

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

Original Application No. 976 of 2019

Gurinder Singh & Others.Applicant(s)

Versus

Union of India & Others.Respondent(s)

**STATUS REPORT OF UNIT M/S G.P. REALTORS, PVT.
LTD. ON BEHALF OF S. NARAYANAN, MEMBER
SECRETARY, HSPCB & SHEKHAR VIDYARTHI,
MEMBER SECRETARY, SEIAA, HARYANA.**

Most Respectfully Showeth,

SUBMISSIONS:

1. That in the present matter Hon'ble National Green Tribunal vide its order dated 23.09.2019 directed the Member Secretary, Haryana State Pollution Control Board (HSPCB) and the Member Secretary, SEIAA to submit a factual and action taken report within one month, with the direction to the applicant the he may furnish a separate set of papers each to the Member Secretary, SEIAA and the Member Secretary, HSPCB and file an affidavit of service within one week. However, the applicant did not submit the same as directed by Hon'ble Tribunal in the stipulated time and hence, a copy of petition was obtained from registry of Hon'ble NGT. Further, Member Secretary, HSPCB appointed the Regional Officer, Gurugram (North) as Nodal Officer for inspection of the site of the above said unit and since all the information were not available with the Board the same were sought from other departments concerned. Due to the above reasons, the report could not be submitted within the stipulated period of one month, as directed by the Hon'ble Tribunal. Therefore, it is respectfully prayed that the delay for filing this status report may be condoned.

S. Narayanan



2. That the Nodal officer of the Board inspected the project site and also went through the records of the unit and found that the project proponent had obtained environment clearance from SEIAA on 25.04.2016 for a total land area of 38.2 Acres and built up area of 1,03,807.64 sq.mtr. (with the total project comprising of 03 basements + ground floor + 05 floors and having a basement area of 54,975.33 sq.mtrs. Thereafter, the project proponent obtained Consent to Establish from Haryana State Pollution Control Board vide No. 2808616GUNOCTE29877875 dated 06.05.2016 valid upto 05.05.2021;

After that the Project proponent applied for environmental clearance for expansion/modification of the project with a revised plan from 03 level basements to 2 level basements along with the modified size of basements from 54,975.33sq.mtr to 46,031.10sq.mtr, which was already under construction since 12.05.2016 on the basis of revised modified plan. The project proponent obtained Environment Clearance form SEIAA on 03.05.2018. After that project proponent had also obtained Consent to Establish including expansion/modification plan from Haryana State Pollution Control Board vide No 329962318GUNOCTE5315182 dated 11.07.2018 valid upto 02.05.2025;

Regional Officer Gurugram (N), after inspection, has further informed that the project proponent is getting the STP constructed as per the feasibility scheme comprising of ultra filtration, as submitted at the time of grant of CTE.

3. That, Principal Chief Conservator of Forests cum Chief Wild Life Warden, Van Bhawan, Panchkula has informed vide letter no. 2345 dated 06/12/2019 that the distance of M/s GP Realtors Pvt. Ltd., is 4.63 Km from the boundary of Asola Bhati Wild Life Sanctuary and that as per the provisions of OM No. 1-

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20/2014/WL (Pt) dated 01.05.2015 read with OM No. J.11013/41/2006-1 A.II (I) dated 02.12.2009 of Ministry of Environment & Forests, Government of India, the projects located within 10 KM distance of those National Parks/Wild Life Sanctuaries for whom the Eco sensitive Zone (ESZ) has not yet been notified, require wild life clearance from the Standing Committee of National Board for Wild life (SCNBWL) before coming for the Environment Clearance and the copy of their application to SCNBWL should be furnished alongwith the application for environment clearance. Copy of the communication of PCCF-cum-Wildlife is attached as **Annexure-1**.

