

Agenda No. 128-07 :

(File No. 6723/2019)

Existing Construction of Commercial complex at SF No. 31, 32, 34/1, 35, 37 in Padi Village, Ambattur Taluk, Thiruvallur District, in the state of Tamil Nadu by Mr. Y. Pondurai – For Terms of Reference Under Violation notification dated 8th March 2018 and 14th March 2017 of MoEF & CC.

(IA/TN/NCP/ 69281/2017) Dated: 13.09.2017, Transferred from MoEF & CC to SEIAA-TN (SIA/TN/NCP/ 22774/2018) dated 28.03.2018


From the perusal of the office records, project proposal and the presentation made by the proponent, the following points are noted:

1. The Application seeking Environment clearances for existing Construction of Commercial complex at SF No. 31, 32, 34/1, 35, 37 in Padi Village, Ambattur Taluk, Thiruvallur District, in the state of Tamil Nadu by Mr. Y. Pondurai was applied to SEIAA on 28.02.2014.
2. The project proponent in his letter dt.21.03.2014 has furnished the Letter of Apology / Commitment, duly resolved by the Board of Directors for the violation of EIA Notification, 2006, as the construction activities have already been started without obtaining the mandatory prior-Environmental Clearance from the Competent Authority. The letter of apology furnished by the Project Proponent was forwarded to Govt. of Tamilnadu, Environment & Forests Department to initiate credible action against violation committed by Project proponent.
3. The Govt. of Tamilnadu, Environment & Forests Department has directed the TNPCB to initiate legal action against the . Y. Pondurai. TNPCB has filed a case in Hon'ble Judicial Magistrate court , Ambattur.
4. The Proposal was placed before the 71st SEAC meeting held on 29.12.2015, the SEAC decided to recommend the proposal to SEIAA-TN, for issue of Environmental Clearance subject to certain conditions.
5. Mean while, Hon'ble NGT (SZ), in application no. 135/2014 filed by Thiru.S.P.Muthuraman on 21.05.2014 stayed the OM dated 12.12.2012.After hearing the case on various dates, the Hon'ble NGT, Southern Bench was transferred to Principal Bench of NGT, New Delhi which is registered as O.A. No. 37/2015

6. While the hearing is in progress in the Hon'ble NGT, New Delhi, seven project proponents (M/s. SSM Builders & Promoters, M/s Jones Foundation Pvt. Ltd, M/s. Y.Pondurai, M/s Dugar Housing Ltd., M/s SAS Realtors Pvt. Ltd, M/s Ruby Manoharan Property Developers Pvt. Ltd and M/s. SPRRG Constructions Private Ltd.) have impleaded in the NGT, New Delhi for immediate relief. After hearing their plea, the Hon'ble NGT, New Delhi has quashed the OM's dated: 12.12.2012 & 27.06.2013 on 07.07.2015 which involves the process of regulating the violation cases and constituted a committee to inspect the sites of all these 7 project proponents and report the stage of environmental damages ., etc. Further on 01.09.2015, the NGT New Delhi appointed Thiru.A.K.Mehta, I.A.S., Joint Secretary to Government of India, MoEF& CC as the Chairman of the Committee. The Committee constituted by Hon'ble NGT has submitted the report. A amount of Rs. 7.4125 Crores levied as Environmental Compensation by the Hon'ble NGT, PB, New Delhi order dated:07.07.2015
7. Meanwhile, the proponents except M/s. SSM Builders & Promoters has filed civil appeal before the Hon'ble Supreme Court of India. Hon'ble Supreme Court has stayed the Order(s) and Judgement(s) passed by Hon'ble NGT in O.A. No. 37/2015 based on the appeal preferred by M/s. Dugar housing limited, M/s. SPR & RG constructions P.Ltd, M/s. Jones Foundations Ltd., M/s SAS Realtors Pvt. Ltd, M/s Ruby Manoharan Property Developers Pvt. Ltd & M/s. Y.Pondurai, in C.A no.: 7191-7192/2015, 7193-7194/2015, 9108/2015, 5618/ 2015, 13844 – 13845 of 2015 &38168 / 2015 respectively. Now the OM dated: 12.12.2012 is in operation for the above said proposals.
8. Further based on the Hon'ble Supreme Court Judgement dated:24.09.2015, the SEIAA-TN sought for clarification from MoEF&CC vide Letter no.37/NGT/ SEIAA-TN/2015 dated:29.09.2015), stating "whether Environmental Clearances may be issued to such cases where credible action has already been initiated by State Government with a condition that the Project Proponent shall comply the directions of the Hon'ble Supreme Court of India in C.A.No.7191-7192/2015 and 7193-7194/2015 or in light of the stay order issued by the Hon'ble Supreme Court ".
9. The MoEF/Gol, vide letter no. J-11013/97/2007-IA.II(I) dated 08.10.2015 clarified as "directed the SEIAA-TN that there is no Legal Impediment or restrictions on the implementation of the provisions of the OM dated: 12.12.2012 and 27.06.2013, in the treatment of the cases for consideration of Environmental Clearances having

Violations and to consider the request of M/s. Dugar Housing for Environmental Clearance in accordance with the provisions of the said OM's immediately".

