees</b>                                                                          | <b>6,54,452.04</b>  |
| 4                                            | 01-01-2017<br>(starting date of lapse of CTO, which was valid till 31/12/2016 ) | 06/07/2021<br>(till date of Hon <sup>ble</sup> NGT order dated, 06/07/2021 )                                                             | 1,647 | Operation of the residential building project without valid CTO from MPCB. | CI- 61.22 crore Fees- 100000/-        | Red category = 5 times of one term consent fee X no. Of years of violation =5 X100000 X1647/365  | 22,56,164.38        |
| <b>Total no. of days of violation: 1,647</b> |                                                                                 |                                                                                                                                          |       |                                                                            |                                       | <b>Grand Total Penal fees</b>                                                                    | <b>29,10,616.42</b> |

Thus, the total Penal charges as above as per provisions of penal fees for occupiers violating consent regime prescribed under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 i.e. without obtaining CTE & CTO from MPCB works out to be Rs. 29,10,616/- (Rupees Twenty-nine lakh- Ten Thousand SixHundred Sixteen Only).

## 7. Recommendations

(a) For violation of EIA Notification dated 14/09/2006

**(Kindly refer s. no. i, ii & iii of section 4.0 of the report, as above)**

In view of the aforesaid violations of:

- (i) Starting construction of the residential

building project “Magnolia” by M/s Paranjape Schemes (Construction) Ltd., Baner Pashan Link Road, Village Pashan, Taluka Haveli, District Pune, Maharashtra as per the Layout Sanctioned no. DPO/2795/IV/322, dated 04/07/2006 for total plot area of 17,400 sq-m and total potential FSI with TDR of 20,101.5 sq-m for building no. A, B, C & D without obtaining prior EC from SEIAA;

- (ii) Revising the earlier layout sanctioned plan vide no. DPO/2795/IV/322, dated 04/07/2006, wherein PP has increased the total built-up area of 22,592.86 sq-m to potential FSI of 23,034.755 sq-m without obtaining amendment of earlier EC dated 25/06/2007;
- (iii) Not disclosing/mentioning the Non-FSI area (reportedly of parking & services) of 13,574.171 sq-m while making an application to SEIAA to obtain the recent EC dated 20/09/2019 for expansion of the aforesaid project;
- (iv) Action may be taken against M/s Paranjape Schemes (Construction) Ltd., Pune by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986;
- (v) Appraisal of the project under EIA Notification, 2006 as outlined under s. no. iii (as above, given at paragraph 5.0) **ALONG WITH** penalty for new project (when operations have commenced without EC) i.e. 1% of the total project cost incurred up to the date of filing application along with EIA/EMP report **PLUS** 0.25% of the total turnover during period of violation, involved during the period of violation may be levied by SEIAA, Maharashtra and be deposited by the PP with the respective State Pollution Control Board.

(b) For contravening provisions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 (Kindly refer s. no. iv & v of section 4.0 of the report, as above)

In view of the aforesaid violations of:

- (vi) Starting construction for the built up area for more than 20,000 sq-m., as at (a) above, completing the project “Magnolia” M/s

*Paranjape Schemes (Construction) Ltd., Pune and obtaining completion certificate from PMC vide dated 09/09/2009 & 05/11/2009 before obtaining CTE from MPCB as required under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981;*

- (vii) *Not possessing CTE, renewal/valid CTO from MPCB and not making CTO renewal application also in this regard during the period 25/05/2007 to 31/07/2008; 01/01/2012 to 11/10/2013; and 01/01/2015 to 04/04/2015 and 01/01/2017 to 06/07/2021;*

***Rs. 29,10,616/- (Rupees Twenty-nine Lakhs Ten Thousand Six Hundred Sixteen Only) as derived under para 6.0 of this report, as deemed fit by the Hon'ble NGT, may also be added in addition to the penalty to be derived by SEIAA, Maharashtra as outlined under para 5.0 of this report as damages for contravening provisions under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and prior EC requirement notified under the Environment (protection) Act, 1986.***

- c. *PP may be directed to expedite to obtain renewal of CTO (expired/valid till 31.12.2016) from the MPCB and also to install OWC for processing of organic waste in compliance to the condition issued under S. NO. 9 of the earlier CTO, dated 09.11.2015 or as per the conditions to be imposed in the fresh CTO by MPCB.*

**4. The stand of Respondent No. 12/M/s Paranjape Schemes(Construction) Ltd. is as follow:**

- a) This Application is hopelessly barred by limitation as the cause of action for the alleged violation first arose in the year 2006 when the construction of parking was started.
- b) The Joint Committee was formed for fact finding only. Committee went beyond its jurisdiction. It was not qualified as an 'Expert'.
- c) The first Environmental Clearance (EC) was granted by MoEFCC to Answering Respondent on 25.06.2007. The construction was completed as per the sanctioned plans, including the parking floors, in the year 2009, which included



basement parking floors of an area of 12,110 M<sup>2</sup> .

d) The cause of action first arose on 09.09.2009 i.e. when first completion certificate was issued by PMC. Therefore, the filing present OA is delayed by 10 years and 6 days, as it has been filed on 06.07.2020 by showing wrongly the cause of action to have arisen on 17.12.2019, which fact has already been submitted by it before the Joint Committee.

e) The present residential project was already completed as per the EC issued by the MoEF&CC on 25.06.2007, in the year 2009 and the same was handed over to the concerned buyers. EC dated 20.09.2019 has been granted for one additional commercial building only. After the completion of building the deed of declaration was executed on 11.12.2009 between PP and flat owners, who have not been made parties in the present OA. These buildings A, B, C, and D had been completed as per the PMC completion certificate.

f) The Applicant has sought relief against various causes like the violation of the EC conditions, non performance of the statutory duty of the government employee, forfeiting the benefits of FSI and non-FSI, violation of the consent conditions etc., whereas Tribunal can only entertain a single cause of the action in one application or appeal as per Rule 14 of the National Green Tribunal Rules 2011.

g) There is no substantial question involved related to the environment in terms of definition of substantial question under Section 2 (m) of NGT Act which is quoted hereinbelow:

*2(m) “ Substantial question relating to environment” shall include an instance where:*

*i. There is a direct violation of a specific statutory environment 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 consequence; 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 environment consequences relate to a specific activity or a point source of pollution.”*

h) It is further submitted that the non -FSI areas of parking, balconies & services were not separately mentioned in the application as per the prevailing rules. The detailed plans pertaining to them which were submitted with the application were appraised by the EAC while granting the EC dated 25.06.2007. Hence, there is no violation in the old project.

