

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

**Original Application No. 13/2021(WZ)
(I.A. No. 89/2021)WZ)**

IN THE MATTER OF:

Shashikant Vithal Kamble

S/o Shri Vithal Kamble

Residence of:- S. No. 45,

Popular Colony, Warje, Pune-411058

.....Applicant(s)

Versus

- 1. M/S. KEY STONE PROPERTIES**
(M/s. Royal Developers)
S.No. 16/3 part, At. Punawale, Pune
- 2. THE CHAIRMAN**
Maharashtra Pollution Control Board
Add:Kalpataru, Sion, Mumbai
Telephone no.- 02224020781
- 3. THE PRINCIPAL SECRETARY**
Environmental Department
Maharashtra State
217, Annexe, Mantralaya
second, floor, Mumbai,
- 4. THE CHIEF EXECUTIVE OFFICER PMRDA**
S.No. 152-153, Maharaja Sayajirao
Gaikawad Udyog bhawan, Anundh pune-411007.
- 5. The Member Secretary Maharashtra
Pollution Control Board**
Add:Kalpataru, Sion, Mumbai
Telephone no.- 02224020781
- 6. SEIAA- State Environmental Impact
Assessment Authority**
217, Annexe, Mantralaya
second, floor, Mumbai
- 7. UNION OF INDIA,**
through Secretary,
Ministry of Environment and Forest,
Paryavaran Bhawan, CGO Complex, Lodhi Road,
New Delhi.

8. Police Commissioner, Pune

Email id: punecitypolice.grievance@gmail.com

Telephone no: 9145003100; 9168003100;

.....Respondent(s)

Counsel for the Applicant(s)

None Present

Counsel for the Respondent(s):

Mr. R.B. Mahabal, Advocate for R-1

Ms. Manasi Joshi, Advocate for R 2, 3, 5 & 6

Mr. Nitin Deshpande, Advocate for R-3 & 6

Mr. D. M Gupte, Advocate for R-7

Mr. Aniruddha Kulkarni, Advocate for CPCB

PRESENT:

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Orders Reserved on: 08.08.2022

Pronounced on: 01.09.2022

JUDGMENT

1. The present Original Application has been filed by one Sh. Shashikant Vithal Kamble under Sections 14 & 15 (b) & (c) read with Section 18(1) of the National Green Tribunal Act, 2010 who is a citizen of Pune, working as journalist and a socially spirited person who has brought before us the delinquent act of Respondent No.1-M/s. Key Stone Properties (M/s. Royal Developers)/Project Proponent, a construction company dealing in building residential apartments on Sy. No. 16/3, Punavale, Pune, as the constructions raised by it are said to be in violation of EIA Notification, 2006 (Environment Impact Assessment Notification), as no prior Environmental Clearance (EC) was obtained for raising the said construction and several other grounds and has prayed for demolition to be ordered of the said construction as well as direction for paying environmental compensation for restoration and restitution of environment and ecology.

2. In brief the facts in the present case are that:-

- (i) A show cause noticed (SCN) dated 28.04.2017 was issued By Maharashtra Pollution Control Board (MPCB) to the Respondent No.1/Project Proponent for refusal of Consent to Establish (CTE) because the Project Proponent had initiated construction work and had also completed the same without obtaining Consent to Establish from Respondent No.5-Maharashtra Pollution Control Board (MPCB) and Environmental Clearance from the competent authority.
- (ii) The Respondent No.1 failed to reply to the show cause notice, pursuant to which, closure order dated 04.09.2019 was issued by MPCB to it under Section 33-A of the Water (Prevention and Control of Pollution), Act, 1974 and Section 31-A of the Air Prevention and Control of Pollution), Act, 1981 read with Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (in short Rules of 2016), refusing the Consent to Operate and Consent to Establish.
- (iii) The officials of MPCB visited the construction project to check compliance of the consent conditions on 27.08.2019 and reported about certain violations and non-compliances. It was that Consent to Establish (CTE) and Consent to Operate (CTO) were not obtained from the State Pollution Control Board and in addition to that Environmental Clearance was also not taken from the Environment Department, Government of Maharashtra prior to initiating the construction and handing over the possession of the flats. Besides that, non-operation of sewage treatment plant(STP) and directly discharging sewage/domestic effluent without any treatment was found to be another serious violation

under Sections 25/26 of the Water (Prevention and Control of Pollution), Act, 1974 and Section 21 of the Air Prevention and Control of Pollution), Act, 1981.

- (iv) The show cause notice issued on 28.04.2017 indicates that the construction work was going for past five to six years without adhering to the fundamental laws of Environment Protection.
- (v) The Environment Clearance for the said project was issued on 24.01.2020, hence, the illegal construction attracts legal action and demolition of the said construction in public interest.
- (vi) A reference is made of several cases such as *S.P. Muthuraman v. Union of India* (O.A. No. 37 of 2015), *Meenava Thanthai K.R. Selvaraj Kumar v. State of Tamil Nadu & Ors.* (O.A. No. 49 of 2019), *Bengaluru Development Authority v. Sudhakar Hegde & Ors.* (2020 SCC Online SC 328, Civil Appeal No. 2566 of 2019), wherein it is laid down that every Project Proponent, whose project falls under the Environment Impact Assessment Notification 2006, (EIA Notification) should mandatorily get Environmental Clearance, because it will help serve in serving a balance between development and protection of the environment. Besides that several other cases have also been cited such as *Keystone Realtors Private Limited v. Anil V. Tharthare & Ors.* (2020 2 Supreme Court Cases 66, Civil Appeal No. 2435 of 2019) and *V. Sankara Subramanian v. The State of Tamil Nadu & Ors.* (O.A. No. 74 of 2017), in which too the same principle has been laid down.

3. The matter was heard on the date of admission itself i.e. on 08.06.2021 by the Principal Bench of this Tribunal and following order was passed:-

“.....3. From the above, prima facie it appears that EC has been granted in violation of law and without any application of mind. This is not for the first time we have come across this situation. Such allegations are frequent. In Appeal No. 34/2020(WZ), Tanaji B. Gambhire v. Chief Secretary Government of Maharashtra & Ors. which was taken up for hearing on 24.05.2021, we directed SEIAA to review its working of mechanically granting Ex-post facto EC, in violation of law. The Tribunal also constituted an expert committee to look into the violations of that particular project and recommend remedial action. The observations therein are:

“ xxx.....xxx.....xxx

3. It is submitted that the construction project is illegal being without the mandatory prior EC. Ex-post facto EC is not substitute for prior EC as evaluation of impact on environment cannot be fully gone into as held by the Hon’ble Supreme Court in the case of the same PP viz. Goel Ganga Developers India Pvt. Ltd. v UOI. There are further judgements of the Hon’ble Supreme Court to the same effect in Alembic Chemicals v Rohit Prajapati and Keystone developers v. Anil Tharthare. **If the construction project is without prior EC, the project has either to be demolished or if it is found that environmental damage can be restored, the project can be permitted on payment of assessed compensation on polluter pays principle which needs to be spent for restoration of the environment. The authorities have thus failed to follow the binding law.**

4. **Since we are coming across the grievance of continuous violation of environment norms in construction projects being completed without prior EC and the SEIAA, Maharashtra is neither requiring demolition nor payment of assessed compensation to comply with the rule of law and protection of environment, it will be appropriate to require the SEIAA, Maharashtra to review its working in the light of the judgments of the Hon’ble Supreme Court and violations frequently being alleged, including the present case. A proper SOP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SOP to all SEIAAs in the country.** In this regard, we may refer to the directions in the earlier order of this Tribunal dated 1.2.2021 in OA 837/2018, Sandeep Mittal vs. MoEF, wherein it was inter-alia, directed:

“MoEF&CC may give due attention for proper constitution of SEIAAs in the States to ensure the projects of category ‘B’ and ‘B-1’ are properly scrutinized.

“The MoEF&CC may file its action taken report in the matter before the next date.

5. **We also constitute a joint Committee of MoEF&CC, CPCB, and Maharashtra State PCB to look into the present matter and suggest a remedial action plan for the present case, including the quantum of compensation to be**

recovered, as far as possible within three months. The CPCB and State PCB will be nodal agency for coordination and compliance. Another connected matter between same parties for a different project being Appeal No. 32/2020(WZ) is also being dealt with by a separate order today and this direction will also apply to the said case. In fact, to avoid duplication if the SEIAA, Maharashtra itself reviews all such cases, to avoid unnecessary and repeated litigation. The Committee may conduct proceedings online but if possible, visit the site. The Committee may also interact with the concerned parties. The report of the joint Committee may be filed by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF before the next date. While submitting the report to this Tribunal, a copy of the report thereof be also forwarded to the PP and the applicant who may file their comments, if any, before the next date by e-mail.”