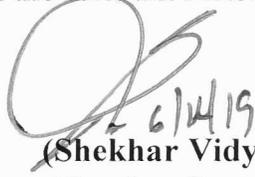
4. That SEIAA, informed that the EC was granted to the above said project for Special Economic Zone on 25.04.2016. Thereafter, the project proponent applied for expansion of the same project for which Environmental Clearance was granted on 03.05.2018 by Ministry of Environment, Forest & Climate Change, Govt. of India, New Delhi. Copy of information received from Member Secretary SEIAA is attached as **Annexure-2**.
5. That Director, Town and Country Planning, Haryana vide its letter no. 29312 dated 03.12.2019 informed that no action is required to be taken by the department against the developer company as there is no violation of provisions of the Acts of 1975 or the rules made there-under. (copy of communication received from Director, Town and Country planning, Haryana is attached as **Annexure -3**)
6. That in view of the above facts, the undersigned conclude that the project proponent has violated the EIA Notification 14.09.2006 and conditions of Environmental Clearance dated 25.04.2016 by continuing their construction work (since 12.05.2016) on revised/modified basement plans before obtaining prior Environmental Clearance on the basis of revised modified plan and by applying/obtaining the environment clearance and starting the work without the

S. Parayaras



necessary clearance from wildlife Department, as mandated under the provisions.

It is also informed that SEIAA is initiating necessary action as per the provisions of the relevant Acts.



(Shekhar Vidyarthi)
Member Secretary,
State Environment Impact
Assessment Authority



(S.Narayanan)
Member Secretary,
Haryana State Pollution
Control Board

Date:

From

Principal Chief Conservator of Forests
& Chief Wild Life Warden,
Haryana, Panchkula.

To

Member Secretary,
Haryana State Pollution Control Board,
C-11, Sector-6, Panchkula.

No. 2345

Dated: 06.12.2019

Sub:

OA No. 976 of 2019 titled as Gurinder Singh Vs. Union of India
& Ors

Ref:

Your letter No. HSPCB/Consent/765 dated 15.11.2019 and
letter No. 1083 of Chief Conservator of Forests (Wild Life),
Gurugram dated 02.12.2019

Please refer to the communication of your office cited above, wherein this office was requested to provide the factual information regarding distance of the project proponent from the Asola Bhatti Wild Life Sanctuary and its eco-sensitive zone. The matter was taken up with Chief Conservator of Forests (Wild Life), Gurugram and Divisional Wild Life Officer, Gurugram who have examined the matter and submitted a report to this office.

Accordingly, it is informed that the distance of M/s GP Realtors Private Limited from the boundary of Asola Bhatti Wild Life Sanctuary is 4.63 KM as per Google Earth map measurements. It is further clarified that as per the provisions of OM No. 1-20/2014/WL (Pt) dated 01.05.2015 read with OM No. J.11013/41/2006-1 A.II (I) dated 02.12.2009 of Ministry of Environment & Forests, Government of India, the projects located within 10 KM distance of those National Park/Wild Life Sanctuary for whom the Eco Sensitive Zone (ESZ) has not yet been notified, require wildlife clearance from Standing Committee of National Board for Wild Life (SCNBWL) before coming for the environment clearance and copy of their application to SCNBWL should be furnished along with the application for environment clearance.

Thus, this project which applied for its original CTE in 2016 required the necessary clearance from Wild Life angle before the start of the project.

For kind information and necessary action please.

VATANWAR 06/12/2019
Principal Chief Conservator of Forests
& Chief Wild Life Warden,
Haryana, Panchkula.

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Subject:- Original Application No. 976 of 2019 titled as Gurinder Singh & Ors v/s Union of India & ors.

PUC may kindly be seen. It is to inform that the mentioned application was filed before Hon'ble National Green Tribunal against M/s G.P Realtors Pvt. Ltd for illegalities in the project of setting up of commercial towers on built up area of more than 12 lakhs sqm. It was also alleged that the activity on the project was started in May 2016 while environment Clearance was granted in May, 2018 by MoEF &CC, GoI.

