

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 651/2019

(With report dated 14.01.2021)

Residents of Delhi Through Shobha Agarwal Applicant

Versus

Delhi Metro Rail Corporation & Ors. Respondent(s)

Date of hearing: 17.03.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Salik Shafique, Advocate

Respondent: Mr. A.D.N. Rao, Advocate for DMRC
Mr. Balendu Shekhar, Advocate for CPCB

ORDER

1. A factual and action taken report was sought from the Delhi Metro Rail Corporation (DMRC) with reference to the allegation that a commercial complex was proposed to be constructed by DMRC in a park. The applicant stated that in the year 2012, some open land (District Park) was transferred to the DMRC which was to be redeveloped after completion of the construction work. Construction work has been completed but **instead of redeveloping the park, the DMRC was proposing to develop it as commercial complex against the Environment norms and Public trust doctrine requiring the park to be maintained as such.**

2. The matter was last considered on 11.08.2020 in the light of report of PCCF, Delhi dated 04.03.2020 as follows:

“3. In view of above, Principal Chief Conservator of Forest (PCCF), Delhi has filed a report on 04.03.2020 as follows:

“4. That a site inspection of the underground (U/G) metro station at Bhikaji Cama Place was conducted by the undersigned along with the officers of DMRC and DDA. During the site visit, DMRC presented report on Traffic Impact Assessment study for the proposed commercial development on the U/G metro station at Bhikaji Cama Place. This study was carried out by TPA Engineering Consultants (I) Pvt. Ltd. (Annexure-B).

5. That as per this study report, there will be increment in the traffic load on the roads around the U/G metro station and this additional Project Development (PD) complex will generate insignificant traffic during peak hours and the project site may not cause any significant impact on road network or land use in immediate surrounding (within 1 Km radius) or over area wide road network (approx. 5 Km around project site) due to traffic dispersal on adjacent intersections. As per this report, during most intense peak hour, the generated traffic from the project site is only 301 PCU's which is insignificant. The report also suggests some mitigation measures to counter existing traffic flow due to proposed Property Development above U/G metro station at Bhikaji Cama Place.

6. That DMRC had submitted a request to DDA for the change of land use for Property Development by DMRC on the U/G Bhikaji Cama Place station. This proposal for Project Development comprises office space, retails and restaurant. The project site is thus a commercial complex above U/G metro station. The total built up area involving Project Development on all floors (04 nos.), basement parking and the already existing built up area of U/G metro station is more than 20,000 sqm. and thus, requires environmental clearance. This proposed Project Development proposal is extension of already existing U/G metro station.

7. That in addition to extra traffic load on Ring Road and Africa Avenue road, there will definitely be an increment in air pollution, water pollution & sound pollution due to addition in the traffic volume, population density and waste water generation.

8. That adjacent to this project site, on the Northern side the low-density residential settlement for the Govt. Employees at 'Netaji Nagar' is being developed as high-density residential colony under GPRA scheme of Ministry of Urban Development, which will also add to the vehicular and human population in this area.

9. That as per the report received from DCF (South), Department of Forests & Wildlife, Govt. of NCT of Delhi in lieu of felling of 1290 trees which includes 178 nos. trees at the site of Bhikaji Cama Place metro station, planted 12900 trees as Compensatory Plantation at Tilpath Valley. As per the report 15,000 trees were planted during 2013-14 and 11,000 trees were planted during 2014-15 at Tilpath Valley including 12900 trees against Compensatory Plantation for this project. There were casualties in the plantation and by 2015 about 10,000 saplings were existing there. Subsequently, during July 2015 as per the directions of the Hon'ble Lt. Governor, Delhi, Tilpath Valley was handed over to DDA for development of Biodiversity Park by Prof. C. R. Babu, In-Charge, Centre for Environmental Management of Degraded Ecosystems (CEMDE). As per the report received, some more plantations were carried out by CEMDE in the area during the course of development of Biodiversity Park. An enumeration of the trees/saplings planted post 2013-14 was done by joint team of Forest Department and CEMDE during 01.01.2020 to 03.01.2020, according to which there are total 17,144 trees/sapling present on the site. Letter from DCF (South) to this effect is attached as Annexure-C.

10. That during my site inspection, it has been observed that 1500 sqm. area along 'Shaheed Sudhir Tyagi Marg' having already existing trees is available outside the carpet area of the project. This land is having scope of planting at least 50 trees of pollution abating species in addition to shrubs in between the trees. DMRC has also proposed an area of 1100 sqm. as terrace garden for smaller plants on the built-up areas as per the site plan attached as Annexure-D.