4. Since the allegations of this nature are frequently being made before this Tribunal and prima facie there appears to be fundamental flaw in working of the SEIAA in question, resulting in defeating the statutory mandate of prior EC and directions of the Hon’ble Supreme Court, we direct constitution of a two-member Committee comprising Additional Secretary, Ministry of Environment, Forest and Climate Change (MoEF&CC), nominated by the Secretary MoEF&CC and the Chairman, Central Pollution Control Board (CPCB) to conduct functional audit of SEIAA, Maharashtra to find out how such frequent blatant violations are taking place and how the situation can be remedied. The Committee will be free to take assistance from any other expert/institution and interact with the stake-holders. This is necessary for protection of environment. If mechanically ex post facto ECs are granted by SEIAA, the purpose of requiring prior EC will be defeated. The ‘Precautionary’ and ‘Sustainable Development’ principles considered in the above judgments of the Hon’ble Supreme Court will be rendered nugatory. Precautions during the course of construction and compliance of conditions after constructions will be rendered difficult. EC is not a mechanical exercise. It may be after application of any mind and granted only after evaluation of impact and efficacy of mitigation measures proposed. Conditions imposed must be faithfully observed and monitored. If there is any violation, steps must be taken for restoration of damage at the cost of the project proponent. The persons manning SEIAA who have acted illegally need to be made accountable in civil and criminal law. It is further surprising in the present case that inspite of order of State PCB to disconnect water and electricity, it is not clear how the project is functioning. Present status of compliance of environment norms in the project and remedial action against non-compliances also needs to be ascertained.

5. Accordingly, apart from a Committee for the conduct of functional audit of functioning of SEIAA in the matter of grant of ECs, there is need

to conduct audit of compliance of environmental requirements in the project in question by an independent Expert Committee. For this purpose, we constitute a four-member Expert Committee comprising nominees of MoEF&CC, CPCB, IIT Bombay and Member Secretary, State PCB. The Committee will be at liberty to take assistance from any other expert/institution. The CPCB and State PCB will be nodal agency for coordination and compliance. The Committee may visit the site and conduct the proceedings online, wherever necessary and also interact with the stakeholders. The functional audit report as well as the Expert Committee report about status of compliance in the project may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF before the next date with an advance copy to the PP for its response, if any, before the next date. Copy of second report about status of compliance of the project may be furnished to the PP in advance for its comments, if any, before the next date. Copy of the first report about functional audit may be furnished to the MoEF&CC also for its response in terms of action taken before the next date.

6. The first Committee may also consider the orders of this Tribunal dated 24.05.2021 in Appeal No. 32/2020(WZ), *Tanaji B. Gambhire v. Chief Secretary Government of Maharashtra & Ors.* and Appeal No. 34/2020(WZ), *Tanaji B. Gambhire v. Chief Secretary Government of Maharashtra & Ors.* inter alia requiring SEIAA, Maharashtra to review its working in the light of Supreme Court judgements and frequent violations alleged in the grant of EC and also in the gaps in compliance of EC conditions. The second Committee may also coordinate and work in tandem with the joint Committee constituted in Appeal No. 32/2020(WZ), *Tanaji B. Gambhire v. Chief Secretary Government of Maharashtra & Ors.* and Appeal No. 34/2020(WZ), *Tanaji B. Gambhire v. Chief Secretary Government of Maharashtra & Ors.*

7. The applicant may serve set of papers on the MoEF&CC, CPCB, SEIAA, Maharashtra, IIT Bombay and Maharashtra State PCB to facilitate the compliance of the above order.

A copy of this order be forwarded to the Secretary MoEF&CC, CPCB, SEIAA, Maharashtra, IIT Bombay and Maharashtra State PCB by email for compliance.

List for further consideration on 10.11.2021.”

4. The record reveals that an Interlocutory Application No. 89/2021(WZ) was moved by Central Pollution Control Board (CPCB) seeking modification of the order of this Tribunal dated 08.06.2021

which was disposed of by this Tribunal vide order dated 10.11.2021 and the following order was passed:-

“.....2. The Tribunal vide above cited order, constituted two (2) Committees and directed the learned Counsel for the Applicant to serve papers on the Ministry of Environment, Forest & Climate Change (MoEF&CC) 7th – Respondent, the Central Pollution Control Board (CPCB) -6th Respondent, the Maharashtra Pollution Control Board (MPCB)- 5th Respondent and IIT, Bombay. The learned standing Counsel appearing for the CPCB would submit that he has drawn the attention of the Tribunal to I.A.No.89 of 2021(WZ) and would submit, after receipt of the orders repeated communication have been addressed to the IIT, Bombay, requesting them to send their nominee details and vide reply dated 16/08/2021, the IIT, Bombay informed that they do not have expertise in the said area and that the National Green Tribunal may discuss it with CPCB to consult any of the suitable IITs of Kanpur, Delhi, Kharagpur, and any other Engineering Institutes also. It is submission of the learned Counsel appearing for the CPCB that in order to comply with the order without any further loss of time, the Committee with the assistance of the other officials of the entity that caused inspection, and the report is under preparation and it will be submitted on the next date and therefore, prays for modification of the order to that effect.

3. Heard the submissions of the learned Counsel appearing for the Applicant and the respective learned Counsels appearing for the Respondents. This Tribunal on going through the contents of the affidavit filed in support of I.A.No.89 of 2021 and upon hearing the submissions is satisfied with the reasons and therefore, the Application is ordered.

I.A.No.89 of 2021 ordered accordingly.”

5. Thereafter, the matter was taken up by the Tribunal on 18.07.2022 but the Learned Counsel for the Applicant did not appear and only Respondent No.-1-M/s. Key Stone Properties (M/s. Royal Developers), Respondent No.3- Principal Secretary, Environment Department, State of Maharashtra and Respondent No.6- State Environment Impact Assessment Authority (SEIAA) have filed their reply affidavits and it was also informed that the Joint Committee which was constituted by earlier order dated 08.06.2021 submitted its

report on 11.01.2022. The Tribunal considered it appropriate to adjourn the matter for hearing as it was considered appropriate to have the presence of the Applicant who had been present on the earlier date and accordingly, adjourned the hearing to 05.08.2022, the Applicant did not appear though the Respondents who have filed their reply affidavits were present and looking to the fact that the Applicant was persistently abstaining from appearance, the Tribunal considered it appropriate to hear the arguments and the Learned Counsel for the Respondent No.1 partly made its argument and the matter was posted for remaining argument to 08.08.2022.

6. The Joint Inspection Committee which was constituted by this Tribunal vide order dated 08.06.2021 has submitted its report on 11.01.2022, the relevant part of this said report are as follows:-

“ 2.0 Observations & Findings:

(a)About Project-

The project under reference- My Home Punawale (Formerly IRA) is residential & commercial complex construction located at S. No. 16/3, Punawale, Tal- Mulshi Dist Pune, in plot area of 16,955 sq. m. which comes under Pimpri-Chinchawad Municipal Corporation (PCMC). The project is developed by M/s. Key Stone Properties (formerly M/s Royal Developers) and is called Project Proponent (PP) herein after.

(b)Observations w.r.t Environmental Clearance (EC) and violations thereto

(i) Details of the Layout and Building Sanction Plan, IOD Plan Approval, Plinth Check Certificate, EC granted and current construction status are given at Table-1.

Table 1-Details of the Layout and Building Sanction Plan, IOD Plan Approval, Plinth Check Certificate, EC granted and current construction status

Sr. No.	Particulars ()	Building Configuration	Total build-up area
1.	Layout and Building Sanction PlanNo.BP/Punawale/03/	•Building C-P+12 •Building D-P+12 •Building E-P+12	FSI-14397.05 sq.m Non-FSI-

	2012 dated 25/4/2012 granted by PCMC		13099.47 Sq.m TBUA-30264.83 Sq.m
2.	Layout and Building Sanction Plan No.BP/Punawale/08/2013 dated 22/7/2013 granted by PCMC	•Building A-P+1 • Building B-P+8 •Building C-P+12 •Building D-P+12	FSI-14860.21 sq.m Non-FSI-15591.07 Sq.m TBUA-30264.83 Sq.m
3.	Plinth check certificate for as per Layout and building 'C' and building 'D' dated 26.06.2014 which is	As per Layout and Building Sanction Plan No.BP/Punawale/08/2013 dated 22/7/2013 as mentioned at SI.No.2	
4.	Plinth check certificate for Building 'B' dated 20.09.2014	As per Layout and Building Sanction Plan No.BP/Punawale/08/2013 dated 22/7/2013 as mentioned at SI.No.2	
5.	IOD Plan Approval No. BP/EC/Punawale/05/2015 dated 07/07/2015	•Building A-P+12 •Building B-P+12 •Building C-P+12 •Building D-P+12	FSI-21227.47 Sq.m Non FSI-20113.59 Sq.m TBUA-41341.48 Sq.m
6.	IOD Plan Approval No. BP/EC/Punawale/12/2019 dated 18/12/2019	•Building A-P+12 •Building B-P+12 •Building C-P+12 •Building D-P+12	FSI-21227.47 Sq.m Non FSI-20113.59 Sq.m TBUA-41341.48 Sq.m
7.	EC dated 24.01.2020 granted by SEIAA Maharashtra	As per Specific Conditions No. V of the EC, the EC granted for - FSI: 21227.44 m ² , Non-FSI: 20114.04 m ² and Total BUA:41341.48 m ² (Plan Approval no-BP/EC/Punawale/12/2019, dated-18.12.2019)	
8.	Status of construction as on 14.10.2021	• Building B-P+8(only RCC structure) •Building C-P+12- Completed and having occupancy of tenants •Building D-P+12- Completed and having occupancy of tenants.	Total Built up Area Constructed=30417.55 sq.m

(ii) As per PCMC letter No. BP/PR25/Punawale/1542021 dated 14.10.2021 (Copy given at Annexure-II) PP has obtained first plinth check certificate from PCMC on 26.06.2014 as per Layout and Building Sanction Plan No.BP/Punawale/08/2013 dated 22/7/2013 which has been granted for total built-up area of 30264.83 sq.m.

