

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI**

In OA No. 340/2024

Orchid Island Residents Welfare Association

.....Appellants

Versus

MoEF&CC & Ors

.....Respondents

Reply filed by Sh. Nirmal Kumar, Senior Environmental Engineer, Haryana State Pollution Control Board before the Hon'ble NGT in the matter of OA No. 340/2024 titled as Orchid Island Residents Welfare Association V/s MoEF&CC & Ors

1. Background:-

In said OA applicant raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurugram in violation of environmental norms and the construction commenced prior to 2006 but subsequently the plans have changed, the project has been substantially amended time and again with the change in magnitude of the project and area has increased and currently the area is 327.773 acres and that the project proponent has not obtained the CTO, CTE and NOC from the competent authorities, the project proponent is raising construction in violation of the norms.

Hon'ble National Green Tribunal vide order dated 04.04.2024 has directed as follows:-

".....6. Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing."

2. Project Detail:-

The details of various licences under Section 3 of The Haryana Development and Regulation of Urban Areas Act, 1975 (Act No.8 of 1975) granted to M/s Sheetal International Pvt. Ltd. & its associate companies for development of residential plotted colony namely Mayfield



Garden, Gurugram are as under:

Sr. No.	Licence No.	Date	Area(in acres)	Li
1	53-60 of 1994	31.12.1994	180.204	
2	9-24 of 1995	20.11.1995	123.875	
3	98 of 2008	12.05.2008	19.069	
4	8 of 2009	17.05.2009	4.625	
Total		-	327.773	

DTCP, Haryana has issued following Zoning Plans:-

Sr. No.	Date	Remarks
1	13.07.1999	Zoning plan
2	02.03.2005	Revised Zoning Plan For Block A
3	19.09.2005	Zoning plan For Block M
4	19.09.2005	Zoning plan For Block O
5	11.10.2005	For block J, N, E, (Revised) L, G & H

Layout plan of said residential plotted colony was got revised in 2004 vide Drawing No. DTCP-808 dated 12.10.2004 for 304.079 Acres, in 2008 (read with license No. 98 of 2008) vide Drawing No. DTCP-1385 dated 15.10.2007 for 323.148 Acres and in 2009 (read with license No. 8 of 2009) vide Drawing No. DTCP-1784 dated 07.01.2009 for 327.773 Acres.

Part revised layout plan of residential plotted colony of Mayfield Garden in Sector – 47, 50, 51, 52 & 57, Gurugram being developed by M/s Sheetal International Pvt Ltd approved by DTCP vide DRG. No. DTCP-6128 dated 24.10.2017.

The following two projects obtained Environmental Clearance, CTE and CTO individually:-

Sr. No.	Project Proponent	Plot area (in acre)	Built-up area (in sqm)
1.	M/s Sheetal International Pvt Ltd C/o Mayfield Garden Projects, Mayfield Garden Sector 50, Gurugram for project “M2K Corporate Park” at Commercial Plot No. N-1, N Block, Mayfield Garden, Sector 51, Gurugram, Haryana	1.99	29587.69
2	M/s Sunvision Builders Pvt Ltd. Commercial Complex Plot No M1 Village Samaspur Bindapur Mayfield Garden Sector 51 Gurugram Haryana	2.693	32331.99

3. Compliance of Hon'ble National Green Tribunal directions:-

In compliance of Hon'ble NGT directions issued vide order dated 04.04.2024, HSPCB has issued closure directions under section 33-A of Water (Prevention & Control of Pollution) Act,

1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 to stop construction activity for the following projects:-

Sr. No.	Name of the project & address	Closure direction No. & Date	
1	M/s New India City Developers (P) Ltd, M/s Sheetal International (P) Ltd, M/s Satsudha Investments (P) Ltd., M/s North Star Apartments Pvt Ltd., M/s Ajay Impex Private Limited & M/s Sweet Home Buildwell Pvt Ltd, in residential plotted colony Mayfield Garden Spread over 327.773 Acres in Sector 47, 50, 51, 52 & 57, Gurugram	I/247405/2024 dated 14.04.2024	Annexure R-1
2	M/s Orchid Infrastructure Developers Pvt. Ltd, in residential plotted colony Mayfield Garden Spread over 327.773 Acres in Sector 47, 50, 51, 52 & 57, Gurugram	I/247406/2024 dated 14.04.2024	Annexure R-2
3	M/s Champa Devi Jaipuria Charitable Trust for primary school site (0.919 acre plot area and 359.805 Sqm built up area), Mayfield Garden, Sector 50, Gurugram	I/247403/2024 dated 14.04.2024	Annexure R-3
4	M/s Champa Devi Jaipuria Charitable Trust, (4.583 acre plot area and 26689.626 Sqm built-up area) Plot no- High School-2, M block, Mayfield Garden, Sector-51 Gurugram	I/247404/2024 dated 14.04.2024	Annexure R-4

The construction activities carried out by M/s Champa Devi Jaipuria Charitable Trust for high school & primary school & by M/s Orchid Island stopped in compliance of above said closure direction on dated 15.04.2024 and no other construction activity found in the above project.

EIA notification dated 22.12.2014

1. The schedule under column (i) for item 8 relating to building/construction projects/ area development projects and townships was amended in the principal notification dated 14.9.2006 issued by Ministry of Environment, Forests & Climate Change and amended part of the notification by issuing EIA notification dated 22.12.2014 is mentioned as under:

"The building construction projects or activities, requiring environmental clearance, shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain -water harvesting and may use recycled materials such as fly ash bricks".

Ministry of Environment, Forests & Climate Change vide its office memorandum dated 30.4.2024 has given clarification in compliance of order dated 6.3.2024 of Hon'ble High Court of Kerala in WP (c) no. 3097 of 2016 in the matter titled One

Earth One Life Vs MoEF&CC as under:

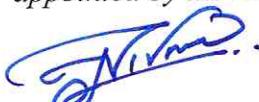
- The Hon'ble High Court of Kerala, vide order dated 6.3.2024, in WP (c) no. 3097 of 2016 in the matter titled One Earth One Life Vs. The Ministry of Environment, Forest and Climate Change & Air, has quashed and set aside the aforesaid notification dated 22.12.2014. MOEF issued memorandum dated 30.04.2024. Copy of notification dated 30.04.2024 alongwith copy of order dt. 06.03.2024 of Hon'ble High Court of Kerala has also been enclosed as **Annexure-R-5 (Colly)**

EIA Notification dt. 15.11.2018

2. The schedule under column (i) for item 8 relating to building/construction projects/ area development projects and townships was amended in the principal notification dated 14.9.2006 issued by Ministry of Environment, Forests & Climate Change and amended part of the notification by issuing EIA notification dated 15.11.2018 is mentioned as under:
 - *"The building construction projects or activities, requiring environmental clearance, shall not include industrial shed, school, college, hostel for educational institution."*
 - Further, the built-up area has been changed from "> 20,000 sq.mt. and <150,000 sq.mt." to "> 50,000 sq.mt. and <150,000 sq.mt."
 - The Hon'ble High Court of Delhi, vide order dated 26.11.2018, in WP (c) no. 12517 of 2018 in the matter titled Social Action for Forest and Environment Vs. Union of India, has stayed the aforesaid notification dated 15.11.2018. Copy of order dated 26.11.2018 of Hon'ble Court of Delhi & EIA notification dated 15.11.2018 attached as **Annexure R-6 & R-7**.
3. HSPCB granted Consent to Establish (CTE) to M/s Champa Devi Jaipuria Charitable Trust for high school (4.583acre plot area and 26689.626 Sqm built-up area) vide letter No. HSPCB/Consent/ : 329993524GUNOCTE54177971 Dated:30/01/2024 to establish the school without obtaining Environmental Clearance, as in terms of Notification dated 22.12.2014 issued by MOEF&CC whereby, the present project proponent is not required Environmental Clearance as individual.

M/s Champa Devi Jaipuria Charitable Trust for high school (4.583acre plot area and 26689.626 Sqm built-up area) submitted request for suspension of closure order dated 15.04.2024 with certain documentation & compliance report of closure directions and deposited performance security of Rs. 3.0 lacs and also deposited advance EC of Rs. 1,20,000/- for late registration on dust portal App i.e. on 08.04.2024. Board as suspended closure directions vide endst. No. HSPCB/GUR/2024/INS/64626617ConSCO001- 005 dated 19.04.2024 with the following conditions:-

"1. The suspension is subject to the examination of the case by a Technical Committee appointed by the Chairman HSPCB.



2. *The suspension of closure order shall be null and void, if Technical Committee concluded that the unit is liable to seek Environmental Clearance.*
3. *The unit shall pay the Environment Compensation as finalized by the HSPCB and also liable for prosecution.*
4. *Unit shall comply the provisions of notification, as and when issued by MEFE&CC in compliance of the directions of Hon'ble High Court of Kerala at Ernakulam in WP (C) No. 3097 of 2016 vide it's order dated 06.03.2024.*
5. *Unit shall maintain and operate pollution control measures /devices regularly alongwith strict compliance of Environmental Acts/Norms/Rules/Notifications."*

4. M/s Champa Devi Jaipuria Charitable Trust for primary school (0.919 acre plot area and 359.805 Sqm built up area) submitted request letter dated 19.04.2024 for suspension of closure order & deposited Environmental Compensation in advance of Rs. 2687500/- & performance security. Site was visited on 26.04.2024 by the concerned Field Officer and found complying with respect to all requisite installation of pollution control measures/devices and complying with dust portal app.

Board has suspended closure directions vide endst. No. HSPCB/GUR/2024/INS/64629920ConSCO001- 005 dated 14.05.2024 with the following conditions:-

1. *The suspension is subject to the examination of the case by a Technical Committee appointed by the Chairman HSPCB.*
2. *The unit shall pay balance Environment Compensation as finalized by the HSPCB and also liable for prosecution, if any.*
3. *Unit shall comply the provisions of notification, as and when issued by MEFE&CC in compliance of the directions of Hon'ble High Court of Kerala at Ernakulam in WP (C) No. 3097 of 2016 vide it's order dated 06.03.2024.*
4. *Unit shall maintain and operate pollution control measures /devices regularly alongwith strict compliance of Environmental Acts/Norms/Rules/Notifications.*
5. *Unit will not start construction activity before obtaining prior consent to establish from the Board, if any stage found construction activity found operating, closure order shall be reimplemented again.*

Direction has been issued to M/s Champa Devi Jaipuria Charitable Trust for high school (4.583acre plot area and 26689.626 Sqm built-up area) vide letter dated 21.05.2024 to comply with the section 5A of Noise Pollution (Regulation and Control) Rules, 2000 as amended till date.

A technical committee constituted by the Chairman of the Board visited the site regarding applicability of environmental clearance and other connected issues in the case of M/s Champa Devi Jaipura Charitable Trust, plot no. HS-2, M-Block, Mayfield Garden, Sector-51, Gurugram and the issues mentioned in order dated 4.4.2024 of Hon'ble National Green Tribunal in OA no. 340 of 2024 (IA 1344/2024) in the matter of Orchid Island Residents Welfare Association Vs MoEF&CC & Ors.



The following officers visited the site:-

- i. Dr. Babu Ram, Technical Expert, HSPCB
- ii. Sh. Satinder Pal, SEE, HSPCB
- iii. Sh. J.P Singh, SEE, HSPCB
- iv. Sh. Kuldeep Singh, RO, Gurugram, HSPCB
- v. Sh. Kamaljit Singh, Environmental Engineer, HSPCB
- vi. Sh. Aparnesh Kumar, Scientist-B, HSPCB
- vii. Representative of M/s Orchid Island Welfare Society

Report submitted by the above technical committee is attached as **Annexure R-8**.

The reply is being submitted for kind consideration of this Hon'ble Tribunal. It is undertaken to comply with the directions passed by Hon'ble Tribunal.



**Nirmal Kumar,
Senior Environmental
Engineer
Haryana State Pollution
Control Board**

Regional Office, Gurugram (N) **Haryana State Pollution Control Board**

Vikas Sadan, Opposite- New Court, Gurugram

Website: - www.hspcb.gov.in Tel: 0124-2332775, 2972341

Email ID: - hspcbrogrn@gmail.com

Dated: 14.04.2024

Closure Order/Directions

Whereas, Ministry of Environment, Forest and Climate Change Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021 (hereinafter referred as Act), has constituted the Commission;

Whereas, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

Whereas, under section 12 (2) (xi) of the Act, empowers the Commission to 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;

Whereas, the commission under powers conferred to it under Section 12 of the Commission for Air Quality Management in NCR and Adjoining Areas Act 2021, issued statutory direction No. 11 on 11.06.2021 for all ongoing/upcoming C&D Projects in the NCR (on plot area equal to or greater than 500 Sq. mtrs.) to be mandatorily registered on the web portal developed for the purpose by the NCR State Govt./GNCTD, towards remote monitoring of such project sites for compliance of stipulated dust mitigation measures.