i) Subsequently, all permissions from Corporation, under MRTP/DC Rules and Consent from the MPCB were obtained. The construction was done exactly as per the details and drawings and the corporation gave them a Completion Certificate and Occupancy Certificate on that basis on 17.12.2009. However, while applying for the expansion on 30.07.2018, Project Proponent erroneously forgot to separately mention the non-FSI area of 13,904 sq.m. towards the parking, services & balconies of the residential buildings, which was already completed as per the earlier sanctioned plans, EC and Consent in the year 2009. It is further mentioned that the FSI area of the residential buildings has been shown to be 22,593 sq. m. in place of actual FSI area of the residential buildings being 21002 sq. m. which is clearly establishing that it was in excess by 1591 sq. m. The details of this errors are projected in table given in Para-45 of the reply affidavit as given below:

|              |                                                                                         |
|--------------|-----------------------------------------------------------------------------------------|
| 13904 sq. m. | (non-FSI of parking, services and balconies not included in the BUA of our application) |
|--------------|-----------------------------------------------------------------------------------------|

|                |                                                                                             |
|----------------|---------------------------------------------------------------------------------------------|
| -1591 sq.m.    | (Excess FSI of residential buildings mentioned in our application)                          |
| = 12313 sq. m. | Net Different of BUA which was not separately mentioned in our application & subsequent EC. |

j) The parking, services & balcony area is for the purpose specified, as provided in the DC Rules under MRTP Act. This non-FSI area was not mentioned in the earlier ECs separately because they were not counted in FSI and hence it was not reproduced in the EC letter also.

k) This area has already been appraised in the first EC dated 25.06.2007 through the conceptual plan, which was mentioned as an “existing” parking area in the PMC Sanctioned Plan dated 17.05.2019, which was submitted and produced before the SEIAA in its meeting dated 29.08.2019. The reference number of the sanctioned plan dated 17.05.2019 is mentioned in the minutes of the SEIAA meeting dated 29.08.2019 as well as the EC letter dated 20.09.2019. After considering all the information only and based on these submissions, the SEIAA granted the second EC dated 20.09.2019, which makes it clear that the Project Proponent did not suppress any information from the authorities while obtaining the EC.

l) The Project Proponent has pointed out this error simultaneously with the submission to SEIAA-Maharashtra, for correction of EC with the inclusion of the non- FSI Area, which was not stated separately in their application for EC expansion. There is not going to be any Expansion or Modernization due to this correction,

as it was already covered, considered and granted in the first EC of 2007 itself.

5. The stand of **Respondent No. 6 & 7/Maharashtra Pollution Control Board** is as follow:

- a) The answering Respondent has filed their reply on 11.01.2023. According to them, the Respondent No.12/PP obtained Environment Clearance (EC) from the Competent Authority i. e. MoEF on 25.06.2007 for construction of Residential Complex having total BUA- 22,592.86 Sq. M. and Project Proponent further obtained EC for expansion of the said project from the SEIAA on 20.09.2019 for total BUA35,966 Sq. Mtr.
- b) The Respondent No.12/PP had obtained Consent to Establish from the answering Respondent on 02.12.2009 for the said project for total BUA 22,592.86 Sq. Mtrs, which was valid upto five years and commissioning of the project, whichever is earlier.
- c) The details of the Consent to Operate by Respondent No.12 are as follows:

| Consent Type                       | Granted on | Valid Till | Area                                             |
|------------------------------------|------------|------------|--------------------------------------------------|
| 1 <sup>st</sup> Consent to Operate | 02.08.2010 | 31.12.2011 | TPA- 17,400 Sq.Mtrs.<br>BUA- 22,592.86 Sq. mtrs. |
| Renewal of C to O                  | 21.07.2014 | 31.12.2014 | TPA-17,400 Sq. mtrs.<br>BUA- 22,592.86 Sq. mtrs. |
| Renewal                            | 09.11.2015 | 31.12.2016 | TPA-17,400 Sq.                                   |

|           |  |  |                                             |
|-----------|--|--|---------------------------------------------|
| of C to O |  |  | mtrs<br><br>BUA: 22,592.86<br><br>Sq. mtrs. |
|-----------|--|--|---------------------------------------------|

Neither Respondent No.12 nor the Society Committee Members have got the Consent to Operate renewed after last Consent to Operate dated 09.11.2015 till date.

- d) The Respondent No.12/PP obtained Consent to Establish for expansion from the MPCB on 17.12.2019 for construction of Residential and Commercial project with total BUA 36,756.00 sq. mtrs which was valid till 16.12.2024.
- e) Architect Certificate dated 17.01.2022 and letter submitted by Pune Municipal Corporation dated 09.02.2022 show that the Project Proponent has completed construction beyond 36,756.00 Sq. Mtrs.
- f) The Answering Respondent has assessed penal charges of Rs. 29,10,616.42/- against the Respondent No.12 calculating the gaps in period of Consents, the details of which have been given in the Joint Committee Report.

6. The Applicant has filed rejoinder affidavit dated 23.02.2023 wherein same facts have been reiterated which we have already produced while dealing with the main application.

7. The Respondent No.12/PP has submitted additional documents on 21.04.2023 wherewith the inspection report of the inspection conducted by the MoEF&CC has been submitted, which has been communicated to the Project Proponent by the Scientist-E of MoEF&CC, vide letter dated 20.03.2020. The said inspection report

shows the compliance which has been made by the Project Proponent of all the EC terms and conditions which have been stipulated EC dated 25.06.2007 and the same are reproduced hereinbelow:

