$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Reserved on: 27.11.2019

% ***Judgment Pronounced on: 25.02.2020***

\+ **W.P. (CIVIL) 6680/2018 & CM APPL. 25414/2018, 29017/2018, 29680/2018, 32847/2018, 35288/2018, 36251/2018, 49528/2018**

DR. KAUSHAL KANT MISHRA ..... Petitioner

Through: Mr. Samar Bansal, Ms. Aishwarya Kane, Ms. Devahuti Pathak and Mr. Manan Shishodia, Advocates

Versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Ms. Pinky Anand, ASG for UOI with Mr. Ripu Daman Bhardwaj, CGSC & Mr. T.P. Singh, Advocate for respondent no.1.

Mr. Pinaki Misra, Sr. Advocate with Mr. Manoj Kumar Das & Mr. Shailesh Kumar Singh, Advocates for R-3/NBCC.

Mr. Anil Grover, Standing Counsel with Mr. Tushar Sannu, ASC and Mr. Mishal Vij, Advocate for NDMC.

Mr. Ajay Verma, Senior Standing Counsel for DDA with Mr. Arjun Pant, Mr. Ishan Verma and Mr. Armaan Verma, Advocates.

Mr. Kush Sharma, Ms. Nishchaya & Mr. Varun Sharma, Advocates for R-5/DPCC.

Mr. Sumeet Pushkarna, Standing Counsel with Mr. Devanshu Lahry, Advocate for DJB.

CORAM:
HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J.

1. Present petition as amended on 29.06.2018 has been filed by the petitioner seeking quashing of Terms of Reference issued by respondent No.2, Ministry of Environment, Forest & Climate Change to respondent Nos. 3 & 4 i.e. National Buildings Construction Corporation (NBCC) and Central Public Works Department (CPWD) for re-development of General Pool Residential Accommodation (GPRA) colonies in Delhi. The re-development project encompasses seven GPRA colonies in Delhi, namely, Nauroji Nagar, Netaji Nagar, Sarojini Nagar, Mohammadpur, Kasturba Nagar, Srinivas Puri and Thyagraja Nagar.

2. Vide order dated 30.08.2018, this Court directed the Government to submit an affidavit indicating the decision taken with regard to re-visiting/reconsidering the six projects under consideration in the present petition. As far as the project of Nauroji Nagar was concerned, the Court had restrained NBCC from any further construction in the project except to the limited extent that was necessary and required from preventing the roads surrounding the project from caving in, particularly, the Ring Road, during the ongoing monsoon season. Respondent No.1, Ministry of Housing and Urban Affairs filed an affidavit dated 19.09.2018, containing a revised proposal for six colonies, except Nauroji Nagar. Vide order dated 03.10.2018 this Court directed respondent No. 1 and NBCC to approach the relevant Statutory Authorities for approvals of the revised proposals and continued the interim stay with respect to Nauroji Nagar Project.

3. This court is therefore, in present petition, concerned only with the 'Nauroji Nagar' Project.

4. The genesis of the present petition is a decision of the Union Cabinet dated 05.07.2016 which approved the re-development of seven GPRA

colonies to replace the existing housing stock of 12,970 dwelling units with proposed 25,667 dwelling units, along with necessary social infrastructure facilities and other development work. The project was to be completed in a phased manner by 31.12.2022. The re-development is to be carried out in accordance with Master Plan Delhi-2021 (MPD-2021), more particularly, para-3.3.2, which reads as under:-

> *"3.3.2 GUIDELINES FOR REDEVELOPMENT SCHEMES*
> *The basic objective of redevelopment is to upgrade the area by implementing specific schemes on the basis of existing physical and socio-economic conditions in the following way:*
> *i) Influence Zone along MRTS Corridor and the Sub-Zones for redevelopment and renewal should be identified on the basis of physical features such as metro, roads, drains, high tension lines and control zones of. Monuments / Heritage areas, etc.*
> *ii) The residents / cooperative societies I private developers should get the layout and services plan prepared in consultation with the concerned authority for approval.*
> *iii) Within the overall Redevelopment / Regularisation plans, building plan approval shall be at following two stages:*
> *a) Planning Permission for an area of around 4 Ha. This permission may not be required in case an approved layout / Redevelopment / Regularisation plan exists.*
> *b) 1. Cluster Block for a minimum area of 3000 sq.m. The owners should pool together and reorganise their individual properties so as to provide minimum 30% of area as common green / soft parking besides circulation areas and common facilities.*
> *2. Individual buildings shall be given sanction by the concerned authority within the framework of cluster block approval.*

c) The norms of Group Housing with respect to ground coverage, basement, parking, set backs etc. (except, FAR) shall be applicable.
iv) Amalgamation and reconstitution of the plots for planning purpose will be permitted.
v) To incentivise the redevelopment a maximum overall FAR of 50% over and above the existing permissible FAR on individual plots subject to a maximum of 400 shall be permissible. Higher FAR shall however not be permissible in redevelopment of Lutyens Bungalow Zone, Civil Lines Bungalows Area and Monument regulated Zone.
vi) In case of plots with service lanes, the lane area may be included in the scheme. However, no FAR / coverage will be granted and the area shall be used as public area.
vii) The standards of housing density, minimum width of roads and community facilities can be relaxed, wherever justified, by planning considerations (e.g., pedestrianization of the area)."

5. Under the MPD-2021, GPRA colonies are recognized as low density areas. Therefore, for optimum utilization of Government land and proper planning, they can be re-developed with higher density.

6. Petitioner has raised several issues objecting to the project at Nauroji Nagar in the amended writ petition. On 04.12.2018, this Court had formulated four issues requiring consideration qua the said project, which are as under:-

(i) Violation of the master plan;
(ii) Illegality in grant of environmental clearance;
(iii) Re-plantation of trees; and
(iv) Issue of traffic management"

7. Petitioner contends that in residential areas commercial use has been made permissible to permit cross-financing without changing the residential character of the area. The commercial use permitted is governed by Mixed

Use Rules in the MPD-2021, which aims to allow 'access to commercial activities in the proximity of residences and reduces the need for commuting across zones in the city.' As per para-3.3.2 (x) of the Policy for Re-development Schemes, only up to 10% of the Floor Area Ratio (FAR) in re-development projects can be put to commercial use and up to 10% can be used for community facilities with a view to trigger a process of self-generating re-development. As per para-3.3.2 (xiv) the Land Use shall be governed as per the Master Plan/Zonal Development Plan. It is contended that the extent of Commercial Built-Up Area (BUA) proposed for Nauroji Nagar is 280248 sq. m., beyond the permissible commercial use and the proposal, therefore, needs to be revised. The estimations made by NBCC of the proposed commercial BUA excludes vast commercial areas that are proposed for example; Government offices, local shopping centers etc. Learned counsel submits that the notified Zonal Development Plan for Zone-'F', prepared by the DDA indicates that Nauroji Nagar colony is for residential use only and thus non-residential activity beyond the permissible 10% use would violate the MPD-2021. It is argued that respondents are misinterpreting terms of Clause 3.3 of the MPD-2021 by passing of the seven projects as a 'single integrated project' on the ground that commercial and social built-up areas across the colonies can be clubbed/pooled and utilized to convert Nauroji Nagar into a 100% commercial project. It is further argued that in terms of Notification of respondent No. 1 dated 11.10.2018, the Land Policy expressly states that pooling of land will apply only on the basis of Sectors and a minimum of 70% contiguity of land will be necessary to form a Sector. Hence, the respondents' understanding that the Master Plan permits pooling of land parcels for re-development as a result of which the permissible 10% of the FAR can be clubbed is completely flawed.