Whereas, Haryana State Pollution Control Board has developed an online mechanism through a Web Portal called "Dust Pollution Control Self Assessment" at <http://dustapphspcb.com> for self assessment & compliance by constructions agencies with respect to dust pollution in their sites in pursuance of directions dated 11.06.2021 by the Commission for Air Quality Management.

Whereas, the applicable rules & directions were widely circulated through public notice in national dailies and regional newspapers and directions were issued from time to time to construction agencies to ensure strict compliance to regulatory provisions.

Whereas, project proponent have obtained various license on land measuring 327.773 Acres for development of residential plotted colony in Sector 47, 50, 51, 52 & 57, Gurugram (License No. 53-60 of 1994 dated 31.12.1994 for land measuring 180.20 Acres, License No. 09.24 of 1995 dated 20.11.1995 for land measuring 123.87 Acres,

License No. 98 of 2008 dated 12.05.2008 for land measuring 19.08 Acres and License No. 08 of 2009 dated 17.05.2009 for land measuring 4.63 Acres).

Whereas, some of Occupation certificate of independent plots obtained by M/s Sheetal International Pvt Ltd. in 2006 & 2009.

Whereas, DTCP, Haryana has considered the request for grant of license for development of a residential plotted colony on the additional land measuring 24.237 acres falling in the revenue estate of village Samaspur, Bindapur and Wazirabad District Gurugram vide Memo. No. DS-I-2005/11015 dated 02.12.2015;

Senior Town Planner, Chairman, Building Plan Approval Committee, Gurugram has granted approval of building plan of primary school of Plot No. 8 area measuring 0.919 acres in the residential plotted colony area measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram being developed by M/s Sweet Home Buildwell Pvt Ltd. vide Memo. No. 7737 dated 29.12.2017 with the condition that the approval /clearance/NOC as per provision of the Notification No. S.O. 1533(E) dated 14.09.2006 issued by Ministry of Environment and Forest, Government of India before starting the construction/executing of development works at site for colony including this plotted colony building;

Whereas, Request for grant of part completion certificate for integrated residential plotted colony being developed over an area measuring 327.773 acres in Sector 47, 50, 51, 52 & 57, Gurugram was rejected by DTCP vide Memo. No. LC-214-PA(B)/2018/4592 dated 05.02.2018;

Whereas, Occupation certificate for Primary School plot No. 8 area measuring 0.919 acres falling in residential plotted colony measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram was granted to M/s Sweet Homes Buildwell Pvt Ltd vide Memo. No. STP (G)/2018/7300 dated 18.09.2018;

Whereas, part occupation certificate for High School Site No. 02 area measuring 4.5832 acres falling in M-Block of residential plotted colony namely Mayfield Garden Sector 51, Gurugram was granted to M/s Sheetal International Pvt Ltd vide Memo. No. STP (G)/2018/8559 dated 06.12.2018;

Whereas, Senior Town Planner, Chairman, Building Plan Approval Committee, Gurugram has granted approval of existing and proposed building plan of primary school of Plot No. 8 area measuring 0.919 acres in the residential plotted colony area measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram being developed by M/s Champa Devi Jaipuria Charitable Trust vide Memo. No. 5455 dated 31.08.2023;

Whereas, Part revised layout plan of residential plotted colony of Mayfield Garden in Sector - 47, 50, 51, 52 & 57, Gurugram being developed by M/s Sheetal International Pvt Ltd approved by DTCP

vide DRG. No. DTCP-6128 dated 24.10.2017;

Senior Town Planner, Chairman, Building Plan Approval Committee, Gurugram has granted approval of building plan of primary school of Plot No. 8 area measuring 0.919 acres in the residential plotted colony area measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram being developed by M/s Sweet Home Buildwell Pvt Ltd. vide Memo. No. 7737 dated 29.12.2017 with the condition that the approval /clearance/NOC as per provision of the Notification No. S.O. 1533(E) dated 14.09.2006 issued by Ministry of Environment and Forest, Government of India before starting the construction/executing of development works at site for colony including this plotted colony building

Whereas, Layout plan of said residential plotted colony was got revised in 2004 vide Drawing No. DTCP-808 dated 12.10.2004 for 304.079 Acres, in 2008 (read with license No. 98 of 2008) vide Drawing No. DTCP-1385 dated 15.10.2007 for 323.148 Acres and in 2009 (read with license No. 8 of 2009) vide Drawing No. DTCP-1784 dated 07.01.2009 for 327.773 Acres;

Whereas, Show Cause Notice was issued and reply not found satisfactory;

Whereas, from the above facts, it is clear that following violations committed:-

1. Not obtained Environmental Clearance under the provisions of EIA Notification 27-01.1994 amended on 07.07.2004/EIA notification 14.09.2006 amended till date.
2. Not obtained CTE/CTO from the Board
3. Not registered on Dust Portal App of HSPCB

Whereas, M/s Orchid Island Residents Welfare Association has filed OA before Hon'ble NGT and raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurgaon in violation of environmental norms.

Whereas, Hon'ble NGT vide order dated 04.04.2024 has directed that Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing.

Accordingly, the concerned field officer has recommended the case for stoppage of construction activity under 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 and same has been examined and found that unit is grossly violating the provisions/directions mentioned above.

Keeping in view of the above facts and emergent need in pursuant to implement above mentioned directions/orders in true letter & spirit, it is hereby ordered to stop construction activity on the land

owned/being developed by M/s New India City Developers (P) Ltd, M/s Sheetal International (P) Ltd, M/s Satsudha Investments (P) Ltd., M/s North Star Apartments Pvt Ltd., M/s Ajay Impex Private Limited & M/s Sweet Home Buildwell Pvt Ltd, in residential plotted colony Mayfield Garden Spread over 327.773 Acres in Sector 47, 50, 51, 52 & 57, Gurugram of under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981, by sealing its plant & machinery including DG set with immediate effect.

Dated:- 14.04.2024

Place:- Gurugram

**Regional Officer,
Gurugram Region (N)**

CC:- A copy of above is forwarded to the followings:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Gurugram.
3. The Executive Engineer (Operation Division), City Division, DHBVN, MG Road, Gurugram. He is directed to disconnect the electric supply of under construction sites owned/being developed by above mentioned companies immediately and submit action compliance report immediately through return email.
4. The Executive Engineer, GMDA, Gurugram. He is directed to disconnect the water supply of under construction sites owned/being developed by above mentioned companies immediately and submit compliance report immediately through return email.
5. M/s New India City Developers (P) Ltd., B-244, 2nd Floor, Jungpura B, New Delhi-110014.
6. M/s Sheetal International (P) Ltd., G-81/A, 2nd Floor, Vijaya Chowk, Laxmi Nagar, Delhi – 110092.
7. M/s Satsudha Investments (P) Ltd., B-1/22 Ashok vihar, Phase II, Delhi
8. M/s North Star Apartments Pvt Ltd., B-4/43, Safdarjung Enclave, New Delhi
9. M/s Ajay Impex Private Limited, B-130, SFS, Sheikh Sarai, Phase I, New Delhi
10. M/s Sweet Home Buildwell Pvt. Ltd. G-23/61, Rajouri Garden, New Delhi
11. M/s Krishna Niwas Private Limited, 6 Biplabi Ras Behari Basu Road, 1st Floor, Kolkata, West Bengal – 700001.

Signed by

Kuldeep Singh

**Regional Officer,
Gurugram Region (N)**

Date: 14-04-2024 18:23:32

Regional Office, Gurugram (N)

Haryana State Pollution Control Board

Vikas Sadan, Opposite- New Court, Gurugram

Website: - www.hspcb.gov.in Tel: 0124-2332775, 2972341

Email ID: - hspcbrogrn@gmail.com

Dated: 14.04.2024

Closure Order/Directions

Whereas, Ministry of Environment, Forest and Climate Change Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021 (hereinafter referred as Act), has constituted the Commission;

Whereas, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

Whereas, under section 12 (2) (xi) of the Act, empowers the Commission to 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;

Whereas, the commission under powers conferred to it under Section 12 of the Commission for Air Quality Management in NCR and Adjoining Areas Act 2021, issued statutory direction No. 11 on 11.06.2021 for all ongoing/upcoming C&D Projects in the NCR (on plot area equal to or greater than 500 Sq. mtrs.) to be mandatorily registered on the web portal developed for the purpose by the NCR State Govt./GNCTD, towards remote monitoring of such project sites for compliance of stipulated dust mitigation measures.

Whereas, Haryana State Pollution Control Board has developed an online mechanism through a Web Portal called "Dust Pollution Control Self Assessment" at <http://dustapphspcb.com> for self assessment & compliance by constructions agencies with respect to dust pollution in their sites in pursuance of directions dated 11.06.2021 by the Commission for Air Quality Management.

Whereas, the applicable rules & directions were widely circulated through public notice in national dailies and regional newspapers and directions were issued from time to time to construction agencies to ensure strict compliance to regulatory provisions.

Whereas, M/s Sheetal International Pvt. Ltd. & its associate companies have obtained various license on land measuring 327.773 Acres for development of residential plotted colony in Sector 47, 50, 51, 52 & 57, Gurugram (License No. 53-60 of 1994 dated 31.12.1994 for land measuring 180.20 Acres, License No. 09.24 of 1995 dated

20.11.1995 for land measuring 123.87 Acres, License No. 98 of 2008 dated 12.05.2008 for land measuring 19.08 Acres and License No. 08 of 2009 dated 17.05.2009 for land measuring 4.63 Acres).

Whereas, M/s Orchid Infrastructure Developers Pvt. Ltd. became the absolute owner of 91 Plots with plot area of 7.026 Acres (28434.22 m²) by virtue of Court Decree (Civil Suit no. 1176/2022) dated 12.04.2022 i.e Suit for Declaration with consequential relief of Permanent Injunction in the residential plotted colony in Sector 47, 50, 51, 52 & 57, Gurugram;

Whereas, M/s Orchid Infrastructure Developers Pvt. Ltd for environmental clearance under the provisions of EIA Notification 14.09.2006 amended till date vide Proposal No. SIA/HR/INFRA2/421717/2023;

Whereas, the said proposal was taken up during 165th meeting of SEIAA held on 05.09.2023 and as per finding of authority of SEIAA, project proponent i.e. M/s Orchid Infrastructure Developers Pvt Ltd has initiated construction activities at site, without obtaining Environmental Clearance (this is an admitted plea of the project proponent);

Whereas, from the above facts, it is clear that following violations observed:-

1. Not obtained Environmental Clearance under the provisions of EIA Notification amended till date.
2. Not obtained CTE from the Board
3. Not registered on Dust Portal App of HSPCB

Whereas, M/s Orchid Island Residents Welfare Association has filed OA before Hon'ble NGT and raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurgaon in violation of environmental norms.

Whereas, Hon'ble NGT vide order dated 04.04.2024 has directed that Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing.

Accordingly, the concerned field officer has recommended the case for stoppage of construction activity under 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 and same has been examined and found that unit is grossly violating the provisions/directions mentioned above.

Keeping in view of the above facts; compelling emergent need in pursuant to implement above mentioned directions/orders in true letter & spirit, it is hereby ordered to stop construction activity on the land owned/being developed by M/s Orchid Infrastructure Developers Pvt Ltd, in residential plotted colony Mayfield Garden Spread over 327.773 Acres in Sector 47, 50, 51, 52 & 57, Gurugram of under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air

(Prevention & Control of Pollution) Act, 1981, by sealing its plant & machinery including DG set with immediate effect.

Dated:- 14.04.2024

Place:- Gurugram

**Regional Officer,
Gurugram Region (N)**

CC:- A copy of above is forwarded to the followings:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Gurugram.
3. The Executive Engineer (Operation Division), City Division, DHBVN, MG Road, Gurugram. He is directed to disconnect the electric supply of under construction sites owned/being developed by above mentioned company immediately and submit action compliance report immediately through return email.
4. The Executive Engineer, GMDA, Gurugram. He is directed to disconnect the water supply of under construction sites owned/being developed by above mentioned company immediately and submit compliance report immediately through return email.
5. M/s Orchid Infrastructure Developers Private Ltd., N-2, South Ext. Part I, New Delhi 110049.

Signed by

Kuldeep Singh

**Regional Officer,
Gurugram Region (N)**

Date: 14-04-2024 18:24:15

Regional Office, Gurugram (N) Haryana State Pollution Control Board

Vikas Sadan, Opposite- New Court, Gurugram ure R-6

Website: - www.hspcb.gov.in Tel: 0124-2332775, 2972341

Email ID: - hspcbrogrn@gmail.com

Dated:-14.04.2024

Closure Order/Directions

Whereas, Ministry of Environment, Forest and Climate Change Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021 (hereinafter referred as Act), has constituted the Commission;

Whereas, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

Whereas, under section 12 (2) (xi) of the Act, empowers the Commission to 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;

Whereas, the commission under powers conferred to it under Section 12 of the Commission for Air Quality Management in NCR and Adjoining Areas Act 2021, issued statutory direction No. 11 on 11.06.2021 for all ongoing/upcoming C&D Projects in the NCR (on plot area equal to or greater than 500 Sq. mtrs.) to be mandatorily registered on the web portal developed for the purpose by the NCR State Govt./GNCTD, towards remote monitoring of such project sites for compliance of stipulated dust mitigation measures.