However, as per MoEF& CC vide letter No. F. No. 23.57/2018-IA-III dated 26.06.2018 (copy given at Annexure-III) the construction was initiated on 5th June, 2013 and 60% of the total built-up area was completed by January, 2015 without obtaining prior EC.

(iii) PP made online proposal no IA/MH/NCP/70514/2017 dated 24.10.2017 (earlier proposal no IA/MH/NCP/64670/2017 dated 13.05.2017) for consideration of grant of EC under the provisions of notification no. S.O.804 (E) dated 14.03.2017 notified under Environment (Protection) Act, 1986, applicable for projects or activities undertaken without obtaining prior EC considering a case of violation of Environment Impact Assessment, 2006 Notification.

MoEF& CC letter no. F. No. 23.57/2018-IA-III dated 26.06.2018 (copy given at Annexure-III) reveals that Environment Department, Govt. of Maharashtra issued directions u/s 5 of the Environment (Protection) Act, 1986, on 01st January 2015, with the directions to stop the construction work till EC is obtained from the component authority.

vide said letter dated 26.06.2018, MoEF&CC requested the Environment Department, Govt. of Maharashtra, to take action against the Project Proponent under the provisions of Section 19 of the Environment (Protection) Act, 1986 for violation of Environment Impact Assessment Notification, 2006, referring 4th minutes of meeting of Expert Appraisal Committee held on 19th -21st February, 2018 MoEF& CC, New Delhi.

(iv) As per the consolidated statement no 0000001522 provided by SEIAA vide email dated 17.12.2021 (copy given at Annexure-IV) and records available with MPCB, a Criminal Case No. 1221/2015 was filed dated 19/3/2015 in the Court of Hon'ble Chief Judicial Magistrate, Pune by Regional Office of MPCB, Pune, alleging that M/s. Royal Developers (now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (now Key Stone Properties) have committed the offence under the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006).

In the said criminal case, M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) were convicted vide section 246(3) of the Code of the Criminal Procedure by the Hon'ble Chief Judicial Magistrate on 05.06.2018 for the offence under Section-16 punishable under Section-15 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) and sentenced to pay fine of Rs.60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each (copy of the order date 05.06.2018 given at Annexure-V). M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) have deposited Rs. 60,000/- (Rupees Sixty thousands) each vide Receipts dated 05/6/2018 and copies of the same are given at Annexure- VI.

(v) Thereafter, EC was granted by SEIAA Maharashtra vide letter vide letter SEIAA- EC-0000002343 dated 24.01.2020 as per notification no. S.O.804 (E) dated 14.03.2017 and its amendment vide S.O. No. 1030 (E) dated 08.03.2018 related to projects or activities undertaken without obtaining prior EC and Office Memorandum dated 16.03.2018 issued by MoEF& CC.

As per the consolidate statement no. 0000001522 of SEIAA, the said EC was granted taking into account cost of remediation plan and natural & community resource augmentation plan as per revised approach paper which was estimated as Rs. 1.76 Cr as appraised by SEAC, Maharashtra. Two of the specific conditions laid down in the said EC are as below:

“1) PP to submit a bank guarantee of Rs. 176.00 lakhs to Maharashtra Pollution Control Board towards effective implementation of the EMP comprising remediation plan and Natural and Community Resource augmentation Plan.

2)PP to ensure that CER plan gets approved from Municipal Commissioner/District Collector.”

(vi) As informed by MPCB vide email dated 11.11.2021, PP has submitted the aforesaid bank guarantee (BG) of Rs. 1.76 Cr to Regional Office Pune, MPCB on 28.10.2021 (copy of receipts of submission of BG is given at Annexure-IX). PP has submitted EMP comprising of remediation plan and natural & community resource augmentation plan, as referred in aforesaid EC dated 24.01.2020 granted by SEIAA, to District Collector (Pune) office; Municipal Commissioner (PCMC) office and MPCB on 08.11.2021.

However, as per the approach paper of SEIAA, Maharashtra, the PP is also required to deposit apportionated funds as per the aforesaid EMP with concerned authorities and the confirmation of deposit of such funds will be the compliance of such EMP efforts at the project proponents end. Still, however, PP needs to get engaged with concerned departments to ensure that the amount is effectively spent in time bound manner (please refer page 29 of the aforesaid approach paper given at Annexure-VIII). The committee observes that PP has not submitted the said apportionated funds with concerned authorities or confirmation of deposit of such funds.

(vii) As informed by PCMC vide letter dated 14.10.2021 (copy given at Annexure-II), PCMC has issued stop work notice to the PP vide letter dated 14.03.2015 for violation of environmental laws and further not to start work until certificate is obtained from Environment Department, Govt. of Maharashtra.

(viii) Status of construction has been reported by PCMC vide letter (copy given at Annexure-II) No. BP/PR25/Punawale/1542021 dated 14.10.2021, and brief of the same is also given at Table 1 above.

(ix) EC dated 24/1/2020 has been granted as per PCMC's IOD Plan Approval No. BP/EC/Punawale/12/2019 dated 18/12/2019. PCMC vide letter (copy given at Annexure-XI) no. BP/PR25/Punawale/202/2021 dated 24.12.2021 has informed that the construction as on 14/10/2021 is as per IOD Plan approval vide letter No. BP/EC/Punawale/12/2019 dated 18.12.20219 and there is no deviation in terms of configuration or built-up area w.r.t the said IOD Plan approval. Building sanction plan has not been obtained by M/s Key Stone Properties (formerly M/S Royal Developers) for the aforesaid plan approval dated 18.12.2019. M/s Key Stone Properties (formerly M/S Royal Developers) have provisionally obtained Layout and Building Sanction plan vide letter no. BP/EC/Punawale/08/2013 dated 22/7/2013 of total built-up area 30,264.83 sq.m and the observed construction is of 30,417.55 sq.m. The increase in area is not in any building configuration but only for extended structures such as sub-station area, decorative entrance, security cabin and OWC shed. It is also informed by PCMC that only RCC structure has been constructed for building B and there is no occupancy of tenants in the said building. Construction of building A has not yet started and occupancy was observed in Building C and D.

(x) The construction activity was not observed during the visit on 06.10.2021. Possessions are given to the tenants and first possession

letter was issued on 18.03.2016, as informed by PP vide email dated 27/10/2021.

(xi) With regard to other conditions stipulated in the said EC dated 24/1/2020, STP (capacity 235 CMD) for treatment of domestic wastewater (sewage) is provided and found in operation. STP consist of primary, secondary & tertiary treatment system and treated sewage was used for gardening, flushing, and excess treated sewage was discharged to PCMC sewerage system. The permission for construction of drainage connection – manhole, super trap, pipeline etc for sewage generated from Building C & D is obtained from PCMC vide letter dated 02.03.2017 and requisite fee (drainage connection fee and road repair fee have been deposited. DG set of capacity 200 KVA is provided with acoustic enclosure. Solar System for Hot water is provided. Organic Waste Converter (OWC) (capacity 548 kg/day) is provided for disposal of wet solid waste which is generated from the C & D Buildings.

(xii) However, the following non-compliance were observed w.r.t. conditions stipulated under the said EC dated 24/1/2020:

(a) OWC was not in operation during the visit and it seems that it was nonoperational since long. (Please refer general condition no. XLIII of the EC dated 24/1/2020 given at Annexure-VII). It is informed that waste (dry waste and wet waste is being handed over to Swach Organization for the further segregation/recycling and disposal.