**Inspection Report :**

**F. No. EC- 1994/RON/2022-NGP:**

- |    |                                                                                                   |                                                                                                                                                                                                                               |
|----|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | <i>Name of the project and location</i>                                                           | <i>Residential &amp; Commercial project 'Magnolia' at S. No. 136/2 at Village Baner-Pashan Link Road, Banker, Taluka Haveli, District- Pune, Maharashtra by M/s Paranjape Schemes (Construction) Limited.</i>                 |
| 2  | <i>Address for correspondence</i>                                                                 | <i>Name: Apoorve Ranade.<br/>Designation: Environment Manager.<br/>Address : Paranjape Schemes (Construction) Limited, PSC House, CTS 111+111/2, Anand Colony, Off Prabhat Road, Dr. Ketkar Marg, Erandawane, Pune 411004</i> |
| 3  | <i>Clearance letter No. &amp; date</i>                                                            | <i>1<sup>st</sup> EC letter No. 21-670/2006-IA.III dated 25.06.2007<br/>2<sup>nd</sup> EC letter No. SEIAA- EC-0000002017 dated 20.09.2019</i>                                                                                |
| 4  | <i>Date of site visit</i>                                                                         | <i>The Project was inspected on 09.02.2023 during the visit. Shri. Apoorv Ranade, Environment Manager were present.</i>                                                                                                       |
| 5. | <i>Date of previous visit(s) &amp; observation if any</i>                                         | <i>-</i>                                                                                                                                                                                                                      |
| 6. | <i>One-page brief summary of the project- along with project details, date of commencement of</i> | <i>1<sup>st</sup> EC was granted by MoEF on 25.06.2007 for construction of 4 residential buildings with parking &amp; clubhouse in plot area of 17,400 sqm. With total</i>                                                    |

*construction*

*activities, present  
status etc.*

*built up area of 22,592.86  
sqm(FSI). The said  
construction was completed  
and completion certificates  
granted on 09.09.2009,  
05.11.2009 and 17.12.2009  
respectively.*

*2<sup>nd</sup> EC was granted by SEIAA  
on 20.09.2019 for construction  
of 1 additional commercial  
building (F) for total BUA  
36,756 sqm (25,064 sqm FSI  
& 11,692 sqm Non FSI)*

*The total project consists of 4  
Existing Residential Buildings  
with parking & clubhouse,  
constructed and handed over  
to society as per 1<sup>st</sup> EC, and  
one ongoing commercial  
building as per 2<sup>nd</sup> EC is  
currently under construction.  
Construction activity  
commenced in May 2020. The  
project is under construction  
phase, About 80% of work  
have been completed.*

7. *Consent from MPCB.*

*PP has obtained CTE vide  
number Format 1.0/BO/JD  
(WPC)/UAN-  
067422/CE/CC1912000907  
dated 17.12.2019 which is  
valid till 16.12.2024 copy of  
the consent order is enclosed  
at Annexure-I*

8. *Details on sanitation  
facilities provided at  
labour camp, if  
provided within the  
site:*

*Adequate drinking water  
temporary sanitation facilities  
are provided.  
The waste generated from the  
labour is collected and handed*

1. Sewage treatment and disposal. over to Pune Municipal Corporation.
2. Solid waste collection and disposal. Provisions have been made for the solid waste generated to be properly collected and segregated. Wet garbage will be treated in OWC provided onsite and Dry/inert solid waste will be handed over to SWACH.
9. Water usage, source and quantity. The water requirement for the construction activity is about 10 KLD and it is met through tanker water supply.  
PP has obtained Water NOC dated 10.06.2019 from Pune Municipal Corporation for the operation phase. Copy of the permission is submitted.
10. Permission to draw ground water if any shall be obtained from competent authority prior to construction/ operation of the project. According to the PP, there are no bore wells and PP is meeting the water for construction through water tanker.
11. Water conservations measures-  
Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred. Water demand during construction is reduced by use of pre- mixed concrete, curing agents and other best practices.
- Dual plumbing line for separation of gray PP has provided separate lines form storm water and



- and black water. Low flow Fixtures for showers, toilet flushing and drinking. Recycling of treated sewage.*
- sewage water, as well as separate water supply for fresh water treated water from STP, PP has also provided low flow fixtures in toilets. The Sewage treatment plant of 35 KLD is provided for the treatment of sewage expected from Operation phase. The treated sewage is proposed to be reused for flushing, gardening etc.*
12. *Energy conservation as per Energy Conservation building Code.* *PP informed that project is designed as per the ECBC norms and following energy conservation measures will be implemented:*  
*LED Lighting*  
*Occupancy Sensors& Controls*  
*Solar PV*
13. *Usage of Fly ash in the construction* -
14. *Topsoil Management* *Reported that excavated soil is used for backfilling and leveling of the plot and remaining shall be used within site for landscaping.*
15. *Details of DG set (numbers and Capacity)* *1 x 62.5KVA DG set is used for construction phase and 1 x 500k VA DG set is installed at site for operation phase. The height of the DG set is installed as per the Central Pollution Control Board (CPCB)*
16. *Pollution abatement measures:*  
*Vehicular Pollution* *PP informed that vehicles with PUC only are hiered for bringing construction material to the site. Copy of the PUC certificates verified during the inspection.*

- |     |                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                 |
|-----|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <i>Dust control</i>                                                                                       | <i>PP informed that water sprinkling is being carried out to suppression of dust.</i>                                                                                                                                                                                                                                                                           |
|     | <i>Noise Control</i>                                                                                      | <i>PP informed that construction activity is restricted to day time only, tall barricades have been provided on all sides, DG is provided with acoustic enclosure.</i>                                                                                                                                                                                          |
| 17. | <i>Latest Monitoring reports on Ambient air, Soil, Ground water, Noise, DG set etc.,</i>                  | <i>The environment monitoring is regularly carried out for various parameters by approved MoEF&amp;CC lab and copy of the latest monitoring reports are enclosed at Annexure-II</i><br><i>Ground water quality not monitored within the site as there is no bore well. Ground water from surrounding area is monitored to ensure there is no contamination.</i> |
| 18. | <i>Construction Spoils, muck, including bituminous material and other hazardous materials management.</i> | <i>All construction waste gets collected and segregated properly. Most of that is reused for the construction activity.</i><br><i>There is no bituminous waste. Used oil would be generated from the site, will be disposed through Authorized vendor of MPCB.</i>                                                                                              |
| 19. | <i>Amount earmarked for Environment Management</i>                                                        | <i>PP informed that Rs. 74 Lakhs has been allocated for EMP and assured that the same will be utilized only for EMP.</i>                                                                                                                                                                                                                                        |
| 20. | <i>Green Belt</i>                                                                                         | <i>PP has submitted green belt development plan. According to Plan, proposed to carry out</i>                                                                                                                                                                                                                                                                   |

