

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

**Appeal No. 28 of 2015  
And  
Appeal No. 29 of 2015**

**In the matter of :**

**Pivotal Infrastructure Pvt. Ltd. Vs. MoEF  
And  
R.P. Estate Pvt. Ltd. Vs. MoEF**

**CORAM : HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Appeal No. 28 of 2015**

**Present: Applicant :** Mr. A.R. Takkar, Ms. Gurinderjit and Ms. Sugandha Nayak, Advs.  
**Respondent No.1:** Mr. Vishwendra Verma, Adv.  
**Respondent No.3 & 4:** Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs.

**Appeal No. 29 of 2015**

**Present: Applicant :** Mr. A.R. Takkar, Ms. Gurinderjit and Ms. Sugandha Nayak, Advs.  
**Respondent No.1:** Mr. Vishwendra Verma, Adv.  
**Respondent No.3 & 4:** Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs.

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 04 &amp; 05</b> <b>July 17, 2015</b> <b>ss</b>	<b><u>Appeal No. 28 of 2015</u></b>  Heard. Perused.  In the present Application it is revealed before us that in its 118 <sup>th</sup> meeting of the State Expert Appraisal Committee a proposal for grant of Environmental Clearance to the proposed construction of Affordable Group Housing colony at Village Kherki Majra Dhankot, Sector-99, Gurgaon by the Appellant M/s. Pivotal Infrastructure Pvt. Ltd. was duly considered and after deliberation the meeting rated the same project with remark "Gold Rating" and was of the unanimous view that the case for grant of Environmental Clearance under EIA Notification on 14 <sup>th</sup> September, 2006 issued by the MoEF, Govt. of India with several stipulations as appearing below it should be recommended to the SEIAA vide a copy of the minutes of the meeting dated 03 <sup>rd</sup> March, 2015, of SEAC at Annexure A-2 volume-2. The Appellant contends that the SEIAA ought to have considered this

recommendation and conveyed its decision within 45 days of the receipt of its recommendation as stipulated in para 8(3) of Environmental Clearance Regulation, 2006; and having not conveyed such decision the rigors of para 8(3) of Environmental Clearance Regulation, 2006 giving benefit of 'deeming fiction' to the Applicant would come into play.

We have before us the Respondent No. 3 & 4, the Learned Counsel appearing on behalf of these respondents submits that the term of Respondent No. 2, SEIAA came to an end on 22<sup>nd</sup> March, 2015 and it has not been reconstituted since then and its responsibilities lie with Respondent No. 1 – MoEF. He further submits that the files including the recommendation which the Appellant is referring to has been sent to Respondent No. 1 – MoEF and MoEF has to deal with the same case. The Learned Counsel appearing on behalf of Respondent No. 1 – MoEF submits that such record is not with the MoEF. However, he proposes a solution to the present problem. According to him if the undertaking is given on solemn affirmation by the Appellant that he would be complying with all the terms and conditions as stipulated in the recommendation made by the SEAC, which figures at Annexure A-2 Volume-2, and is presented to designated officer - Mr. M.K. Singh, Joint Secretary, MoEF, the MoEF will take decision upon such recommendation as placed before it within four weeks and convey the same decision to the Appellant as required under law.

The Learned Counsel appearing on behalf of Appellant welcomes this suggestion and on instructions makes a statement that undertaking on solemn affirmation as desired by the MoEF shall be placed before the said officer of MoEF

within three days and such undertaking shall be accompanied with a copy of the minutes of 118<sup>th</sup> meeting of SEAC dated 03<sup>rd</sup> March, 2015 concerning the project in question and decision may be taken by the MoEF within four weeks of its submission. He also submits that the Appellant be permitted to take out a draw of lots as per the condition of licence pending the decision to be taken by the MoEF. The Learned Counsel appearing on behalf of MoEF submits that such draw of lots may be provisional as all will depend on the decision that would come out of the recommendation submitted before the MoEF.

This controversy thus can be resolved expeditiously.

We therefore pass the following directions:

1. The Appellant M/s. Pivotal Infrastructure Pvt. Ltd. shall tender before the Respondent No. 1 – MoEF the undertaking on solemn affirmation as referred to hereinabove within three days of this order.
2. The Respondent No. 1 – MoEF shall duly consider the recommendation of SEAC, a copy of which shall be with such undertaking, and take decision and pass order thereupon within four weeks from date of submissions of such undertaking in accordance with law. The MoEF shall communicate its decision to the Appellant as provided in law.
3. In the meanwhile, we grant liberty to the Appellant to take out provisional draw of lots for the allotment of dwelling units to the Applicants for such allotment.

With these directions we dispose of this Appeal No. 28 of 2015 with no order as to cost.

**Appeal No. 29 of 2015**

Heard. Perused.

It is submitted on behalf of the Appellant that deeming fiction would come into play the moment the Regulatory Authority under Environmental Clearance Regulations, 2006 is seized of the Application for grant of Environmental Clearance dated 12<sup>th</sup> May, 2014.

The Respondent No. 1 – MoEF has to confirm whether the record concerning the application of EC dated 12<sup>th</sup> May, 2014 of the Appellant is available with the MoEF or not. However, in the meanwhile, Appellant submits that they will furnish set of copies of the Application of EC dated 12<sup>th</sup> May, 2014 along with all such relevant documents in their possession to the designated officer of MoEF Mr. M.K. Singh, Joint Secretary and MoEF would dispose of this Application within 8 weeks.

The Learned Counsel appearing for MoEF is agreeable to this arrangement. We therefore pass the following orders:-

1. Appellant shall place before the MoEF set of copies of the application for EC dated of 12<sup>th</sup> May, 2014 with all relevant documents in their custody before the Mr. M.K. Singh within three days and there upon the MoEF shall take decision in accordance with law expeditiously, but not later than 8 weeks of the placing of such documents.

With these directions, we dispose of the Appeal No. 29 of 2015 with no order as to cost.

.....,EM  
(U.D. Salvi)

.....,EM  
(Ranjan Chatterjee)