Minutes of the 46th meeting of the Committee Constituted for Deciding the Consent under Orange Category, held on 25.03.2008 in the Conference Room of Chairman, DPCC.

The following persons attended the meeting on 25.03.2008:

1. Sh. J. K Dadoo, Chairman DPCC
2. Sh. K. Mahesh, Member Secretary, DPCC
3. Sh. S.K.Gupta, Head Chemical Engineering Deptt. ,IIT Delhi
4. Sh. B. Kumar, SEE, DPCC
5. Sh. M. Dwarakanath, SSO, Deptt of Env., GNCTD
6. EEs CMC – I, II & III.
7. AEEs and JEE of CMC – I, II & III.

Following decisions were taken in the said meeting:-

Agenda Item No. 1- Personal hearing of M/s Eros Hotel, North Ex Mall, YMC Buildmore P Ltd, Cross River Mall, DLF Court Yard, Upaj Buildcon, Shantiniketan Buildwell, Parsvanath Developers and Structural Fabricators,

M/s Eros Hotel, Mayur Vihar: - The unit was called for a personal hearing and was explained the situation that it had gone ahead with the construction of the basement without the Environmental Clearance from the MoEF, GOI and without the Consent to Establish from the DPCC. However, it is also a fact that the unit stopped all construction from June, 2007 as per the inspection report, and October, 2007 as per the personal hearing. It is also a fact that the unit has not resumed construction since then. The unit, therefore, is in a different position from other units which have completed construction or which have started operation without having any Consent to Establish.

Keeping in mind the attitude and intention of the unit, the Committee felt that a much less penalty would be appropriate and therefore a cash penalty of 0.1 % of the total project cost was indicated to them. The unit pleaded for a lesser penalty in view of the fact that the unit had remained closed for six months and a lot of cost has been incurred by the unit. It also mentioned that it had submitted a Bank Guarantee to DDA to complete the two hotel projects of 320 rooms in a total of 42 months.

Keeping in mind that the two hotels are part of the Common Wealth Games Projects, the Committee gave two more variations of the penalty to the unit:-

(a) Cash penalty of Rs. 30 Lakh and Bank Guarantee of Rs. 30 Lakh which in effect comes to more than 0.1 % of the total project cost.
(b) Cash penalty of Rs. 22.5 Lakh which is 0.05 % of the total project cost & a Bank Guarantee of Rs. 45 Lakh.

The representative of the unit was given time to consult his superiors and he came back with the response that he will present it to the Board of the Company and inform DPCC accordingly within a week.

The unit was clarified that if it complies with any of the three above options before 03.04.2008, it will be issued Consent to Establish on the same day. However, if it does not do so, the Committee is free to take any decision it deems fit under the circumstances, in the CMC on 03.04.2008.

M/s North – Ex Mall:- Unit was given last opportunity of hearing today and it was communicated to the unit both in writing and by telephone as informed by EE. The unit has not bothered to appear today. Since this is a blatant case of violation of all environmental legislations and since the unit does not have the Environmental Clearance from the MOEF and has not even applied for Consent to Establish with DPCC, the unit deserves the strictest possible action available to DPCC. The MoEF in many such cases has ordered for prosecution to the unit but it seems that this unit has escaped the attention of even the MoEF.

In such circumstances, immediate prosecution of the unit is called for and this must be done and confirmed to the CMC by MS in its next meeting on 28.03.2008. EE, CMC will ensure that necessary information is provided to the MS and any failure to cooperate on part of the unit will result in closure of the unit and its sealing by the concerned SDM. Copies of the prosecution order may be sent to Addl. Secretary, MOEF, General Manager, NDPL and DJB.

M/s YMC Buildmore P Ltd: - An opportunity was given to the unit and his case was heard. Three options listed below were given to the unit:

1. Closure of the unit.
2. Prosecution under Environment (Protection) Act, 1986
3. 0.5 % of total project cost as cash penalty and 0.5% of total project cost as Bank Guarantee for a period of three years.

The unit asked for time to submit their response to the three options given. Time allowed till 28.03.2008.

M/s Cross River Mall, Shahdara: - SEE to study this file carefully in the light of the objections raised by the unit and discussion will take place in CMC meeting on 03.04.2008.

M/s DLF Court Yard, Saket: **-** A patient hearing over one and half hours was given to the unit which argued persistently for a very small penalty since unit had applied for Consent to Establish and had the Environmental Clearance. The following three options were given to the unit during the hearing in view of having started construction much before Environmental Clearance was granted and with out getting the Consent to Establish .The inspection report of DPCC was also adverse against the unit.

1. Closure of the unit.
2. Prosecution under Environment (Protection) Act, 1986
3. 0.5 % of total project cost as cash penalty and 0.5% of total project cost as Bank Guarantee for a period of three years.

Based on the reasoning of the unit that it had Environmental Clearance & had applied for Consent to Establish, the Committee deliberated and gave a final option of Rs. 50 Lakh cash penalty and Rs. 3 crores Bank Guarantee to cover 1 % of the project cost. The unit did not agree and asked for three days time to file its arguments & counter offer. Case to be heard on 28.03.2008.

M/s Upaj Buildcon :- In view of the fact the MOEF has given directions to prosecute the unit, the following three options were given to the unit during the hearing:

1. Closure of the unit.
2. Prosecution under Environment (Protection) Act, 1986
3. 0.5 % of total project cost as cash penalty and 0.5% of total project cost as Bank Guarantee for a period of three years.

Unit was asked to come back with its response on 28.03.2008.

M/s Shantiniketan Buildwell:- The unit claims that it had paid a cash penalty of Rs. 1.17 Crores to DDA. This approximately comes to a little more than 0.5 % project cost as cash penalty that the Committee has ordered in several other cases. It appears that DDA has charged a heavy penalty to the unit. If such a heavy penalty has been charged by DDA, this should be cross checked with DDA by MS. The Committee felt that the Bank Guarantee for the remaining amount of 0.5 % of the total project cost may be taken from the unit as it will meet the ends of justice. The unit agreed to file the same within 03 days and submitted a formal letter to this effect. This case will be taken up on 28.03.2008.

M/s Parsvanath Developers:- The unit claims that it is building a station for the Delhi Metro and therefore it does not come under the purview of DPCC. Let him file all his submissions on 03.04.2008.

M/s Structural Fabricators :- The representative of the unit appeared, but had sustained injuries and sought adjournment. Therefore, the case was adjourned for 03.04.2008.

Due to paucity of time, the following agenda items could not be taken up and was decided to take up these remaining agendas, listed below, in the meeting to be held on 03.4.2008.

Agenda Item No. 2- Special reference cases.

Agenda Item No.3- Shopping Mall cases

Agenda Item No. 4- Representation of Delhi Manufacturers Federation dt 10.3.2008 regarding non issuance of consents by DPCC in newly notified industrial areas.

Agenda Item No. 5- Matter regarding tripping of power transmission lines due to pollution.

These will be taken up on 03.4.2008. Meeting ended with thanks to the Chair.