



UPDATE ON THE NATIONAL GREEN TRIBUNAL ORDER FOR THE DEMOLITION OF GODREJ REFLECTIONS

The Principal Bench of the National Green Tribunal, on 30 July 2021, passed [an order](#) in *H.P. Rajanna v. Union of India and others (Appeal No. 54 of 2018)* held that the Environmental Clearance (EC) granted for the project “Godrej Properties” at Kasavanahalli village, Varthur Hobli, Bengaluru Urban District as illegal and consequently ordered any construction in the project site to be demolished and ordered the promoters to pay a penalty to a tune of 10% of the cost of the project.

BACKGROUND

- The Project in question involves the construction of new high rise residential building project, titled as, –Godrej Reflections, on a single plot admeasuring 12 acres 18 guntas in Survey nos. 61/2, 62 and 63/2 and falls in ward no. 150 (Bellandur Ward), Kasavanahalli, Mahadevapura zone, Varthur Hobli, Bengaluru.
- The promoters submitted an application dated 14.10.2017 to SEIAA, Karnataka, seeking “Prior EC” for disputed project under EIA 2006 stating that the construction is proposed on a plot area of 50382.91 square meters and total built up area is 128193.9 square meters.
- The application and documents submitted by PP were considered by State Environment Assessment Committee (“**SEAC**”) in its meeting dated 20.12.2017. It recommended to accord Environmental Clearance

which was issued by Karnataka State Environment Impact Assessment Authority (SEIAA, Karnataka), vide letter dated 10.01.2018.

CONTENTIONS

- The said Environmental Clearance was challenged broadly on the following grounds –
 - That there were serious misrepresentations of facts in Form I and Form IA filed along with the Environmental Management Plan submitted by the promoters;
 - That the impugned Environmental Clearance had been granted in violation of the National Green Tribunal's (NGT) Order in ***Forward Foundation & Ors. v. State of Karnataka & Ors.***, (Original Application No. 222/2014 dated 07.05.2015 and 04.05.2016).
 - That the impugned Environmental Clearance is in violation of Municipal Laws, Building Bye-laws, and Revised Master Plan – 2015 (issued by the Bangalore Development Authority vide G.O. No UDD 540 BEM AA SE 2004 dated 22.06.2007) i.e., RMP-2015;
 - That the impugned Environmental Clearance is in violation of various provisions of the Water Act, 1974 and the Wetlands (Conservation and Management) Rules, 2017 (Wetland Rules, 2017); and
 - That the impugned Environmental Clearance is granted without any application of mind and suffers from patent errors of law and fact.

- It was argued by the Appellant that the impugned project was constructed on “buffer zones” of Kaikondarahalli and Kasavanahalli lakes and Rajakaluves, as defined in the NGT Order in ***Forward Foundation case (supra)***.

FINDINGS OF THE TRIBUNAL

- The impugned Environmental Clearance was illegal on account of being obtained by providing wrong information under Form I and Form IA, with regard to the distance between the impugned Project and the Kaikondarahalli and Kasavanahalli lakes, and therefore, the same is liable to be quashed.
- **Insofar as the conflict between the Wetland Rules and RMP-2015, a joint committee was formed by the Tribunal, which preferred the RMP-2015 over the Wetland Rules. However, the Tribunal stated that this is the incorrect position and that environmental laws will prevail over the provisional laws, ergo, Wetland Rules, 2017 would prevail over RMP-2015.**
- The construction of the building had commenced even before obtaining clearance/ necessary permission, and therefore, was illegal.
- For the purpose of examining the buffer however, the guidelines stipulated in RMP-2015 were considered in this matter and not the 75-metre buffer as had been stipulated by the NGT previously in the ***Forward Foundation*** case which was reversed by the Hon’ble Supreme Court.

DECISION OF THE TRIBUNAL

- The NGT issued the following directions in its Order –
 - The impugned Environmental Clearance was quashed;
 - Construction on the Project site to be demolished immediately;
 - Compensation to the tune of 10% of the cost of the project, i.e., INR 31 crores to be paid by the Promoter and such amount shall be utilised for the restoration, rejuvenation, and reforestation of Kaikondarahalli lake and its surrounding area; in case that the said amount is deficient for the said purpose, the difference amount shall be payable by BBMP;
 - BBMP to pay INR 10 lakh in cost;
 - The Promoter to pay INR 20 lakh in cost and this amount is to be utilised for protection and preservation of the environment.

Disclaimer This update note is for private circulation only and not for commercial re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/or publication of this update note for any non-academic and non-informational purposes are strictly prohibited. This update note is not intended to be an advertisement or solicitation. The contents of this update note are solely meant for informational purposes only and is not a substitute for professional advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this update note or prior to taking any decision based on the information contained in this update note. Sanctum Law disclaims all the responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on information contained in this update note, which may be inadvertently incorrect.

Copyright © Sanctum Law. All rights reserved. Replications or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of Sanctum Law. Any queries may be addressed to contact@sanctumlaw.com