Whereas, Haryana State Pollution Control Board has developed an online mechanism through a Web Portal called "Dust Pollution Control Self Assessment" at <http://dustapphspcb.com> for self assessment & compliance by constructions agencies with respect to dust pollution in their sites in pursuance of directions dated 11.06.2021 by the Commission for Air Quality Management.

Whereas, the applicable rules & directions were widely circulated through public notice in national dailies and regional newspapers and directions were issued from time to time to construction agencies to ensure strict compliance to regulatory provisions.

Whereas, Complaints have been received from M/s Orchid Island Resident Welfare Association, Sector 51, Gurugram against M/s Champa Devi Jaipuria Charitable Trust.

Whereas, M/s Sweet Home Buildwell Pvt Ltd (vendor) has sold out land admeasuring around 0.919 acres bearing Primary School

site No. 8/ Plot No. HS-8, situated in Block-M, Mayfield Garden Sector 51, Gurugram to M/s Champa Devi Jaipuria Charitable Trust (vendee) vide sale deed dated 10.08.2023

Whereas, Occupation certificate for Primary School plot No. 8 area measuring 0.919 acres falling in residential plotted colony measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram was granted to M/s Sweet Homes Buildwell Pvt Ltd vide Memo. No. STP (G)/2018/7300 dated 18.09.2018;

Whereas, Senior Town Planner, Chairman, Building Plan Approval Committee, Gurugram has granted approval of existing and proposed building plan of primary school of Plot No. 8 area measuring 0.919 acres in the residential plotted colony area measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram being developed by M/s Champa Devi Jaipuria Charitable Trust vide Memo. No. 5455 dated 31.08.2023;

Whereas, from the above facts, it is clear that following violation committed:-

1. Not obtained CTE/CTO from the Board

Whereas, M/s Orchid Island Residents Welfare Association has filed OA before Hon'ble NGT and raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurgaon in violation of environmental norms.

Whereas, Hon'ble NGT vide order dated 04.04.2024 has directed that Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing.

Accordingly, the concerned field officer has recommended the case for initiating closure action against the above said unit, 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 and same has been examined and found that unit is grossly violating the provisions/directions mentioned above.

Keeping in view of the above facts and emergent need in pursuant to implement above mentioned directions/orders in true letter & spirit, it is hereby ordered to close down the operation of the unit /stoppage of construction activity of primary school site (0.919 acre plot area and 359.805 Sqm built-up area) in residential plotted colony Mayfield Garden Spread over 327.77 Acres in Sector 47, 50, 51, 52 & 57, Gurugram of M/s Champa Devi Jaipuria Charitable Trust, under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981, by sealing its plant & machinery including DG set with immediate effect.

Dated:- 14.04.2024

Place:- Gurugram

**Regional Officer,
Gurugram Region (N)**

CC:- A copy of above is forwarded to the followings:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Gurugram.
3. The Executive Engineer (Operation Division), City Division, DHBVN, MG Road, Gurugram. He is directed to disconnect the electric supply of above said unit immediately and submit action compliance report immediately through return email.
4. The Executive Engineer, GMDA, Gurugram. He is directed to disconnect the water supply of the above said unit immediately and submit compliance report immediately through return email.
5. M/s Champa Devi Jaipuria Charitable Trust, 7A, Aurangzeb Road, New Delhi 110001.

Signed by

Kuldeep Singh

**Regional Officer,
Gurugram Region (N)**

Date: 14-04-2024, 18:21:02

Gurugram to M/s Champa Devi Jaipuria Charitable Trust (vendee) vide conveyance deed dated 16.08.2023;

Whereas, Senior Town Planner, Chairman, Building Plan Approval Committee, Gurugram has granted approval of revised building plan of High school of Plot No. 2 area measuring 4.528 acres in the residential plotted colony area measuring 327.773 acres (License No. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 & 8 of 2009) in Sector-47, 50, 51, 52 & 57, Gurugram being developed by M/s Champa Devi Jaipuria Charitable Trust vide Memo. No. 6846 dated 25.10.2023;

Whereas, Senior Town Planner, Gurugram Circle, Gurugram vide Memo. No. STP(G)/2024/524 dated 29.01.2024 has issued NOC with regard the establishment of the project in accordance with approval building plan for M/s Champa Devi Jaipuria Charitable Trust at HS-2, M Block, Mayfield Garden, Sector 51, Gurugram;

Whereas, site was visited by Sh. Aparnesh Kumar, Scientist B on 12.04.2024 for violations were observed:-

1. Unit has not provided proper stack height on DG set.
2. Unit has not installed dust mitigation measures displayed at site for easy public viewing.

Whereas, M/s Orchid Island Residents Welfare Association has filed OA before Hon'ble NGT and raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurgaon in violation of environmental norms.

Whereas, Hon'ble NGT vide order dated 04.04.2024 has directed that Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing.

Accordingly, the concerned field officer has recommended the case for initiating closure action against the above said unit, 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 and same has been examined and found that unit is grossly violating the provisions/directions mentioned above.

Keeping in view of the above facts; compelling emergent need in pursuant to implement above mentioned directions/orders in true letter & spirit, it is hereby ordered to close down the operation of the unit /stoppage of construction activity of High School site (4.583 acre plot area and 26689.626 Sqm built-up area) in residential plotted colony Mayfield Garden Spread over 327.77 Acres in Sector 47, 50, 51, 52 & 57, Gurugram of M/s Champa Devi Jaipuria Charitable Trust, under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981, by sealing its plant & machinery including DG set with immediate effect.

Dated:- 14.04.2024

Place:- Gurugram

**Regional Officer,
Gurugram Region (N)**

CC:- A copy of above is forwarded to the followings for immediate compliance:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Deputy Commissioner, Gurugram.
3. The Executive Engineer (Operation Division), City Division, DHBVN, MG Road, Gurugram. He is directed to disconnect the electric supply of above said unit immediately and submit action compliance report immediately through return email.
4. The Executive Engineer, GMDA, Gurugram. He is directed to disconnect the water supply of the above said unit immediately and submit compliance report immediately through return email.
5. M/s Champa Devi Jaipuria Charitable Trust, 7A, Aurangzeb Road, New Delhi 110001.

Signed by
Kuldeep Singh
**Regional Officer,
Gurugram Region (N)**
Date: 14-04-2024 18:22:41

F. No. 3-85-2016-IA-III [E 81594]
 Government of India
 Ministry of Environment, Forest and Climate Change
 (Impact Assessment Division)

Indira Paryavaran Bhawan
 Aliganj, Jorbagh Road
 New Delhi-110 003

Dated: 30th April, 2024

OFFICE MEMORANDUM

Sub: Circulation of the order dated 06.03.2024 of Hon'ble High Court of Kerala in WP (C) No. 3097 of 2016 in the matter titled One Earth One Life vs. The Ministry of Environment, Forest and Climate Change & Anr. - reg.

The Ministry, vide Notification dated 22.12.2014, had made certain amendments in item 8 of the Schedule to the Environment Impact Assessment Notification, 2006, *inter-alia* for providing exemptions to industrial shed, school, college and hostel for educational institution, subject to such building ensuring sustainable environmental management, solid and liquid waste management, rainwater harvesting and use of recycled materials such as fly ash bricks.

2. The Hon'ble High Court of Kerala, vide order dated 06.03.2024, in WP (C) No. 3097 of 2016 in the matter titled One Earth One Life vs. The Ministry of Environment, Forest and Climate Change & Anr., has quashed and set aside the aforesaid Notification dated 22.12.2014.
3. The copy of the order which is self-explanatory is enclosed herewith for compliance.
4. This is issued with the approval of the Competent Authority.


 (Sundar Ramanathan)
 Scientist E

Encl: As above.

To

1. Chairperson/ Member Secretaries of all Expert Appraisal Committees
2. Chairperson/Member Secretaries of all SEIAAs/SEACs
3. All Officers of IA Division

Copy for information to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/JS (SKB)
5. Website, MoEF&CC /Guard file



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 6TH DAY OF MARCH 2024 / 16TH PHALGUNA, 1945

WP(C) NO. 3097 OF 2016

PETITIONER/S:

ONE EARTH ONE LIFE
AGED 57 YEARS
REPRESENTED BY ITS LEGAL CELL DIRECTOR, SRI.TONY
THOMAS K., IRUMBAKACHOLA, MANNARKAD P.O.,
PALAKKAD DISTRICT.
BY ADVS.
SRI.RAJAN VISHNURAJ
SRI.P.CHANDRASEKHAR
SRI.V.HARISH
RENJITH THAMPAN (SR.)

RESPONDENT/S:

- 1 MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE
CHANGE
FORESTS AND CLIMATE CHANGE, PARYAVARAN BHAVAN,
CGO COMPLEX, LODHI ROAD, NEW DELHI - 110 003,
REPRESENTED BY ITS SECRETARY.
- 2 STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY
DIRECTORATE OF ENVIRONMENT AND CLIMATE CHANGE,
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM - 695
024.
BY ADVS.
SHRI.BABU P.L., CGC
MANU S., DSG OF INDIA
S. BIJU
V. TEKCHAND, SR. GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 06.03.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

A. J. Desai, C. J.

The question involved in this public interest litigation is ‘whether a notification can be issued by the Government different than the draft notification issued for the purpose involved therein?’.

2. The petitioner, an organization registered under the Travancore-Cochin Scientific, Literary and Charitable Societies Registration Act, 1955, working with the sole intention to protect and improve the forests and safeguard the environment, challenged Ext. P1 notification dated 22.12.2014 issued by the Ministry of Environment, Forests and Climate Change on various grounds, but mainly on the ground that the notification is contrary to the draft notification issued on 11.09.2014 and the observation in the notification that no objections or suggestions were received by the Department in response to the draft notification is factually incorrect.

3. Though notice was issued by this Court, no counter



affidavit came to be filed on behalf of the respondents for a considerably long time. Thereafter, a Division Bench of this Court passed the following order on 08.09.2020:-

“Though orders were passed in the year 2018 directing the respondents to respond to the prayers sought for and though on several occasions, time was also granted by this court, no counter affidavit has been filed to the writ petition from 2016 onwards.

2. Mr.R.Prasanthkumar, learned Central Government Counsel for the respondents seeks some more time to file counter affidavit. Though considerable time has been granted for the above said purpose, even a statement/counter affidavit is not filed.

3. Mr.V.Harish, learned counsel for the petitioner submitted that on account of non-grant of stay of the impugned notification, several buildings have been constructed without any environmental clearance. It is also brought to the notice of this court that under similar circumstances, taking note of the failure in filing the counter affidavit despite considerable time being granted, High Court of Karnataka has granted interim stay of the impugned notification No.3252(E) dated 22.12.2014. Learned counsel for the petitioner also submitted that when the present writ



petition came up for hearing, after perusal of the files produced by the Ministry of Environment, Forest and Climate Change, New Delhi, a Hon'ble Division Bench of this court noticed that there was a letter of the Ministry of Environment, Forest and Climate Change, addressing the Law Ministry, accepting the mistake in the impugned notification and on the directions of the Division Bench, copy of the said letter was also furnished to the learned counsel for the petitioner.

4. On the above said aspect, learned counsel for the petitioner is directed to produce a copy of the letter of Ministry of Environment, Forest and Climate Change, New Delhi addressed to the Law Department. He is further directed to produce a copy of the order of stay granted by the High Court of Karnataka.”

4. Thereafter, the matter was again called by the Division Bench on 17.09.2020 and the following order passed by which a stay came to be granted against the modification to the definition of built up area brought about by Ext. P1 notification dated 22.12.2014;

“The writ petition is filed by a voluntary organisation challenging an amendment to the Environmental Impact



Assessment Notification dated 22.12.2014 produced as Ext. P1 issued by the Ministry of Environment, Forest and Climate Change, Government of India, New Delhi.

2. The grievance of the petitioner is that vide Ext.P1, the first respondent has modified the definition of 'built up area' providing exemptions to clause 8(a) and (b) from the application of general conditions contained under the Notification in question. It is also the case of the petitioner that the impugned order is in contravention of sub-Rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 ('Rules, 1986' for brevity). With the above backdrop, the petitioner seeks to quash Ext.P1 notification to the extent to which it inserts an amended Note that tinkers the impact and scheme of the amending Notification No. SO1533(E) dated 14.09.2006 issued under sub-Rule (3) of Rules, 1986, by inter alia modifying/diluting the definition of 'built up area' and thus, providing exemption to clause (8)(a) by way of Note 1 and further to the extent to which the amended Notification exempts the entries under clause 8(a) and (b) from the application of general conditions contained under the original EIA Notification, 2006, and for other consequential reliefs.