(b) Further, energy conservation measures (i.e. provision of LED, solar PV of 3KW for common area lighting) are not yet provided and only one recharge pit and two recharge pits with bores are provided against nine recharge pits and five recharge pits with bores which were informed by PP during grant of EC (Please refer brief information at Sl. No. 35 and 25 of the EC dated 24/1/2020 given at Annexure-VII)

(xiii) PCMC vide letter BP/PR25/Punawale/02/2022 dated 05.01.2022 (copy given at Annexure-XII) informed that there is one old borewell which is presently used for rain water harvesting pit i.e. used as recharge pit and there is no water extraction found from the bore well. However, CGWA vide e-mail dated 16.08.2021 informed that informed that as per records available in online portal, the firm/project by the name of M/s Key Stone Properties & Ors. located in Punawale, Pune District has neither applied for CGWA NOC, nor had they been granted NOC.

(xiv) The photographs taken during the visit are given at Annexure-XIII.

(c) Observations w.r.t Consent required under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

(i) MPCB officials visited the site on 27.08.2019 and MPCB issued closure direction dated 04.09.2019 under Section-33 A of the Water (P & CP) Act, 1974, Section- 31 A of the Air (P & CP) Act, 1981 and HOW (M & TM) Rules 2016 due to non- compliances observed during the visits such as construction and handing over the possession of the flat without obtaining Consent to Establish (CTE)

and Consent to Operate (CTO) from the MPCB, without obtaining Environmental Clearance from Environment Department, GoM, non-operation of sewage treatment plant, direct discharge of sewage/domestic effluent without any treatment and non-operation of OWC to treat organic waste. The aforesaid closure directions dated 04.09.2019 issued by MPCB along with Joint Visit Report dated 27.08.2019 are given at Annexure- XIV (A) and Annexure- XIV (B) respectively.

(ii) PP applied for CTE vide application dated 21.01.2020 to MPCB. MPCB issued CTE to PP on 17.08.2020. Copy of CTE dated 17.08.2020 is given at Annexure- XV.

(iii) MPCB further issued restart directions dated 08.12.2020 to PP with the following conditions:

“1. You shall obtain consent to operate from the Board till they shall not start any construction activity.

2. You shall operate sewage treatment plant continuously so as to achieve consented standards and treated effluent shall be disposed as per consent conditions.

3. You shall regularly treat organic waste in provided OWC.

4. You shall strictly comply with the conditions mentioned in environmental clearance within prescribed limits.

5. You shall submit Bank Guarantee of Rs.1.0 Lakh (One Lakh only) in favor of Regional Officer, Pune within 15 days period towards compliance of above directions.”

(iv) PP applied for part CTO vide application dated 20.08.2020 to MPCB. MPCB issued Show Cause Notice (SCN) dated 13.01.2021 to PP for application of part CTO, as PP has completed construction of BUA-21355.02 sq.m out of total construction BUA-41451.48 sq.m as per EC dated 24.1.2020.

(v) MPCB refused the consent vide letter dated 16.02.2021 for non-submission of BG of Rs. 1.76 Cr and unsatisfactory reply to the Show Cause Notice (SCN) dated 13.01.2021 issued by MPCB. Copy of letter of refusal of consent dated 16.02.2021 is attached as Annexure-XVII. Whereas possessions have been given to the tenants and first possession letter was issued on 18.03.2016, as stated under para 2 (b) (X) above.

3.0 Conclusion

(i) PP started construction without obtaining prior EC from Environment Department, Govt. of Maharashtra and Consent to Establish (CTE) from MPCB.

(ii) As per a MoEF& CC vide letter No. F. No. 23.57/2018-IA-III dated 26.06.2018 (copy given at Annexure-III) the construction was initiated on 5th June, 2013 and 60% of the total built-up area was completed by January, 2015 without obtaining prior EC.

(iii) As per the consolidated statement no 0000001522 provided by SEIAA vide email dated 17.12.2021 (copy given at Annexure-IV) and records available with MPCB, a Criminal Case No. 1221/2015 was filed dated 19/3/2015 in the Court of Hon'ble Chief Judicial Magistrate, Pune by Regional Office of MPCB, Pune, alleging that M/s. Royal Developers (now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (now Key Stone Properties) have committed the offence under the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006).

In the said criminal case, M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) were convicted vide section 246(3) of the Code of the Criminal Procedure by the Hon'ble Chief Judicial Magistrate on 05.06.2018 for the offence under Section-16 punishable under Section-15 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) and sentenced to pay fine of Rs. 60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each (copy of the order dated 05.06.2018 given at Annexure-V). M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) have deposited Rs 60,000/- (Rupees Sixty thousands) each vide Receipts dated 05/6/2018 and copies of the same are given at Annexure-VI.

(iv) Thereafter, EC was granted by SEIAA Maharashtra vide letter vide letter SEIAA- EC-0000002343 dated 24.01.2020 as per notification no. S.O.804 (E) dated 14.03.2017 and its amendment vide S.O. No. 1030 (E) dated 08.03.2018 related to projects or activities undertaken without obtaining prior EC and Office Memorandum dated 16.03.2018 issued by MoEF&CC. (Copy of the said EC dated 24.01.2021 is given at Annexure-VII).

(v) As per the S.O.804 (E) dated 14.03.2017 –“the project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority and the bank guarantee shall be deposited prior to the grant of environmental clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority.”

(vi) However, as per the consolidated statement no. 0000001522 of SEIAA, the said EC was granted taking into account cost of remediation plan and natural & community resource augmentation plan as per revised approach paper 1 (copy given at Annexure-VIII) which was estimated as Rs. 1.76 Cr as appraised by SEAC, Maharashtra. Two of the specific conditions laid down in the said EC are as below:

“1) PP to submit a bank guarantee of Rs. 176.00 lakhs to Maharashtra Pollution Control Board towards effective

implementation of the EMP comprising remediation plan and Natural and Community Resource augmentation Plan.

2)PP to ensure that CER plan gets approved from Municipal Commissioner/District Collector.”

PP has submitted the aforesaid bank guarantee (BG) of Rs. 1.76 Cr to Regional Office Pune, MPCB on 28.10.2021 (which is almost 21 months after the grant of EC) (copy of receipts of submission of BG is given at Annexure-IX). EMP comprising of remediation plan and natural & community resource augmentation plan, as referred in aforesaid EC dated 24.01.2020 granted by SEIAA, has been submitted by PP to District Collector (Pune) office; Municipal Commissioner (PCMC) office and MPCB on 08.11.2021.

However, as per the approach paper of SEIAA, Maharashtra, the PP is also required to deposit apportionated funds as per the aforesaid EMP with concerned authorities and the confirmation of deposit of such funds will be the compliance of such EMP efforts at the project proponent's end. Still, however, PP needs to get engaged with concerned departments to ensure that the amount is effectively spent in time bound manner (please refer page 29 of the aforesaid approach paper given at Annexure-VIII). The committee observes that PP has not submitted the said apportionated funds with concerned authorities or confirmation of deposit of such funds.

(vii) PCMC vide letter(copy given at Annexure-XI) no. construction as on 14/10/2021 is as per IOD Plan approval issued by PCMC vide letter No. BP/EC/Punawale/12/2019 dated 18.12.20219 based on which EC dated 24/1/2020 has been granted. However, PP has not obtained building sanction plans for the same from PCMC.

(viii) The construction activity was not observed during the visit on 06.10.2021. Possessions are given to the tenants and first possession letter was issued on 18.03.2016, as informed by PP vide email dated 27/10/2021.

(ix) With regard to other conditions stipulated in the said EC dated 24/1/2020, the following non-compliance were observed w.r.t. conditions stipulated under the said EC dated 24/1/2020:

(a) OWC was not in operation during the visit and it seems that it was no-operational since long as is evident from MPCB visit dated 27/8/2019 also. (Please refer general condition no. XLIII of the EC dated 24/1/2020 given at Annexure-VII).

(b) Further, energy conservation measures (i.e. provision of LED, solar PV of 3KW for common area lighting) are not yet provided and only one recharge pit and two recharge pits with bores are provided against nine recharge pits and five recharge pits with bores which were informed by PP during grant of EC (Please refer brief information at Sl. No. 35 and 25 of the EC dated 24/1/2020 given at Annexure-VII)

(x) PP applied for CTE vide application dated 21.01.2020 to MPCB. MPCB issued CTE to PP on 17.08.2020. Copy of CTE dated 17.08.2020 is given at Annexure-XV.

(xi) PP applied for part CTO vide application dated 20.08.2020 to MPCB. MPCB refused the consent vide letter dated 16.02.2021 for non-submission of BG of Rs. 1.76 Cr and unsatisfactory reply to the Show Cause Notice (SCN) dated 13.01.2021 issued by MPCB whereas possession to tenants is being given since 18/3/2016. Copy of letter of refusal of consent dated 16.02.2021 is given at Annexure-XVII.

