

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.92/2023/EZ

Dr. Ganesh Das & Ors.

Applicant(s)

Versus

M/s Arya Erectors India Pvt. Ltd. & Ors.

Respondent(s)

Date of hearing: 22.08.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Vikram Rajkhowa, Advocate (in Virtual Mode)

ORDER

1. Heard Mr. Vikram Rajkhowa, learned Counsel appearing (in Virtual Mode) on behalf of the Applicant.
2. The Original Application No.32/2023/EZ was filed by the Applicants therein alleging that the Applicants have purchased flats in the Arya Smart Living Housing Colony constructed by Respondent No.1, M/s Arya Erectors India Pvt. Ltd. It is stated that Environmental Clearance to the Project was granted by State Environment Impact Assessment Authority (SEIAA), Assam on 04.01.2014. NOC was granted by Guwahati Metropolitan Development Authority on 25.06.2013. The allegations of the Applicants inter alia as given in paragraph-9 of the Original Application is as under: -

“9. That the Applicants beg to state that the problems in the Arya Smart Living project started to crop up for the Buyers/Residents as Respondent No.1 violated and/or did not comply with various conditions stipulated in the E.C dated 21/01/2014 as given below among others:

(i) Specific Conditions at Part – A (I) (i) of E.C, i.e.,

“The storm water drainage shall be worked out after analyzing the contour levels of the site and the surrounding area and the capacity of storm water drainage.”

That Respondent No. 1 has constructed low-rise houses/apartment numbering around 123 units under Phase – 1 and around 30 units under Phase – 2 at Arya Smart Living project at North Guwahati. But whenever there is slight rain fall, the entire open area get submerged under water resulting in flood like situation and water remain stagnant for many days.

The primary reasons for water logging at Arya Smart Living project is due to –

- (a) absence of any Storm Water Drainage, as mandated to be constructed after analyzing the contour levels of the site and the surrounding area;*
- (b) the capacity of Storm Water Drainage is not in compliance of E.C provisions;*
- (c) bed level of road inside the project/campus is lower than the bed level of outside PWD road.*

- (ii) Specific Conditions at Part – A (I) (xviii) of E.C, i.e.,*

“Separation of grey and black water should be done by the use of dual plumbing line for separation of grey and black water”

That at present the grey water is directly connected to the open drains which in turn is causing unhygienic environment inside the premises. Moreover, the grey water mixed with rainwater spreads over the entire open areas whenever there is rain and waterlogging.

- (iii) Operation Phase Conditions at Part – A (II) (i) of E.C, i.e.,*

“The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be

submitted to the SEIAA before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/reused to the maximum extent possible. Treatment of 100% grey water by decentralized treatment should be done. Zero discharge criteria should be met as agreed.”

That the Applicants submitted RTI application with Respondent No. 2 SEIAA dated 11/12/2020, including others, wherein various information was sought pertaining to the project, like:

- (a) validity of EC dated 21/01/2014*
- (b) report regarding installation of Sewage Treatment Plant (STP) certified by an independent expert;*
- (c) report regarding Rain water Harvesting;*
- (d) report confirming internal road width of 7 m and 9 m inside the project area;*
- (e) six monthly compliance report of EC conditions, among others*

Thereafter the Applicants received RTI reply dated 28/12/2020 and 13/05/2022 from Respondent No. 2 SEIAA informing the Applicants that the Respondent No. 1 has not applied for extension of the E.C dated 21/01/2014 which was valid up to 21/01/2019 and in regard, to other information sought the same is not available in the office records.

- (iv) Operation Phase Conditions at Part – A (II) (v) of E.C, i.e.,*

“The peripheral green belt of 3 mtrs. width shall be developed all around the plot area and density preferably with local species along the periphery of the plot shall be raised so as to provide protection against particulates and noise.”

The Applicants beg to state that 3 mtrs. peripheral green belt is not maintained all around the plot area and even there is no visible provision for maintaining the peripheral green belt as structures like, drains, sheds, pathways, etc., are being constructed instead of the green belt. Be it stated that the total green belt area is to be around 7,485.96 sq.m according to the E.C but Respondent No. 1 has completely violated the said requirement.

- (v) *Operation Phase Conditions at Part – A (II) (ix) of E.C, i.e.,*
“Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized. Width of the internal road should be 7 mtrs. and 9 mtrs. in the project area.”

It is observed from the sanctioned plan and present construction, there are some internal roads with width of 6 mtrs. only, which is causing traffic congestions and water logging as the roads are not constructed as mandated by Respondent No. 2 SEIAA.

- (vi) *Operation Phase Conditions at Part – A (II) (x) of E.C, i.e.,*
“A report on the energy conservation measures confirming to energy conservation norms finalized by Bureau of Energy Efficiency should be prepared incorporating details about building materials and technology, R&U factors, etc., and submit to SEIAA in three months.”

That according to the RTI response received from Respondent No.2 SEIAA the report pertaining to aforesaid energy conservation measures etc. which was to be submitted in three months is not available.”

3. It was alleged that the Respondent No.1 has violated the Environmental Clearance (hereinafter referred to as 'EC') conditions. It is also stated that the EC was initially granted for five years which expired on 21.01.2019 but in the meantime it was extended for seven years upto 21.01.2021 but after 21.01.2021 the EC has not been extended nor has any application been filed by the Respondent No.1 before SEIAA, Assam.
4. The Original Application was disposed of by the Tribunal on 24.03.2023 with the following directions: -
 - (i) *“The Respondent No.2, SEIAA, Assam, shall consider and decide the two representations of the Applicants dated 06.07.2022 and 20.10.2022, Annexures-N & O, to the Original Application as also the grievances raised in paragraph-9 and its sub-paragraphs of the Original Application.*
 - (ii) *The SEIAA, Assam shall decide the aforesaid representations by a reasoned and speaking order within a period of one month. Needless to say, before taking any decision the SEIAA, Assam shall also given opportunity of hearing and submission of written submissions, if any, to the Respondent No.1.”*
5. The present Applicant Nos.1 to 4 other than Applicant No.5 are the same who had filed the O.A. No.32/2023/EZ.
6. In the present Original Application it is stated that after the order of the Tribunal, State Environment Impact Assessment Authority (SEIAA), Assam vide letter dated 09.05.2023 had passed an order as Annexure-‘C’ (page 106 of the paper book) finding certain violations of the conditions of the Environmental Clearance.

7. It is stated that in respect of the findings recorded by the State Environment Impact Assessment Authority (SEIAA), Assam in its order dated 09.05.2023, no action has been taken thereafter against the Project Proponent, Respondent No.1.
8. In our opinion, matter requires consideration.
9. Issue notice to the Respondents, returnable within four weeks.
10. Ms. Anamika Pandey, learned Counsel who is appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.3, Ministry of Environment, Forests and Climate Change (MoEF&CC).
11. Mr. Surendra Kumar, learned Counsel who is present in the Court, accepts notice on behalf of the Pollution Control Board, Assam.
12. No one is present on behalf of the Respondent No.2, State Environment Impact Assessment Authority (SEIAA), Assam.
13. Issue notices to the other Respondents, returnable within four weeks.
14. All the Respondents shall file their counter-affidavits within four weeks.
15. Learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon the learned Counsel for the Respondents within 24 hours.
16. **List on 25.09.2023.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

August 22, 2023,
Original Application No.92/2023/EZ
SKB