3. When the matter came up for admission on 27.01.2016, respondents were granted four weeks' time to file counter affidavit and thereafter, the case was being listed



periodically. On 05.10.2016, this court has granted three weeks' time as a last chance to file counter affidavit, if any, and further the Ministry of Environment was directed to place on record the files relating to the decision making process. Even though such a peremptory direction was issued, no counter was filed in spite of periodical postings of the case. On 14.06.2018, at the request of the respondents, four weeks' time was again granted by this court and in spite of the same, it was not filed. Thereupon, on 31.07.2018, when the matter was posted, the Standing Counsel sought further time for additional instructions for a period of three weeks and the same was granted as a last chance. On 27.05.2019, the learned Standing Counsel for the Government of India submitted before the Court that he has received instructions and had undertaken to file the counter affidavit within three weeks. Accordingly, the matter was adjourned for a further period of three weeks. Subsequently, when the matter was posted, there was no representation for the respondents and therefore, the case was adjourned. The case was posted before us on 29.05.2020 and it was adjourned to 16.06.2020 at the request of the respondents. On 16.06.2020, again time was sought for for filing counter affidavit and accordingly, two weeks' time was granted, on which day it was recorded that the counsel for the respondent submitted that counter affidavit has been sent for filing and due to Pandemic Covid -19, there is some delay.



Accordingly, time was extended by a further period of two weeks to file the counter affidavit and the case was posted to 14.08.2020. On 14.08.2020, time was again sought and posted the case to 08.09.2020. On 08.09.2020, a detailed order was passed by this Court expressing dissatisfaction due to the non-compliance of the directions to file counter affidavit. However, the matter was posted to this day. Today also, no counter affidavit is filed. However a statement is filed by the counsel and submitted that the statement filed is not authenticated by the concerned authority and the same was filed on telephonic instructions. Learned counsel for the petitioner has produced additional documents along with I.A. No. 2 of 2020, inter alia various orders passed by this Court, the National Green Tribunal, Principal Bench, New Delhi and other notifications/order issued by the Government of India etc..

4. We have heard the respective counsel for the purpose of interim orders since the interim orders was being pressed for the Counsel for the petitioner on the ground that in the guise of Ext. P1 notification, permits are granted in absolute violation of the Environment (Protection) Act, and the original EIA Notification issued in the year 2006. it is also pointed out that the drastic amendment to section 8(a) was brought without an appropriate draft notification, which is a mandatory requirement under the notification issued by the Government of India and therefore, Ext. P1 notification



to that extent cannot be sustained and so also, the same is in violation of the sub-Rule (3) of Rule 5 of the) Rules, 1986. Learned counsel representing the central Government Counsel submitted that further time is required to place the counter affidavit and make submissions in respect of the contentions advanced by the petitioner

5. We have evaluated the rival submissions and is of the opinion that the subject matter requires serious consideration, since we find that there is some force prima facie in the contentions advanced by the petitioner. Therefore, the balance of convenience requires that undue advantage is not taken by the builders by carrying out constructions, in the guise of that part of Ext.P1 notification, which is seriously under challenge being violative of the Notification of the Government of India and the Rules, 1986. Therefore, we are of the opinion that in order to protect the environmental issues, an interim order is granted effective from today onwards. Therefore, there will be a stay of Ext. P1 notification to the extent of modification by the definition of built up area provided to clause 8(a) by way of Note 1 to the effect that the projects or activities shall not include industrial shed, school, college, hostel for Educational Institutions, but such buildings shall ensure environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials, such as fly ash, bricks, for a period of two months.”



5. Thereafter, the matter was listed for final hearing. Ultimately, on 10.01.2024, a counter affidavit was filed by the respondents to which there is no rejoinder.

6. The case put forth by the petitioner is that the 1st respondent Ministry of Environment, Forests and Climate Change, by issuing a draft notification dated 11.09.2014, had called upon the persons interested in making any objection or suggestion to the proposed amendment to the original notification dated 14.09.2006 issued by the Central Government with respect to the requirement of getting environment clearance for different types of construction. It is the case of the petitioner that, in spite of receiving several suggestions and objections to the draft notification, the respondent Department issued final notification under Rule 5 of the Environment (Protection) Rules, 1986, stating that no objections or suggestions were received by the Department.

7. Learned Senior Counsel appearing for the petitioner would submit that, for the first time, by filing a counter affidavit in



the month of January 2024, the respondents tried to clarify that there was a typographical error in issuing the notification dated 22.12.2014, stating that no objections or suggestions were received. He would submit that, even though suggestions or objections were received, as admitted by the respondent Department, there is no discussion about the same in the final notification. He would further submit that, even otherwise, the final notification is totally different from the draft notification earlier issued on 11.09.2014. He would submit that, in the draft notification, it is specifically mentioned that the project or activities covered under the notification will be residential buildings, commercial buildings, hotels, hospitals, hostels, office blocks, Information Technology / Software Development Units / Parks, whereas by the final notification, certain buildings like industrial sheds, schools, colleges and hostel for educational institutions are excluded, which was not the intention of the Department while issuing the draft notification. He therefore would submit that, on both these grounds, the notification dated



22.12.2014 is required to be quashed and set aside.

8. He would further submit that, under Section 23 of the General Clauses Act, 1897, if any changes are to be made after previous publication of rules or bye-laws, certain conditions are required to be followed and the most important condition is to invite objections from the public at large. He would submit that, publishing a draft notification inviting objections or suggestions and thereafter, issuing final notification totally different from the draft notification, would vitiate the process, since there was no occasion for the public to know about the changes made to the final notification. It is submitted that, even in the absence of any objections or suggestions to the draft notification, the Government cannot issue a different final notification.

9. Relying upon a decision of the Bombay High Court in **Avinash Ramakrishna Kashiwar and Others v. State of Maharashtra and Others [AIR 2015 NOC 535]** in PIL No. 72 of 2013 dated 10.12.2014, learned Senior Counsel would submit that the Bombay High Court, on a similar set of facts, quashed and



set aside a final notification which was different from the draft notification. Reliance is also placed upon a decision of this Court in **Kerala State Road Transport Corporation v. Saju Varkey and Others [2018 (4) KHC 617]**. He therefore would submit that the writ petition requires to be allowed on these grounds.

10. On the other hand, learned Central Government Counsel would submit that, since there was a mistake on the part of the authority while issuing the final notification dated 22.12.2014, in stating that no objections or suggestions were received to the draft notification, they tried to correct the same by informing the Ministry of Law and Justice. However, the Legislative Department of the Ministry of Law and Justice by communication dated 29.09.2016, informed that it is not possible to amend the notification. By taking us through the counter affidavit, he would submit that the objections received by the Department have been considered and thereafter, the notification has been issued. In answer to the contention regarding the change in the final notification, he would submit that, earlier, almost all the buildings



having specified built up area were required to obtain environmental clearance certificate. However, buildings like industrial sheds, schools, colleges and hostel for educational institutions have been exempted by final notification. He would submit that, the change was brought about considering the nature of activity carried out in these buildings. Therefore, there is no adverse effect on the public at large as far as the environment is concerned. He would submit that, under Rule 5 of the Environment (Protection) Rules, 1986, the Government is empowered to modify the Rules and therefore, the petition may be dismissed.

11. We have heard the learned Advocates appearing for the respective parties.

12. The draft notification issued on 11.09.2014 reads as under:-

**“MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE**



NOTIFICATION

New Delhi, the 11th September, 2014

S.O. 2319(E). The following draft notification further to amend the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1553(E), dated 14th September, 2006 which the Central Government proposes to issue, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 for the information of the public likely to be affected thereby, and notice is hereby given that the said notification will be taken into consideration by the Central Government on or after the expiry of sixty days from the date on which copies of the Gazette of India containing this notification are made available to the public;

Any person interested in making any objection or suggestion on the proposals contained in the draft notification may do so in writing within the period so specified through post to the Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110 003 or electronically at email address: ad.raju@nic.in



Draft Notification

In the Schedule to the said notification, for items 8(a) and 8(b), and the entries relating thereto, the following items and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
"8		Building / Construction projects / Area Development projects and Townships		
8(a)	Building and Construction Projects	≥20000 sq.mtrs and <1,50,000 sq.mtrs of built-up area#		<p>The built up area for the purpose of this Notification is defined as ‘the built up or covered area on all the floors put together including basement(s) and other service areas, which are proposed in the building/construction projects.</p> <p>Note:</p> <p>(i) The projects or activities covered are residential buildings, commercial buildings, hotels, hospitals, hostels, office blocks and information technology / software development units / Parks</p> <p>(ii) “General Condition” is not applicable.</p>
8(b)	Townships	Covering	an	++All projects under



and Area Development projects	area \geq 50 ha and or built up area \geq 1,50,000 sq.mtrs++	Item 8(b) shall be appraised as Category B1
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Note:

“General Condition” is
not applicable.”

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

AJAY TYAGI, Jt. Secy.”

13. In the said notification, in the second paragraph, the public at large was invited to raise objections or suggestions. Accordingly, the Department had received many objections and suggestions from various institutions or individuals throughout the country, evident from the counter filed by the respondents. However, if we see the language of the final notification dated 22.12.2014, it has been specifically stated that no objections or suggestions were received in response to the earlier notification dated 11.09.2014. Final notification dated 22.12.2014 reads as under:-

**“MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE**



NOTIFICATION

New Delhi, the 22nd December, 2014

S.O. 3252(E).-Whereas, a draft notification further to amend the notification number S.O 1555(E), dated the 14th September, 2006 (hereinafter referred to as the principal notification), was published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 2319, (E) dated the 11th September, 2014 (hereinafter referred to as the said notification), inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 11th September, 2014;

And whereas, no objections or suggestions have been received in response to the said notification within the specified period of sixty days;

Now, therefore, in exercise of the powers conferred by Sub-section (1) and clause (v) of Sub-section (2) of Section 3 of the said Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central



Government hereby makes the following amendments in the said notification, namely:-

In the principal notification, in the Schedule, under Column (1), for item 8 relating to Building / Construction Projects / Area Development Projects and Townships and sub-items 8 (a) and 8 (b) and the entries relating thereto, specified there under, the following item, sub-items and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
				Building or Construction projects or Area Development projects and Townships
8(a)	Building and Construction Projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs of built-up area	The term “built up area” for the purpose of this notification the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the building or construction projects.
				Note 1:- The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste



			management, rain water harvesting and may use recycled materials such as fly ash bricks.
			(ii) “General Conditions” shall not apply.
8	Townships and Area Development projects	Covering an area of >50ha and or built up area > 1,50,000 sq.mtrs.	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment report and be appraised as Category ‘B1’ Project. Note.- “General Conditions” shall not apply.

[F. No. 19-2/2013-IA-III]
MANOJ KUMAR SINGH, Jt. Secy.”

In the above notification, it is specifically stated in paragraph 3 that no objections or suggestions were received.

14. It is true that the authority had requested the Ministry of Law and Justice to permit them to amend the notification, however, the same was refused by Ext. P11 communication dated 29.09.2016. If the authority had received such communication, instead of amending the notification, the authority should have



considered the objections and suggestions in detail and could have issued a fresh notification which is not the case on hand.

15. As far as the proposal made in column 5 of both notifications is compared, there is a vast difference in the final notification, by which certain buildings are exempted from getting environmental clearance certificates. People at large were not aware about the intention of the authority to modify the draft notification and therefore, in our considered opinion, there is a breach of Section 23 of the General Clauses Act, 1897, which reads as under:-

“23. Provisions applicable to making of rules or bye-laws after previous publication.—

Where, by any [Central Act] or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons



likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [Government concerned] prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the [Official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.”

16. Sub-sections (1) to (4) of Section 23 makes it clear that the public should be aware about the changes in the Rules, bye-



laws etc. In the present case, the public was not aware about the difference between the draft and the final notifications.

17. Rule 5 of the Environment (Protection) Rules, 1986 is relevant to the case on hand, wherein also there is a requirement of public notice. The said Rule, as it then stood, reads as under:-

“5. Prohibitions and restrictions on the location of industries and the carrying on 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.

(v) The biological diversity of the area which, in the



opinion of the Central Government needs to be preserved.

(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.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or



restrictions on the locations of an industry or the carrying on of processes and operations in an area, it may by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the locations of the industries and carrying on of process or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication of the notification in the Official Gazette.

(d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may within five hundred forty five days from such day of publication impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area.



(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3).”

18. Considering the above aspect, we are of the considered opinion that the decisions relied upon by the learned Senior Counsel appearing for the petitioner in **Avinash** (supra) and **Kerala State Road Transport Corporation** (supra) are applicable.