8. It is next contended that under the MPD-2021, the Mixed Use Regulations acknowledge the need for permitting use of land for purposes other than for which it was originally envisaged and lay down the conditions under which this may be applied. Mixed Use allows access to commercial activities in the proximity of residences and reduces the need for commuting across zones in the city. The over-ridding principles are the need to make provisions for community needs, mitigating environmental impact and providing convenient parking. Mixed Use in Government housing is prohibited. Under the Regulations, in the case of Employer Housing, Table 4.3 permits retail shops for confectionary, grocery, stationery, chemist, barber, tailor, vegetable shop for group housing. The proposed project by the NBCC envisages a 100% Commercial Activity and does not cater to local community needs and is thus violative of the MPD-2021. Learned counsel relies on the judgments in the case of ***Harsh Gupta v New Delhi Municipal Committee (1995) SCC OnLine Del 483, Rawat Mal Jain v Delhi Development Authority (1994) SCC OnLine Del 555, Municipal Corporation of Delhi vs Kishan Dass (1969) 2 SCR 166 and PS Gill v Union of India (1978) SCC OnLine Del 169*** for the proposition that MPD-2021 has statutory force and land use in contravention of the MPD-2021 cannot be permitted.

9. Mr.Bansal next contends that there is total lack of Integrated Environment clearances besides non-adherence to the Terms of Reference. His first argument on this aspect concerns the traffic flow. Mr. Bansal argues that in order to justify the project, respondent No. 1 has heavily relied on the

experience in re-developing New Moti Bagh and East Kidwai Nagar Colonies. The traffic estimates relied upon are based on an outdated 2010 survey and do not take into account the extra traffic load in the present times. The project was designed by underestimating the number of trips that a person may make on the roads and the travel by public transport has been overestimated, even though linkages to public transport are inadequate. The IIT, Delhi, Report analyzing the Traffic plan, indicates a wrong use of the norms to estimate travel mode shares, parking calculations, traffic circulation and access to public transport. It is argued that the re-development of Nauroji Nagar will lead to an inevitable consequence of major traffic jams in the vicinity. Even though, the statutory agencies have approved the project, the traffic plan lacks in several ways in ensuring smooth traffic flow, when the colony would be inhabited.

10. It is next argued that the re-development of the project would lead to further water scarcity. The NITI Aayog Report on Composite Water Resource Management Index states that India is facing a major water crises and Delhi will run out of ground water by 2020. DDA has gone on record stating that availability of water is a blockage to offering 30,000 flats and thus no new Housing Schemes can be proposed till the water crises is addressed. Though, respondent No. 1 has claimed that completion of the projects will result in saving of fresh water and proposed the use of approximately 86 liters per capita per day, but this does not countenance the following; a) water required for commercial construction; b) water consumption in cleaning and maintaining commercial complexes; c) water required in the air-conditioning; d) water needed for the trees and plants in the project areas; e) water required for the human population using the

commercial complex. It is argued that the environment clearance report states that during the operation phase, the water requirement is approximately 2550 KLD, to be provided by NDMC, whereas in the letter dated 29.06.2017 from the NDMC, it is stated that the maximum water supply is 400 KLD, apart from the drinking water from the DJB. Thus, there is a stark incongruity in the water requirement and its availability.

11. Learned counsel contends that there is a total non-application of mind in preparing the Environmental Impact Assessment report (EIA), which is evident from the fact that for the Nauroji Nagar Project, the report states that water sampling has been carried out at 8 locations, but what are mentioned actually are lakes or rivers in Tamil Nadu. Further the water quality is stated to have been assessed during October 2015 to December 2015, despite the fact that the Term of Reference (TOR) for Nauroji Nagar Project was issued only in August 2017. The water sampling date is clearly plagiarized, fraudulent and misleading and so is the Environment Clearance (EC) and the TOR is liable for cancellation on this ground alone. Reliance is placed on the decision of the Madras High Court in ***P.V. Krishnamoorthy vs. Government of India being W.P. No. 16630/2018*** where a similar fact situation had arisen and false data pertaining to a Project was furnished. Mr. Bansal further contends that there is non-application of mind even by the Expert Appraisal Committee (EAC) constituted under the Environment Protection Act, 1986, which is tasked for evaluating the EIA reports. The projects were cleared in a single sitting of the EAC on 13.10.2017 and as many as 21 projects were cleared on the same day. During the meeting, 23 projects were considered, including the Nauroji Nagar Project. The Minutes evidence that the presentation given by the Project Proponant was merely

summarized and by simply endorsing the words "after deliberations", the projects were granted Environment clearances. There is no discussion on any issue including the plagiarized water sampling data. It is submitted that in the case of ***Hanuman Laxman Aroskar vs. Union of India 2019 SCC OnLine SC 441***, the Supreme Court has come down heavily, finding non-application of mind by the EAC.

12. The next argument on behalf of the petitioner is that the permissions were arbitrarily granted for tree-felling and there are violations of NGT orders and Environmental Clearance conditions. Section 8 of the Delhi Preservation of Trees Act, 1994 (DPTA) stipulates that no tree within the NCT of Delhi may be felled except with the previous permission of the Tree Officer. However, the CAG Report in 2017 is a scathing indictment of the dismal performance of the Tree Authority in felling trees under the said Act. It is pointed out that permission was granted to fell a large number of trees without recording any reasons. Permission was granted with conditions that compensatory tree planting would be undertaken. But what is missed is that these locations are more than 20 kilometers away from Nauroji Nagar and Netaji Nagar and there has been no application of mind on the ecosystem of birds, animals and humans dependent on the trees felled. NGT had vide order dated 04.09.2017 in case being O.A. No. 553/2016 ordered, compensatory afforestation in the ratio of 10:1, in the same area but no such ratio has been adhered to by the respondents for the Nauroji Nagar Project.

13. Per contra, the Union of India through respondent No. 1-Ministry of Housing & Urban Affairs has taken a stand that there are no violations in granting environmental clearances or of the MPD-2021, in the present re-development plan. Ms. Pinky Anand, learned ASG submits that the re-

development of the seven colonies has a significant background. There is an acute shortage of Government housing in various categories and office space in Delhi resulting in long waiting lists for allotment of Government accommodation. Moreover, the houses in these colonies have outlived their utility and being more than sixty year old were in a dilapidated condition. In fact some buildings were found to be unsafe to live in. It was further submitted that MPD-2021 encourages re-development of old residential areas in Delhi with a view to utilize the existing land resources in a more efficient manner. More incentives are offered for re-development, namely, higher FAR, utilization of minimum 10% of FAR for commercial use and upto 10% for community facilities. The re-development of the seven colonies is in accordance with MPD-2021.

14. Ms. Anand next submitted that the Union Cabinet on 05.07.2016 approved the re-development of these seven GPRA colonies to replace them with higher number of dwelling units along with necessary social infrastructure facilities, Government office accommodation of 2.42 lakh sq. m. and 8.07 lakh sq. m. commercial built-up area. The re-development is conceptualized on a comprehensive planning and vision. Commercial components of all seven colonies have been consolidated and proposed to be developed at Nauroji Nagar and partly at Sarojini Nagar.

15. It is further submitted that Government has decided that in these seven colonies a suitable augmentation to road infrastructure will be done to avoid any congestion due to increase in traffic. It is submitted that the re-development strategy has been delineated in chapter 3 of the MPD-2021, more particularly, para 3.3. For the purpose of self-generating re-development, para 3.3.2 of MPD-2021 provides as under:-

"3.3.2 POLICY FOR REDEVELOPMENT SCHEMES
The basic objective of redevelopment is to upgrade the area by implementing specific schemes on the basis of existing physical and socio-economic conditions in the following way:

i) . . .

iv) Amalgamation and reconstitution of the plots for planning purpose will be permitted.