(xii) PCMC vide letter BP/PR25/Punawale/02/2022 dated 05.01.2021 (copy given at Annexure-XII) informed that there is one old borewell which is presently used for rain water harvesting pit i.e. used as recharge pit and there is no water extraction found from the bore well. However, CGWA vide e-mail dated 16.08.2021 informed that as per records available in online portal, the firm/project by the name of M/s Key Stone Properties & Ors. located in Punawale, Pune District has neither applied for CGWA NOC, nor had they been granted NOC.

4.0 Approach for Environmental Compensation and Remedial Measures for prior Environmental Clearance (EC) Violation:

Notification No. SO 804(E) dated 14.3.2017 on procedure to be adopted for dealing with the prior Environmental Clearance (EC) violation cases were issued by Ministry of Environment, Forest and Climate Change (MoEF& CC) under the Environment (Protection) Act, 1986 giving 06-month amnesty window for such proponents who have violated the EC regulations. These violations were primarily related to initiating the project work or carrying out the project activities without obtaining the mandatory EC. The cases of such proponents were to be assessed and the project constructed at a site were affirmative which under prevailing laws is permissible and expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards. In case, where the finding of the Expert Appraisal Committee is negative, closure of the project were recommended along with other actions under the law. Such affirmative projects were also to be appraised with implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.

The project proponent were required to submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification were to be recommended by State Expert Appraisal Committee (SEAC) and finalized by State Environmental Impact Assessment Authority (SEIAA) as per the aforesaid notification dated 14/3/2017 and subsequent notification

dated 08/3/2018 issued by MoEF& CC. The bank guarantee were to be deposited prior to the grant of environmental clearance and to be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the MoEF& CC, SEAC and approval of the SEIAA.

In view of the above notifications, a committee was constituted (constituting Ex. Expert Member, NGT; members of SEIAA and SEAC for Maharashtra and advocate) in Maharashtra for evaluation process to evolve uniform guidelines to deal with the cases of violations under the chairmanship of Chairman, SEIAA, Maharashtra and submitted its report to the Department of Environment, Govt. of Maharashtra. After due consultation with stakeholders in a round table workshop, the Department of Environment (DoE) and SEIAA Maharashtra decided to follow the provisions of MoEF& CC notification dated 14.03.2017 as per the report submitted by the committee. Copy of the "Approach for the said Assessment for Environmental Damage And Estimation of Remediation Costs For Building Construction Projects initiated without obtaining mandatory Environmental clearance (Violation Cases)" decided to be followed by the DoE and SEIAA Maharashtra vide SEIAA letter no. SEIAA-2018/CR-150/SEIAAdated30/1/2019 is given at Annexure-VIII and also available:-

at https://www.ecmpcb.in/login/download_ec_document/QjAwN0E4NkZDM0I2NDY4Mzk3QzUxOEVCQURGNzI GOTcucGRm.

The aforesaid Notification of MoEF& CC was, however, applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on Hon'ble court direction from 14.03.2018 to 13.04.2018.

Salient features of the said Department of Environment (DoE) and SEIAA Maharashtra adopted approach paper are as below:

(i) It is in line with MoEF& CC Notification dated 14/03/2017 applicable for 06-month amnesty window for such proponents who violated prior Environmental Clearance (EC) requirement and takes into account of ecological damage and economic benefit derived due to violation and remediation plan and natural and community resource augmentation plan preparation & implementation thereto for building construction projects violation cases.

(ii) Environmental damage cost assessment considering various project related attributes (air pollution, water pollution, soil

environment, noise & vibration, green belt and Occupational Health & Safety) and their recurring & non-recurring cost.

(iii) Assessment of economic benefits derived due to violation inclusive of the following:

(a) costs saved or/and not taking appropriate environmental protection measures and also, the benefits derived by going ahead with project to gain commercial gains. The same have been considered as 10% of Ready reckoner cost of the construction under violation if it is already occupied (fully or partially) or reasonably in advance stage of completion (more than 50%). In case, the construction is still not in advance stage of completion (less than 50%) and no occupation is given, then the benefits can be taken as 5% of the Ready reckoner cost for the construction in violation;

(b) environmental track record of the project proponent of Rs. 10,00,000/-(Rs. Ten lakhs) for each of earlier or similar other environment clearance violation in other projects being developed by project proponent and/or any one of its directors.

(iv) Preparation of remediation plan and natural and community resource augmentation plan as Environmental management plan (EMP) equivalent to the above-mentioned environmental damage cost and economic benefits, as at (i) and (ii) above, or the amount equivalent to the CER amount as per the MOEF& CC's office Memorandum No: F NO 22-65/2017-IA-III dated 01/05/2018, whichever is higher. Areas identified for resource allocation through such EMP cost are as below:

Sr. No.	Description Activity	%Allocation	Implementing Agency	Remarks
1.	Afforestation (can include Plantation garden development)	25	Social Forestry & Local Body	The afforestation can be either through social forestry or the Local Body preferably within 50 km from project site.
2.	Water conservation program(Jalyuktshivar, etc.)	25		
3.	Urban environment and sanitation (Can include swatch Bharat	20	Local body	

	Play ground development, urban ground-water charge schemes etc)			
4.	Sewage lines and STP Solid Waste Management	20	Local body	
5.	Urban air/noise pollution control initiatives	10	Local body	

As per the consolidate statement no. 0000001522 of SEIAA, the said EC dated 24/1/2020 was granted taking into account cost of remediation plan and natural & community resource augmentation plan as per revised approach paper 1 (copy given at Annexure-VIII) which was estimated as Rs. 1.76 Cr as appraised by SEAC, Maharashtra. PP has submitted the aforesaid bank guarantee (BG) of Rs. 1.76 Cr to Regional Office Pune, MPCB on 28.10.2021 (copy of receipts of submission of BG is given at Annexure-IX) which were to be deposited prior to the grant of environmental clearance.

EMP comprising of remediation plan and natural & community resource augmentation plan, as referred in aforesaid EC dated 24.01.2020 granted by SEIAA, has been submitted by PP to District Collector (Pune) office; Municipal Commissioner (PCMC) office and MPCB on 08.11.2021. However, as per the approach paper of SEIAA, Maharashtra, the PP is also required to deposit apportionated funds as per the aforesaid EMP with concerned authorities and the confirmation of deposit of such funds will be the compliance of such EMP efforts at the project proponents end. Still, however, PP needs to get engaged with concerned departments to ensure that the amount is effectively spent in time bound manner (please refer page 29 of the aforesaid approach paper given at Annexure-VIII). The committee observes that PP has not submitted the said apportionated funds with concerned authorities or confirmation of deposit of such funds.

5.0 Approach for Damages (in addition to the environmental compensation as given at para 4) for Contravening Mandatory Provisions of Environmental Laws

In the matter of Civil Appeal No. 10854 OF 2016; M/s Goel Ganga Developers India Pvt. Ltd. Versus Union of India & Ors. the Hon'ble Supreme Court vide order dated 10/8/2018 upheld Rs. 05 crores on project proponent as levied by the Hon'ble NGT for contravening mandatory provision of Environment Laws and for not obtaining the consent from the Board. Vide para 57 of the said Hon'ble Supreme Court order, it has been directed that "(...)The project proponent shall also pay a sum of Rs. 5 crores as damages, in addition to the above for contravening mandatory provisions of environmental laws."

“Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund” outlines a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies listing the instances for taking cognizance of cases fit for violation and levy environmental compensation. The same has also been referred by the Hon’ble NGT in its order (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors. The instances considered for levying Environmental Compensation (EC) in the said report are:

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.*
- b) Not complying with the directions issued, such as direction for closure due to non- installation of OCEMS, non-adherence to the action plans submitted etc.*
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission/ Effluent Monitoring systems.*
- d) Accidental discharges lasting for short durations resulting into damage to the environment.*
- e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment.*
- f) Injection of treated/partially treated/ untreated effluents to ground water.*

Though such listed instances may not be directly applicable in the current matter for arriving at the damages amount (in addition to the environmental compensation as given at para 4) for contravening mandatory provisions of environmental laws (w.r.t. starting construction and operation of the project without CTE/CTO as given at paras 2 (C) (i) above, late deposition of bank guarantee of Rs. 1.71 Crores as given, not depositing appropriated funds as per the aforesaid EMP with concerned authorities as given at para 2 (b) (vi) above and not complying with conditions of EC/details of the project as given at para 2 (b) (xii)above), an attempt is being made by this committee to assess the environmental compensation using the formula prescribed in the said CPCB report which may be taken as damages amount for contravening mandatory provisions of environmental laws. The formula takes into account of number of days violation took place, pollution index of unit, scale of operation, location factor based on population and an amount factor in Rupees.

Environmental Compensation (EC) in Rupees as mentioned in the aforesaid CPCB report for Construction on Plot A = $PI \times N \times R \times S \times LF$

Where,

PI = Pollution index of the project. Considering the project under Orange category as per modified directions no. B-29012/ESS/(CPA)/2015-16 dated 07/3/2016, PI= 50

N = Number of days violation took place.