19. Paragraphs 16 and 17 of the decision in **Avinash**'s case are relevant for our consideration, which are reproduced hereunder:-

“16. It will also be relevant to refer to the observations of the Apex Court in the case of the Municipal Corporation Bhopal, M.P. v. Misbahul Hasan and Others reported in (1972) 1 Supreme Court Cases 696. The Apex Court while construing the provisions of Section 24 of the M.P. General Clauses Act, 1955 which is pari materia with Section 24 of the Bombay General Clauses Act, has observed thus:-



“13. The legislative procedure envisaged by Section 24, set out above, is in consonance with notions of justice and fair-play as it would enable persons likely to be affected to be informed so that they may take such steps as may be open to them to have the wisdom of a proposal duly debated and considered before it becomes law. This mandatory procedure was not shown to have been complied with area.”

17. It could thus be seen that it appears to be settled position of law that the requirement of previous publication inviting objections and suggestions is not an empty formality. It is with an intention to enable persons likely to be affected, to be informed, so that they may take steps as may be open to them and the objections/suggestions made would be required to be taken into consideration by the authorities before issuing a final notification. In the present case, the draft notification provided for establishment of headquarter of the sub-division at Sadak-Arjuni. However, the final notification provides for establishment of the headquarter at Morgaon-Arjuni. It could thus be seen that insofar as the establishment of headquarter is concerned, the final notification is totally different from the draft notification.”

20. Paragraph 14 of the decision in **Kerala State Road**



Transport Corporation's case is also relevant to the case on hand, which is reproduced hereunder:-

“14. The provisions of Sections 99, 100 and 102 indicate that the procedure to be followed, while introducing a scheme, or modifying an existing one, is one that is designed to ensure transparency and fairness in a matter involving pre-existing rights of private transport operators. It follows, therefore, that there cannot be any finalization of a scheme, which is different from the one that was proposed, and in respect of which objections were invited. The introduction of a restrictive element (in the instant case, the stipulation that the maximum distance limit would apply to the saved permits), while finalising a draft that did not contain such a stipulation has, therefore, to be seen as breaching the aforesaid statutory safeguard. A question arises, however, as to whether, in these cases, the petitioners had a pre-existing right, relatable to Ext.P5 scheme, to operate ordinary and OLS services without any restriction as regards distance? Although the learned counsel for the respondent KSRTC would vehemently contend that the said rights accrued to the private operators, not through Ext.P5 scheme, but only through Ext.P9 G.O., we are of the view that the rights/privileges granted to the petitioners through Ext.P9 G.O. cannot be seen as divorced from Ext.P5.”



In such circumstances, we are of the considered opinion that the writ petition requires consideration. Accordingly, the same is allowed. Notification dated 22.12.2014 is hereby quashed and set aside. Needless to say, the respondent authority may issue fresh notification, in accordance with law. It is made clear that the petition is entertained only on the above ground. Other contentions raised in this writ petition have not been examined on merits.

Pending Interlocutory Applications, if any, shall stand closed.

Sd/-
A. J. DESAI
CHIEF JUSTICE

Sd/-
V. G. ARUN
JUDGE

Eb



APPENDIX OF WP(C) 3097/2016

PETITIONER EXHIBITS

- EXHIBIT P1. A TRUE PHOTOCOPY OF THE GAZETTE
NOTIFICATION NO. 3252 (E) DATED
22.12.2014.
- EXHIBIT P2. A TRUE PHOTOCOPY OF THE DRAFT
NOTIFICATION NO.S.O.2319(E) DATED
11.09.2014.
- EXHIBIT P3. A TRUE PHOTOCOPY OF THE MINUTES OF THE
39TH MEETING OF THE 2ND RESPONDENT HEL
ON 18.06.2015.
- EXHIBIT P4. A TRUE PHOTOCOPY OF THE LETTER OF
REJECTION OF EC DATED 16.10.2007 ISSUED
BY THE 1ST RESPONDENT.
- EXHIBIT P5. A TRUE PHOTOCOPY OF THE OFFICE
MEMORANDUM DATED 09.06.2015.



\$~37 & 59

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12517/2018 & CM APPL. 48579/2018**

SOCIAL ACTION FOR FOREST AND ENVIRONMENT..... Petitioner

Through: Mr. P.S. Palwalia, Sr. Adv.,
Mr.Sachin Puri, Sr. Adv. with
Mr.Vanshdeep Dalmia, Mr. Avishkar
Singhvi, Mr. Gauravjeet Palwalia,
Advvs.

versus

UNION OF INDIA Respondent

Through: Mr. Rajesh Gogna, CGSC with
Mr.Upendra Sai, Adv. for R-1

+ **W.P.(C) 12570/2018 & CM Appl. 48897/2018**

**SOCIETY FOR PROTECTION OF ENVIRONMENT &
BIODIVERSITY (SPENBIO)** Petitioner

Through: Mr. P.S. Palwalia, Sr. Adv.,
Mr.Sachin Puri, Sr. Adv. with
Mr.Vanshdeep Dalmia, Mr. Avishkar
Singhvi, Mr. Gauravjeet Palwalia,
Advvs.

versus

**UNION OF INDIA THROUGH SECRETARY, GOVT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE
CHANGE** Respondent

Through: Mr. Rajesh Gogna, CGSC with
Mr.Upendra Sai, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

W.P.(C) 12517 & 12570/2018 of 2018

page 1 of 3



ORDER
26.11.2018

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1. Issue notice. Mr. Rajesh Gogna, CGSC accepts notice.
2. The petitioner/applicant's grievance is that by a previous notification, the existing limit of 20,000 sq. mtrs. in any given area and within local municipal limits of the city or even rural areas, which was sought to be diluted by obliging environmental clearance only for buildings and construction exceeding 1,50,000 sq. mtrs. was interdicted by the National Green Tribunal in its order dated 08.12.2017. It is pointed out that the Supreme Court is seized of the matter and has not made any interim order.
3. In the meanwhile, by a draft notification, the respondents sought to introduce another notification i.e. of 50,000 sq. mtrs., which became subject matter of challenge before this Court. A learned Single Judge, by an order dated 01.11.2018 [in W.P.(C) 11027/2018] was of the opinion that since the subject matter concerned only a draft notification, the petitioners could be heard and thereafter a decision taken. In the meanwhile, the impugned notifications of 14.11.2018 and 15.11.2018 have been issued even before the expiry of the period granted by the learned Single Judge.
4. Having considered the order of the NGT as well as the experts' reports which are placed on record with respect to the possible consequences of the dilution and empowerment of Gram Panchayats, this Court is of the **opinion that till the next date of hearing, operation of the impugned notifications [dated 14.11.2018 & 15.11.2018] ought to be and is hereby directed to be stayed.**

W.P.(C) 12517 & 12570/2018 of 2018

page 2 of 3



5. Counter affidavit be filed within four weeks.
6. List on 19th February, 2019.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

NOVEMBER 26, 2018
'hkaur'



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 4519]	नई दिल्ली, बृहस्पतिवार, नवम्बर 15, 2018/कार्तिक 24, 1940
No. 4519]	NEW DELHI, THURSDAY, NOVEMBER 15, 2018/KARTIKA 24, 1940

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 15 नवम्बर, 2018

का.आ.5736(अ).--भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय की अधिसूचना सं. का.आ. 1533(अ) तारीख 14 सितम्बर, 2006 का और संशोधन करने के लिए पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए का.आ. 1132(अ), तारीख 13 मार्च, 2018 द्वारा प्रकाशित किए गए थे, भारत के राजपत्र में उक्त अधिसूचना के प्रकाशन की तारीख से 60 दिनों की अवधि के भीतर, उन व्यक्तियों के जिनके उससे प्रभावित होने की संभावना थी, आक्षेप और सुझाव आमंत्रित किए गए हैं ;

और केंद्रीय सरकार द्वारा उक्त प्रारूप अधिसूचना के संबंध में प्राप्त सभी आक्षेपों और सुझावों पर सम्यक् रूप से विचार कर लिया गया है ;

अतः, अब केंद्रीय सरकार, पठित पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में निम्नलिखित और संशोधन करती है, अर्थात् :-

(i) उक्त अधिसूचना में, पैरा 14 के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :-

"14 स्थानीय निकाय यथा-नगरपालिका, विकास प्राधिकरण और जिला पंचायत भवन की अनुमति देते समय पर्यावरण परिस्थितियों को निर्धारित करेंगे, अधिसूचना का.आ. 5733(अ) तारीख 14 नवम्बर, 2018 में विनिर्दिष्ट भवन या निर्माण परियोजना के लिए निर्मित क्षेत्र \geq 20,000 वर्ग मीटर और $<$ 50,000 वर्ग मीटर होगा तथा औद्योगिक शेड, शैक्षणिक संस्थानों, अस्पतालों और शैक्षणिक संस्थाओं के लिए निर्मित क्षेत्र \geq 20,000 वर्गमीटर से $<$ 1,50,000 वर्ग मीटर होगा।"

(ii) अनुसूची में, मद 8 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित मद और प्रविष्टियां रखी जाएंगी, अर्थात् :-

(1)	(2)	(3)	(4)	(5)
"8	भवन निर्माण और संनिर्माण परियोजनाओं या क्षेत्र विकास परियोजनाओं और नगरी के साथ औद्योगिक शेड, शैक्षणिक संस्थानों, अस्पतालों और शैक्षणिक संस्थानों के लिए छात्रावास			
8(क)	भवन निर्माण और संनिर्माण परियोजना		निर्मित क्षेत्र \geq 50,000 वर्गमीटर से $<$ 1,50,000 वर्गमीटर	<p>टिप्पण 1 : इस अधिसूचना में प्रयोजन के लिए "निर्मित क्षेत्र" पद, सभी तलों को एक साथ मिलाकर निर्मित या आच्छादित क्षेत्र, जिसके अंतर्गत उसका बेसमेंट भी है, जो भवन निर्माण तथा संनिर्माण परियोजनाओं में प्रस्तावित है।</p> <p>टिप्पण 2 : परियोजनाओं या क्रियाकलापों के अंतर्गत औद्योगिक शेड, औद्योगिक संस्थान, अस्पताल और शैक्षणिक संस्थानों के लिए छात्रावास नहीं आएंगे।</p> <p>टिप्पण 3: साधारण शर्तें लागू नहीं होगी।</p>
8(ख)	नगरी और क्षेत्र विकास परियोजनाओं के साथ-साथ शैक्षणिक संस्थाओं के लिए औद्योगिक शेड, शैक्षणिक संस्थाएं, अस्पताल तथा शैक्षणिक संस्थानों के लिए छात्रावास		निर्मित क्षेत्र का \leq 1,50,000 वर्गमीटर क्षेत्र और या आच्छादित क्षेत्र का \geq 50 हेक्टेयर	<p>इस मद के अधीन आच्छादित बोर्ड नगरी परियोजना और क्षेत्रीय विकास परियोजना के लिए पर्यावरण निर्धारण स्थिति और 'बी' परियोजना श्रेणी के रूप में आंकन।</p> <p>टिप्पण : साधारण शर्तें लागू नहीं होगी।</p>

[फा. सं. 3-49/2017-आई.ए.।।।-पीटी]

जिगमेट टकपा, संयुक्त सचिव

टिप्पण : मूल नियम, भारत के राजपत्र, असाधारण, भाग II, खंड 3 उपखंड (ii) में का.आ. 1533(अ), तारीख 14 सितंबर, 2006 में प्रकाशित किए गए थे और तत्पश्चात् निम्नलिखित संख्याओं के द्वारा संशोधित किए गए :-

- का.आ. 1949(अ), तारीख 13 नवम्बर, 2006;
- का.आ. 1737(अ), तारीख 11 अक्टूबर, 2007;
- का.आ. 3067(अ), तारीख 1 दिसम्बर, 2009 ;
- का.आ. 695(अ), तारीख 4 अप्रैल, 2011 ;
- का.आ. 156(अ), तारीख 25 जनवरी, 2012 ;
- का.आ. 2896(अ), तारीख 13 दिसम्बर, 2012 ;
- का.आ. 674(अ), तारीख 13 मार्च, 2013 ;
- का.आ. 2204(अ), तारीख 19 जुलाई, 2013 ;
- का.आ. 2555(अ), तारीख 21 अगस्त, 2013 ;
- का.आ. 2559(अ), तारीख 22 अगस्त, 2013 ;
- का.आ. 2731(अ), तारीख 9 सितम्बर, 2013 ;
- का.आ. 562(अ), तारीख 26 फरवरी, 2014 ;
- का.आ. 637(अ), तारीख 28 फरवरी, 2014 ;
- का.आ. 1599(अ), तारीख 25 जून, 2014;
- का.आ. 2601(अ), तारीख 7 अक्टूबर, 2014 ;
- का.आ. 2600(अ), तारीख 9 अक्टूबर, 2014 ;
- का.आ. 3252(अ), तारीख 22 दिसम्बर, 2014 ;
- का.आ. 382(अ), तारीख 3 फरवरी, 2015 ;
- का.आ. 811(अ), तारीख 23 मार्च, 2015 ;
- का.आ. 996(अ), तारीख 10 अप्रैल, 2015 ;
- का.आ. 1142(अ), तारीख 17 अप्रैल, 2015 ;
- का.आ. 1141(अ), तारीख 29 अप्रैल, 2015 ;
- का.आ. 1834(अ), तारीख 6 जुलाई, 2015 ;
- का.आ. 2571(अ), तारीख 31 अगस्त, 2015,