. . .

x) Subject to preparation and approval of integrated / comprehensive Redevelopment schemes and provision of parking and services, a minimum 10% of the FAR may be allowed for commercial use and 10% of the FAR for Community facilities with a view to trigger a process of self-generating redevelopment. [Emphasis added.]"

16. MPD-2021, therefore, clearly makes a provision for use of minimum 10% of the FAR for commercial use. For optimum utilization of Government land and proper planning, the seven GPRA colonies have been pooled together by re-organizing and using 10% of FAR for commercial use. Besides the above, community facilities like dispensary, vegetable, milk shops, stationary and grocery shops, schools, parks etc. are provided for, in the proposed colonies.

17. It is further argued that infrastructure facilities/public utilities such as water, STP, electrical supplies are separately planned for each GPRA as an independent township depending on different challenges at each location. Each of the seven projects has been treated individually for seeking approvals and clearances from different Statutory Authorities. As per Clause-6 of the EIA Notification dated 14.09.2006 application seeking environmental clearance is to be made project wise. As per Clauses 7 & 8, the Regulatory Authority which is the Ministry of Environment, Forest &

Climate Change, is empowered to consider the said application. Reliance is placed on Chapter 17 of the MPD-2021 which sets out the Development Code. Relevant portions are as under:-

"*PARA 2.0 DEFINITIONS*

2(4) *Layout Plan means a Plan indicating configuration and sizes of all Use Premises. Each Use Zone may have one or more than one Layout Plan depending upon the extensiveness of the area under the specific Use Zones and vice-versa. A layout plan shall have at least two use premises (apart from Recreational, utilities and transportation) and a minimum area of 1 Ha. below which it shall be termed as site plan or sub division plan.*

Layout Plan will indicate the location of all proposed and existing roads with their widths, dimensions of plots along with building lines and setbacks, location of drains, public facilities and services and electric lines etc, statement indicating the total area of the site, area under roads, open spaces for parks, playground, recreational spaces and other public places, as required by specific sections of the development code.

. . .

PARA 3.0 ESTABLISHMENT OF USE ZONES AND USE PREMISES

3(1) *The National Capital Territory of Delhi is divided into 9 land use categories as mentioned in Para 4.0*

3(2) *Each land Use category is assigned number of use zones, which shall be further subdivided into required number of Use Premises with or without conditions in Layout Plans.*

3(3) *Each use premises shall be permitted to have specific uses / use activities out of the prescribed uses / use activities with or without conditions.*

. . .

SANCTION OF PLANS

3(11) *Layout Plans / Site Plans and Building plans shall be approved by the Local Bodies and Authority in their areas of jurisdiction.*

PARA 4.0 USE ZONES DESIGNATED

There shall be 9 Land Use categories subdivided into use Zones as given below:

- *RESIDENTIAL*

  RD Residential area

  RF Foreign Mission

- *COMMERCIAL*

C1 Retail Shopping, General Business and Commerce, District Centre, Community Centre, Non Hierarchical Commercial Centre.

C2 Wholesale, Warehousing, Cold Storage and Oil Depot

. . .

SUB / PARA 8(2) PERMISSION OF USE PREMISES IN USE ZONES

(As part of approval of layout plan or as a case of special permission from the Authority)"

18. It is next contended by the learned ASG that in a Residential Zone, particularly the one conceptualized for re-development, commercial activity is permissible. NBCC has prepared a re-development plan for Nauroji Nagar which is at a 'scheme level' and provides for commercial component and has been granted 'in principle' approval by the NDMC. As per para 5.6.1 of the MPD-2021, a 'community centre' is conceived as a shopping and business centre catering to the needs of population at community level of over 1 lakh population. A community centre has thus been proposed at Nauroji Nagar.

19. Learned ASG has rebutted the plea of the petitioner regarding the Mixed Use. It is submitted that the governing principle for Mixed Use, under paras 15.1 and 15.2 of the MPD-2021 means the provision of non-residential activity in residential premises. Mixed Use is prohibited only in Lutyen's Bungalow Zone, Civil Lines Bungalow Zone, Government housing, Institutional/staff housing of public and private agency. In the present proposal there is no plan for mixing of non-residential uses within the same

building. Neighbourhood local commercial market is proposed as a separate block and not as a Mixed Use.

20. Learned ASG further argues that the reliance of the petitioner on land pooling in Chapter 19 of MPD-2021, is mis-conceived. As clarified by the DDA, the said Chapter does not apply to existing urban areas or re-development projects. The land policy is applicable only for Urbanisable Area or Urban Extensions, for which Zonal Plan has been notified. At present, land pooling is applicable only to five zones on periphery of Delhi and does not include Zone-F & D in which the present re-development is to be undertaken. Thus, the project at Nauroji Nagar has been planned in accordance with the provisions of MPD-2021.

21. Responding to the argument of environmental clearances, learned ASG submits that it is wrong to contend that the EIA has been prepared by copying the data from other projects in Tamil Nadu, only because the executive summary of the report reflects water samples from certain lakes in Tamil Nadu. It is submitted that this portion of the Report is only a typographical error and does not appear in the final EIA Report. On the contrary, it is clearly reflected in the EIA Report that data has been taken from the project site as well as from areas nearby, such as AIIMS, Lajpat Nagar, Panchsheel Park, Jai Sarai, R.K. Puram, Moti Bagh and Udyog Nagar. This is further substantiated from the details provided by an accredited Consultant confirming that the water sample has been collected from different locations in Delhi and this is supported by photographs and sketches of the locations, which form part of the voluminous Report.

22. It is vehemently contended that the petitioner is wrong in arguing that there is no application of mind, as the environmental clearance was granted

in one sitting. It is a matter of record that total time taken in obtaining the EC was more than eight months. Detail chronology of the meeting sessions is available on record. It is submitted that detailed deliberations were done by the Expert Appraisal Committee in its meetings held on several occasions and this is clearly reflected from the Minutes of Meeting. It is also denied that 21 ECs were granted in one day, as alleged by petitioner. As per procedure the documents are to be submitted to the Chairman, Member Secretary and Members by the project proponent at least one week prior to EAC meeting and the entire procedure was followed in the present case. Ministry of Environment, Forest & Climate Change has specifically endorsed that all projects were examined and considered by the EAC taking into account all relevant factors.

23. In so far as the issue of tree felling is concerned, it is contended that in Nauroji Nagar project, tree felling was completed in January, 2018 much prior to this Writ Petition. No further felling has taken place subsequent thereto. NBCC had applied for permission to fell certain number of trees vide application dated 08.02.2017 and DDA has allotted enough land at the nearby areas for compensatory plantation in lieu of the trees felled. The Forest Department, GNCTD, in terms of Section 9(3) of DPTA, in public interest exempted 10.10 hectare area for the project. NBCC has already deposited the requisite money with the concerned authority for necessary action. The Forest Department vide letter dated 26.11.2018 confirmed that they have completed compensatory plantation of 16,277 saplings, against the requirement of 14,650.

