

## **NGT upholds prior environment clearance for large constructions: The Times of India**

The National Green Tribunal (NGT) on July 26 imposed an environmental compensation of Rs 15 crore on a building project called "Human Care Charitable Medical Trust," a hospital in sector 6, Dwarka for beginning construction without prior environmental clearance. NGT in its judgment also upheld the need for large construction projects like this to get prior environmental clearance and not when the construction has already started. The building has a total built up area of more than 46,000 sq metres on a plot of 9,545 sq metres. The EIA notification of 2006 makes it mandatory for all construction projects above 20,000 sq metres to obtain a prior EC. But this project had claimed it was not aware that a prior EC was required. The state expert appraisal committee (SEAC), a body that assesses projects that come up for environment clearances had found last year that the project construction was in advanced stages without obtaining any EC in violation of the EIA notification 2006. The state environment impact assessment authority (SEIAA) in its meeting this January had decided to prosecute the Trust under section 19 of the environment protection act and that the Trust should stop construction activity immediately. According to NGT's judgment, the Trust had already constructed more than 39,000 sq metres till January, 2015. The construction had also increased its FAR according to the judgment. The Trust eventually applied for an EC to the SEAC in April, 2015. At that time there were three office memorandums by the environment ministry dated November 16, 2010, December 12, 2012 and June 27, 2013 which said environmental clearance can be granted in cases where the construction activity has already started without obtaining an EC. But in July, NGT through its order in the SP Muthuraman Vs Union of India case declared all these OMs "ultra-vires" and quashed them making prior EC mandatory.

"Precautionary principle is a proactive method of dealing with likely environmental damage. The purpose always is to avert major environmental problems before the most serious consequences and side effects would become obvious," NGT had observed in the SP Muthuraman judgment on obtaining prior EC.

"We have to apply the principles in the SP Muthuraman case to the present case," the bench observed in its judgment adding that this was to control ecological damage under the precautionary principle. When NGT enquired on the project cost, the trust submitted that the total proposed cost of the hospital is Rs 190 crores out of which Rs 125 crores is for construction and rest for medical equipment. "This is certainly not the current value of the project or not even the construction value which was being carried on in 2013, 2014 and 2015... even if we roughly estimate the cost of the project cannot be less than Rs 300 crores...the appellant thus would be liable to pay 5% of the project cost which is about Rs 15 crores," the bench observed in its judgment. NGT also constituted a committee that would submit an inspection report and an appraisal of the construction. The committee consists of member secretaries of CPCB, DPCC, SEIAA, professor from the department of civil engineering of Delhi College of Engineering, senior MoEF official and DDA official and it is to submit its report within four weeks of the judgement. The Trust has been directed to stop all constructions in the meantime. The environment compensation amount will be deposited with DPCC and will be utilized for restoration of environment.

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