25. का.आ. 2572(अ), तारीख 14 सितम्बर, 2015, 30. का.आ. 3518(अ), तारीख 23 नवम्बर, 2016 ;
 26. का.आ. 141(अ) 15 जनवरी, 2016, 31. का.आ. 3999(अ), तारीख 9 दिसम्बर, 2016 ;
 27. का.आ. 648(अ) तारीख 3 मार्च, 2016 ; 32. का.आ. 4241(अ) तारीख 30 दिसम्बर, 2016 ; और
 28. का.आ. 2269(अ) तारीख 1 जुलाई, 2016 ; 33. का.आ. 3611(अ) तारीख 25 जुलाई, 2018 ।
 29. का.आ. 2944(अ) तारीख 14 सितम्बर, 2016 ;

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 15th November, 2018

S.O. 5736(E).—Whereas, a draft notification further to amend the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533(E) dated the 14th September 2006 was published in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 *vide* S.O. 1132(E) dated the 13th March, 2018, inviting objections and suggestions from all the persons likely to be affected there by, within a period of 60 days from the date of publication of the said notification in the Gazette of India;

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

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

- (i) in the said notification, for paragraph 14, the following shall be substituted, namely:-

“14 Local bodies such as Municipalities, Development Authorities and District Panchayats, shall stipulate environmental conditions while granting building permission, for the Building or Construction projects with built-up area $\geq 20,000$ sq. mtrs and $< 50,000$ sq. mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions from built-up area $\geq 20,000$ sqm to $< 1,50,000$ sq.m as specified in Notification S.O. 5733(E) dated 14th November, 2018”.

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

(1)	(2)	(3)	(4)	(5)
“8	Building or Construction projects or Area Development projects and Townships as well as for industrial sheds, educational institutions, hospitals and hostels for educational institutions			
8 (a)	Building or Construction projects		$\geq 50,000$ sq. mtrs. and $< 1,50,000$ sq. mtrs. of built-up area	Note-1: The term “built-up area” for the purpose of this notification is the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the buildings or construction projects. Note 2: The projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions. Note 3: General Conditions shall not apply.
8 (b)	Townships and Area Development projects as well as industrial sheds,		$\geq 1,50,000$ sq. mtrs. of built-up area and or covering an area ≥ 50 ha.	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category ‘B ₁ ’ Project. Note: - General Conditions shall not apply.

	educational institutions, hospitals and hostels for educational institutions			
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[F. No. 3-49/2017-IA.III-Pt.]

JIGMET TAKPA, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended *vide* the following numbers:-

1. S.O. 1949 (E) dated the 13th November, 2006
2. S.O. 1737 (E) dated the 11th October, 2007;
3. S.O. 3067 (E) dated the 1st December, 2009;
4. S.O. 695 (E) dated the 4th April, 2011;
5. S.O. 156 (E) dated the 25th January, 2012;
6. S.O. 2896 (E) dated the 13th December, 2012;
7. S.O. 674 (E) dated the 13th March, 2013;
8. S.O. 2204 (E) dated the 19th July 2013;
9. S.O. 2555 (E) dated the 21st August, 2013;
10. S.O. 2559 (E) dated the 22nd August, 2013;
11. S.O. 2731 (E) dated the 9th September, 2013;
12. S.O. 562 (E) dated the 26th February, 2014;
13. S.O. 637 (E) dated the 28th February, 2014;
14. S.O. 1599 (E) dated the 25th June, 2014;
15. S.O. 2601 (E) dated the 7th October, 2014;
16. S.O. 2600 (E) dated the 9th October, 2014
17. S.O. 3252 (E) dated the 22nd December, 2014;
18. S.O. 382 (E) dated the 3rd February, 2015;
19. S.O. 811 (E) dated the 23rd March, 2015;
20. S.O. 996 (E) dated the 10th April, 2015;
21. S.O. 1142 (E) dated the 17th April, 2015;
22. S.O. 1141 (E) dated the 29th April, 2015;
23. S.O. 1834 (E) dated the 6th July, 2015;
24. S.O. 2571 (E) dated the 31st August, 2015;
25. S.O. 2572 (E) dated the 14th September, 2015;
26. S.O. 141 (E) dated the 15th January, 2016;
27. S.O. 648 (E) dated the 3rd March, 2016;
28. S.O. 2269(E) dated the 1st July, 2016;
29. S.O. 2944(E) dated the 14th September, 2016;
30. S.O. 3518 (E) dated 23rd November 2016;
31. S.O. 3999 (E) dated the 9th December, 2016;
32. S.O. 4241(E) dated the 30th December, 2016; and
33. S.O. 3611(E) dated the 25th July, 2018.

Subject: Report of the Technical Committee (constituted by the Chairman of the Board) regarding applicability of environmental clearance and other connected issues in the case of M/s Champa Devi Jaipuria Charitable Trust, plot no. HS-2, M-Block, Mayfield Garden, Sector-51, Gurugram and the issues mentioned in order dated 4.4.2024 of Hon'ble National Green Tribunal in OA no. 340 of 2024 (IA 1344/2024) in the matter of Orchid Island Residents Welfare Association Vs MoEF&CC & Ors.

The Technical Committee visited the projects names M/s Champa Devi Jaipuria Charitable Trust, plot no. HS-2, M-Block, Mayfield Garden, Sector-51, Gurugram on 09.5.2024.

The following were present during the visit

- i. Dr. Babu Ram, Technical Expert, HSPCB
- ii. Sh. Satinder Pal, SEE, HSPCB
- iii. Sh. J.P Singh, SEE, HSPCB
- iv. Sh. Kuldeep Singh, RO, Gurugram, HSPCB
- v. Sh. Kamaljit Singh, Environmental Engineer, HSPCB
- vi. Sh. Aparnesh Kumar, Scientist-B, HSPCB
- vii. Representative of M/s Orchid Island Welfare Society

1.0 Background

1.1 Observations and directions of Hon'ble National Green Tribunal in its order dated 4.4.2024 in OA in 340 of 2024 in the matter of Orchid Island welfare Association V/s MoEF&CC.

Para no. 1, 2, 3 and 6 of order dated 4.4.2024 of Hon'ble Tribunal are produced as under:

Para-1:

In this original application, Applicant has raised the grievance that the Respondent, Builders/developers are developing a residential colony in the name and style "Mayfield Garden" on 327.773 acres in Sector 47, 50, 51, 52 and 57 of Gurgaon in violation of environmental norms.

Para-2:

The submission of learned Counsel for the Applicant is that though the construction commenced prior to 2006 but subsequently the plans have changed, the project has been substantially amended time and again with the change in magnitude of the project and area has increased and currently the area is 327.773 acres and that the project proponent has not obtained the CTO, CTE and NOC from the competent authorities, the project proponent is raising construction in violation of the norms.

Para-3:

During the course of argument, learned Counsel for the Applicant has referred to the minutes of the meetings of SEIAA dated 05.09.2023 wherein the SEIAA had clearly noted the fact that the project proponent had initiated construction activities at site without obtaining environmental clearance and that in the meeting, decision was taken to call for a fresh examination and appraisal on all the relevant issues pertaining to the proposal. He submits that though in spite of the fact that the project proponent does not have the necessary permission, the project is in progress and the construction is going on.

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Para-6:

Respondent No. 10, HSPCB will ensure that no construction in violation of the norms is carried on by the project proponent till the next date of hearing. The order dated 4.04.2024 in OA No. 340 of 2024 of Hon'ble National Green Tribunal is annexed as per Annexure-1.

Next date of hearing in the case is on 10.7.2024.

1.2 Project details and their construction status as supplied by the TCP Department, Haryana

The details of various licences under Section 3 of The Haryana Development and Regulation of Urban Areas Act, 1975 (Act No.8 of 1975) granted to M/s Sheetal International Pvt. Ltd. for development of residential plotted colony namely Mayfield Garden, Gurugram are as under:

Sr. No.	Licence No.	Date	Area(in acres)
1	53-60 of 1994	31.12.1994	180.204
2	9-24 of 1995	20.11.1995	123.875
3	98 of 2008	12.05.2008	19.069
4	8 of 2009	17.05.2009	4.625
Total			327.773

The revised layout plan of Residential Plotted Colony of above said project over an area measuring 327.773 acres has been approved bearing drawing no. DTCP-1784 dated 07.01.2009.

From the above, it is clear that the project "Mayfield Garden" has made expansion after 14.09.2006 and also got approved revised layout plan i.e. modernized the project in year 2009, thereby inviting the provisions of EIA notification of year 2006 which requires prior Environment Clearance. The project has so far not obtained Environment Clearance as required under EIA notification dated 14.09.2006 and thus violating the Environmental norms.

1.3 EIA notification dated 4.5.1994, 7.7.2004, 14.9.2006 and 22.12.2014 issued by Ministry of Environment, Forests & Climate Change, New Delhi

1.3.1 EIA notification dated 4.5.1994

In the list of the projects, requiring environment clearance, as mentioned in EIA notification dated 4.5.1994, building construction projects/townships and area development projects were not covered.

1.3.2 EIA notification dated 7.7.2004

Under EIA notification dated 7.7.2004, construction projects falling under category 31 of schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1000 persons or below or sewage discharge of 50 m³/day or below or with an investment of Rs. 50 crores, requiring environment clearance, have been covered.

1.3.3 EIA notification dated 14.9.2006

As per EIA notification dated 14.9.2006, building and construction projects having area $\geq 20000 \text{ m}^2$ and $\leq 150000 \text{ m}^2$ built up area, township and area development projects having an area ≥ 50 hectare and built up area $\geq 150000 \text{ m}^2$, requiring environmental clearance, have been covered.

1.3.4 EIA notification dated 22.12.2014

The schedule under column (i) for item 8 relating to building/construction projects/ area development projects and townships was amended in the principal notification dated 14.9.2006 issued by Ministry of Environment, Forests & Climate Change and amended part of the notification by issuing EIA notification dated 22.12.2014 is mentioned as under:

"The building construction projects or activities, requiring environmental clearance, shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain -water harvesting and may use recycled materials such as fly ash bricks".

Therefore, as per the notification dated 22.12.2014, school, colleges, Hostels etc. were not covered in EIA notification dt. 14.09.2006. However, Ministry of Environment, Forests & Climate Change vide its office memorandum dated 30.4.2024 has given clarification in compliance of order dated 6.3.2024 of Hon'ble High Court of Kerala in WP (c) no. 3097 of 2016 in the matter titled One Earth One Life Vs MoEF&CC as under:

- The Hon'ble High Court of Kerala, vide order dated 6.3.2024, in WP (c) no. 3097 of 2016 in the matter titled as One Earth One Life V/s The Ministry of Environment, Forest and Climate Change & Ors, has quashed and set aside the aforesaid notification dated 22.12.2014. MOEF has issued memorandum dated 30.04.2024 alongwith a copy of order dt. 06.03.2024 of Hon'ble High Court of Kerala which is enclosed as **Annexure-2**.

1.3.5 EIA Notification dt. 15.11.2018

The schedule under column (i) for item 8 relating to building/construction projects/ area development projects and townships was amended in the principal notification dated 14.9.2006 issued by Ministry of Environment, Forests & Climate Change and amended part of the notification by issuing EIA notification dated 15.11.2018 is mentioned as under:

- *"The building construction projects or activities, requiring environmental clearance, shall not include industrial shed, school, college, hostel for educational institution."*
- Further, the built-up area has been changed from "> 20,000 sq.mt. and <150,000 sq.mt." to "> 50,000 sq.mt. and <150,000 sq.mt."
- The Hon'ble High Court of Delhi, vide order dated 26.11.2018, in WP (c) no. 12517 of 2018 in the matter titled Social Action for Forest and Environment Vs. Union of India, has stayed the aforesaid notification dated 15.11.2018.

2.0 TCP Department has given Occupation Certificate (OC) for various sites within the township. The detail of same is given in tabular form as under.