- plantation in an area of 1461 sqm. 184 trees have been planted previously in residential portion whereas 9 additional trees are to be planted commercial building. PP should ensure plantation as per the green belt development plan submitted.
21. CER/EMP PP informed that according to the OM dated 25.02.2021 of the Ministry, the building projects to carry out all activities proposed under EMP as well any additional activities that may either be committed by them or prescribed by SEAC. Accordingly, Rs. 131 lakhs / year has been earmarked for EMP during construction phase for EMP activities as STP, OWC, Rain Water harvesting, plantation etc.,
22. Details of Environment Management Cell Details of Environment Management Cell viz. organization Chart, Qualification & Salary of personnel provided by PP.
23. Submission of six monthly reports on the status of compliance. PP has submitted six monthly report.
24. Submission of the environmental statement. PP has submitted the copy of the statement.
25. Uploading of the EC, compliance report, Environmental statement on the PP has uploaded copy of EC, compliance report, environmental statement on the company website

|     |                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                       |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <i>Company Website.</i>                                                                                                                                | <i>At <a href="http://www.pscl.in">http: / www.pscl.in</a> / pro-psclin / wp- content / uploads / 2020/ 07/ Magnolia – EC- Compliance report . pdf.</i>                                                                                                                                                               |
| 26. | <i>Advertisement about the grant of EC</i>                                                                                                             | <i>Not complied<br/>PP has not submitted the copy of advertisements.</i>                                                                                                                                                                                                                                              |
| 27. | <i>Details of areas like Forest, Eco-Sensitive Zone, wildlife sanctuary etc. and the distance from the project.</i>                                    | <i>There is no forest area near to the project site.</i>                                                                                                                                                                                                                                                              |
| 28. | <i>Details of Show Cause Notice/ direction issued, if any by the State PCB and details of remedial action take/ proposed.</i>                          | <i>NI.</i>                                                                                                                                                                                                                                                                                                            |
| 29. | <i>Details of Show Cause Notice/ direction issued, if any from the department of Mines and Geology and details of remedial action/ taken proposed.</i> | <i>NIL</i>                                                                                                                                                                                                                                                                                                            |
| 30. | <i>Details of pending Court Cases (if any)</i>                                                                                                         | <i>Original Application No. 38/2020 (WZ) in National Green Tribunal (Pune Bench)<br/>Applicant has alleged that the Respondent No.12 (Project Proponent-Paranjape Schemes (Construction) Ltd has violated EC dated 25.06.2017 which was granted for built-up area 22,593 sq.m.<br/>Applicant has alleged that the</i> |

*additional BUA over and above the 22,593 sq. m has been granted with post facto EC by respondent No.45 (SEIAA Maharashtra) vide letter dated 20.09.2019.*

*PP informed that the first EC dated 25.06.2007 was granted for the entire project but the built up area mentioned on the EC letter is on the basis of 'FSI area' as per the prevailing practice. As per PP, the FSI area constructed in the project was 21003 sq. m. as per the EC. PP has completed the construction of the said scope of the project within the validity period of the said EC and also obtained occupancy Certificate from Municipal Corporation as well as Consent to Operate from MPCB. There was no change in the scope of the project beyond the limits prescribed in the said EC i.e. 4 Residential Buildings with 22592.86 sq. m. 'FSI area'. PP stated that the clarification regarding FSI area & built-up area was given by the MoEF vide the Notification 04.04.2011, the said project was already completed and granted with occupancy Certificate, Consent to Operate before the said notification was issued.*

*Further, PP informed that in*

*the year 2019 due to recent revision of PMC Development Control Rules, additional FSI was allotted by the municipal corporation. Therefore, PP proposed an additional commercial building in the project and obtained EC dated 20.09.2019 for the additional building only, which is still under construction as per the said EC.*

*Matter was heard by NGT on 12.01.2023 Advocate for Respondent No.12(PP) pressed that the issue of limitation is to be decided as a preliminary issue. Adv for respondent No.4 & 5 (SEAC & SEIAA as well as Original Applicant asked additional time for submission. Accordingly, additional time was granted.*

*Matter was then heard on 23.02.2023 on the preliminary issue of limitation only. Matter is now listed for next hearing on 24.04.2023.*

*Copy of the NGT order is placed as Annexure. III*

### 31. Proposal

*PP has submitted a proposal for Corrigendum of EC for correction of BUA mentioned on the EC letter dated 20.09.2019. Hence, PP requested for CCR.*

**Conclusion:** *After the site visit and review of additional documents submitted, the implementation environmental safeguards status in the project is prepared.*

*Following Non-compliance observed during the site visit.*

**Condition No. (26)**

*PP has not submitted the copy of advertisement.*

**Course Case:** *Original Application No. 38/2020 (WZ) in National Green Tribunal (Pune Bench). Matter was heard on 23.02.2023 on the Preliminary issue of limitation only. Matter is now listed for next hearing on 24.04.2023.*

**PP should ensure the implementation of Green belt development plan and CSR/CER/EMP activities 30% funds should be earmarked for Water Conservation and seedling plantation/ distribution related works.”**

8. The stand of **Respondent No. 4/SEIAA** is as follow:

- a) The Respondent No.4/SEIAA has filed their reply on 21.04.2023. The first EC was granted to Respondent No.12 by MoEF&CC on 25.06.2007, therefore, if the PP has exceeded the construction limit, and if it has resulted into any change in the project, the PP ought to have communicated about the change to MoEF&CC and should have got fresh appraisal done from the MoEF&CC. Therefore, whether the exercise has been done or not can be apprised only by the MoEF&CC. But we find that in the compliance report which Project Proponent has submitted with its paper, it was submitted by the MoEF&CC, that no averment is made with respect to this aspect of the matter.
- b) On 10.07.2018, the Project Proponent applied to SEAC for expansion of their residential and commercial Project which was for modernization of earlier Environment Clearance showing FSI area of 25064.00 Sq. Mtrs., non FSI area of 11692.00 Sq. Mtrs and total BUA of 36756.00 Sq. Mtrs.
- c) It was considered in 80<sup>th</sup> Meeting of SEAC on 15<sup>th</sup> January, 2019 and the PP was asked to submit

information about the points mentioned at Serial No. 1) to 6) in paragraph five(5) of the said affidavit.

