

**FACTUAL AND ACTION TAKEN REPORT
OF
THE COMMITTEE OF HIGHER AUTHORITIES**



**SUBMITTED TO HON'BLE NGT
IN OA No. 44/2020
RIVERA TOWN OWNERS SOCIETY VERSUS
STATE OF MADHYA PRADESH & OTHERS**

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14-07-2021

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**FACTUAL AND ACTION TAKEN REPORT OF THE COMMITTEE OF HIGHER AUTHORITIES
SUBMITTED TO HON'BLE NGT IN THE MATTER OF OA NO. 44/2020 (RIVERA TOWN OWNERS
SOCIETY VERSUS STATE OF MADHYA PRADESH & OTHERS) ORDER DTD. 16.06.2021**

The Hon'ble NGT vide order dated 16.06.2021 in the case titled as Rivera Town Owners Society V/s State of MP & others has constituted the committee of higher authorities as per para 8 of the order "8. *In light of the above facts, we deem it just and proper to refer the matter to higher authorities consisting following:*

- a. MP State Environment Impact Assessment Authority (MPSEIAA)*
- b. One representative from the Central Pollution Control Board*
- c. One representative from the Central Ground Water Authority*
- d. One representative from the Chief Conservator of Forest, Madhya Pradesh*
- e. Madhya Pradesh Pollution Control Board.*

As per para 9 of the order the terms of reference given as "9. *The Committee is directed to submit the factual and Action Taken Report. It is made clear that in case, it is found that EC is required and the construction is being continued without any Environmental Clearance, the environmental laws must be complied with and if there is any construction without the Environmental Clearance, where Environmental Clearance is required, the construction and further activities must be stopped immediately. It is further directed that in case of violation of Environmental laws the environmental compensation in light of In Goel Ganga Developers India Pvt. Ltd. vs Union of India [2018] 18 SCC 257, the Environmental Compensation must be assessed and realized according to law.*"

As per the order various departments nominated the officers for the compliance of the order. In furtherance of the order MP-SEIAA has organized a meeting on 01-07-2021 at 3:30 PM at EPCO Bhopal to draw the ToR of the committee and discuss the status of the project in presence of following committee members :

1. Chief Conservator of Forests through its representative Shri H.S. Mishra, DFO, Bhopal
2. CPCB through its representative Dr. Y.K. Saxena, Sc-C, Bhopal
3. MPPCB through its representative Shri H.S. Malviya, SE, Bhopal
4. CGWA through its representative Shri Naresh Kumar Jatav, Sc-B, Bhopal

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5. MP-SEIAA through its representative Shri Alok Nayak, OIC, Bhopal

As per the direction of Hon'ble Tribunal, after the perusal of documents enclosed along with the report submitted to Hon'ble Tribunal, the committee during discussion observed that:-

The Hon'ble Tribunal directed the committee to examine whether EC is required for the subjective construction and in case if it is found that EC is required and the construction is being continued without any Environmental Clearance, the environmental laws must be complied with and the Environmental Compensation must be assessed and realized according to law as per para 9 of the Hon'ble Tribunal order dated 16/062021.

The committee carefully analyzed the earlier report dated 14.08.2020 thereafter in the changed circumstances, the Bhopal Municipal Corporation/Project Proponent has obtained a revised development permission dated 22.03.2021 for the construction of residential units in Rahul Nagar Phase-1. During discussion representative of MPSEIAA informed that initially BMC had applied on-line for environmental clearance for whole project but due to incomplete documentation proposal was not accepted for consideration. Representative of MPPCB informed that the Project proponent has obtained CTE for whole project and same was reported in previous joint committee report hence for revised scenario CTE has to be obtained.

The Commissioner Municipal Corporation Bhopal Shri K.V.S. Choudary along with the officials of the corporation presented the details and status (**ANNEXURE-I**) of the project before the committee and furnished the various documents.

Shri Choudary explained to the committee that initially development permission dated 26/12/2018 had been taken from the T&CP department for the construction of One EWS block, 4 Nos. LIG blocks and 6 Nos. MIG blocks at the new location Rahul Nagar-1. Contrary to the construction plan and development permission One EWS block, 4 Nos. LIG blocks of lesser built-up area 18953.28 sq mtr. were planned and therefore RERA (Real State Regulatory Authority) permission dated 28/06/2019 was obtained and accordingly residential units are constructed on site in Phase-I. The copy of online application and RERA permission dated 28/06/2019 are **ANNEXURE-II**. He also explained that no additional construction at the site has been done after previous visit of the committee constituted by Hon'ble NGT. Shri Choudary informed that due to non firm planning of phase – II and existing area of phase-I is less than

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20000 sq. m. hence no further follow-up has been made by them for EC. For revising the CTE from MPPCB for built-up area 18953.28 sq mtr. application will be made.