Details of community facilities within the colony of sheetal enclave

Sr. No.	Type of Building	Status of Building Plan	Status of O.C	Status construction
1.	Nursery School-1	Building plan approved vide memo no. 1983 dated 04.03.2011.	OC granted vide memo no. 947 dated 21.07.2016 in favour of Narang Properties Pvt. Ltd	Developed
2.	Nursery School-2	Building plan approved vide memo no. 8977 dated 10.09.2010	OC granted vide memo no.34 dated 02.01.2015 in favour of Jolly Joy School	Developed
3	Nursery School-3	Building plan approved vide memo no. 19 dated 06.01.2014.	OC granted vide memo no. 2635 dated 28.07.2014 in favour of M/s U.V. Eduvision	Developed
4.	Nursery School-4	Building plan approved vide memo no. 95 dated 23.01.2012.	OC granted vide memo no. 10836 dated 13.12.2012 in favour of Mr.Vaibhav Mehuduatta S/o Sh. MP Mehuduatta & Ms. Savita Chaudhary W/o Sh. R.C.Chaudhary	Developed
5	Nursery School-5	Building plan approved vide memo no. 99 dated 23.01.2012.	OC granted vide memo no. 2786 dated 17.05.2017 in favour of Vaishno Educational Society.	Developed
6	Nursery School-6	Building plan approved vide memo no.209 dated 26.03.2015.	OC granted vide memo no. 5351 dated 30.08.2012 in favour of Mrs. Anita Arora & Sh. Ved Pal	Developed
7	Nursery School-7	Building plan approved vide memo no. 419 dated 11.07.2013.	OC granted vide memo no.1153 dated 03.03.2017 in favour of M/s Amazing Land Deals Pvt. Ltd.)	Developed
8	Nursery School-8	Building plan approved vide memo no.453 dated 27.09.2011.	OC granted vide memo no.1698 dated 19.05.2014 in favour of Angita Bharti Education Society	Developed

Sr. No.	Type of Building	Status of Building Plan	Status of O.C	Status construction
9	Nursery School-9	Building plan approved vide memo no.258 dated 16.04.2013.	OC granted vide STP, Gurugram memo no. 749 dated 27.05.2016 in Favour of Mehar Singh & others	Developed
10	Nursery School-10	Building plan approved vide memo no.276 dated 18.07.2011.	OC granted vide memo no. 37 dated 02.01.2015 in favour of Mrs. Sunita Devi, Mrs. Shalu Chillar & Mrs. Suman Bhardwaj	Developed
11	Nursery School-11	Building plan approved vide memo no.208 dated 09.01.2018.	OC granted vide memo no.7923 dated 25.10.2018 in favour of M/s Sheetal International Pvt. Ltd.	Developed (non functional)
12	Nursery School-12	Building plan approved vide memo no.190 dated 09.01.2018.	OC granted vide memo no. 7929 dated 25.10.2018 in favour of M/s Sheetal International Pvt. Ltd.	Developed (non functional)
13	Nursery School-13	Building plan approved vide memo no.181 dated 09.01.2018.	OC granted vide memo no. 7935 dated 25.10.2018 in favour of M/s Sheetal International Pvt. Ltd.	Developed
14	Nursery School-14	Building plan approved vide memo no. 4094 dated 27.11.2011.	OC granted vide memo no. 12134 dated 13.12.2012 in favour of M/s Satya Educational Society	Developed
15	Nursery School-15	Building plan approved vide memo no.171 dated 09.01.2018.	OC granted vide memo no. 6842 dated 31.08.2018 in favour of M/s Sheetal International Pvt. Ltd.	Developed
Primary School				
1	Primary School -1	Building plan approved vide memo no. 81 dated 22.01.2015.	OC granted vide memo no. 6080 dated 22.09.2017 in favour of M/s Manav Rachna Education Trust	Developed
2	Primary School -2	Building plan approved vide memo no.825 dated 29.01.2018.	OC status not available -3rd Party Rights stands created-Windsor School	Developed (non functional)

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Sr. No.	Type of Building	Status of Building Plan	Status of O.C	Status construction
3	Primary School- 3	-	-	Encroachment - No 3rd Party rights created.
4	Primary School- 4	Building plan approved vide memo no. 2928 dated 20.08.2020.	OC granted vide memo no. 4757 dated 06.10.2021 in favour of --Yadav and Swati Yadav	Developed
5	Primary School- 5	Building plan approved vide memo no. 2358 dated 09.03.2018. Building demolished and building plans again sanctioned vide this office memo no. 6754 dated 11.10.2022 in favour of Sh. Vivek Narang S/o Late Sh. S.N. Narang, Mrs. Sona Narang W/o Mr. Vivek Narang and Mr. Deepak Narang S/o Late Sh. S.S. Narang	OC granted vide memo no. 1575 dated 25.03.2019 in favour of M/s Sheetal International Pvt. Ltd.)	Developed
6	Primary School- 6	Building plan approved vide memo no. 3675 dated 27.06.2017.	OC granted vide memo no. 5750 dated 12.07.2018 in favour of M/s Jagannath Educational Institutions Pvt. Ltd.	Developed
7	Primary School- 7	Building plan approved vide memo no. 217 dated 09.01.2018	OC granted vide memo no. 8271 dated 19.11.2018 in favour of M/s Sheetal International Pvt. Ltd.	Developed
8	Primary School- 8	Building Plans approved vide memo no. 5455 dated 30.08.2023 in favour of M/s Champa Devi Jaipuria Charitable Trust.	OC granted vide memo no. 7300 dated 18.09.2018 in favour of M/s Sweeta Homes Build well Pvt. Ltd. However, building stands demolished and revised building plans	Under construction

Sr. No.	Type of Building	Status of Building Plan	Status of O.C	Status construction
			got approved.	
High School				
1	HighSchool-1	Building plan approved vide memo no.563 dated 18.09.2013.	OC granted vide memo no. 181 dated 27.01.2015 in favour of M/s Sheetal International Pvt. Ltd.	Developed
2	HighSchool-2	Building plan approved vide memo no. 7758 dated 29.12.2017.	OC granted only ground floor vide memo no. 8559 dated 06.12.2018.	Under construction

Club/ Community				
1	Club/Community- 1	Building Plans approved vide STP, Gurugram office memo no. 163 dated 09.01.2018 in favour of M/s Sheetal International Pvt. Ltd.		Constructed (non functional)-
2	Club/Community- 2	Building Plans approved vide STP, Gurugram office memo no. 171 dated 09.01.2018 in favour of M/s Sheetal International Pvt. Ltd.)	-	Constructed (non functional)-
Dispensary				
1	Dispensary-1	Building plans approved vide memo no. 211 dated 13.07.2011.	OC granted vide memo no. 1221 dated 29.09.2016	Developed
2	Dispensary-2	-	-	Encroachment -under litigation- no 3rd party rights created
Crèche				
1	Crèche-1	Building Plans Approved vide STP, Gurugram office memo no. 70 dated 31.07.2013 in favour	OC granted vide memo no. 2344 dated 03.12.2013 in favour of M/s IPSAA Daycare	Developed

		Sheetal International Pvt. Ltd.	Pvt. Lt. (Formerly known as Innovative Kids Zone Pvt. Ltd)	
2	Crèche-2	Building Plans approved vide STP, Gurugram office memo no. 199 dated 09.01.2018 in favour of M/s Sheetal International Pvt.Ltd.	-	Encroachment at site— Under litigation

3.0 About the project M/s Champa Devi Jaipuria Charitable Trust, Plot no. 51, M-Block, Gurugram and its construction status.

As per the record provided to the technical committee, Senior Town Planner and Chairman of the Building Plan Approval Committee vide his office letter no. 5455 dated 31.8.2023 has accorded approval /permission for construction of primary school of M/s Champa Devi Jaipuria Charitable Trust, Plot no. 51, M-Block, Gurugram at plot no. 8 measuring 0.919 acres in the residential plotted colony area measuring 327.773 acres.

Further, the said department vide its letter no. 6846 dated 25.10.2023 has also accorded approval/permission for construction of high school building at plot no. 2, measuring 4.528 acres in the residential plotted colony area measuring 327.773 acres for the land purchased by M/s Champa Devi Jaipuria Charitable Trust, Plot no. 51, M-Block, Gurugram from M/s Sheetal International Pvt. Ltd. (Licensee) on 16.08.2023. Thereafter unit applied for CTE for construction of High School having plot area of 4.528 acres with built up area 26689.62m² vide its application dated 12.1.2024 and the same has been granted on 30.01.2024 having project cost of Rs. 318.51 crores, Total fresh water consumption of the project is 100 m³/day (75 m³/day fresh water + 25 m³ treated wastewater). The discharge of domestic effluent shall be 72 m³/day and same shall be treated in a STP. It shall have 3 DG set of capacity 750 KVA, 750 KVA and 250 KVA.

The project of primary school being constructed in an area of 0.919 acres by M/s Champa Devi Jaipuria Charitable Trust, which also required CTE before start of the construction. However, the CTE has been granted by the Board to the Primary School on 05.07.2024 after taking closure action under the provision of the Water Act, 1974 and Air Act, 1981.

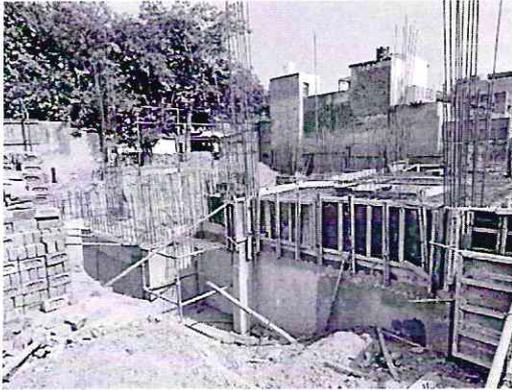
At the time of visit to the project namely M/s Champa Devi Jaipuria Charitable Trust, Plot no. 51, M-Block, Gurugram, the construction work of primary school and high school was found stopped. For the construction of these schools, the project proponent claimed that treated wastewater of STPs, operated by GMDA, is used and necessary approval of the same has been given by GMDA vide its letter dated 19.9.2023. The project proponent has further claimed that no tubewell/ borewell has been constructed within its premises for withdrawal of groundwater. For drinking purposes, GMDA water supply is available.

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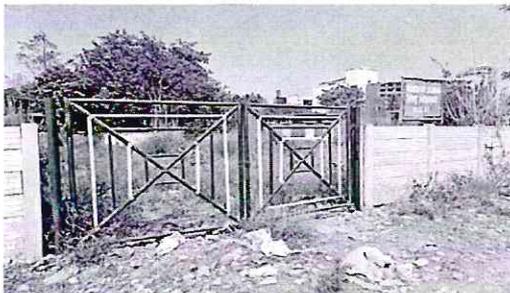
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3.1 Photographs for the construction status of various buildings
3.1.1 Construction sites of Orchid Infrastructure



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3.1.2. Status of site for Schools



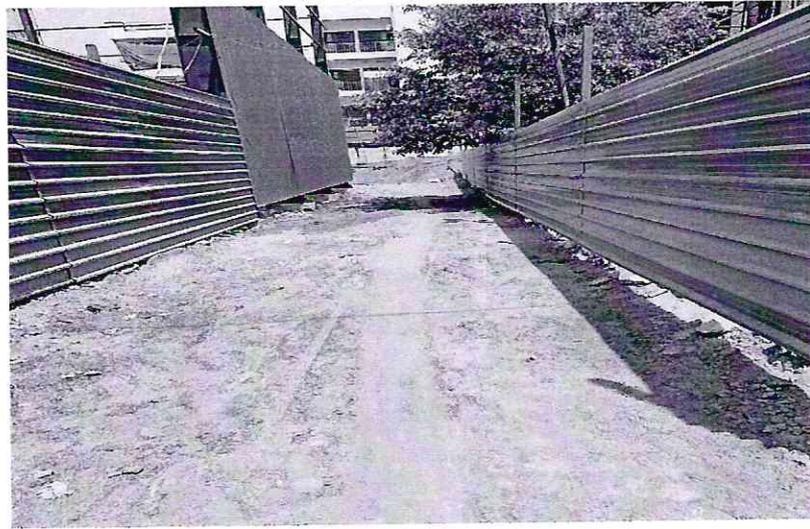
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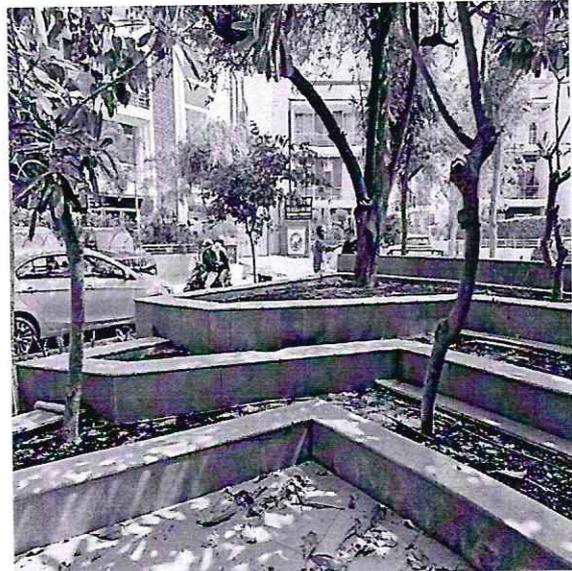
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3.1.3. Road between High School and Primary School



3.1.4. Encroachment of Road in Colony by constructing Amphitheatre in front of H.No. 498 to 515 A



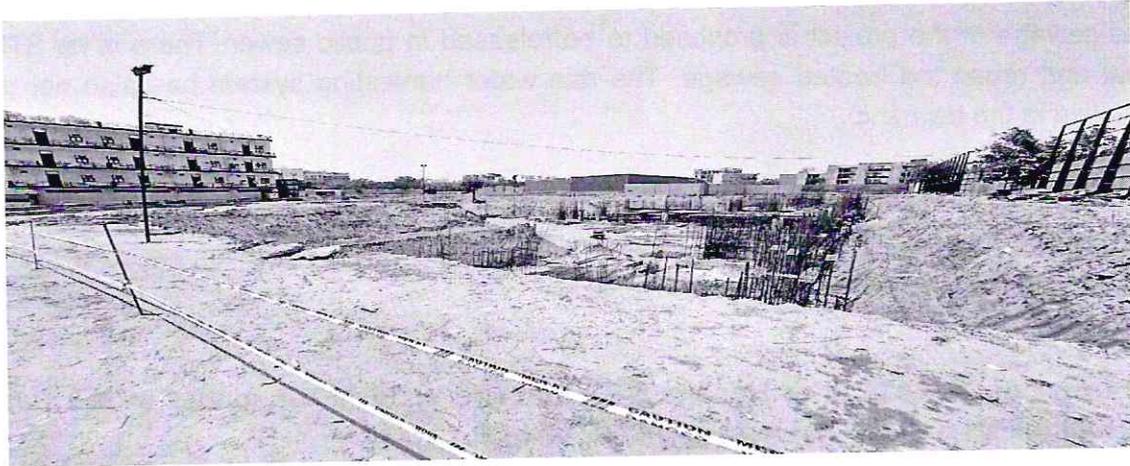
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3.1.5. Construction Status of High School



4.0 Environment Management

4.1. Compliance of Noise Rules, 2000

The construction was stopped at the time of visit. However, the violation of the Noise Rules cannot be ruled out and the same needs to be ensured through strict vigil by Field staff of the HSPCB.