R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also suggests to consider R as 250, as the Environmental Compensation in cases of violation. Hence, R = 250.

S = Factor for the scale of operation. As per CTE issued by MPCB, it is large scale industry (LSI). The unit being LSI, S=1.5

LF = Location factor, since the population is more than 1 Million but less than 5 Million, LF=1.25

M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) have been convicted vide section 246(3) of the Code of the Criminal Procedure by the Hon'ble Chief Judicial Magistrate on 05.06.2018 for the offence under Section-16 punishable under Section-15 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification,2006) and sentenced to pay fine of Rs. 60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each (copy of the order date 05.06.2018 given at Annexure-V). They have deposited Rs 60,000/- (Rupees Sixty thousands) each. Therefore, number of days violation took place may be considered from the day possessions were given to the tenants without taking CTO and first possession letter was issued on 18/03/2016 (please refer para 2(b) (x)above). The end date may be considered till order dated 08/6/2021 of the Hon'ble NGT wherein other violations such as late deposition of bank guarantee of Rs. 1.71 Crores as given, not depositing appropriated funds as per the aforesaid EMP with concerned authorities as given at para 2 (b) (vi)above and violating conditions of EC as given at para 2 (b) (xii) above also took place. Accordingly, N - the number of days violation took place comes out to be 1909 days.

Therefore, Environmental Compensation (EC) in Rupees

$$EC = 50 \times 1909 \times 250 \times 1.5 \times 1.25$$

EC = Rs.4,47,42,188/- (Rupees Four Crores Forty-seven Lakhs Forty-Two Thousands One Hundred Eighty eight Only)

Per day Environmental Compensation (EC) comes out to be Rs.23,437.50/- (Rupees Twenty Three Thousand Four Hundred Thirty Seven and Fifty Paise)

6.0 Recommendations:-

(a) Construction of project started without obtaining prior EC from Environment Department, Govt. of Maharashtra and Consent to Establish (CTE) from MPCB followed by filing of Criminal Case No. 1221/2015 dated 19/3/2015 in the Court of Hon'ble Chief Judicial Magistrate, Pune by MPCB, Pune, alleging offence under the Environment (Protection) Act,1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006); conviction

vide section 246(3) of the Code of the Criminal Procedure by the Hon'ble Chief Judicial Magistrate on 05.06.2018 for the offence and sentenced to pay fine of Rs. 60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each (copy of the order date 05.06.2018 given at Annexure-V) and deposition of the same by them. Thereafter; EC was granted by SEIAA Maharashtra vide letter vide letter SEIAA-EC-0000002343 dated 24.01.2020 as per notification no. S.O.804 (E) dated 14.03.2017 and its amendment vide S.O. No. 1030 (E) dated 08.03.2018 related to projects or activities undertaken without obtaining prior EC and Office Memorandum dated 16.03.2018 issued by MoEF&CC. The said EC was granted taking into account cost of remediation plan and natural & community resource augmentation plan as per revised approach paper (copy given at Annexure-VIII) which was estimated as Rs. 1.76 Cr as appraised by SEAC, Maharashtra. Bank guarantee of the said amount has been deposited with MPCB on 28/10/2021.

In view of the other violations:

- (i) Operating project without CTO whereas possession to tenants is given since 18/3/2016, as given at para 2 (b) (x) above;*
- (ii) late deposition of bank guarantee of Rs. 1.71 Crores as given at para 2 (b) (vi) above;*
- (iii) not depositing apportionated funds as per the aforesaid EMP with concerned authorities as given at para 2 (b) (vi) above, and;*
- (iv) Not complying with conditions of EC dated 24/1/2020 w.r.t. Organic Waste Converter and installing energy conservation measures and rain water harvesting as per information submitted by PP during grant of the said EC, as given at para 2 (b) xii above.*

It is recommended that PP may immediately:

- (i) apply for CTO to MPCB*
- (ii) deposit apportionated funds as per the aforesaid EMP with concerned authorities as given at para 2 (b) (vi) above, and;*
- (iii) implement conditions/details of EC dated 24/1/2020 w.r.t. Organic Waste Converter, Energy Conservation measures and rain water harvesting, as given at para 2 (b) (xii)above.*

(b) in addition to the above, Rs. 05 Crores or Rs. 4,47,42,188/- (Rupees Four Crores Forty-seven Lakhs Forty-two Thousands One Hundred Eighty eight Only), as derived under para 5 of this report, as deemed fit by the Hon'ble NGT, may also be added in the said environmental compensation or EMP cost as damages for the aforesaid contravening provisions under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, late deposition of bank guarantee of Rs. 1.71 Crores, not depositing apportionated funds as per the aforesaid EMP with concerned authorities and violations of conditions of EC dated 24/1/2020.

(c) PCMC may take necessary action for construction of increased total built-up area of 30,417.55 sq.m against area of 30264.83 sq.m. under Layout and Building Sanction plan vide letter no. BP/EC/Punawale/08/2013 dated 22/7/2013 though such increase in area is not in any building configuration but only for extended structures such as sub-station area, decorative entrance, security cabin and OWC shed. Further, the construction is as per PCMC's IOD Plan approval vide letter No. BP/EC/Punawale/12/2019 dated 18.12.20219 on which EC dated 24/1/2020 has been granted and there is no deviation in terms of configuration or built-up area w.r.t the said IOD Plan approval. (Please refer para 2(b) (ix) above and Annexure XI).

(d) With regard to old bore well being used for rain water harvesting pit i.e. used as recharge pit and there is no water extraction found from the bore well as reported by PCMC, Central Ground Water Authority (CGWA) may examine the same and take necessary action."

7. The stand taken by Respondent No.1/Project Proponent in its Affidavit dated 19.02.2022 are as follows :-

- (i) The Environmental Clearance was granted as per Notification dated 14.03.2017 by SEIAA, Maharashtra calculating the environmental damages as per the prescribed guidelines. Accordingly, the Respondent submitted the bank guarantee of Rs.1.76 crore to MPCB.
- (ii) The said bank guarantee is upto date of environmental clearance. Whatever environmental damages or losses are caused due to construction activity, the same is covered in the submitted bank guarantee.
- (iii) A separate Environmental Management Plan(EMP) is also prepared and submitted to the concerned authorities. He has quoted the relevant portion of the joint committee report in paragraph no. 09 of the said affidavit which says as follows:-

".....The said EC was granted taking into account cost of remediation plan and natural & community resource augmentation plan as per revised approach paper (copy given at Annexure-VIII) which was estimated as Rs. 1.76 Cr as appraised by SEAC, Maharashtra. Bank guarantee of the said amount has been deposited with MPCB on 28/10/2021....."

- (iv) It is further stated that the above statement shows that SEAC and SEIAA, Maharashtra granted the environmental clearance to the Respondent after consideration of all possible and probable causes of environmental damages from the first day of construction till issuing the environmental clearance dated i.e. 24.01.2020.
- (v) The joint committee also considered the environmental compensation against the environmental damages caused due to construction without obtaining consent to operate from Maharashtra Pollution Control Board (MPCB). However, the operation period of the Organic Waste Converter (OWC) and Sewage Treatment Plant (STP) and related compliances were not considered by the joint committee, whereas both the units were operative since April, 2016.
- (vi) The Joint committee also considered the waiting period of approximately 670 days for the Respondent against the first prior environmental clearance application which was made on 09.07.2012.
- (vii) The Respondent was also prosecuted under Sections 15 and 16 of the Environment (Protection) Act, 1986 and was punished with 4 months imprisonment and Rs.60,000 fine. The Environmental Damage Assessment Cost + Remedial Plan cost + Community Augmentation Plan, all put together were appraised by the SEAC and confirmed by SEIAA and, accordingly, bank guarantee of Rs.1.76 Crore was deposited.
- (viii) The purpose of Environmental Clearance Notification dated 14.09.2006 is not to teach a lesson to the Project Proponent for inadvertent errors. When all wastewater treatment, air

pollution control measures are operative, there does not arise any question of pollution.

(ix) The CPCB Guidelines have over-simplified the methodology for computation of Environmental Compensation. The formula evolved in 'Chapter-I: Environment Compensation to be levied on Industrial Units' is applied all across the projects, without any application of mind.

(x) The "Report of the CPCB in-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" was evolved in OA No. 593/2017 (WP (Civil) No. 375/2012, *Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.* on a direction of NGT. The Project Proponent does not fall in any of the cases referred to in it.

(xi) The said Environmental Compensation Policy evolved on the 'Principle of Polluter Pays' is not approved by Board of CPCB nor has MoEF &CC notified the same. Even, non-compliance or non-adherence or even delay in application for renewal of EC, consent are being presumptively termed as pollution.

8. In another affidavit filed by Respondent No.1/Project Proponent dated 18.02.2022, the main emphasis laid by the Project Proponent is on the joint committee report and more or less the same facts have been stated which have been stated by him in affidavit dated 19.02.2022 and has stated therein the status of compliances made by him and has also met the observations and conclusions of the joint committee report and has rebutted them.