The fact of the case on the behalf of the Member Secretary, SEIAA is as under:-

1. The project proponent had applied for environment Clearance proposed Special Economic Zone at Village Behrampur, Balola & Bandhwari, Gurgaon on dated 10.12.2014. But the case was not considered as the term of SEAC/SEIAA was lapsed on 21.03.2015 and the case was transferred to Ministry of Environment, Forest & Climate Change, New Delhi.
2. The case was taken up by Ministry of Environment forest & Climate Change in its 148th meeting held on 20.05.2015. The terms of Reference were approved by MoEF & CC, GoI and conveyed to the project proponent vide letter No. 21-110/2015-IA.III dated 27.07.2015. Whereas the case was again transferred to SEIAA, Haryana after its reconstitution on dated 21.08.2015.
3. The project proponent submitted EIA/EMP report on the basis of TOR approved by MoEF & CC, GoI, New Delhi. Thereafter the case was taken up for appraisal in 123rd meeting of SEAC held on 11.12.2015 and some shortcomings were observed and conveyed to the project proponent vide letter dated 22.12.2015.
4. The project proponent submitted his reply on dated 04.01.2016 which was considered in 126th meeting of SEAC held on 27.01.2016 and some shortcomings were observed and the same was conveyed to the project proponent vide letter dated 10.02.2016.
5. The project proponent submitted his reply on the raised observation on dated 16.02.2016 which was considered in 128th meeting of SEAC held on 25.02.2016 and observed that the Project proponent obtained SEZ notification for an area of 38.12 acres vide Notification No. S.O. 3043 (E) dated 24.12.2010. After detailed deliberations the committee

recommended this project to SEIAA for granting Environment Clearance.

6. The recommendation of SEAC was considered by SEIAA in the 89th meeting held on 28.03.2016 and it was decided to agree with the recommendation of SEAC to accord Environment Clearance. Accordingly the Environment Clearance was granted to the project proponent vide Letter No. SEIAA /HR/2016/296 dated 25.04.2016.

It is pertinent to mention here that State Environment Impact Assessment Authority granted Environment Clearance for Special Economic Zone on dated 25.04.2016. Thereafter, the project proponent applied for Expansion of the same project for which Environment Clearance was granted on dated 03.05.2018 by Ministry of Environment, Forest & Climate Change, GoI, New Delhi.

Directorate of Town & Country Planning, Haryana
Nagar Yojana Bhavan, Plot No. 3, Sector 18 A, Madhya Marg, Chandigarh
Phone: 0172-2549349 e-mail:tcpharyana7@gmail.com
website:-http://tcpharyana.gov.in

Regd.

To

The Member Secretary,
Haryana State Pollution Control Board,
C-11, Sector-6, Panchkula

M.S.
FIMS-80263
64/12/19

Memo No. SEZ-66-II/ATP(DD)/2018/29715 Dated: 03-12-2019

Subject:-

OA No. 976 of 2019 titled as Gurinder Singh and others Vs. Union of India and others.

Ref:

Your office memo No. HSPCB/Consent/2019/766 dated 15.11.2019.

The letter referred above has been examined and parawise reply in respect of the OA No. 976 of 2019 filed by Gurinder Singh and others before the Hon'ble National Green Tribunal regarding paragraphs relating to this Department is as under:-

1. That contents of para 1 of the application relating to the grievance made by the applicants in OA No. 976 of 2019 are matter of record. However, it is submitted that that the Ministry of Commerce and Industry (Department of Commerce, Government of India) vide notification dated 05.07.2013 granted permission under Section 3 of the Special Economic Zones Act, 2005 to set up a sector specific Special Economic Zone (SEZ) project for Information Technology and Information Technology Enabled Services at villages Behrampur, Balola and Bandhwari, Tehsil Sohna, District Gurugram on the land measuring 25.8093 hectares to M/s GP Realtors Pvt. Ltd. which is a subsidiary company of Ireo Pvt. Ltd. Further, on the request of the developer, the Ministry of Commerce & Industry, Government of India also granted permission for setting up the SEZ for additional area measuring 1.558 hectares after de-notification of some area vide notification dated 11.04.2018. Thus after addition and de-notification, the total area of the SEZ was approved as 27.3521 hectares. Rest of the contents of the para are denied for want of knowledge.
2. That sub-paras of para 2 of the application are replied as under:-
 - a) That contents of sub-para No. 2(a) of the application regarding allegation made in the complaint are matter of record. However, it is submitted that as per requirement of EIAA notification 2006, the State Environment Impact Assessment Authority, Haryana, Panchkula granted Environmental Clearance vide letter dated 25.04.2016 for the project measuring 25.8093 hectares. Clause No. 2 of the said letter states that the project involves the construction of Special Economic Zone on a plot area of 38.12 acres. In the first phase, the project proponent has proposed to develop 12.5835 acres of project area. The total built up area for the first phase shall be 103807.64 sqm. The proposed project shall comprise of three basement + GF + five floors. Thereafter, it was only in the year 2018 that Ministry of Environment & Forest and Climate Change (MOEF & CC) granted Environmental clearance vide letter dated 03.05.2018 for total plot area after expansion i.e. 179392.81 sqm and total construction (built-up) area of 1220183.343 sqm. As per the environmental clearance dated 03.05.2018, the project shall comprise of 7 Towers.