The revised statutory permission of T&CP dated 22/03/2021 obtained for the residential units constructed in Phase-1 ANNEXURE-III and the Municipal Corporation Bhopal also issued revised building permission only for the construction of built-up area of 18953.28 sq.mtr. of Phase-1. The copy of revised building permission dated 07.04.2021 ANNEXURE-IV. The total built-up area of the project is less than 20000 sq.mtr.

In view of the above and the details provided by Municipal Corporation, the committee decided to visit site of the project on 05.07.2021 to see the facts at site.

Accordingly, the committee members except Shri H.S. Mishra representative of CCF MP could not attend the visit due to other official assignments.



During visit, the committee observed that finishing work of the various blocks reported by the previous joint committee constituted by Hon'ble NGT, were in progress. It is also observed that no additional construction at site other than the Phase-I has been done. In this regards the Commissioner Municipal Corporation Bhopal has provided a certificate also pertaining to the fact that the built-up area 18953.28 sq mtr. of the Phases-1 project is maintained as on 14.08.2020 when the earlier committee had visited the construction site. The copy of the certificate dated 01.07.2021 is ANNEXURE-V. During visit and discussion of CGWA officer with project representatives it is informed that the water tankers are being used for construction works. Hence the CGWA officer suggested if project may required use ground water for construction, then NOC from CGWA is required.

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The committee after visit and considering the detailed discussions supported by documentary evidences, make the following observations/recommendations: -

1. As per the revised development permission dated 22.03.2021 issued by T&CP for phase-1 project the total built up area is 18953.28 sq. mtr. which is less than 20000 sq.mtr.
2. The project proponent has not carried out any type of construction activities outside phase-1 project area with reference to previous report of joint committee. Only finishing works of Phase -I activities were observed during the visit.
3. Initially planned Phase-2 project is dropped by the Municipal Corporation as per the request letter dated 09.07.2021 submitted to T&CP and copy of same is attached at (ANNEXURE-VI). Accordingly T&CP has accepted the request of BMC and cancelled the permission of Phase-2 project vide letter dated 14.07.2021 (ANNEXURE-VII).
4. The Bhopal Municipal Corporation has obtained CTE from MPPCB for whole project, for which revised CTE application with total built up area is 18953.28 sq. mtr. has been made in MPPCB (ANNEXURE-VIII).
5. The project proponent shall obtain ground water NOC from Central Ground Water Authority as per Gazette Notification 24.09.2020.
6. The project proponent shall plant at least three rows of local high rising trees towards the habitation area.
7. The project proponent shall not increase the construction area at site without obtaining necessary regulatory permissions/clearances from various departments.

Action Taken Report:

In view of the above recommendations, documents, permissions and observations made by committee, initially BMC had planned the project comprises Phase-1 & Phase-2 having area more than 20000 sq.mtr. but looking to the all documents/permissions produced by the BMC it is clear that the planning of Phase-1 was done for the total built up area of 18953.28 sq. mtr. as per the permission dated 28.06.2019 of RERA which is less than 20000 sq.mtr. also subsequently the Phase-2 planning dropped by BMC and same was accepted by T&CP.

Y.K. Saxena
14-07-2021

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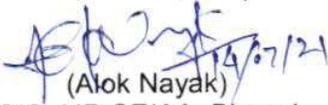
However during visit by the joint committee on 05/07/2021, the finishing works of Phase -I was found in progress and no construction beyond the above mentioned area i.e. 18953.28 sq. mtr were found.

The project proponent has submitted following permission/documents from the various departments till the report is prepared:

- RERA permission dated 28/06/19 for phase-1 project.
- Permission granted by T& CP for Phase-I & Phase-II (separate approvals of layouts) vide letter dated 22.03.2021
- Revised building permission by Municipal Corporation dated 07.04.2021 for phase-1 project with the total built up area is 18953.28 sq. mtr.
- Project proponent has applied to MPPCB for revised CTE.
- Planned Phase-2 project is dropped by the Municipal Corporation as per the request letter dated 09.07.2021 submitted to T&CP. Accordingly T&CP has accepted the request of BMC and cancelled the permission of Phase-2 project vide letter dated 14.07.2021.

In view of the above and on the basis of permission granted by various departments, the committee assessed the applicability of Environment Clearance as per EIA Notification 2006. As per the presented facts and documents provided by BMC, the project in present does not fall under the preview of EIA Notification 2006.


(Naresh Kumar Jatav)
Sc-B, CGWA, Bhopal


(Alok Nayak)
14/07/21
OIC, MP-SEIAA, Bhopal


(Dr. Y.K. Saxena)
Sc-C, CPCB, Bhopal
14-07-2021


(H.S. Mishra)
DFO, Bhopal

(H.S. Malviya)
14/07/2021
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