9. We find that the main emphasis in this affidavit is upon the calculation of environmental compensation by the joint inspection

committee to be wrong as in fact no pollution was caused by the project of the Respondent and yet on the basis of a formula stated above an arbitrary amount has been arrived at.

10. Respondent Nos. 3/Principal Secretary, Environment Department and 6/SEIAA have submitted their affidavits in respect of functional audit report submitted by MoEF &CC and CPCB dated 15.07.2022.

11. The Second Committee which was constituted pursuant to the first order dated 08.06.2021, the committee has submitted its report in respect of working of SEIAA.

12. We are not reproducing the details of the Second Committee Report in respect of audit report by MoEF &CC and CPCB because the same has been considered by the Principal Bench of this Tribunal in connected application i.e. *O.A. No.14/2021(WZ): Satish Sanjay Magade v. M/s. Rhythm Country & Ors.*, this report having been submitted in both the cases as a common report. The same opinion/order which has been expressed in *O.A. No. 14/2021(WZ)* shall also stand applicable in the present matter.

13. On the basis of the respective pleadings which have been cited above, we have to determine:-

- (i) As to whether the Project Proponent/Respondent No.1 has raised construction without valid environmental clearance?
If yes whether environmental compensation for non-violation of the environmental clearance can be realized from the Project Proponent? if yes to what extent?
- (ii) Whether the Project Proponent is liable to be realized environmental Compensation with respect to other violations, if found to have been committed?

14. We have heard the Learned Counsel for the Applicant as well as the Learned Counsel for the Respondent No.1/Project Proponent at length.

15. The main emphasis of the argument of the Respondent No.1/Project Proponent is that he had obtained environmental clearance under the Notification No. S. O. 804(E) dated 14.03.2017 issued by the MoEF & CC in respect of violations cases which gave window of six months to such Project Proponents who ought to have taken environmental clearance prior to initiating the construction work but they did not obtain the same.

16. According to the Learned Counsel for Respondent No.1/Project Proponent he availed of this window, moved the application for environmental clearance to be granted which was later on granted on 24.01.2020 by SEIAA, Maharashtra for built up area 41, 341, 48sq. mtrs. This environmental clearance was granted to it after it having submitted bank guarantee of Rs. 1.76 crores with the Maharashtra Pollution Control Board towards implementation of EMP comprising Remediation Plan and Natural and Community Resource Augmentation Plan. Therefore, the Respondent No. 1 cannot be subjected to any further imposition of environmental compensation, as depositing the above bank guarantee would exempt him from all liability of previous violations.

17. Chronology, Analysis and Findings:-

- (i) The Respondent No.1/Project Proponent obtained Layout and Building Sanction Plan No. BP/Punawale/03/2012 dated 25.4.2012 from Pimpri Chinchwad Municipal Corporation (PCMC) for three buildings C, D and E with configuration P+12 for FSI- 14397.05 Sq.m Non FSI-13099.47 Sq.mi.e.TBUA-27496.78 Sq.m.

- (ii) The Respondent No.1/Project Proponent obtained Layout and Building Sanction Plan No. BP/Punawale/08/2013 dated 22/7/2013 granted by PCMC for Building A-P+1, Building B-P+8 and also for buildings C and D (for which approval was obtained earlier) with FSI- 14860.21 Sq.m, Non FSI-15591.07 Sq.m and TBUA-30264.83 Sq.m
- (iii) The Respondent No.1/Project Proponent obtained Plinth check certificate for building 'C' and building 'D' on 26.06.2014, for Building 'B' on 20.09.2014. As per MoEF&CC vide letter no. F. No. 23.57/2018-IA-III dated 26.06.2018 the construction was initiated on 5th June, 2013 and 60% of the total built-up area was completed by January, 2015 without obtaining prior EC.
- (iv) On noticing violation of EIA Notification, Environment Department, Govt. of Maharashtra issued directions u/s 5 of the Environment (Protection) Act, 1986, on 01st January 2015, with the directions to stop the construction work till EC is obtained from the component authority.
- (v) The Respondent No.1/Project Proponent obtained Initial Objection of Disapproval (IOD) Plan Approval No. BP/EC/Punawale/12/2019 dated 18.12.2019 for all Buildings (A, B, C, D) with configuration P+12 with FSI- 21227.47 Sq.m, Non FSI-20113.59 Sq.m and TBUA-41341.48 Sq.m.
- (vi) The PCMC issued stop work notice to the PP vide letter dated 14.03.2015 for violation of environmental laws and further not to start work until certificate is obtained from Environment Department, Govt. of Maharashtra.
- (vii) The Project Proponent made online proposal no IA/MH/NCP/70514/2017 dated 24.10.2017 (earlier proposal

no IA/MH/NCP/64670/2017 dated 13.05.2017) for consideration of grant of EC under the provisions of notification no. S.O.804 (E) dated 14.03.2017 notified under Environment (Protection) Act, 1986, applicable for projects or activities undertaken without obtaining prior EC considering a case of violation of Environment Impact Assessment, 2006 Notification.

(viii) Vide letter no. F. No. 23.57/2018-IA-III dated 26.06.2018 MoEF&CC directed the Environment Department, Govt. of Maharashtra, to take action against the Project Proponent under the provisions of Section 19 of the Environment (Protection) Act, 1986 for violation of Environment Impact Assessment Notification, 2006, referring 4th minutes of meeting of Expert Appraisal Committee held on 19th -21st February, 2018 at MoEF&CC, New Delhi

(ix) A Criminal Case No. 1221/2015 was filed dated 19.3.2015 in the Court of Chief Judicial Magistrate, Pune by Regional Office of MPCB, Pune, alleging that M/s. Royal Developers (now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (now Key Stone Properties) have committed the offence under the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006).

(x) In the said criminal case, M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) were convicted vide section 246(3) of the Code of the Criminal Procedure by the Chief Judicial Magistrate on 05.06.2018 for the offence under Section-16 punishable under Section-15 of the Environment (Protection) Act, 1986 and the Environment

Impact Assessment Notification, 2006 (EIA Notification,2006) and sentenced to pay fine of Rs. 60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each (copy of the order date 05.06.2018 given at Annexure-V). M/s. Royal Developers (Now Keystone Properties) and Mr. Mohit Rajendra Goyal Partner of M/s. Royal Developers (Now Key Stone Properties) have deposited Rs. 60,000/- (Rupees Sixty thousands) each vide Receipts dated 05.06.2018.

(xi) Thereafter, EC was granted by SEIAA Maharashtra vide letter vide letter SEIAA-EC-0000002343 dated 24.01.2020 for BUA 41,341,48 sq. mtrs as per notification no. S.O.804 (E) dated 14.03.2017 and its amendment vide S.O. No. 1030 (E) dated 08.03.2018 related to projects or activities undertaken without obtaining prior EC and Office Memorandum dated 16.03.2018 issued by MoEF&CC.

(xii) The said environmental clearance was granted taking into account cost of remediation plan and natural & community resource augmentation plan which was estimated as Rs. 1.76 Cr as appraised by SEAC. The Project Proponent was directed to submit a bank guarantee of Rs. 1.76 Cr to Maharashtra Pollution Control Board towards effective implementation of the EMP comprising remediation plan and Natural and Community Resource augmentation Plan and get the plan approved from Municipal Commissioner/District Collector.

(xiii) The Project Proponent has submitted the aforesaid bank guarantee (BG) of Rs. 1.76 Cr to Regional Office Pune, MPCB on 28.10.2021. The Project Proponent submitted remediation plan and natural & community resource augmentation plan to District Collector (Pune) office; Municipal Commissioner (PCMC) office and MPCB on 08.11.2021.

(xiv) Meanwhile, MPCB officials visited the site on 27.08.2019 and MPCB issued closure direction dated 04.09.2019 under Section-33 A of the Water (P & CP) Act, 1974, Section-31 A of the Air (P & CP) Act, 1981 and HOW (M & TM) Rules 2016 due to non-compliances observed during the visits such as construction and handing over the possession of the flat without obtaining Consent to Establish (CTE) and Consent to Operate (CTO) from the MPCB, non-operation of sewage treatment plant, direct discharge of sewage/domestic effluent without any treatment and non-operation of OWC to treat organic waste.

(xv) The Project Proponent had applied for CTE vide application dated 21.01.2020 to MPCB. MPCB issued CTE to PP on 17.08.2020. The MPCB issued permission to restart construction vide letter dated 08.12.2020.

(xvi) The Project Proponent applied for part CTO vide application dated 20.08.2020 to MPCB which was refused vide letter dated 16.02.2021. Without obtaining CTO, PP had given possession to the tenants and first possession letter was issued on 18.03.2016.