10. Further, the MoEF/Gol has clarified vide letter No. F.No.J-11013/97/2007-IA-II(I) dated: 17.11.2015, "SEIAA, Tamilnadu should grant Environmental Clearance in accordance with the provisions of EIA Notification, 2006 based on merits of the cases as sought by M/s.Dugar Housing Limited (CA No.7193), M/s.SPR&RG Constructions P.Ltd.(CA No. 7194) and M/s.Jones Foundations P.Ltd (CA No.9108)-this also being the case in which supreme court has stayed the impugned order of NGT.
11. The Clarification as sought by SEIAA, Tamilnadu vide their letter dated: 29.09.2015 on the treatment of other cases under consideration of Environmental Clearance involved in cases of Violation will be issued separately.
12. And also the MoEF/Gol, vide letter no. J-11013/97/2007-IA.II(I) dated 07.12.2015 directed the "SEIAA, Tamilnadu should grant Environmental Clearance in accordance with the provisions of EIA Notification, 2006 based on facts and merits of the case as sought by Thiru.Y.Pondurai, Chennai, M/s. Ruby Manoharan Property Developers Pvt. Ltd., Chennai, M/s. SAS Realtors Pvt. Ltd., Chennai.
13. Based on the clarification by MoEF/Gol, SEIAA-TN requested the proponents to furnish required details for the consideration of Environmental Clearance. On receipt of the additional particulars, and recommendations from the SEAC, SEIAA-TN after obtaining the indemnity bond from the proponent conditional Environment Clearance was issued to . Y. Pondurai., on 31.12.2015, stating that the "Project proponent shall abide by whatever the directions/Legal outcome of the cases in Hon'ble Supreme Court of India, Hon'ble NGT, Principal Bench and their respective Judicial Magistrate Court. If the above affirmation is proved as incorrect/wrong at a later date, I may be punished according to law".
14. In the Environmental Clearance condition no. xxxix of Part C- Conditions for Operation Phase/Post Construction Phase/Entire Life of the Project
"Failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of the Environment (Protection) Act, 1986".
15. In the meantime, the Hon'ble Supreme Court in its order dated: 04.07.2016 in civil Appeal No(s): 1119-1120/2016, called for other appeals viz C.A.No.7193-7194/2015 (M/s. M/s. SPR&RG constructions P.Ltd.), C.A no.: 13844-13845/2015 (m/s. Ruby Manoharan Property Developers P.Ltd.) , C.A no.: 7191-7192/2015 (M/s. Dugar housing Ltd.), C.A. No: 5618/ 2015 (M/s. SAS Realtors), C.A.9108/2015 (M/s. Jones


CHAIRMAN
SEAC-TN

Foundations P.Ltd.), C.A. Diary No. 38168 (Thiru. Y. Pondurai), directed the "parties shall be free to urge the Tribunal for their relief".

16. In this regard, when the O.A No. 452/2015, 453/2015 (main O.A No 37/2015) came up for hearing on 08.07.2016, the Hon'ble NGT, (PB) New Delhi after detailed deliberation about O.A.no 452/2015 & 453/2015 in the Hon'ble NGT (PB), New Delhi as well as the order of the Hon'ble Supreme Court dated:04.07.2016 in civil Appeal No(s): 1119-1120/2016. The Hon'ble NGT (PB) New Delhi ordered the following which has been communicated through the Counsel Advocate:

i) To withdraw all the Environmental Clearance (ECs) issued to all the proponents related the said O.A by today (08.07.2016) positively.

ii) TN SEIAA have to submit the details of the ECs granted and the details of the ECs(why the ECs were granted, when the ECs were granted, to whom the ECs were granted... etc..) with relation to all the project proponents appeared before the Hon'ble Supreme Court of India, New Delhi and also before the Hon'ble NGT, Principal Bench, New Delhi by the next hearing i.e 12.07.2016.

iii) TN SEIAA have to give notice immediately to all the project proponents stating that they have to present before Hon'ble NGT, Principal Bench, New Delhi on 12.07.2016.

17. Also, the Project Proponent have not communicated the compliance status of the EC conditions Nos. 1, 4 & 14 in the Pre-Construction phase, however the construction is going on. And also the Project Proponent have not communicated the compliance status of the EC conditions Nos.16 & 28 in the Construction phase, which are required to be complied before taking further construction activity.

18. It is further observed from the reports of the Committees constituted by the Hon'ble NGT (PB), New Delhi and SEIAA-TN, that the project Proponent have not complied the Environment Clearance (EC) Conditions.

19. In this regard, the SEIAA, in its 178th meeting held on 09.07.2016, has resolved to withdraw the Environmental Clearance issued.

20. Accordingly, the Environmental Clearance issued was withdrawn vide T/O Letter No. SEIAA/TN/F.2371/ 8(a)/2016 dt:14.07.2016.