- d) SEAC considered proposal of the Project Proponent on 10<sup>th</sup> July, 2019 and decided to recommend the project for Environment Clearance, to SEIAA. Thereafter, answering Respondent considered the proposal of the Project Proponent in its meeting dated 29<sup>th</sup> August, 2019 and decided to grant EC to Project Proponent subject to two conditions which are mentioned in paragraph seven(7) of the said affidavit.
- e) The Project Proponent submitted an application for corrigendum in EC dated 20.09.2019 which was considered by SEAC in its meeting dated 12<sup>th</sup> January, 2023. In the said meeting, the SEAC has made observation under 8 sub heads out of which we find sub head No. II and III to be relevant, which are quoted hereinbelow:

*“II. PP further stated that, while applying expansion of EC on the EC MPCB Portal vide application No. UAN No. SEIAASTEMENT-0000001583 dated 30.07.2018, they had erred to separately mention the built-up area of the older residential buildings, which were already.*

*III. PP further stated that, an area of 13,904 m<sup>2</sup> excess area of 1,591 M<sup>2</sup> of FSI was included in the overall built- up area mentioned in the consolidated statement. Thus, resulting in a net difference of 12,313 M<sup>2</sup> in the overall built-up area in their application.”*

- f) Thereafter, the SEAC directed the Project Proponent to submit compliance along with three(3) points which are quoted a) to c) under head IX.
- g) Thereafter, the SEAC decided to recommend the proposal for Corrigendum in EC to SEIAA, where-after SEAC



Meeting was held on 10<sup>th</sup> to 12<sup>th</sup> January, 2023 and took following decisions:

10. SEIAA considered the proposal of the PP in their 257<sup>th</sup> Meeting held on 10<sup>th</sup> March, 2023. It was informed to the PP, whether they are in receipt of Certified Compliance Report (CCR) as mandated by MoEF&CC OM dated 26.09.2022. PP submitted that site visit was held on 09.02.2023 and report is not received. SEIAA asked PP to submit CCR. Accordingly they have obtained it on 20.03.2023. SEIAA noted the same and asked PP to strictly comply with points raised in the Certified Compliance Report (CCR) dated 20.03.2023. SEIAA noted the same asked PP to strictly comply with the points raised in the CCR dated 20.03.2023.

11. PP submitted that while applying for revised EC for the said commercial building on 30.07.2018, inadvertently forgot to separately mention the non-FSI area of 19,904 M<sup>2</sup> towards the parking, services & balconies of the residential buildings, whereas the FSI area of the existing residential buildings was mentioned higher than the actual FSI area by 1591 M<sup>2</sup>

12. The BUA which was not mentioned in the application was already appraised in the first EC dated 25.06.2007 as it pertains to the residential buildings, which were already constructed as per the earlier sanctioned plans, EC and granted with completion certificates in the year 2009.

13. Further these areas were also not mentioned in the PMC Sanctioned plan No. CC/319/19 dated 17.05.2019 under Existing areas . The said sanction plan was submitted to SEIAA during the 174<sup>th</sup> Meeting dated 29.08.2019. The reference of the sanction plan is reflected in the minutes of the said meeting as well as the final EC letter dated 20.09.2019. SEIAA asked PP to submit undertaking to that effect. PP submitted the same on 20.03.2023.

14. SEIAA noted that the FSI, Non- FSI and total BUA mentioned in the EC letter dated 20.09.2019 need to

be corrected as below:

| Sr. No. | Details         | As per Application     | As per EC dated          | As per plan approved no.                                                                                                                      | Correction required.           |
|---------|-----------------|------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 1.      | Total Plot area | 17,400 M <sup>2</sup>  | 17,400 M <sup>2</sup>    | 17,400 M <sup>2</sup>                                                                                                                         | <b>17,400 M<sup>2</sup></b>    |
| 2.      | FSI area        | 25,0644 M <sup>2</sup> | 24,274.35 M <sup>2</sup> | 21,002.29 M <sup>2</sup> (Existing buildings) + 2,801.15 M <sup>2</sup> (Proposed building F)= 23,803.44 M <sup>2</sup> (Total                | <b>23,803.44 M<sup>2</sup></b> |
| 3.      | Non FSI area    | 11,692 M <sup>2</sup>  | 11,692 M <sup>2</sup>    | 24130.60 M <sup>2</sup> (Existing building including parking)+ 1135.57 M <sup>2</sup> (Proposed building F)= 25,266.17 M <sup>2</sup> (Total) | <b>25,266.17 M<sup>2</sup></b> |
| 4.      | Total BUA       | 36,756 M <sup>2</sup>  | 35,966 M <sup>2</sup>    | 49,069.61 M <sup>2</sup>                                                                                                                      | <b>49,069.61 M<sup>2</sup></b> |

15. SEIAA observed that earlier EC issued for FSI of 24,274.35 M<sup>2</sup>, Non- FSI of 11,692.00 M<sup>2</sup> and total BUA of 35,966.35 M<sup>2</sup> as per plan approval No. CC/0319/19 dated 17.05.2019 and same plan approval also mentioned the existing parking which need to be incorporated in EC. SEIAA after deliberation decided to correct the FSI area as 23,803.44 M<sup>2</sup> , Non- FSI area as 22,266.17 M<sup>2</sup> and total BUA as 49,069.61 M<sup>2</sup> in Environmental Clearance vide letter No. SEIAA – EC 0000002017 dated 20.09.2017.

16. SEIAA after deliberation decided to grant corrigendum.

9. Through email dated 24<sup>th</sup> April, 2023, copy of which has been endorsed to the other parties as well as, the Respondent No.12/PP has made submissions that the circular issued by MoEF&CC dated 13<sup>th</sup> October 2006 directs as follows:

“1.2 New applications (under EIA 1994) for EIA appraisal received on or after 14<sup>th</sup> September, 2006 and up to 30<sup>th</sup> June, 2007: All such complete applications with

*Public hearing proceedings where it was necessary under EIA, 1994 and provided the activity is included in Schedule of EIA Notification 2006, will continue to attract action under the relevant provisions of the Environment Protection Act, 1986. Otherwise, they would undergo EIA Appraisal by Central Government as per the procedure of EIA (1994)”*

10. The Project Proponent had applied for EC vide letter dated 30.11.2006 as per the requirements of EIA Notification dated 07.07.2004 proposing to construct 270 tenements thereby exceeding 1000 person criteria as also it was estimating sewage generation 160 cu.m/day thereby exceeding criteria of 50 cu.m/day.

11. The Respondent No.12/PP could locate from its record documents submitted along with their application dated 30.11.2006 Questionnaire and Schedule-II (Application), as also layout plan. The questionnaire did not mention any non-FSI area in it. It is clear that the BUA was not a concept/requirement of EC granted under EIA Notification 2004, therefore there was no query regarding BUA either in the questionnaire or in Schedule –II – Application.

