

Item No. 06

Court No. 1

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

Original Application No. 71/2019

Sanjeev S J, President, Environmental
Protection and Research Council

Applicant(s)

Versus

State of Kerala

Respondent(s)

Date of hearing: 30.07.2019

(Report filed in O.A. No. 71/2019)

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

None

For Respondent (s):

Mr. G. Prakash, Advocate for State of
Kerala and SEIAA

ORDER

1. Grievance for consideration is that in the construction project undertaken by M/s Draganstone Realty Pvt. Ltd. in the State of Kerala, Environmental Clearance (EC) was obtained by concealing the facts about actual built up area. If the actual built up area is to be considered, procedure for granting clearance for Category B1 project is required to be followed which has not been followed.
2. The Tribunal sought a factual and action taken report from SEIAA, Kerala and other experts. The report shows that EC was granted on

15.06.2018 but the said clearance expired. Fresh application was submitted which is still pending. In the fresh application, the area has been enlarged and the same has to be now appraised accordingly. Conclusion in the report is that now it is treated as Category 8(b) project (as per Schedule to the EIA Notification 2006) as follows:-

“M/s Draganstone Realty Pvt. Ltd., have applied for ToR for a built up area of 2,17,164.4 sq mtrs with a total plot area of 3.937 hectares as a category 8b project which is not a violation under the EIA Notification 2006

“Schedule – List of Projects or activities requiring prior environmental clearance – item 8(b)- Township and area development projects – Covering an area >50 hectares or build up area > 1,50,000 sq mtrs.

The application of M/s Draganstone Realty Pvt. Ltd. is being considered for issuance of ToR by the SEAC/SEIAA. Application for Environmental Clearance can be submitted only after completing the procedures stipulated as part of ToR including Environmental Impact Assessment (EIA). Violations if any, on the general and special conditions as part of issuance of EC can be taken up only subsequently.”

3. In view of the above, the appraisal may proceed in accordance with law but without clearance no further construction can be permitted.
4. We consider it necessary to require a joint status report from the representatives of CPCB, Regional Office, Chennai and State PCB about the status of the project on the ground level which may be furnished within one month by e-mail at judicial-ngt@gov.in. The State PCB will be the nodal agency for compliance and coordination.

5. We direct SEIAA, Kerala to furnish its further action taken report in the matter before the next date by e-mail at judicial-ngt@gov.in.

A copy of this order be sent to CPCB, Regional Office, Chennai and State PCB by e-mail. SEIAA is already represented through counsel who can inform it.

List for further consideration on 14.10.2019.