(xvii) This Tribunal vide order dated 08.06.2021 appointed a Joint Committee for conducting functional audit of SEIAA as also to submit fact finding report for the project.

(xviii) As per Joint Committee Report constituted for fact finding submission of status of construction as on 14.10.2021 which says that Total Built up Area Constructed 30,417.55 sq.m as follows-

- Building B-P+8 (only RCC structure);
- Building C-P+12 – Completed and having occupancy of tenants;

- Building D-P+12 – completed and having occupancy of tenants.

(xix) Further, With regard to other conditions stipulated in the said EC dated 24.01.2020, STP (capacity 235 CMD) for treatment of domestic wastewater (sewage) is provided and found in operation. STP consists of primary, secondary & tertiary treatment system and treated sewage was used for gardening, flushing, and excess treated sewage was discharged to PCMC sewerage system. The permission for construction of drainage connection – manhole, super trap, pipeline etc for sewage generated from Building C & D is obtained from PCMC vide letter dated 02.03.2017 and requisite fee (drainage connection fee and road repair fee have been deposited. DG set of capacity 200 KVA is provided with acoustic enclosure. Solar System for Hot water is provided. Organic Waste Converter (OWC) (capacity 548 kg/day) is provided for disposal of wet solid waste which is generated from the C & D Buildings. There is one old borewell which is presently used for rain water harvesting pit i.e. used as recharge pit and there is no water extraction found from the bore well.

(xx) The Ministry of Environment, Forest and Climate Change vide notification number S.O.804(E), dated the 14th March, 2017 has notified the process for appraisal of projects for Environmental Clearance, which started the work without obtaining prior environmental clearance as mandated under the Environment Impact Assessment Notification, 2006 [S.O.1533 (E), dated the 14th September, 2006]. The said Notification allowed the projects or activities which are in violation as on date of this notification only will be eligible to apply for environmental clearance under this notification and the project proponents can apply for environmental clearance

under this notification only within six months from the date of this notification.

(xxi) Hon'ble High Court of Judicature at Madras vide Order in WP No. 11189/2017 and WMP No. 12134/2017 stayed the above Notification vide its order dated 14th May 2017 on the ground that it violates the provisions of the Environment (Protection) Act, 1986 besides violating the Fundamental Rights provided under Articles 14 and 21 of the Constitution of India. This stay was vacated in 2018.

(xxii) Hon'ble High Court of Judicature at Madras vide Order dated 14th March, 2018 in *WMP Nos.3361 and 3362 of 2018, and WMP No.3721 of 2018 in WP No.11189 of 2017*, has directed as under:-

“25. With regard to the prayer of MOEF for extension of time for submission of proposals by project proponents, we are of the view that it will serve the ends of justice if time is extended by 30 (thirty) days from the date of delivery of this order in open court.”

(xxiii) The Ministry of Environment, Forest and Climate Change in 14th March, 2017 notification had directed that in case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority, are brought for environmental clearance after starting the construction work without prior environmental clearance, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section (3) section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of environmental clearance only by the Expert Appraisal

Committee and environmental clearance will be granted at the Central level.

(xxiv) This Tribunal, Principal Bench at New Delhi vide their order dated the 27th November, 2017 in similar matters in OA No.570/2016 titled *M/s Anjli Infra Housing LLP Vs Union of India & others*, OA No.576/2016 in the matter of *M/s Ankur Khusal Construction LLP Vs Union of India & others* and OA No.579/2016 in the matter of *Anjli Infra Housing LLP Vs Union of India & others*, has passed directions for consideration of the projects at the State level and passed appropriate orders in regard to grant/refusal of the environmental clearance in accordance with law.

(xxv) In compliance of these directions MOEF&CC vide notification dated 8th March 2018 directed following procedure:-

“(2) In case the projects or activities requiring prior environmental clearance under the Environment Impact Assessment Notification, 2006 from the concerned regulatory authority are brought for environmental clearance after starting the construction work, or have under taken expansion, modernization, and change in product-mix without prior environmental clearance, these projects shall be treated as cases of violations and the projects or activities covered under category A of the Schedule to the Environment Impact Assessment Notification, 2006, including expansion and modernization of existing projects or activities and change in product mix, shall be appraised for grant of environmental clearance by the Expert Appraisal Committee in the Ministry and the environmental clearance shall be granted at Central level, and for category B projects, the appraisal and approval thereof shall vest with the State or Union territory level Expert Appraisal Committees and State or Union territory Environment Impact Assessment Authorities in different States and Union territories, constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.

Xxxxxx.....xxxxxxx

- (4) *The cases of violations will be appraised by the Expert Appraisal Committee at the Central Government level or State or Union territory level Expert Appraisal Committee constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 with a view to assess that the project has been constructed at a site which under prevailing laws is permissible and expansion has been done which can run sustainably under compliance of environmental norms with adequate environmental safeguards, and in case, where the findings of Expert Appraisal Committee for projects under category A or State or Union territory level Expert Appraisal Committee for projects under category B is negative, closure of the project will be recommended along with other actions under the law.*
- (5) *In case, where the findings of the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee on point at sub-paragraph (4) above are affirmative, the projects will be granted the appropriate Terms of Reference for undertaking Environment Impact Assessment and preparation of Environment Management Plan and the Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, will prescribe specific Terms of Reference for the project on assessment of ecological damage, remediation plan and natural and community resource augmentation plan and it shall be prepared as an independent chapter in the environment impact assessment report by the accredited consultants, and the collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environmental laboratory duly notified under the Environment(Protection) Act, 1986, or a environmental laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of the Council of Scientific and Industrial Research institution working in the field of environment.*
- (6) *The Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee, as the case may be, shall stipulate the implementation of Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance.*
- (7) *The project proponent will be required to submit a bank guarantee equivalent to the amount of remediation plan and*

Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority, and the bank guarantee shall be deposited prior to the grant of environmental clearance and released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after recommendation by regional office of the Ministry, Expert Appraisal Committee or State or Union territory level Expert Appraisal Committee and approval of the Regulatory Authority.”

(xxvi) Project Proponent made online proposal no IA/MH/NCP/70514/2017 dated 24.10.2017 (earlier proposal no IA/MH/NCP/64670/2017 dated 13.05.2017) for consideration of grant of EC under the provisions of notification no. S.O.804 (E) dated 14.03.2017. PP had worked out Environmental Management Plan, comprising remediation plan and natural and community resource augmentation plan corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of environmental clearance which was appraised and approved by SEAC. PP submitted BG for Rs. 1.78 cr to MPCB towards the same.

18. Hence, we are convinced that since the Respondent No.1/ Project Proponent has obtained environmental clearance under the violation cases window which was opened for the limited period, therefore, its having deposited bank guarantee of Rs. 1.76 Cr towards Remediation Plan, Natural And Community Resource Augmentation Plan would cover previous violations of environmental clearance and no additional environmental compensation should be imposed upon it.

19. However, we find that the Project Proponent carried out construction without Consent to Establish (CTE) from 05.06.2013 till 17.08.2020, carried on construction from 04.09.2019 till 17.08.2020 despite closure notice and without obtaining CTO, given possession to the tenants and first possession letter was issued on 18.03.2016 for these violations, penalty of Rs. 4, 47, 42, 188/- (Rupees Four Crore Forty Seven Lakh, Forty Two Thousand, One Hundred Eighty Eight only) needs to be imposed. For these violations, we find that the formula which has been relied upon by the joint committee and approved by the NGT in *Paryavaran Surakha Samiti & Anr. V. Union of India & Ors.* (Supra) is rightly applied and on the basis of that the committee has rightly arrived on the amount of Rs. 4, 47, 42, 188/- (Rupees Four Crore Forty Seven Lakh, Forty Two Thousand, One Hundred Eighty Eight only) as the environmental compensation to be realized from the Project Proponent..

20. We direct that Respondent No.1/Project Proponent shall deposit the said amount of Rs. 4, 47, 42, 188/-(Rupees Four Crore Forty Seven Lakh, Forty Two Thousand, One Hundred Eighty Eight only) with the Maharashtra State Pollution Control Board (MPCB) within a period of two months from the date of delivery of this judgment.

21. The above amount shall be used for implementing District Environmental Plan within period of 06 months. A specific plan for utilization of the amount be prepared by a joint Committee of MPCB, District Magistrate and Commissioner PCMC. The plan may be executed in the manner which may be jointly decided in the deliberations of the Committee. The MPCB will be the nodal agency for coordination and compliance. The meeting of the Committee may be held within one month. The utilization may be ensured within six

months. Proceedings of the Committee may be placed on the website of the MPCB. A copy of this order be forwarded to MPCB, District Magistrate and PCMC by e-mail for compliance

22. We decide this matter, accordingly. Cost easy.

23. I.A. No. 98/2021(WZ) also stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 01st , 2022
Original Application No. 13/2021(WZ)
I.A. No. 89/2021(WZ)