24. Learned ASG further argues that the petitioner has incorrectly alleged that the EIA Report has not given any consideration to the Traffic

issue. The allegation is contrary to the record which shows that the traffic management plan was given due weightage. The Report clearly refers to the impact of traffic on long term basis. Respondent No. 1 in its affidavit has re-affirmed the position and the Court has accepted this in its order dated 03.10.2018. PWD was appointed by NBCC to conduct comprehensive study and it recommend traffic de-congestion measures in the vicinity of the said project. A Consultant was appointed who has after indepth study, proposed a Scheme which has been further vetted by two Expert Agencies, namely, Institute of Urban Transport and Urban Mass Transport Company. The comprehensive feasibility of the Report consists of an Integrated Transit Corridor Development and Street Network/Connectivity Plan for all seven areas. Further respondent No. 1 has stated on an affidavit that possession will be given only after necessary road infrastructure is ready to maintain smooth flow of traffic.

25. Finally, the learned ASG submits that apprehension of the petitioner regarding water scarcity and sewage treatment is unfounded. It is submitted that in order to take care of the water scarcity, it has been meticulously planned that recycled water from the in-house STPs will be used for cleaning, air conditioning and horticulture at operation stage and this is a part of the EC report. Water requirement during construction will be met out of recycled water from the nearby sewage treatment plants of Municipal bodies. Calculations already made clearly indicate that for the Nauroji Nagar project in fact there will be a saving of 665 KLD and there is no additional requirement of water from NDMC. Due to use of low flow fixtures, automatic control bulbs, use of recycle water for flushing etc. the per capita demand of water will be much less as per the norms provided in the 'Manual

on Norms and Standards Developed by MOEF'. There is a provision for Rain Water Harvesting which would help in replenishing the ground water level and also increase ground water quality.

26. Mr. Pinaki Misra, learned senior counsel appearing on behalf of NBCC reiterates the stand of the Union of India with regard to the need for re-developing the seven colonies and the Union Cabinet decision. He further submits that pursuant to the Cabinet approval, respondent No. 1 issued a Letter of Intent appointing NBCC as Project Management Consultant for re-development of Nauroji Nagar, Netaji Nagar and Sarojini Nagar and a Memorandum of Understanding was signed on 25.10.2016. In terms of the MOU, NBCC applied for Statutory approvals from the concerned Authorities. It is submitted that all required approvals were received, including permission for tree cutting, environmental clearances, NOC from Delhi Traffic Police and NOC from Central Ground Water Authority. The work of re-development of Nauroji Nagar was undertaken only after all environmental clearances and necessary approvals, more particularly from NDMC, L&DO and DUAC, were received.

27. It is argued that it is wrong for the petitioner to contend that the EIA Report is prepared by copying the data from some project in Tamil Nadu. The Project Proposal is based on actual datas and samplings carried out at various locations in Delhi, details of which are provided along with photographs in the report. The Report on ground water quality clearly mentions the baseline of the site as Nauroji Nagar and surrounding areas such as AIIMS, Lajpat Nagar etc. The report has been prepared with site specific base line data, impacts, mitigation measures and Environmental Management Plan. The Expert Appraisal Committee (EAC) has

recommended for Environmental Clearance after considering the EIA Report. The Ministry of Environment, Forest and Climate Change has endorsed the Environmental Clearances of the project. It is vehemently disputed that the EC has been granted in one single sitting without application of mind as alleged by petitioner. A chronological list of dates is submitted by the NBCC in this Court which shows that after more than eight months of due deliberations in the EAC, the clearance was given.

28. Mr. Misra, further contends that the NBCC had applied for permission to fell 1465 tress at Nauroji Nagar which was duly granted. Under Section 9 (3) of the DPTA, 1994 an area of 10.10 HA was exempted for construction of the project vide Notification dated 15.11.2017. NBCC has deposited the required amount with the DCF, West and the Forest Department vide letter dated 26.11.2018 has confirmed the completion of compensatory plantation of 16,277 saplings. Thus, there is no violation of any provisions of the DPTA, 1994.

29. On the issue of traffic management, Mr. Misra contends that PWD, GNCTD was appointed by NBCC on 'deposit work basis' to conduct comprehensive study and recommend traffic decongestion measures in the areas of the seven colonies as well as in the vicinity on the Ring Road. Based on the Terms of Reference received from the UTTIPEC, a comprehensive Feasibility Report has been prepared comprising of Integrated Transit Corridor Development and Street Network/Connectivity Plan. A Traffic Decongestion Plan has been vetted through two expert agencies and has been submitted to Urban Mass Transport Company Limited (UMTC) and Institute of Urban Transport (IUT).

30. Mr. Misra argues that there are no violations of the MPD and all statutory environmental clearances have been obtained. The project has been meticulously planned with a vision to provide a 'Green Building' which would provide solace to large number of Government officials.

31. Mr. Ajay Verma appearing on behalf of the DDA argues that the Master Plan is a statutory plan covering the entire NCT of Delhi and its implementation and enforcement is the function of the concerned local Authority. It is submitted that there is no violation of Master Plan in the construction of the proposed project at Nauroji Nagar.

32. In order to accommodate the projected population of 230 lakh by the year 2021, a three-pronged strategy has been recommended in chapter 3.0 of MPD-2021. One of such strategy identifies the need to increase the population holding capacity of areas within existing urban limits through re-development.

33. It is submitted that para 3.3 of MPD-2021, deals with re-development of existing urban area. As per the said provision, more population is to be accommodated in a planned manner in all Use Zones and efficient and optimum utilization of the existing urban land has to be taken up at priority. This is to be based on provision of infrastructure such as water supply, sewage, road network, open spaces etc. For this purpose, the incentives and modalities recommended include grant of planning permission at the scheme level to re-organize/pool properties for planning purposes through transferable development rights and reduced space standards for unplanned areas, enhanced FAR for specified re-development areas and application of flexible concept of Mix Use Zones in special areas etc. Thus, the Master Plan contemplates pooling of properties as one of the methodology of re-

development to achieve the vision of maximizing housing provision and to meet the growing demand for built-up space.

34. Para 3.3.1.1 (B) of MPD-2021, deals with re-densification of low-density areas. The MPD allows for optimum utilization of Government land and thus the GPRA colony can be redeveloped with higher density, based on comprehensive planning and vision. Para 3.3.2 provides the basic parameter for redevelopment by implementing specific schemes on the basis of existing physical and socio-economic conditions.

35. It is contended that para 3.3.2 deals with the policy for re-development schemes, the basic objective being to upgrade the area by amalgamation and reconstitution of the plots. It further provides that subject to preparation and approval of integrated re-development schemes and provision of parking and services, a minimum 10% of the FAR may be allowed for commercial use and 10% for community facilities to trigger a self-generating re-development. It is submitted that the said provision clearly stipulates that Land Use shall be governed by the Master Plan or the Zonal Development Plan. The Non-Residential use will be permitted as per Mixed Use and Special Area Regulations. Chapter 17 of the MPD-2021, defines a 'Layout Plan' which is to be approved by the local bodies. NBCC has already prepared a Layout/re-development plan of Nauroji Nagar, which at a scheme level provides for the commercial component. 'In principle' approval has been granted by the NDMC.

36. It is argued that under sub-clause 2(7) of Chapter 17 Use Premises means one of the many sub divisions of the Use Zone designated in an approved layout plan for a specific use. The land use of a premise has to be determined on the basis of the approved layout plan. Thus the land use of

any of the Use Premises can only be determined as per approved layout plan and therefore, if any Use Premise or facility permitted at the layout level, as per Table 3.3 in the MPD, is provided within the Integrated/Comprehensive Scheme and also incorporated in the approved Layout Plan of the overall Scheme, change of land use is not required for that specific Use Premise or facility.