As per Noise Rules:-

"5A. Restrictions on the use of horns, sound emitting construction equipments and busting of fire crackers.

- (1) No horn shall be used in silence zones or during night time in residential areas except during a public emergency.
- (2) Sound emitting fire crackers shall not be burst in silence zone or during night time.
- (3) Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zone. "

Therefore, any construction activity producing noise should not be allowed during night time.

4.2 Ground Water Extraction

As per norms, the permission for extraction of ground water must have been obtained by the project proponent for use. The project proponents claimed that they use treated water for construction from STP Dhanwapur. The Regional Officer, HSPCB, DTP and XEN Irrigation Department are the enforcement officer of HWRA. So, they need to ensure that there is no extraction of ground water without the permission of Haryana Water Resource Authority. Further, the treated wastewater must be as per prescribed standard for construction purposes.

4.3 Solid Waste Management

Though no solid waste was found dumped at any place within the society but no Solid Waste Management plan has been submitted by the project proponent.

4.4 Treatment of wastewater, its reuse/ recycling

The sewage of the project is proposed to be released in public sewer. There is no STP to treat and reuse the treated sewage. The rain water harvesting system has also not been installed in the township.

4.5 Solar System

In order to save energy, there is need to provide solar system. However, no solar systems have been installed in the project at any place.

5.1 Order dt. 28.03.2023 of Hon'ble NGT for third party in the matter of M/s Raman Sharma Vs State of Haryana in OA No. 68 of 2022

M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurugram is a company engaged in the business of Real Estate and developing/ building townships and other building projects and has established and operating a Residential Plotted Colony along with Group Housing Component situated at Sohna Road, Gurugram. The project has not obtained Consent to Establish/ Consent to operate from the Board and also not obtained Environmental Clearance under the provision of EIA Notification. Therefore, an order dt. 23.12.2022, containing directions in following terms was passed by HSPCB:-

(a). The project proponent shall stop all construction activities related to the project with immediate effect till it obtains environment clearance under EIA Notification dated 14.09.2006 and Consent to Establish (NOC)/Consent to Operate from the Board under Water Act, 1974 and the Air Act, 1981.

(b). The project proponent shall not allow any new occupancy and shall not allow any new possession in the premises of the project with immediate effect.

(c). Town & Country Planning Department/concerned authorities that have issued the license/ LOI and approved the building/layout plans for the development of the project shall take necessary action to stop further construction activities relates to the project till the project proponent obtains Environment Clearance under EIA Notification dated 14.09.2006 and Consent to Operate from the Board under the Water Act, 1974 and the Air Act, 1981.

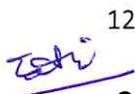
(d). The Revenue Authorities shall not register any sale deed relates to any plot/flat/house/shop/any other component of this project with immediate effect.

(e). The DHBVN authorities shall not release any new electric connection for this project or to any of its components with immediate effect.

But subsequently, order dt. 28.03.2023 was passed by Hon'ble NGT (**Annexure- 3**), wherein, Hon'ble NGT was pleased to issue directions to the HSPCB to revisit the closure order in terms of that the bonafide third party investor may not be made to suffer due to inaction / negligence / connivance of the concerned Administrative Officer. The relevant part of the order is reproduced as under:-







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"Para No. 19-

*It appears that before passing the closure order the HSPCB has not taken into consideration the third party rights already created by the respondent No.8 in favour of those aspiring to find shelter for good living (which is universally acknowledged as **the basic human need**) who may have made investment of their life time earnings in ongoing projects.*

Environmental compensation has also been imposed without giving opportunity of being heard to the Respondent No.8 and such order for imposition of environmental compensation, which may not be legally sustainable on scrutiny for violation of principles of natural justice, which is also not likely to be immediately recovered and which is not part of any action plan based on assessment of actual damage to environment in the area for taking of remedial measures for restoration thereof, serves no meaningful purpose. The HSPCB is directed to revisit the closure order and clearly specify for which project the EC was required and to which the closure order applies and clearly mention the projects to which the closure order does not apply. The HSPCB is also directed to ascertain third party rights already created and take appropriate action for protection of the same. State and its instrumentalities have adequate powers of securing compliance by such builders with the statutory provisions, environmental norms and terms and conditions of the approvals granted and the bona fide third party investors cannot be made to suffer due to inaction/negligence/connivance of the concerned Administrative Officers."

Therefore, the order was reviewed and the directions were made applicable only to the property of project proponents and was not applied to the property of bonafide third party investors as well as to other persons to whom the rights in the properties have been/ to be transferred by third party investors, as mentioned in the order of Hon'ble NGT.

Thus, in the present matter, M/s Champa Devi Jaipuria Charitable Trust is a third party and the Hon'ble Tribunal may consider the same on the lines of the directions issued in OA no. 68 of 2022 in the matter of Raman Sharma vs State of Haryana.

6.0 Conclusions and recommendations

- i. As per the record provided to the committee, M/s Champa Devi Jaipuria Charitable Trust purchased the land measuring 4.583 acres for construction of high school and 0.919 acres land for construction of primary school from M/s Sheetal International Pvt. Ltd. and M/s Sweet Homes Buildwell Pvt. Ltd., New Delhi, respectively, in the month of August, 2023. The construction work of buildings of these schools was started in Oct, 2023. HSPCB granted CTE to High School of M/s Champa Devi Jaipuria Charitable Trust on 30.01.2024 valid upto 29.1.2029 under orange category for the discharge of domestic effluent @72 m³/day through STP.
- ii. Primary School, having built up area 7567.98sqm, being constructed by M/s Champa Devi Charitable Trust, has started the construction work without obtaining CTE of HSPCB and accordingly closure directions under section 33-A of Water Act, 1974 and under section 31-A of Air Act, 1981 were issued and later on these directions were suspended with the condition that Primary School shall not start construction activity without obtaining prior CTE from the Board. Now, the Primary School of M/s

- Champa Devi Charitable Trust has obtained CTE of the Board on 05.07.2024. Since the built up area of Primary School is 7567.98sqm which is less than 20,000sqm, as such the Primary School is not covered under the ambit of EIA notification dated 14.09.2006.
- iii. M/s Champa Devi Jaipuria Charitable Trust has started the construction work of its schools (high school in an area 4.528 acres and primary school in an area 0.919 acres) in the residential plotted colony area measuring 327.773 acres which fall in the license granted colony namely M/s Mayfield Garden having license no. 53 to 60 of 1994, 9 to 24 of 1995, 98 of 2008 and 8 of 2009 in sector-47, 50, 51, 52 and 57, Gurugram. The project of M/s Champa Devi Jaipuria Charitable Trust is a part of the main project namely Mayfield Garden and is therefore covered under EIA notification dated 14.9.2006. Though, Ministry of Environment, Forests and Climate Change, Govt. of India vide its notification dated 22.12.2014 had exempted industrial shed, schools, colleges and hostels for education institutional from the applicability of the EIA notification dated 14.9.2006 but the said notification dated 22.12.2014 is not applicable in case of M/s Champa Devi Jaipuria Charitable Trust, being one of the component of the M/s Mayfield Garden and prior Environment Clearance should have been taken.
 - iv. Moreover, if the notification dated 22.12.2014 is considered to be applicable in case of M/s Champa Devi Jaipuria Charitable Trust but now the same has been set aside by the Hon'ble High Court of Kerala vide order dated 6.3.2024 in WPC no. 3097 of 2016 and subsequently Ministry of Environment, Forests & Climate Change vide its office memorandum dated 30.4.2024 has conveyed the orders dated 6.3.2024 of Hon'ble High Court of Kerala to all the Government Departments for compliance. As such, the notification dated 22.12.2014 shall not prevail, thereby High School of M/s Champa Devi Jaipura Charitable Trust, is required to obtain environment clearance as required under EIA notification dt. 14.09.2006 because area is more than 20,000 sqmt. But on the date of grant of CTE, the notification dt. 22.12.2014 was applicable, and EIA notification was not applicable. But now after quashing of notification dated 22.12.2014 of MOEF by Hon'ble High Court of Kerala, therefore EIA notification dt. 14.09.2006 becomes applicable. However, the case of High School may be considered by the Hon'ble Tribunal on the lines of the directions dated 28.03.2023 issued in OA no. 68 of 2022 in the matter of Raman Sharma vs State of Haryana.
 - v. As the notification dated 22.12.2014 has been quashed by Hon'ble Kerala High Court and the notification dt. 15.11.2018 has been stayed by Hon'ble Delhi High Court. Therefore, as on date the High School of M/s Champa Devi Charitable Trust is required to obtain Environmental Clearance as its built-up area is more than 20,000 sq.mt. But, the High School was granted Consent to Establish before the date of quashing of the MOEF notification dt. 22.12.2014. Therefore, this case may be referred to State Environment Impact Assessment Authority to take a decision whether this High School is required Environmental Clearance as per EIA notification.
 - vi. Regional Officer, HSPCB may be asked to check the applicability of CTE/CTO of the Board under Water Act, 1974 and Air Act, 1981 and Environment Clearance as required under EIA notification 14.06.2006 on similar type of projects i.e. other schools and community sites etc existing in M/s Mayfield Garden project.
 - vii. All other projects like Orchid Infrastructure Pvt. Ltd., M/s Sheetal International Pvt. Ltd. and other projects, which are located in the area having license no. 53 to 60 of

- 1994, 9 to 24 of 1995, 98 of 2008 and 8 of 2009 in sector-47, 50, 51, 52 and 57, Gurugram (327.773 acres) and fall in M/s Mayfield Garden, are also required to obtain environmental clearance as required under EIA notification dated 14.9.2006 and CTE of HSPCB before starting the construction work at site which they have not obtained. Therefore, these projects may not be allowed to carry out any construction activities without statutory clearances.
- viii. All the projects shall not install any tubewell/borewell in their complex to withdraw groundwater and these projects shall utilize treated wastewater of STPs, conforming to the standards prescribed by HSPCB vide its notification dated 22.9.2023, for construction activities. These projects shall maintain proper record with regard to entry and exit of the tankers carrying treated wastewater of STPs along with quantity of the treated wastewater utilized for construction activities. These records should be matched with the record maintained by GMDA, Gurugram.
- ix. For the treatment of sewage generated by these projects, the work of STPs may be started simultaneously with the construction of main projects and provisions may be made for reuse of treated sewage of these projects.
- x. All these projects shall provide rain water harvesting systems to recharge groundwater. The work of rain water harvesting systems may be completed simultaneously with the completion of main projects.
- xi. All the projects shall comply with the provisions of the Noise Pollution (Regulation and Control) Rules, 2000 during the construction of their projects. Accordingly, RO HSPCB may issue necessary directions to the projects to ensure its compliance.
- xii. The Govt. has already constituted the State / District Level Committee to check the compliance of condition of Environment Clearance. As the projects are covered under EIA notification so the Committee may take action as per its mandate.
- xiii. The conditions imposed by Directorate of Town & Country Planning while granting approval/permission of building plans of the projects may be complied with by the various project proponents and all the encroachments made by project proponents may be removed.


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