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- b) That contents of sub-para No. 2(b) of the application relating to the allegation raised are matter of record. However, it is clarified that the zoning plan of the above said project measuring 25.8093 hectares was approved by this Department vide office memo no. 8956 dated 06.05.2016. At the same time i.e. on 06.05.2016, recommendations regarding approval of the building plans for the above said project were also forwarded to the Development Commissioner, Noida Special Economic Zone which were finally approved by the competent authority i.e. the Ministry of Commerce and Industry (Department of Commerce, Government of India) vide letter dated 21.06.2016 in respect of Tower-I (total built up area of 49012.317 sqm) with basement (1235 sqm) of the Electronic Hardware and IT/ITES SEZ at SEZ. As per the conditions laid out in the said approval, the developer was also required to comply with the conditions of the environment as stipulated in the said letter.

However, as already stated that the notification for SEZ area measuring 25.8093 hectares was issued by the Government of India on 05.07.2013. The environmental clearance for the first phase of area was also granted by the competent authority vide letter dated 25.04.2016. Hence, the developer company was competent to raise construction at site within the area for which notification for SEZ was issued on 05.07.2013 and environmental clearance was granted on 25.04.2016. Further, as per report received from the office of District Town Planner, Gurugram vide letter dated 30.12.2016, there was no construction on the additional area measuring 1.558 hectare (as on 30.12.2016) for which notification was issued by the Ministry of Industry & Commerce on 11.04.2018. It is further stated that as per report received from the District Town Planner, Gurugram vide letter dated 19.11.2019, the building has been constructed G+6 with two level basements. The building constructed is as per the zoning plans approved vide letter dated 24.07.2018. Basements have been constructed leaving 6.5 mtr setback against required setback of 6 mtrs. It has also been reported that basement has also been constructed within the additional notified area of 1.558 hectares notified vide notification dated 11.04.2018. Further, it is also stated that whether the construction in the additional area of SEZ was started by the developer company before issue of notification dated 11.04.2018 for granting permission for additional area of 1.558 hectares of SEZ cannot be verified at this stage. This fact could have been verified if the applicants had pointed out this illegality at the time when the developer company is alleged to have started construction. It is very difficult at this stage to check such violation when the building already stands constructed.

- c) That contents of para No. 2(c) of the application are admitted to the extent that the Ministry of Environment & Forest & Climate Change (MOEF & CC) vide letter dated 03.05.2018 has also granted Environmental Clearance to the project called as Expansion of IT/ITES (SEZ) at village Behrampur, Bandhwari & Balola, Tehsil Sohna, Gurugram being developed by M/s GP Realtors Pvt. Ltd. However, as already submitted in sub-para (b) above, as per report received from the office of DTP, Gurugram vide letter dated 30.12.2016, there was no construction on the additional area measuring 1.558 hectare till that date. It is reiterated that as per report received from the District Town Planner, Gurugram vide letter dated 19.11.2019, the building has been constructed G+6 with two level basements as per the zoning plans

approved vide letter dated 24.07.2018. Basements have been constructed leaving 6.5 mtr setback against required setback of 6 mtrs. It has also been reported that basement has also been constructed within the additional notified area of 1.558 hectares notified vide notification dated 11.04.2018.