21. As per the MoEF & CC Notification dated: 14.03.2017, stated that the cases of violation will be dealt strictly as per the procedures specified in the following manner

“In case the project or activities requiring prior EC under EIA Notification, 2006 from the concerned regulatory authority are brought for Environmental Clearance after starting the construction work or have undertaken expansion, modernization and change in product mix without prior EC, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted EC by the SEIAA shall be appraised for grant of EC only by the EAC and Environmental Clearance will be granted at Central level only”. Accordingly, the proponent was addressed to submit the proposal to MoEF & CC for EC under violation category vide SEIAA letter dated: 19.06.2017.

22. Then, the proponent has filed the application to MoEF & CC under violation on 13.09.2017.

23. Meanwhile, the Ministry vide Notification No. S.O. 1030 (E) dated: 08.03.2018 followed by OM's dated: 15th & 16th March, 2018 for implementation of said notification inter alia provides that the projects/activities covered under Category B shall be considered by the SEAC/SEIAA in respective states / UTs.

24. The above said proposal has already been transferred through online to SEIAA – TN on 28.03.2018. In view of the above, the proposal of M/s. Y. Pondurai may be considered in pursuance of the Notification No. S.O. 1030 (E) dated: 08.03.2018 followed by OM's dated: 15th & 16th March, 2018 for implementation of said notification and in compliance of the order dated: 16.01.2018 of Hon'ble NGT, PB, New Delhi.”

25. The Hon'ble NGT, PB, New Delhi in O.A No. 452/2015 with O.A No. 453/2015 with appeal No.44/2016 with appeal No.45/2016 has issued the following order on 11.01.2019.

The proposal was placed in the 128th SEAC Meeting held on 15.04.2019. The project proponent gave detailed presentation. The salient features of the project and the environmental impact assessment as presented by the proponent are as follows:

1. The Total Plot area of the project is about 9995 Sq.m with total built-up area of 42947.31 Sqm
2. Total Cost of the project is 148.25 Crores

3. It is a Constructed Commercial Complex consist of Main Building (Double Basement + Ground +10 Floors), Service Block (Basement + Ground +2 Floors) & MLCP Block (Double Basement + Ground + 4 Floor)
4. A total number of 437 car parks and 437 two wheeler parks are provided and area allotted (Surface Parking Area – 1312.50 Sqm, Basement Parking Area – 6846.14 Sqm, MLCP Parking Area – 4627.79 Sqm)
5. Green Belt Area of the project is 1044.08 sqm (10.45% of total plot area)
6. Total Water requirement – 110 KLD
 - a. Domestic – 30 KLD
 - b. Flushing – 60 KLD
 - c. Greenbelt – 4 KLD
 - d. HVAC – 16 KLD

Source of Fresh Water – CMWSSB
7. Generated sewage of 84 KLD is treated in STP of 100 KLD capacity.
 - a. Flushing – 60 KLD
 - b. Green belt – 4 KLD
 - c. HVAC – 16 KLD

Treated water is used for flushing, greenbelt & HVAC purpose.
8. Solid Waste Generation – 1002 kg/day
 - a. Bio Degradable: 601 kg/day
 - b. Non Bio Degradable: 401 kg/day
9. Power Requirement is 8000 kVA & it is sourced from TNEB. DG sets - 4 nos. of 2000 KVA Capacity is used for power backup.

The SEAC noted the following:

1. The Proponent, Y. Pondurai has submitted the application for the existing Construction of Commercial complex at SF No. 31, 32, 34/1, 35, 37 in Padi Village, Ambattur Taluk, Thiruvallur District, in the state of Tamil Nadu by Mr. Y. Pondurai – For Terms of Reference Under Violation notification dated 8th March 2018 and 14th March 2017 of MoEF & CC.
2. The project/activity is covered under Category “B” of Item 8(a) “Building and Construction projects” of the Schedule to the EIA Notification, 2006.

Based on the presentation made by the proponent and the documents furnished, the committee instructed the project proponent to furnish the following details to SEAC:

1. The structural stability for the exiting building from the reputed government institutions like Anna University, IIT, NIT, etc shall be furnished.
2. The storm water plan shall be furnished considering the project site and surrounding the project area with a detail layout plan.
3. The project proponent shall furnish the DGPS co-ordinates for the boundaries of the proposed project site
4. The rain water harvesting calculation should be revised as per the Central Ground Water Board (CGWB) guidelines. The proponent shall mention the number of rain water harvesting pits and sump proposed to provide with dimensions.
5. Furnish the detail of solar energy utilization.
6. STP design details shall be furnished.
7. Detail of proposed Air pollution control measures, waste water quality, water quality shall be furnished.
8. The proponent has to earmark the greenbelt entire area with dimension and GPS coordinates for the green belt area on the periphery of the site
9. For CER: The project proponent shall submit the proposal for CER as per MOEF & CC OM dated: 01.05.2018 shall be furnished.

The project proponent is requested to submit the aforesaid details to SEIAA-TN. On receipt of above details (Sl.No.1 to 9) from the project proponent. The Committee noted that the project proposal is to be appraised under violation category as per MoEF & CC notification S.O. 1030 (E) dated: 08.03.2018. Since the project has been considered under violation category, the Committee felt that it is necessary to make an on the spot assessment of the status of the project execution by a subcommittee of SEAC for deciding the further course of action.