37. Mr. Verma argues that the re-development at Nauroji Nagar does not constitute Mixed Use as alleged by the petitioner. This he submits is clear from reading paras 15.1 (i) and 15.2.2 of MPD-2021. Para 15.1 (i) defines Mixed Use as provision for non-residential activity in residential premises. This is not the case in the present project as the use of land is re-development. Mr. Verma further contends that the petitioner has wrongly argued that the right to re-organize or pool properties in Para 3.3 of the MPD-2021, could only be as per land pooling in chapter 19 of the MPD-2021. He submits that land pooling is a different concept altogether. Land pooling is done only in Sectors defined by the Regulations. The present re-development falls in Zone-F of the Master Plan and the re-development areas are consigned to Zones J, K-I, L, N and P-II.

38. Mr. Anil Grover, arguing for NDMC submits that out of the seven projects only three projects fall within the jurisdiction of NDMC. In regard to the alleged violation of Master Plan in the context of the project of the Nauroji Nagar, the specific stand of the NDMC is that the proposal for re-development of Nauroji Nagar for commercial purpose was received on 04.01.2017. It was scrutinized as per provisions of NDMC Act, 1994, MPD-2021, UBBL 2016 and the MOUD Guidelines. The shortcomings were intimated to the NBCC and various NOCs were requested to be submitted

such as NOC from C.E.(C) NDMC for water supply and sewerage disposal, for electric supply, from L&DO, DPCC, Tree Cutting Officer, Central Ground Water Authority, DTC, CFO, IGL, DUAC, Delhi Traffic Police and it was also requested that details of the Environmental Clearances be sent. Thereafter, a meeting was also held with TCPO and DDA and it was found that the proposal was in accordance with the MOU of MOUD and NBCC. NBCC has re-submitted the proposal along with details of compliances. NOCs have been received from the DUAC, L&DO and various other Authorities. The Sanction Plans are pending consideration. It is further submitted that although NDMC does not provide any water for construction purposes but it would install two Tertiary Treatment Plants from which treated water would be provided to the NBCC for construction purposes. It is thus submitted by the learned counsel that there are no violations of the Statutory requirements and the requisite NOCs have been received.

39. We have heard the counsels at length and examined their respective contentions.

40. As mentioned in the earlier part of the judgment, this Court had crystalised the four issues with which the present petition is concerned and the said issues have to be considered only with respect to the redevelopment Project at Nauroji Nagar.

41. The few undisputed facts, which are significant are that Delhi is facing the problem of increasing population and land for housing or commercial purposes is limited and scarce. It is equally undisputed that there is an acute shortage of Government accommodation and a lot of houses in the existing Government colonies have outlived their utility, being over 50 years old and are not only in a dilapidated condition but some are even unsafe for

habitation. The consequence and fall out is that there are long queues of the Government officials waiting to be allotted the Government accommodations. Faced with this ground reality of the city, Cabinet Decision was taken in the right direction, in our view, on 05.07.2016, whereby redevelopment of seven GPRA colonies was approved. The Government houses in these colonies were over five decades old and in a dilapidated condition. It was thus decided to replace the existing structures with new dwelling units along with necessary infrastructure facilities. Implementation of the Project was approved on self-financing basis by sale of Commercial Built-Up Area of Nauroji Nagar and part of Sarojini Nagar at an estimated Project cost of Rs. 32,835 Crores which included maintenance and operations of all Government assets for 30 years. The Project is to be completed in a phased manner by 31.12.2022. Redevelopment was conceptualized based on comprehensive planning and vision and the commercial components of all 7 colonies were consolidated.

42. The petitioner by way of the present petition has raised certain issues which are no doubt of great concern. The first issue raised is about the violation of the Master Plan. The Ministry of Housing & Urban Affairs/Respondent No. 1 has filed a detailed affidavit in which it has clearly brought out that the Nauroji Nagar Project is fully compliant with MPD-2021. In the affidavit, it is categorically stated that redevelopment of an existing Urban Area is defined in para 3.3 of the MPD. A redevelopment strategy for accommodating more population in a planned manner is to be taken on priority in all Use Zones for efficient and optimum utilization of the existing urban land. This has to be based on provision of infrastructure viz. water supply, sewerage, road network, open spaces etc. The basic objective

of redevelopment is to upgrade the area by implementing specific schemes on the basis of existing physical and socio-economic conditions. It is further stated in the affidavit that one of the major areas for redevelopment is the GPRA encompassing accommodation for Government servants. The houses in the seven colonies have outlived their utility and rapidly deteriorating condition of the old houses entails high expenditure on maintenance besides being unsafe for living.

43. The Ministry has taken a specific stand that the MPD-2021 makes provision for use of minimum of 10% of the FAR for commercial purposes and as allowed in the MPD-2021, the seven colonies have been pooled together for planning purpose by reorganizing and using 10% of the FAR area for commercial use at Nauroji Nagar and Sarojini Nagar to ensure maximum returns from sale of the built-up space. Besides the above, community facilities such as dispensary, grocery shops, food and vegetable booths, schools, parks etc. have also been proposed in accordance with clause 3.3.2(x) of the MPD-2021. Infrastructure facilities and Public Utilities such as water and electricity supplies etc. have been separately planned for each colony depending upon the challenges at each location. The stand of the Ministry is that as per the MPD-2021, commercial activity in accordance with the Master Plan is permitted in a Residential Zone. The local authority NDMC has also granted in principle approval to the scheme after examining all the concerns of Environmental Clearances etc. It is also categorically stated by the Ministry that the plea of Mixed Use raised by the petitioner is completely flawed. Under para 15.1(v) of the *MPD-2021,* Mixed Use is only prohibited in certain areas mentioned therein and not for the redevelopment projects such as the present. Insofar as Chapter 19 of the

MPD-2021 is concerned, the stand is that the said Chapter itself does not apply to the existing urban areas or redevelopment projects. The land policy is applicable only for urbanisable area of urban extension for which the Zonal Plan has been notified.

44. DDA in its affidavits has also taken a clear stand that there is no violation of the MPD-2021 in the construction of the redevelopment Project of Nauroji Nagar. The argument of the DDA is on the same line as that of the Ministry.

45. Having considered the stand of the Ministry and the DDA as well as having examined the various affidavits filed by them as well as the provisions of the MPD-2021, we are satisfied that there are no violations of the MPD-2021 with respect to the Nauroji Nagar Project, as alleged by the petitioner.

46. The MPD-2021 encourages redevelopment of old residential areas with a view to utilize the existing land resources in a more efficient manner to meet the growing demand for built up space. Further, the MPD-2021 allows various incentives for redevelopment of existing areas namely utilization of 10% of FAR area for commercial use and upto 10% for community facility. The record shows that for optimum utilization of Government land and for proper planning, the seven GPRA Colonies have been pooled together for planning purposes for reorganizing and using the pooled area for commercial use at Nauroji Nagar and part of Sarojni Nagar. Para 3.3.1.1B of the MPD-2021 clearly permits the underutilized land as well as dilapidated built up areas to be planned for redevelopment with higher density. As an outcome of this redevelopment of 7 GPRA Colonies over 1 Lakh population has been planned for residence in the colonies. The

provisions of necessary facilities are governed by Table 3.3 which contains the hierarchy of urban development in MPD-2021. Relevant part is scanned hereunder :-