12. The EC issued by MoEF on 25.06.2007 clearly states that:

*“I am directed to refer to your application seeking prior environmental clearance for the above project under the EIA Notification 2004 including amendment.”*

*(EIA Notification 2006 was brought in suppression of the notification number S. O. 60 (E) dated the 27<sup>th</sup> January, 1994, except in respect of things done or omitted to be done before such suppression. Hence, it was not an amendment to 2004 Notification)*

*“ The above proposal has been appraised as per prescribed procedure on the basis of the mandatory documents enclosed with the application viz. the Questionnaire, EIA, EMP and the additional clarifications*

*furnished in response to the observations of the Expert Appraisal Committee(EAC) constituted by the competent authority in its 14<sup>th</sup> meeting held on April 27-29, 2009.”*

*“2. The Project Proponent is proposing for Construction for residential complex at Plot bearing S. NO. 136/2, Baner Pashan Link Road, Pune. The Project involves construction of one building for residential purpose. The total plot & area is 17,400 sq. m. The total built up area as indicated is 22,592.86 sq. m. Total water requirement will be 190 cu.m./day (including recycled water). Total wastewater generation from the complex will be 152 cu.m/day. The wastewater generated from the project will be treated in STP having capacity of 160 cu.m.per day. The total solid waste generated will be 540 kg/day. The biodegradable waste will be composted and inert material will be disposed of for landfilling.”*

*“6. It is further submitted that the Project proponent submitted six monthly compliance reports, which are available on [http://environmentclearance.nic.in/writereaddata/Compliance/44\\_16-112-2007-I-DC-08.pdf](http://environmentclearance.nic.in/writereaddata/Compliance/44_16-112-2007-I-DC-08.pdf). It is clear from these reports, as also MoEF&CC inspection report dated 20.03.2023, that the project was in complete compliance with EC conditions stipulated in EC dated 25.06.2007. PSCL wish to confirm that as per EC Compliance Report, an advertisement in newspapers was given, but we could not locate a copy of the same at the time of inspection by MoEF&CC RO Nagpur Officer on 09.02.2023.”*

*“7. Hence, there is no violation in the terms of EC dated 25.06.2007, either in the terms of BUA or in the terms of EC conditions.”*

*“8. As regards Consent, we wish to state that EC dated 25.06.2007 did not direct obtain consent from the SPCB. Till 2016, there was no specific regulatory requirement for obtaining ‘Consent to Operate’ for residential projects. We applied for and got the same as a matter of responsible developer as an abundant precaution. Hence, there is no question of penalty on account of consents.”*

13. On the basis of the above pleadings and arguments made

before us by the learned counsel for the parties, following issues are framed for being decided by us in this Original Application.

- i. Whether the provisions of the EIA Notification 2006 would be treated to have come into force with effect from its publication i.e. on 14<sup>th</sup> September, 2006 or could the Project Proponent be allowed to take benefit of circular dated 13<sup>th</sup> October, 2006 issued by the MoEF&CC to extend benefit to the Project Proponent of not having got his project appraised under the provisions of EIA Notification 2006.?
- ii. Whether the Project Proponent not having obtained prior EC even under the earlier EIA Notification 1994 had started raising construction in violation of the then existing provision ? If yes, its effect ?
- iii. Whether the violations which have been alleged by the Applicant in this O.A. of the terms and conditions stipulated in the EC dated 25.06.2007 are found to be correct ? If yes, its effect?
- iv. Whether the project of Respondent No.12/PP which was earlier housing project and was later on got expanded by adding one commercial building to it would be treated to be one project or two separate projects?
- v. Whether the Project Proponent has violated any of the Consent Conditions? if yes, its effect ?
- vi. Whether the present O.A. is barred by limitation?
- vii. Whether the O.A. suffers from plural causes to have been raised in single application which is prohibited under Rule 14 of the NGT Rules?
- viii. What Relief ?

**FINDINGS****14. As to Issue Nos. I & II :**

As per these issues, we have to decide as to whether the provisions of the EIA Notification 2006 would be treated to have come into force with effect from its publication i.e. on 14<sup>th</sup> September, 2006 or could the Project Proponent be allowed to take benefit of circular dated 13<sup>th</sup> October, 2006 issued by the MoEF&CC to extend benefit to the Project Proponent of not having got his project appraised under the provision of EIA Notification 2006? and Whether the Project Proponent not having obtained prior EC even under the earlier EIA Notification 1994 had started raising construction in violation of the then existing provision ? If yes, its effect ?.

In this regard, we are of the view that after the EIA Notification 2006 came into effect on 14<sup>th</sup> September, 2006 there is no justifiable reason why the provision of the same would not be enforced in the present project. We find that the Circular of MoEF&CC dated 13<sup>th</sup> October, 2006, which has been relied upon by the Project Proponent, no-where states clearly that all the pending matters which had applied for EC under EIA Notification 1994 would continue to be dealt with by the provision of the earlier Notification and not by the provision of the new Notification. In our estimation even if any such provision is sought to be created by the MoEF& CC, that does not stand to reason because that amounts to violating the provision of EIA Notification 2006, which cannot be permitted by us. Moreover, it is very clear that the EC was granted on 25.06. 2007 which is much after coming into force of EIA Notification 2006.

We also find that even if the matter was considered in the light of the earlier provision of EIA Notification 1994, it was

absolutely the bounden duty on the part of the Project Proponent not to initiate any construction before obtaining EC, but in the present case, it has distinctly come on record that construction had been started by the Project Proponent prior to obtaining EC in the year 2007, as the first Plinth Certificate was issued to it 25.05.2007, which is indicative of the fact that construction had already begun.

**15. As to Issue No. III :**

As per this issue, we have to decide as to whether the violations which have been alleged by the Applicant in his O.A. of the terms and conditions stipulated in the EC dated 25.06.2007 are found to be correct ? If yes, its effect?. In this regard, we find after having taken note of the compliance report submitted by the MoEF&CC which has been cited by us above as well as by the Joint Committee Report that there is no major violation of EC conditions on the part of Project Proponent. Therefore, we are of the view that to accept this report to be correct as regards the violations and find that in the light of this report there is no violation of the EC conditions on the part of the Project Proponent. This issue is decided accordingly.

**16. As to Issue No. V :**

As per this issue, we have to decide as to whether the Project Proponent has violated any of the Consent Conditions? if yes, its effect ?. In this regard, we are of the view that there was no violation of the consent conditions except the fact that Project Proponent did not obtain any Consent to Operate for period from 01.01.2012 to 08.11.2015. For these violations, the MPCB shall make calculations of Environmental Compensation in accordance with the CPCB guidelines laid down pursuant to the order/ judgment passed by this tribunal in paryavaran suraksha case, within one month from today and the same shall

be levied within next one month. This issue is decided accordingly.