- d) That in reply to sub para No. 2(d) of the application, it is submitted that notification for SEZ area measuring 25.8093 hectares was issued by the Government of India on 05.07.2013. The environmental clearance for the first phase of area was also granted by the competent authority vide letter dated 25.04.2016. Hence, the developer was competent to raise construction at site within the area for which notification for SEZ area was issued on 05.07.2013 and environmental clearance granted on 25.04.2016. The notification dated 11.04.2018 for additional SEZ area was only to the extent of 1.558 hectares, for which environmental clearance was granted on 03.05.2018. A copy of the shajra plan showing the area for which the revised environmental clearance was granted on 03.05.2018 and the earlier environmental clearance granted on 25.04.2016 in red and yellow color respectively is attached as Annexure-1.
 - e) That contents of sub para No. 2(e) of the application do not relate to the Department.
 - f) That contents of sub para No. 2(f) of the application do not relate to the Department.
 - g) That contents of sub para No. 2(g) of the application do not relate to the Department.
3. That contents of para No.3 of the application are wrong and denied. No license has been granted for the said project under the provisions of Haryana Development and Regulation of Urban Areas Act, 1975 and the project is governed by Special Economic Zone Act of 2005.
 4. That contents of para No.4 of the application are denied for want of knowledge.
 5. That contents of para No.5 of the application are admitted to the extent that a similar complaint was also made by one Sh. Ramesh Sanka (Ex-CEO) of Ireo Pvt. Ltd. Comments were also sought from the company vide letter dated 07.10.2019. In its reply dated 10.10.2019 & 19.11.2019, it has been explained by the company that the entire SEZ area has been demarcated as 100% processing area. The excavation of the project site was initiated after obtaining approvals from the office of Development Commissioner, NSEZ. To undertake excavation at site, there is need to excavate the land in slope (angular methodology) beyond the required parameter to maintain slope stability of excavation, so as to avoid any loose soil to slide down on the site in order not to obstruct the construction process and to avoid any unfortunate eventuality to occur with the workers engaged on the site. This methodology remains the same for excavation of any project site. It has been further mentioned that out of 1.558 hectares of additional land notified for SEZ on 11.04.2018, no excavation/ construction has been undertaken on 1.3987 hectares till date. Only on the part of the land measuring 0.1593 hectares, some excavation was undertaken by the company prior to 11.04.2018, as the same was required to be undertaken on account of excavation methodology. However, even this land is owned by the company. The construction at site was initiated in a phased manner. For casting of the elements in the pre cast factory, the raw material, procurement was initiated by the end of June

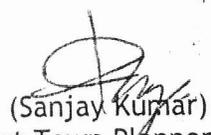
2016 and the raw material were kept in the designated storage areas within the factory premises. The pre cast elements were casted on continuous basis without any specific identification of the area for erection of the said elements. The casted elements were also stored within the SEZ notified area only.