Table 3.3 : Hierarchy of Urban Development

Level	Facilities	Area in sq.m.			Standard (to be) adopted	
		No.	As per [illegible]	[illegible]	[illegible]	[illegible]
1	2	3	4	5	6	7
1. Housing Area Population 5,000	1. Convenience shopping	1	1000	[illegible]	•	
	2. [illegible]	30	[illegible]	2500	•	
	3. Housing area Park	[illegible]	5000	5000	•	
	4. Housing area Playground	[illegible]	5000	5000		
	5. [illegible]	1	[illegible]	[illegible]	•	
	6. [illegible]	1	[illegible]		•	
2. Neighbourhood Population 10,000	1. Middle School	1	3000-4000	[illegible]	•	
	2. Sr. Secondary School	[illegible]	5000-8000	6000-8000	•	
	3. Religious building	2	[illegible]	[illegible]	•	
	4. [illegible]	1	[illegible]	[illegible]	•	
	5. [illegible]	[illegible]	[illegible]	[illegible]	•	
	6. Local shopping	[illegible]	3000	4000	•	
	7. Service Market	1	2000	[illegible]	•	
	8. [illegible]	1	300	[illegible]		
	9. Three wheeler & Taxi stand	[illegible]	400	400	•	
	10. Neighbourhood Park	1	10000	10000	•	
	11. Neighbourhood Play area	1	[illegible]-10000	[illegible]-10000	•	
	12. Underground water tank with booster [illegible]	[illegible]	2000	2000	•	
	13. Sewage Pumping station	1	[illegible]	[illegible]	•	
	14. Coaching centre, IT & [illegible] training centre	[illegible]	500	[illegible]	•	
	15. [illegible]	1	[illegible]	[illegible]	•	
	16. Dispensary	1	[illegible]	[illegible]	•	
	17. [illegible]		As per requirement		•	

S/- [illegible]-579

[illegible]	[illegible]		[illegible]		[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] Community [illegible] 1,00,000	1. [illegible]	[illegible]	[illegible]	[illegible]	*	*
	2. [illegible]	1	[illegible]	[illegible]	*	*
	3. [illegible] Welfare Centre	1	[illegible]	[illegible]	*	
	(i) [illegible]	1				
	(ii) [illegible]	1				
	(iii) [illegible]	1				
	4. [illegible]	[illegible]	[illegible]	[illegible]	*	*
	5. [illegible]	2	[illegible]	[illegible]	*	*
	6. [illegible]		[illegible]	[illegible]	*	
	7. [illegible]	1	[illegible]	[illegible]	*	
	8. Community [illegible]	1	[illegible]	2000	*	
	9. [illegible]	1	[illegible]	[illegible]	*	
	[illegible]	[illegible]	[illegible]	[illegible]	*	
	[illegible]		[illegible]	[illegible]	*	*
	[illegible]		[illegible]		*	
	[illegible]		[illegible]		*	
	[illegible]	[illegible]	[illegible]	[illegible]		*

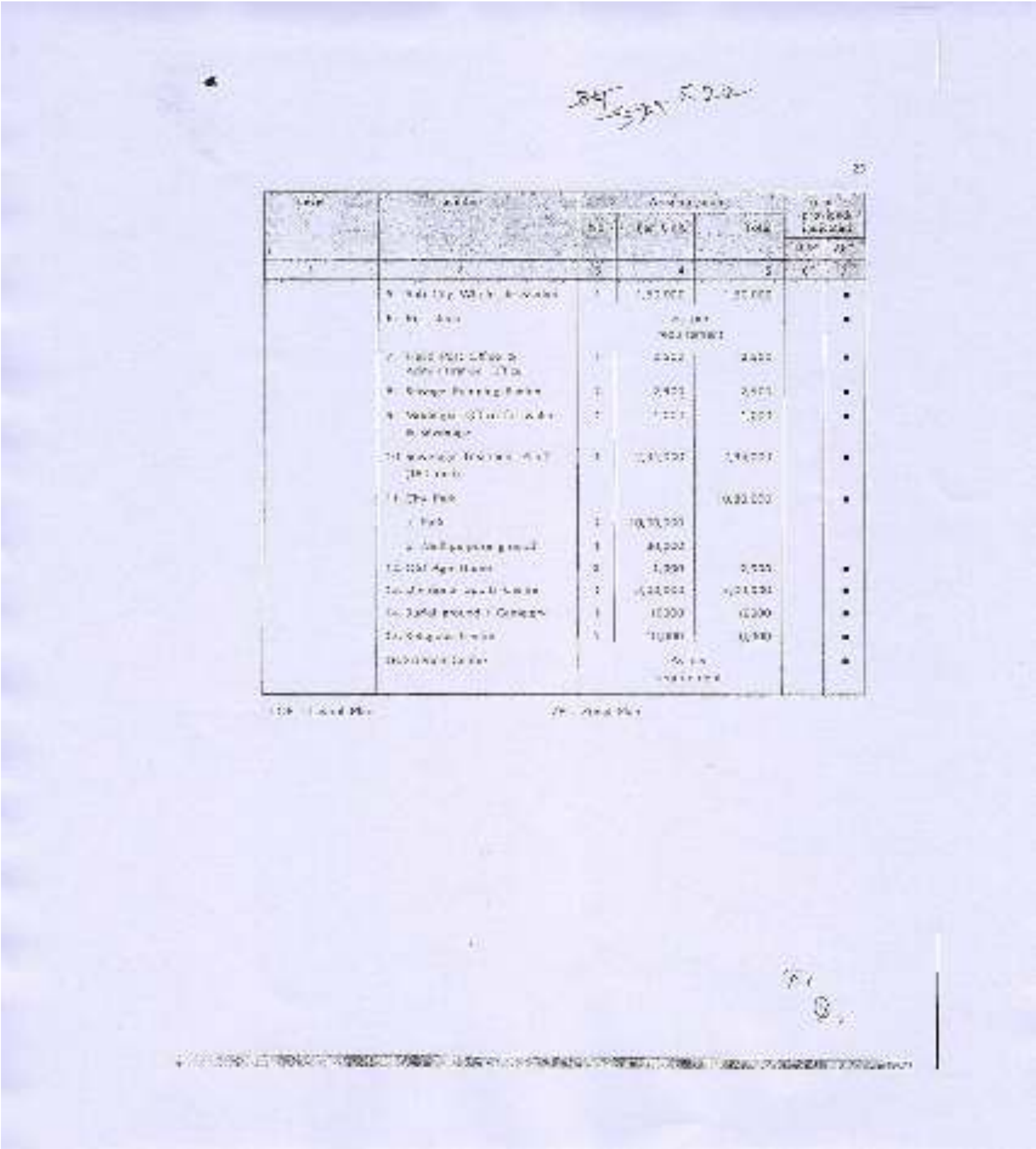
[illegible]

B2— 519526

[illegible]	[illegible]	[illegible]			[illegible]	
		No.	[illegible]	[illegible]	[illegible]	[illegible]
1	2	3	4	5	6	7
	15. Community Toilets		As per norms/ requirement		•	•
	16. Informal Bazaar	1	1,000	1,000	•	•
	17. Community Parks					
	a) Park	1	10,000			•
	b) Multipurpose Park / ground	1	20,000		•	•
	18. Community Sports Centre	1	10,000-12,000	12,000-20,000	•	
	19. Bus Terminal	1	1,000	1,000		•
	20. Waste water treatment facility		As per requirement			•
	21. Sewerage Pumping Station	1	2000	2000		•
	22. Parking space for parking of buses, taxis, TSRs etc.	2	4000	2000		•
3. District Population- 5,00,000	1. Hospital 'A' (501 beds & above)	1	25,000-45,000	35,000-45,000	•	•
	2. Hospital 'B' (201 beds to 500 beds)	2	25,000-30,000	30,000-35,000	•	•
	3. Veterinary Hospital for pet animals & birds	1	2,000	2,000	•	•
	4. Vocational Training Centre (ITI / Polytechnic / Vocational Training Institute / Management Institute / Teacher Training Institute etc.) / Research and Development Centre	1	4,000	4,000	•	•
	5. School for Mentally Challenged	1	2,000	4,000	•	
	6. School for Physically Challenged	2	2,000	4,000	•	
	7. General College	1	As per the UGC norms			
	8. Professional College (Engineering)	1	As per the AICTE norms			•