**17. As to Issue No. VI & IV :**

As per issues No.VI, we have to decide as to whether the Present O.A. is barred by limitation ? and as per issue No. IV, we have to decide whether the project of Respondent No.12/PP which was earlier housing project and was later on got expanded by adding one commercial building to it would be treated to be one project or two separate projects ?. In this regard, the learned counsel for the Respondent No.12/PP has alleged that cause of action had arisen for the first time on 09.09.2009, when first Completion Certificate was issued by the Pune Municipal Corporation (PMC) and from that date allegedly found the limitation, the delay would stand at of 3953 days i.e. 10 years and 6 days because the present O. A. has been filed on 06.07.2020. We are not in agreement with this argument of the learned counsel for the Respondent No.12/PP because we find from the evidence which has come on record that the Project Proponent has sought EC for expansion of the present project which was granted on 20.09.2019, which included the area which was already covered under prior EC dated 25.06.2007 and the Joint Committee also has considered both the constructions i.e. 4 residential buildings as well as that of commercial buildings to be under the one project. Therefore, the argument made from the side of the Applicant that cause of action should be treated to have arisen on 07.12.2019 when the Project Proponent procured the Consent to Establish and initiated construction project should be treated to be relevant date for reckoning the limitation period, appears to be correct, in view of the law laid down in *O.A. No. 222/2014, The Forward Foundation & others Vs. State of Karnataka & others*, where-in



following has been held, wherein we find that there is approval of concept of recurring cause of action, relevant portion of which has been quoted as follows:

*“24..... For a dispute to culminate into a cause of action, actionable under Section 14 of the NGT Act, 2010, it has to be a ‘composite cause of action’ meaning that, it must combine all the ingredients spelled out under Section 14(1) and (2) of the NGT Act, 2010. It must satisfy all the legal requirements i.e. there must be a dispute. There should be a substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of implementation of the enactments specified in Schedule I. Action before the Tribunal must be taken within the prescribed period of limitation triggering from the date when all such ingredients are satisfied along with other legal requirements. Accrual of ‘cause of action’ as afore-stated would have to be considered as to when it first arose.”*

*51. This Tribunal in Forward Foundation (Supra) further considered the term ‘continuing cause of action’, ‘recurring cause of action’ or ‘successive cause of action’ and in para 25 to 32, said:*

*“25. In contradistinction to ‘cause of action first arose’, there could be ‘continuing cause of action’, recurring cause of action’ or ‘ successive cause of action’. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, ‘cause of action first arose’ would refer to a definite point of time when requisite ingredients constituting that ‘cause of action’ were complete, providing applicant right to invoke the jurisdiction of the court or the Tribunal. The ‘Right to sue’ or ‘ right to take action’ would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon’ble Supreme Court in the case of Bal Krishna Savalram Pujari & ors. Vs. Sh. Dayaneshwar Maharaj Sansthan & Ors. MANU/SC/0174/1959: AIR 1959 SC 798.”*

*26. In the case of State of Bihar Vs. Deokaran Nenshi and Anr., MANU/SC/0469/1972: (1972) 2 SCC*

890, Hon'ble Supreme Court was dealing with the provisions of Section 66 and 79 of the Mines Act, 1952. These provisions prescribed for a penalty to be imposed upon guilty, but provided that no court shall take cognizance of an offence under Act unless a complaint thereof has been made within six months from the date on which the offence is alleged to have been committed or within six months from the date on which the alleged commission of the offence came to the knowledge of the Inspector, whichever is later. The Explanation to the provision specifically provided that if the offence in question is a continuing offence, the period of limitation shall be computed with reference to every point of time during which the said offence continues. The Hon'ble Supreme Court held as under:

“5. A continuing offence is one which is susceptible of continuance and distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and recurs, there is the offence committed. The distinction between the two kinds of offences is between an omission which constitutes an offence once and for all and an act or omission which continues and therefore, constitutes a fresh offence every time or occasion on which it continues. In case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all.”

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the premises were used as a factory. The Hon'ble

*Supreme Court in the case of Maya Rani Punj v. Commissioner of Income Tax, Delhi, MANU/SC/0082/1985 : (1986) 1 SCC 445, was considering, if not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as continues and as long as the default continued. The penalty is imposable as long as the default continues and as long as the assesses does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of Mahavir Spinning Mills Ltd. V. Hb. Leasing and Finances Co. Ltd., MANU/DE/5386/2012: 199(2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of continuing breach, or of a continuing tort, a fresh breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' thus, becomes relevant for even the determination of period limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law.*

*Thus, the expressions 'cause of action first arose', 'continuing cause of action' and 'recurring cause of action' are well accepted canons of civil jurisprudence but they have to be understood and applied with reference to the facts and circumstances of a given case. It is not possible to lay down with absolute certainty or exactitude, their definitions or limitations. They would have to be construed with reference to the facts and circumstances of a given case. These are generic concepts of civil law which are to be applied with acceptable variations in law. In the light of the above*

*discussed position of law, we may revert to the facts of the case in hand.*

*28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful acts causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period limitation will began to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. (Ref: Khatri Hotels Private Limited and Anr. Vs. Union of India (UOI) and Anr. MANU/SC/1054/2011@2011) 9 SCC 126, Bal Krishna Savalram Pujari & Ors. V. Sh. Dayaneshwar Maharaj Sansthan & Ors, MANU/SC/0174/1959: AIR 1959 SC 798, G. C. Sharma Vs. Municipal Corporation of Delhi, MANU/De/0179/1979: (1979) ILR 2 Delhi 771, Kuchibotha Kanakamma and Anr. V. Tadepalli Ptanga Rao and Ors., MANU/AP/0194/1956: AIR 1957 AP 419).*

*29. A cause of action which is complete in all respects gives the applicant a right to sue. An Applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practice and Procedure) Rules, 2011 shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the 'joinder of causes of action' under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time. In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the 'cause of action first arose' even if the wrong was repeated. Where the injury or wrong is*

*complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may give rise to a fresh cause of action.*

*To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like 'cause of action first arose' in contradistinction to cause of action' simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions 'when right to sue first arose' or 'cause of action first arose' connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the action to be brought within the prescribed period limitation computed from the date when the cause of action 'first arose', it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.*