6. That in reply to the para No.6 of the application, the submissions made in para 2(b), (c) & 5 above are reiterated. The developer company could start construction in the area for which notification for SEZ was issued by the Ministry of Industry & Commerce and the environmental clearance granted by MOEF & CC. Further, regarding judgment and order dated 25.01.2019 passed by Hon'ble Supreme Court of India in "The Kerala State coastal Zone Management Authority Vs. the State of Kerala Maradu Municipality & others" and review petition titled as "Sesil Joseph & others Vs. Union of India & others", the matter does not relate to the Department.
7. That contents of para No.7 of the application are matter of record.
8. That contents of para No. 8 of the application relating to reproduction of provisions of Section 10 of the Act of 1975 (and not 11 as mentioned in this para) are matter of record. However, as already submitted, no license to GP Realtors Pvt. Ltd. has been granted by the Department for setting up of a colony under the provisions of the Act No. 8 of 1975. The permission for setting up of SEZ project has been granted by the Ministry of Industry & Commerce under the provisions of SEZ Act of 2005. As already submitted, the Ministry of Commerce and Industry (Department of Commerce, Government of India) vide notification dated 05.07.2013 has granted permission under Section 3 of the Special Economic Zones Act, 2005 to set up a sector specific Special Economic Zone (SEZ) for Information Technology and Information Technology Enabled Services at villages Behrampur, Balola and Bandhwari, Tehsil Sohna, District Gurugram on the land measuring 25.8093 hectares to M/s GP Realtors Pvt. Ltd. which is a subsidiary company of Ireo Pvt. Ltd. Subsequently permission for setting up of SEZ for additional area 1.558 hectares was also granted by the Government of India vide notification dated 11.04.2018.
9. There is no para 9 in the application.
10. That in reply to para No. 10 of the application, it is submitted that the zoning plan of the above said project measuring 25.8093 hectares was approved by this department vide office memo no. 8956 dated 06.05.2016. At the same time i.e. on 06.05.2016 recommendations regarding approval of the building plans for the above said project were also forwarded to the Development Commissioner, Noida Special Economic Zone, which were finally approved by the competent authority i.e. the Ministry of Commerce and Industry Department of Commerce, Government of India vide letter dated 21.06.2016 in respect of Tower-I (total built up area of 49012.317 sqm) with basement (1235 sqm) of the Electronic Hardware and ID/ITES SEZ at SEZ.

Further, this Department approved the zoning plan for additional area measuring 1.558 hectares including the already notified area measuring 25.8093 hectares totaling 27.3521 hectares vide letter dated 06.08.2018. It is further stated that recommendations for approval of the revised building plans for the above said project measuring 27.352 hectares have also been forwarded to the Development Commissioner, Noida, SEZ- which is the final competent authority for approval of the building plans for SEZ projects vide this office letter dated 20.11.2018. It has been

further informed by the developer company that the issue of approval of the revised building plans was deliberated in the meeting of Unit Approval Committee on 07.12.2018, wherein the building plans were also approved. However, since the revised master plan of the area measuring 27.3521 hectares is yet to be approved, hence, the revised building plans were not released. Further, it is pertinent to mention that the request for sending comments regarding approval of revised master plan has been received by this Department from the developer on 23.04.2018, 22.11.2018, 26.06.2019 & 30.08.2019 and office of SEZ on 30.05.2018. However, due to outstanding dues w.r.t. State Infrastructure Development Charges and examination of complaints from Sh. Ramesh Sanka, the office was unable to examine the matter regarding approval of revised master plan. It is also submitted that the developer company has also applied for grant of part occupation certificate for Tower-1 (Ground to fifth floor and 2 level basements). The Development Commissioner, NSEZ has sought comments from this Department vide letter dated 18.10.2019, the matter is under examination of the department.

11. That contents of para No. 11 of the application do not relate to the Department. However, the submissions made in para No. 5 above are also reiterated in response to this para.
12. That in reply to para No. 12 of the application, it is submitted that as no license as per provisions of the Act of 1975 has been granted by the Department to GP Realtors Pvt. Ltd., hence, no action for violation of the provisions of the project sanctioned under the SEZ Act-2005 can be taken by the Department against the violations committed by the developer, if any. Further, the issue regarding illegal activities (commercial) in the basement cannot be checked by this Department of Town and Country Planning, since the SEZ projects are governed by the SEZ Act and the Rules made therein.
13. That contents of para No. 13 of the application are matter of record.
14. That contentions made in para No. 14 of the application are wrong and denied. As already submitted, no action is required to be taken by the Department against the developer company as there is no violation of provisions of the Act of 1975 or the Rules made thereunder. Even if there is some violation of the environmental clearance, necessary action against such violation can only be taken by the Ministry of Environment & Forest and Climate Change. Hence, the Department have unnecessarily been impleaded as respondents in this case.
15. That contents of para No. 15 of the application need no comments from the Department.
16. That contents of para No. 16 of the application are denied for want of knowledge.


(Sanjay Kumar)
District Town Planner (HQ)
For Director, Town & Country Planning
Haryana Chandigarh