

Item No. 6

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 161/2023

Rana Iqbal Singh Jolly & Ors.

...Applicants

Versus

State of Punjab & Ors.

...Respondents

Date of hearing: 30.05.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Vasu Bhushan, Advocate for the applicant.

Respondents: Mr. Karan Sharma and Mr. Rishabh Sharma, Advocates
for respondents no. 7-Forest Department.
Mr. Dinesh C. Pandey and Mr. Dushyant, Advocates for
respondent no. 8-The Hermitage (Marriage Palace).

**Original Application has been filed under the provisions of the National
Green Tribunal Act, 2010.**

ORDER

1. The grievance in the present application is regarding ultra-rich and modern people throwing wild and lavish parties at the periphery of a prehistoric forest area at the cost of tranquility, safety and health of the forest and residents of the surrounding localities.

2. Vide order dated 14.03.2023 notices were ordered to be issued to the respondents and this Tribunal constituted a Joint Committee with direction to submit its report within two months.

3. In compliance thereof report of the Joint Committee has been submitted vide email dated 29.05.2023. The relevant part of the report is reproduced below:-

***“Report of the Joint Committee constituted vide order no. ADC (UD)/2023/143 dated 09,05,2023 in the matter of OA No. 161 of 2023 titled as Rana IOW Singh jolly & Ors, Vs, State of Punjab & Ors.*”**

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The following officers visited the site of M/s The Hermitage, Village Karooran, Tehsil Kharar, District SAS Nagar on 12,05,2023:

- 1. Sh. Ravinder Singh, SDM, Kharar (Chairman of the committee)*
- 2. Sh. Harpreet Singh, DTP (Regulatory), GMADA*
- 3. Sh. Jagdish Meena, Scientist-D, CPCB, RO, Chandigarh*
- 4. Sh. Ashok Kumar, EO, MC, Naya Gaon*
- 5. Sh. Baldev Singh, Block Officer, Forest Department*
- 6. Sh. Kanwardeep Singh, Forest Guard, Forest Department*
- 7. Sh. Gulshan Kumar, AEE, PPCB, RO, SAS Nagar (Member Convener)*

Sh. Sanjay Gupta owner of M/s The Hermitage was present during the visit.

Sh. Ravinder Singh, SDM, Kharar, Chairman of the Committee asked Sh. Sanjay Gupta about the various permissions obtained from the different Departments regarding establishment and operation of "The Hermitage".

It was found that Sh. Sanjay Gupta has not obtained any permission from any Department regarding establishment and operation of The Hermitage. He informed that the first function was held here in Feb. 2020 and it was his daughter's marriage function. Thereafter, COVID-19 happened and the functions started in 2022 only. He further informed that they have three lawns and they give these on rent for one day and are not providing any catering/decoration services and clients are holding functions / marriages in The Hermitage on their own. There are about 50 functions happening in one year i.e. during winter season only as they have not provided any kind of shed/air conditioners for rainy / summer seasons. The clients themselves are required to obtain necessary permission from the concerned Department for serving liquor. Sh. Sanjay Gupta

further informed that they are paying GST for the functions / marriages being held here.

Sh. Ravinder Singh, SDM, Kharar asked Sh. Sanjay Gupta, if he wants to submit any written reply to the Committee, but no written reply was submitted by the project proponent during the visit.

The Joint Committee made following observations:

- 1. The Hermitage is located outside the Limits of Municipal Council, Naya Gaon.*
- 2. The Hermitage has not built any permanent structure and has constructed two rooms for office purpose, 2 no. toilets, 2 no. dressing rooms/changing rooms, 1 no. cabana, 2 no. kitchens and 3 no. lawns.*
- 3. On the day of visit no function was being held there.*
- 4. The Hermitage has also installed 2 no. DG sets of capacities 125 KVA and 25 KVA as backup of electricity in case of power failure. Hence, the possibility of organizing function(s) cannot be ruled out.*
- 5. on the spot, as per filed assessment, no forest land closed under section 4 of Punjab Land Preservation Act is encroached by the Hermitage. However, the same has to be ascertained through a joint demarcation so that final status in case of Forest Department can be given.*
- 6. The Department of Town and country Planning has not Issued any change of land use to the Hermitage because no such activity like carrying out functions / marriages is allowed here.*
- 7. No permission for playing DJ / loud Speakers is obtained by The Hermitage ever from SDM Office, Kharar.*
- 8. As informed by the project proponent no permission has been obtained by him from the concerned Department for serving liquor.*
- 9. The Hermitage has never obtained under for consent to establish (NOC) / consent to Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 as required from pollution angle from the Board.*
- 10. The Hermitage has installed one Borewell. No permission has been obtained from the Punjab Water Regulation and Development Authority (PWRDA) under Punjab Water Resources (Management Regulation) Act, 2020 for abstraction of ground water.*
- 11. The Hermitage has not provided any ETP/STP for the treatment of wastewater generated from kitchen and toilets.*

The representative informed that they have provided soakage pits.

12. A choe namely "Patiala ki Rao" passes along the boundary of the Hermitage and a separate report from the Drainage Department can be sought regarding any encroachment on the land of the choe by the Hermitage. Accordingly, the report was obtained and is attached as Annexure-1."

4. As per office report notices have been duly served on the respondents. None has appeared for respondents no. 1 to 6.

5. The proceedings before this Tribunal cannot be treated as part of adversarial litigation where the concerned defendants may opt out to remain absent and suffer *ex-parte* proceedings. On the other hand, the State and its instrumentalities are under constitutional and statutory obligations to ensure compliance with environmental norms and, therefore, the State and its instrumentalities have to ensure submission of their replies/response with relevant details and also their representation through duly authorised representatives/Counsel before this Tribunal. Since, State of Punjab and some of its instrumentalities are not generally appearing before this Tribunal and filing their replies/response in response to the notices served on them, we consider it appropriate that the matter be brought to the notice of the Chief Secretary, Government of Punjab and learned Advocate General, Government of Punjab for issuance of appropriate instructions for compliance with notices issued by this Tribunal and submission of reply/response and ensuring representation through their authorized representative/counsel before this Tribunal, as may be required.

6. It is clarified that in case of non-appearance of respondents no. 2 to 6 through counsel and failure to file their responses on the date of hearing fixed in this order, heavy exemplary costs may be imposed on

them and even their physical appearance before this Tribunal may also be ordered.

7. Mr. Karan Sharma and Mr. Rishabh Sharma, Advocates have appeared for respondents no. 7-Forest Department and Mr. Dinesh C. Pandey and Mr. Dushyant, Advocates have appeared for respondent no. 8-The Hermitage (Marriage Palace) and they seek time to file the replies.

8. Replies by respondent no. 7 and 8 be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

9. In view of the factual position duly verified by the Joint Committee that respondent no. 8 has not obtained requisite permissions as mentioned therein and mandate in Section 20 of the National Green Tribunal Act, 2010 requiring this Tribunal to apply precautionary principle and also the provisions made in Section 19 (4) (j) of the National Green Tribunal Act, 2010 empowering this Tribunal to require any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I thereof, respondent no. 8 is directed to desist from organizing any marriage party or such like social function in the premises in question till further order to the contrary.

10. The District Magistrate and the Senior Superintendent of Police, Mohali are also directed to take appropriate steps to ensure that no marriage party or such like social function takes place in the premises in question.

11. List for further consideration on 23.08.2023.

12. A copy of this order be forwarded to the Chief Secretary, Government of Punjab, learned Advocate General, Government of

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Punjab, the District Magistrate and the Senior Superintendent of Police
Mohali, by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 30, 2023
AG