

Item No. 01

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Original Application No. 05/2022/EZ
(I.A. No. 03/2022/EZ & I.A. No. 04/2022/EZ)

Dr. Bina Basnett

Applicant(s)

Versus

State of Sikkim & Ors.

Respondent(s)

Date of hearing: 18.01.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Mr. Pratap Shanker, Advocate

For Respondent(s):

ORDER

1. Heard Mr. Pratap Shanker, learned Counsel for the Applicant.
2. This Original Application has been filed with the allegation that in the city of Gangtok in Sikkim, an illegal construction of Multilevel Car Parking cum Shopping Hub (STNM-Kanchanjunga square below NH) at Old West Point School Area near Hotel Hungry Jack Gangtok is being undertaken by the Respondent No.2.
3. The contention of the Applicant is that as per the Government of Sikkim, Gazette Notification dated 05.04.2021, it is provided that the maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which is given in the notification and which reads as under:-

Notification

In continuation with notification no. GOS/UD&HD/6(294)2001/A dated 15.10.2001 and gazette no. 387 dated 15/10/2001 which notified that the maximum height of buildings constructed in allotted sites or private holdings within a notified area shall be in accordance with the suitability and profile of the locations based on the stability map of the area as prepared by Mines and Geology Department from time to time which shall be as follows:

Stability Zone	Admissible no. of floors
1.	5 ½ storeys
2.	4 ½ storeys
3.	3 ½ storeys
4.	2 ½ storeys
5.	No construction is allowed

The department of Mines and Geology hereby notifies the parameters for determination of stability zones of each zone as follows. These parameters are known as site stability zonation parameters and will be strictly followed during categorization of zones."

4. The further contention of the Applicant is that as per the notification at no point of time, can a construction be more than 5^{1/2} storeys in height whereas the construction of the multilevel parking under construction is to the extent of 14 storeys which is wholly impermissible.
5. The further contention of the Applicant is that as per Earthquake Induced Landslides in the Sikkim-Darjeeling Himalayas-An Aftermath Study report of the 18.09.2011, earthquake in the State of Sikkim, the State of Sikkim comes under Seismic Zone IV- a zone of considerable vulnerability and in this area earthquakes are commonly of 4.5 to 5.5 magnitudes on the Richter Scale.
6. The contention of the Applicant therefore is that a parking complex of 14 storeys is a grave threat to the fragile ecology of the area and also to the life and limb of the people residing in the area.
7. In our opinion, matter requires consideration.

8. Issue notice to the respondents, returnable within four weeks.
9. All the Respondents shall file their counter-affidavits within four weeks.
10. The Applicant shall provide e-copy/soft copy of the Original Application along with all its annexures to the learned Counsel for the Respondents within 24 hours.
11. **List on 02.03.2022.**
12. We direct that till the next date of listing there shall be a stay on construction in the area with reference to the multilevel car parking-cum-Shopping Hub in the area in question.

I.A. No. 03/2022/EZ:-

1. This application has been filed seeking stay on the illegal construction of multistory building. Since, we have already passed order in the original application, this I.A. No.03/2022/EZ has now become infructuous and is accordingly dismissed.

I.A. No. 04/2022/EZ:-

1. This application has been filed seeking exemption from filing typed copy of dim annexures. Such an exemption cannot be granted, since all the documents should be legible.
2. We, therefore, reject this application and direct the applicant to file legible copies of all such documents on record which are otherwise dim by the next date of listing.
3. The I.A. No. 04/2022/EZ is accordingly rejected.

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

January 18, 2022
Original Application No. 05/2022/EZ
(I.A. No. 03/2022/EZ & I.A. No. 04/2022/EZ)
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