PK G

[illegible]	Facilities	No.	Area norms		[illegible]	[illegible]
			[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	9. [illegible]	2	[illegible]	[illegible]		•
	10. [illegible]	[illegible]	10,000	[illegible]	•	•
	11. Old Age Home	[illegible]	1,000	[illegible]	•	
	12. [illegible] Mentally and [illegible]	[illegible]	[illegible]	1,000		•
	13. Working women's hostel	1	[illegible]	[illegible]		•
	14. Adult Education Centre		1,000	[illegible]	•	
	15. [illegible]		1,000	[illegible]		•
	16. [illegible]	1	[illegible]	[illegible]	•	•
	17. [illegible]	[illegible]	[illegible]	[illegible]	•	•
	18. [illegible]	1	[illegible]	[illegible]	•	•
	19. [illegible]	1	[illegible]	[illegible]		•
	20. [illegible]	1	[illegible]	[illegible]		•
	21. [illegible] park			[illegible]		•
	a. Park	[illegible]	[illegible]			
	b. [illegible]	[illegible]	[illegible]			
	22. [illegible] Sports Centre		[illegible]	[illegible]		•
	23. [illegible]	1	[illegible]	[illegible]		•
	24. [illegible]	1	[illegible]	[illegible]		•
[illegible] Population [illegible]	1. [illegible]	1	[illegible]			•
	2. [illegible]	[illegible]	[illegible]	[illegible]	•	
	3. [illegible]		[illegible]	[illegible]		•
	4. [illegible]	[illegible]	500	[illegible]	•	



[illegible]	[illegible]	[illegible]	[illegible]	Total	[illegible]	[illegible]
1	2	3	4	5	6	7
	[illegible]	[illegible]	[illegible]	[illegible]		•
	[illegible]	As per requirement				•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	8. Sewage Pumping Station	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	11. City Park			[illegible]		•
	i. Park	[illegible]	[illegible]			
	ii. Multipurpose ground	[illegible]	[illegible]			
	12. Old Age Home	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]	[illegible]	[illegible]		•
	[illegible]	[illegible]				•

47. The proposal indicates that the required shopping centres and other utilities in terms of para 3.3.2 (viii) have been retained in the colony. Thus, the project is compliant with the Master Plan. With the ever-increasing population in Delhi, certainly a balance has to be drawn and under-utilized or low density areas have to be re-developed. Master Plan-2021 envisages and permits this. For this very reason pooling of FAR is permitted in Re-

development projects. The action of the respondents is in conformity with the need of the day, in the city of Delhi with its increasing population.

48. Insofar as the issue of traffic management is concerned, NBCC and the Ministry of Housing and Urban Affairs have categorically stated in their affidavits that the Expert Appraisal Committee has given due consideration to the traffic issue. Extracts from the Report given in the affidavit of the Ministry of Housing and Urban Affairs reads as under:

> *"It has been decided by the government that in these seven colonies a suitable augmentation to road infrastructure will be done simultaneously to avoid any congestion due to increase in traffic. The possession will be allowed to be given only after addition/ alterations to road infrastructure which are required to maintain smooth flow of traffic" (running page no 2284)."*

49. It is clear from the reading of the affidavits that the PWD which is the road owning agency was specifically appointed by the NBCC on behalf of the Ministry of Urban Affairs to conduct comprehensive study and recommend traffic de-congestion measures in all the seven colonies and in the vicinity on the Ring-Road. Consultant was also appointed and thereafter, the proposal for transportation improvement was submitted to UTTIPEC. Two Expert agencies namely IUT and UMTC have examined the recommendations. A Comprehensive Feasibility Report has been prepared which consists of Integrated Transit Corridor Development and Street Network/Connectivity Plan for the seven colonies. In fact, respondent No. 1 has stated in their affidavit that possession will be given only after the road infrastructure is ready to maintain smooth flow of traffic. NOC has been received from the Traffic Police. Relevant portion of the affidavit filed by respondent no.1 in this regard is extracted as under :

"6. As per MPD-2021 which emphasizes on transportation, states about the restructuring of existing network through expressways, elevated roads, arterial roads, distributor roads and relief roads. It is also provides for introducing cycle tracks, pedestrian and disabled friendly features in arterial and sub arterial roads.

The NBCC has rich experience of redeveloping New Moti Bagh and East Kidwai Nagar GPRA colonies in Delhi. Both of these are self-financing projects. New Moti Bagh is completed and in use since April 2012. East Kidwai Nagar is partly handed over and is to be completed by June 2019. In East Kidwai Nagar redevelopment project, all the traffic flow measures have been carried out concurrently with the construction of the project and are being made functional before the handing over of the assets so created. United Traffic & Transportation Infrastructure Planning & Engineering Centre (UTTIPEC), which is the nodal agency for all transportation projects/ transport engineering solutions in Delhi, had approved the traffic plan for this project in May 2013. According to their approval, all the connectivities have been implemented.

The original access from the Aurobindo Marg was engineered to eliminate vehicular conflicts along with the eastern carriageway and to streamline pedestrian movement across Aurobindo Marg also, linkages were developed with northern side roads Vikas Sadan, Thyagaraja stadium, Chandulal Balmiki (CB) Marg etc., by providing multiple access points from CB Marg, Ring Road and Aurobindo Marg. Two accesses are functional for residential as well as non-residential traffic from Ring road.

In addition, Barapulla Elevated Road, Phase-2 has been made operational, which eases out the connectivity to *arterial roads. In order to strengthen the pedestrian network and to establish a linkage with the public transport, interconnectivity has been established with Metro around Kidwai Nagar through INA Metro station and South Extension Metro Station. All these efforts have created good traffic and transport facility.*

It has been decided by the Government that in these seven colonies a suitable augmentation to road infrastructure will be done simultaneously to avoid any congestion due to increase in traffic. The possession will be allowed to be given only after additions/alterations to road infrastructure which are required to maintain smooth flow of traffic."

50. Insofar as the water issue is concerned, both the NBCC and the Ministry have taken a clear stand that the recycled water from inhouse STPs will be used for cleaning, air-conditioning and horticulture purposes. Even during construction, the water requirement will be met out of the recycled water from the nearby STPs of the municipal bodies. The affidavits clearly indicate that the water requirements have been calculated in a meticulous manner and are a part of the EC report. In fact, the stand is that the redevelopment of the colony is with zero waste concept and reuse of treated sewage water within the project site. There is also provision for rain water harvesting. Relevant portion of the additional affidavit filed by NBCC is as under :

"The base line data for water quality assessment submitted in the Environmental Impact Assessment (in short EIA) report was conducted during April, May & June 2017 at the following 5 locations in Delhi.

- *Yamuna river Upstream (9.10 Km from the site)*
- *Yamuna river Downstream (9.80 Km from the site)*
- *Neela Hauz (4.90 Km from the site)*
- *Shamsi Talav (6.0 Km from the site)*

- *Near Maidan Garhi (7.22 Km from the site)*

It is submitted that in the EIA, Chapter 3, the sampling locations of surface water is depicted as below:

a) Project Surface water sampling locations marked on Topo map are given in Figure: 3-15 (Page no 59).

b) Project Surface water sampling locations tabulated in Table 3-13 (Page no. 60)

Therefore the actual sampling was done in Project site (Delhi) and not in Tamil Nadu, as alleged.