11. That in view of the aforementioned facts/observations, a proper Environment Impact Assessment (EIA) study is required to be conducted for the proposed construction/structures for Project Development by DMRC to assess the actual quantum of impact on the traffic, air quality, water quality and the overall environment and ecology of the area around the proposed Project Development activities."

4. **In view of above, we find it necessary that before the proposed constructions are carried out, Environment Impact Assessment (EIA) and carrying capacity studies must be conducted by a Joint Committee comprising Central Pollution Control Board (CPCB), IIT, Delhi and Delhi Pollution Control Committee (DPCC). CPCB will be the nodal agency for compliance. The Committee may take into account any other study on the subject and furnish a report within three months 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."**

3. Accordingly, the joint Committee constituted by this Tribunal has filed its report dated 14.01.2021 recommending as follows:

“4.0 Recommendation:

Hon’ble NGT vide Order dated 11.08.2020 directed that, before the proposed constructions are carried out, Environment Impact Assessment (EIA) and carrying capacity studies must be conducted by the Joint Committee.

Accordingly, the proposed project was examined for compliance/approval status for statutory requirements and an independent assessment of environmental and other impacts during the construction and occupancy phase have been undertaken. Specifically, all environmental and other components e.g. management of air quality, waste-water, solid waste, traffic congestion, impact on population density of the area (representing impact on services) etc. have been examined.

It is observed that the proposed project is a Commercial Tower having 4 floors above ground floor with a total built-up area to the tune of 18436 sq. metres. It building shall be located over the underground metro-rail station. It is expected to facilitate the commuters of metro-rail for their commercial needs and shopping without performing additional journeys and. It is an added facility for nearby residents and business establishments without exerting a significant burden on the infrastructure facility of the area and surrounding environment.

It is observed that project proponent has obtained necessary approvals from MoHUA only for the use of the land for property development, but approval from DDA for land use change is yet to be received. Also, Clearances/NOCs from other Agencies viz. Municipal Corporations, DPCC, Delhi Jal Board etc. for layout plan, sewerage, water supply etc., are not received. In these circumstances, the Committee members have suggested following measures for implementation:

- *The project proponent must ensure that all necessary permission, approvals shall be obtained and be valid. All approval, permission, clearance conditions must be complied with at all times.*
- *An undertaking may be submitted by the project proponent that no groundwater will be extracted during the construction phase. Before dewatering (if needed) during construction, NOC may also be obtained from the District Advisory Committee on Ground Water of Govt. of NCT Delhi. At DJB freshwater supply line an inlet digital flow meter shall be installed.*

- *During construction and occupancy phase of the project, all environmental norms and proposed mitigation measures should be strictly adhered by the project proponent.*

In view of the above, the project seems reasonable and viable on environmental accounts. However, the viability of the project is strictly contingent upon adequacy of the environment management plan and adherence to the proposed actions/guidelines and commitments made by project proponent and if same are practiced in letter and spirit.

These recommendations shall stand withdrawn / cancelled automatically in case size of the project is enhanced or proposed mitigation measures are not implemented in 'letter & spirit.'

4. We have heard learned Counsel for the parties. Learned Counsel for the applicant submitted that the report refers to the data during the lockdown and impact of traffic is not duly reflected. **The correct data needs to be considered and mitigation measures adopted, apart from other safeguards suggested by the Committee.** The Committee has found that approval from the DDA for land use has yet to be received. Clearances from other agencies have also not been received. Such approvals must be obtained before proceeding further. **The Committee has rightly recommended that no groundwater be extracted during construction phase and before dewatering NOC be obtained and inlet digital flow meters be installed. During construction and occupancy phase all environmental norms and mitigation measures be strictly adhered to.**

5. We find merit in the suggestion. Accordingly, we direct that apart from recommendations of the Committee, there is need for maintaining adequate greenery and to mitigate the adverse impact of the project which needs to be monitored by a joint Committee of CPCB, DDA and PCCF, Delhi. DDA will be the nodal agency for coordination and compliance. The survival of transplanted trees may be also monitored by

the said Committee. The Committee may also evolve a plan for mitigation measures against the air pollution on account of traffic and traffic congestion based on authentic and realistic data and not merely data of lockdown period. The project proponent will be bound to follow the directions issued in this regard.

The application is disposed of.

A copy of this order be forwarded to CPCB, DDA and PCCF, Delhi by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 17, 2021
Original Application No. 651/2019
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