*30. Now, we would deal with the concept of recurring cause of action. The word 'recurring' means something happening again and again and not that which occurs only once. Such reoccurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when 'cause of action first arose'. It could even have the same features but its reoccurrence is complete and composite. The recurring cause*

*of action would not stand excluded by the expression 'cause of action first arose'. In some situation, it could even be a complete distinct cause of action hardly having nexus to the first breach or wrong, thus, not inviting the implicit consequences of the expression 'cause of action first arose'. The Supreme Court clarified the distinction between continuing and recurring cause of action with some fitness in the case of M. R. Gupta V. Union of India and others, MANU/SC/0172/1996: (1995) 5 SCC 628, the court held that:*

*"The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defense of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.08.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action.*

*The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be*

*exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government Servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (see Thota China Subba Roa and Ors. V. Mattapali, Raju and Ors. MANU/FE/022/1949: (1950) F. C1”.*

31. *The continuing cause of action would refer to the same act or transaction of series of such acts or transactions. The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It may have even be do hors the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. (Ref: Ex. Sep. Roop Singh Vs. Union of India and Ors., MANU/DE/9120/2006: (91)DRJ 324, M/s Bengal Waterproof Limited Vs. M/s Bombay Waterproof Manufacturing Company and Another, MANU/SC/0327/1997: (1997) 1 SCC 99)*
32. *The principle that emerges from the above discussion is that the ‘cause of action’ satisfying the ingredients for an action which might arise subsequently to an earlier event give result in accrual of fresh right to sue and hence reckoning of fresh period of limitation. A recurring or continuous cause of action may give rise to a fresh cause of action resulting in fresh accrual of right to sue. In such cases, a subsequent wrong or injury would be independent of the first wrong or injury and a subsequent, composite and complete cause of action would not be hit by the expression ‘cause of action first arose’ as it is independent accrual of right to sue. In other words, a recurring cause of action is a distinct and completed occurrence made of a fact or blend of composite facts giving rise to a fresh legal injury, fresh right to sue and triggering a fresh lease of limitation. It would not materially alter the character of the preposition that it has a*

*reference to an event which had occurred earlier and was complete cause of action in itself. In that sense, recurring cause of action which is completed in itself and satisfies the requisite ingredients would trigger a fresh period of limitation. To such composite and complete cause of action that has arisen subsequently, the phraseology of the 'cause of action first arose' would not effect in computing the period of limitation. The concept of cause of action first arose must essentially relate to the same event or series of events which have direct linkage and arise from the same event or series of events which be act or series of acts which arise from the same event, may be at different stage. This expression would not de bar a composite and complete cause of action that has arisen subsequently. To illustratively demonstrate, we may refer to the challenge to the grant of Environmental Clearance. When an appellant challenges the grant of Environmental Clearance, it cannot challenge its legality at one stage and its impacts at subsequent stage, then the appellant can challenge the subsequent amendments at a later stage, it being a complete and composite cause of action that has subsequently arisen and would not be hit by the concept of cause of action first arose."*

Therefore, the Issue No. VI is decided in negative, holding that O.A. is not time barred. Issue No. IV is decided to the effect that both the projects will be treated to be one project.

#### **18. As to Issue No. VII**

As per this issue, we have to decide as to whether the O.A. suffers from plural causes to have been raised in single application which is prohibited under Rule 14 of the NGT Rules?. In this regard, we are of the view that it does not suffer from the said defect because the main relief prayed is with respect to the violations made by the Project Proponent in the project in question of the terms and conditions of the EC and that of the Consent to Establish and Consent to Operate which we do not find to be multiple causes of action requiring separate cases to be filed. This issue is decided accordingly.

#### **19. As to Issue No. VIII :**



As per this issue, we have to decide as to what relief the applicant is entitled to. In this regard, we are of the view that the Respondent No.12/PP had obtained EC dated 25.06.2007 for area 22,592.86 sq.m. which did not include Non-FSI area and actually had constructed Total BUA 45,133 sq.m. before applying for the EC for expansion of the project. The cost of the project regarding earlier buildings which were constructed i.e. building A, B, C & D is shown to be Rs. 61.22 crores in Consent to Operate dated 09.11.2015 while in subsequent EC which is for the commercial building project cost is Rs. 19.75 crores. We make it clear here that construction of this subsequent project after expansion has been done/ is being done after obtaining valid EC and valid Consent to Establish. Therefore, we should confine ourselves only to earlier phase of the project which was allowed to be constructed under EC dated 25.06.2007. We find that instead of permitted level of construction i.e. 22,592.86 sq.m., the Project Proponent had already constructed on 45,133 sq. m. therefore, for the balance area i.e. 45,133 sq.m. - 22,592 sq. m. = 22,541 sq.m., we find that there was no EC. We have tried to calculate proportionate project cost of this area by following calculation:

$$\frac{61.22 \text{ crores} \times 22,541 \text{ sq.m.}}{45,133 \text{ sq.m.}} = 30.57 \text{ crores}$$

20. We are of the view that on this amount of Rs.30.57 crores we have to calculate Environmental Compensation by charging 10% (Construction carried out was almost double the area for which EC was granted, hence we can not show any leniency) of that amount in terms of the law laid down by this Tribunal in *Goel Ganga Developers India Pvt. Ltd vs Union of India* which

would come to Rs. 3.06 crore. We direct the Respondent No.12/PP to deposit this amount with Maharashtra Pollution Control Board (MPCB) within three months from the date of judgment.

21. Apart from that, we have already held above that the State Pollution Control Board shall calculate the Environmental Damage Compensation with respect to non-compliance in the terms of Consent to Operate for period indicated above.

22. We also find that the Joint Committee Report has indicated that an amount of Rs. 29.1 lakh is required to be paid by Project Proponent to the MPCB by way of penalty (this will be in addition to EDC) for not moving timely for obtaining the Consent to Operate, hence we direct that this amount shall be paid within two months of this judgment.

23. We direct that all the above amounts, which shall be levied from the Project Proponent, shall be utilized for restitution of environment in the project affected area within next six months of its being realized. A report in this regard shall be sent to the Registry of this Tribunal within a week thereafter and also posted on MPCB website under Section EDC Utilization.

24. With the above directions, we dispose off this Original Application. Pending I. A. , if any stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 28, 2023.  
Original Application No. 06/2021  
Sachin J.