It is further submitted that the location as alleged by the applicant is referred in Executive summary due to the formatting error. The information/data etc provided in EIA, neither pertain to nor copied from other reports, but on the basis of actual data and sampling carried out at various location in Delhi. The formatting error in the executive summary of EIA report has been pointed out and blown out of proportion, which does not relate to any information or data etc. given in EIA report or copied from other report. Therefore, such error is not material to the EIA report and is to be ignored. The Environmental Clearance was issued after due deliberation in the Expert Appraisal Committee meeting."

51. Insofar as the allegations of non-application of mind are concerned, the respondents have clarified in their respective affidavits that some typographical errors have occurred in one para of the Summary Report. There is absolutely no copying of any data. True and correct data is mentioned in the EIA Report. The data was actually collected from the Project site as well as from the nearby areas such as AIIMS, Lajpat Nagar etc. The report contains the details of the locations along with the photographs and Coordinates, as provided in the location maps. It is therefore, incorrect for the petitioner to allege that the water samples were taken from the lakes in Tamil Nadu. Insofar as the allegation that

Environmental Clearance having been given by the EAC in one sitting is concerned, suffice would it be to state that the respondents have placed on record documents to show that the meetings were spread over different sessions. It was over a period of 8 months and 19 days that discussions and deliberations had taken place. The allegations of grant of 21 Environmental Clearances in one day have been vehemently denied by the respondents. The stand of the Ministry on the said issue is as under:

> " ***2.2.3 Allegation of grant of 21 E.Cs in one day:***
>
> *As per the procedure, the documents and EIA report (hard & soft copy) are to be submitted to the Chairman, Member Secretary & Members by the project proponent, at least one week prior to EAC meeting. The relevant portion of Agenda for 23rd EAC meeting held on 13.10.2017 is reproduced as under:*
>
> > *"It may be ensured that the members receive the requisite documents pertaining to the projects one week prior to the meeting positively. In case the member of the expert appraisal committee does not receive the documents, the committee will not consider the project".*
>
> i. *As already submitted above, in respect of Nauroji Nagar, for the EAC meeting scheduled on 13.10.2017, the hard copies of all the relevant documents were sent on 28.09.2017 and soft copy sent by e-mail to all EAC members on 04.10.2017 - copy of email attached.*
>
> ii. *Therefore for the purpose of scrutiny of the documents furnished, EAC members had more than one week time prior to EAC meeting.*
>
> iii. *Submission made by MoEF & CC:*
>
> *Ministry of Environment, Forest & Climate Change (MOEF& CC) in their affidavit* ***(Page No.3024)*** *had specifically submitted that:*
>
> > *"...all projects are examined and considered by the EAC after judicious application of mind dealing with all relevant and material aspect of the project.*

That the EC is granted to a project/Activity in accordance with the provision of laws in vogue after detailed deliberation of EIA /EMP report by the EAC.

that the petitioner has approached this Hon'ble court to take advantage over his forfeited right to go in appeal against the two environment clearances both dated 27.11.2017 after lapse of around six months…….."

52. Having perused the affidavits and the documents, this Court is satisfied that the Environmental Clearances were not granted in one sitting by the EAC. The decision was taken over a period of time after examining all relevant factors and documents. This Court does not find any reason to disbelieve the stand of the respondents more particularly when the documents placed on record substantiate their stand.

53. In the reply filed by respondent no.2 in July 2018, the Ministry has stated that it was only on recommendations of the Report of the Expert Appraisal Committee held on 13.10.2017 that the project was recommended for Environmental Clearance with adequate environmental safeguards. The minutes have been placed on record and have been perused by us. The affidavit of the NDMC is also relevant in this regard as it clearly states that 'No Objection Certificates' have been received from all the Statutory Authorities concerned, which includes the Central Ground Water Authority, the Tree Officer, the Delhi Traffic Police and the DUAC. A categorical stand has been taken in the affidavit by the NDMC that all Environmental Clearances have been received for the Project and have been examined by the NDMC. In addition to the above, the NDMC has taken a categorical stand in its affidavit that it had in principle, approved the redevelopment

Project and has also specifically indicated the NOCs received from various departments.

54. As far as the issue of felling of trees is concerned, the stand of the NBCC and the Ministry of Urban Affairs on an affidavit is that the NBCC had applied for permission to fell 14650 trees at Nauroji Nagar through an application dated 08.02.2017. Section 9(3) of Delhi Preservation of Trees Act, 1994 permits exemptions of certain areas through a Notification for construction. In public interest, the Forest Department GNCTD had exempted an area of 10.10 HA vide Notification dated 15.11.2017 for construction of the Nauroji Nagar Project. NBCC has deposited the requisite amount on 20.11.2017 with the Deputy Conservator of Forests for the purposes of felling of the trees. A letter dated 26.11.2018 which is on record from the Forest Department confirms that the Department has completed compensatory plantation of 16277 saplings in lieu of felling of 14650 trees. The relevant provisions of the DPTA, 1994 are extracted as under :

> *"8. Restrictions on felling and removal of trees.- Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or contract and except as provided in this Act or the rules made thereunder, no person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer….*
>
> *9. ……..*
>
> *(5) Every permission granted under this Act shall be in such form and subject to such conditions, including taking of security for ensuring regeneration of the area and replanting of trees or otherwise, as may be prescribed.*

> *10.Obligation to plant trees.- Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him under such permission as may be directed by the Tree Officer:….”*

55. Thus, we find that there is no violation of the said Act and there is adequate compensatory plantation in lieu of the felling of trees at Nauroji Nagar.

56. Once the issues of water, traffic congestion, etc. have been taken care of and there are NOCs from the respective Departments, this Court is satisfied that there is no impediment in the completion of the redevelopment Project at Nauroji Nagar. We have no hesitation in saying that if NOCs have been issued by the respective Departments, they would have been issued only after a careful analysis of the ground realities and the provisions of law.

57. From the affidavit of the NDMC it is clear that the final sanction is still awaited from the NDMC. While we see no violations of the MPD-2021 and are also of the view that the Environmental Clearances have been correctly given for the Nauroji Nagar Project, however, since the NDMC is still seized of the matter, we may only observe that while granting the final sanction, the above concerns of the petitioner may be taken into account. In case the NDMC is of the opinion that it needs to revisit any of the issues flagged by the petitioner in the present petition, more particularly relating to Environmental Clearances, which no doubt is a matter of concern, not only of the petitioner but also of this Court, NDMC is free to seek further clarifications or reports from the concerned Authorities.

58. At this stage, it is also important to notice the contention of the Union of India, which in our view is correct, that there is no challenge to any of the

provisions of MPD-2021 in the present petition. Union of India is also correct in its stand that the challenge to Environmental Clearance is appealable under Section 16(h) of the NGT Act 2010, within a period of 30 days from the grant of Environmental Clearance. Admittedly, no such appeal was preferred before the NGT and the present petition has been filed only to overcome the non-filing of the appeal.

59. The petition is accordingly disposed of in terms of para 57 above and the stay order passed by this Court on 30.08.2018 restraining the NBCC from any further construction in the Nauroji Nagar Project is hereby vacated.

JYOTI SINGH, J.

G.S. SISTANI, J.

FEBRUARY 25th , 2020
yo/rd/