

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

ORIGINAL APPLICATION NO. 428/2023

IN THE MATTER OF:

S.C. KAUSHAL

H. No. 43, Patel Nagar, Peer Nagar,
Peer Chaudhary Road,
Kapurthala-144601

...Applicant

Verses

1. STATE OF PUNJAB

Through Chief Secretary,
Government of Punjab
6th Floor, Punjab Civil Secretariat -1,
Sector 1, Chandigarh-160001

2. DEPUTY COMMISSIONER, KAPURTHALA

New Courts Road, Kapurthala,
Nurpur Dona,
Punjab-144602

3. DIVISIONAL FOREST OFFICER, KAPURTHALA

Shivaji Nagar, Kapurthala, Mall Road,
Kapurthala, Kapurthala,
Punjab-144601

**4. DISTRICT DEVELOPMENT AND PANCHAYAT OFFICER,
KAPURTHALA**

Mall Road, Rabbit Avenue,
Kapurthala, Punjab-144601

5. SARPANCH GRAM PANCHAYAT, KAPURTHALA

Zila Parishad Kapurthala, Kapurthala,
Bishanpur (136) Village -144601, Punjab

6. THE MANAGER, LORD KRISHNA COLLEGE

Badshahpur, District Kapurthala

...Respondent(s)

COUNSELS FOR APPLICANT:

Applicant in person (through VC)

COUNSELS FOR RESPONDENT(S):

Mr. Sandeep Bajaj, AAG for State of Punjab with Mr. Mayank Biyani, Advocate

Mr. Shantanu Parasher, Ms. Divita Vyas, Mr. Ashok Kumar Garg and Ms. Kavita Agrawal Advocates for respondent no. 6

Mr. Abhinav Jain, Advocate for DDPO (through VC)

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: AUGUST 06, 2024
PRONOUNCED ON: MARCH 06, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. This Original Application (hereinafter referred to as '**OA**') has been registered in exercise of *suo-moto* jurisdiction in view of law laid down by Supreme Court in ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha, (2022) 13 SCC 401*** on a letter petition dated 15.03.2023 received from S.C. Kaushal, President, Patarkar Morcha Association (Regd.) Punjab, resident of H.No.23, Patel Nagar, Peer Nagar, Peer Chaudhary Road, Kapurthala, State of Punjab.

2. The complainant has said that Lord Krishan College at Gram Panchayat Badshahpur, Block Dhilwan, District Kapurthala has been constructed by illegal encroachment upon 10 acres 6 kanals land of Gram Panchayat and it has started cutting about 30 years old trees. The encroachers have cut about 150 trees. The owner of the college is Man

Singh Dham, son of Surjan Singh who is District President of Congress and relative of Man Singh Dham is district worker of Aam Aadmi Party and that's why for this reason, no action is being taken against them by the concerned authorities though several complaints have been made. The complainant sent letters dated 14.06.2022 and 16.09.2022 making complaint of encroachment and dated 16.09.2022 and 28.12.2022 regarding illegal cutting of trees but no action has been taken.

3. **Tribunal's Order dated 01.08.2023:** Tribunal took cognizance of the matter and considered it on 01.08.2023. Being *prima-facie* satisfied that substantial question relating to environment has arisen out of the implementation of enactments specified in Schedule I to National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**'), it impleaded following as respondents:

- (i) State of Punjab through Chief Secretary, Government of Punjab;
- (ii) Deputy Commissioner, Kapurthala;
- (iii) Divisional Forest Officer, Kapurthala;
- (iv) District Development and Panchayat Officer, Kapurthala;
- (v) Sarpanch Gram Panchayat, Kapurthala; and
- (vi) Manager, Lord Krishna College, Badshahpur, District Kapurthala

4. Notices were issued to respondents, permitting them time to file their replies. Tribunal also found it appropriate to obtain a factual Report and thus, constituted a Joint Committee comprising Punjab State Pollution Control Board (hereinafter referred to as '**PSPCB**'), Divisional Forest Officer (hereinafter referred to as '**DFO**'), Kapurthala and Deputy

Commissioner, Kapurthala. The Committee was required to submit factual Report within three weeks.

Reply dated 25.08.2023 filed by respondent 3:

5. Pursuant to order dated 01.08.2023, DFO, Jalandhar Forest Division, Phillaur submitted its reply by way of affidavit on behalf of respondent 3 stating that the forest laws are applicable only on notified, protected and reserved forest area and forest department has no jurisdiction over panchayat land hence no action can be taken in such matter. In respect of the area of village Panchayat, Badshahpur, District Development and Panchayat Officer, Kapurthala (hereinafter referred to as '**DDPO Kapurthala**') is the rightful custodian of land entries and must take action as is required in the matter. However, if any assistance of technical in nature is required, the forest department is always available to provide the same.

Reply dated 31.08.2023 filed by Respondent 4 i.e., DDPO Kapurthala:

6. Respondent 4 i.e., DDPO Kapurthala also filed its reply dated 31.08.2023. It is said that action against the encroachers is already under consideration in view of the resolution passed by Gram Panchayat on 15.11.2022. Block Development and Panchayat Officer, Dhilwan (hereinafter referred to as '**BDPO**') has written a letter dated 18.08.2023 to Senior Superintendent of Police, Kapurthala to initiate police action against the encroachers for causing financial loss by cutting of trees from Panchayat land and also by illegal encroachment. Further for removal of encroachment and restoration of possession, petitions under Section 7 of Village Common Land (Regulation) Act, 1961 are pending in respect of land comprising khasra no. 1//13(1-7), 14(2-0), 15min(1-0), 16(8-0),

17min(6-2), 18(0-18), 24(6-3), 25(8-0), 2//11 (0-17), 18/2(2-5),(0-5),(2-0), 19(6-18), 20(8-0), 21(8-0), 22(7-3), 23/1(0-11), 6//22(8-0), 23min(5-0) of village Badshahpur, Dhilwan.

Joint Committee Report dated 31.08.2023:

7. Joint Committee also submitted its Report dated 31.08.2023 stating that the site of Lord Krishna College was visited on 24.08.2023 and inspection team spotted stumps (remnants) of 11 trees and 34 logs were found at the site. The observations of Joint Committee, action taken and suggestions/recommendations are as under:

“3.1 Site visit by the sub-committee

- *The site of Lord Krishna College, Village Badshahpur, Tehsil & District Kapurthala was visited on 24.08.2023 at 02:00 PM by team consisting of Assistant Environmental Engineer, PPCB, Regional Office-2, Jalandhar, Naib Tehsildar, Kapurthala and Range Officer (Forest), Kapurthala as per directions of Deputy Commissioner, Kapurthala.*
- *As the content of complaint indicate that encroachment upon panchayat land has been made, therefore, the officials of Department of Rural Development and Panchayats were asked to accompany the team.*
- *The Junior Engineer and Panchayat Secretary of Department of Rural Development reached the site. They informed that the **building of the college has been constructed on private land of the college owner.***
- *However **there is a patch of land adjoining to the college which is under ownership of Panchayat of Village Badshahpur. Barbed wire has been placed on edge of this land by the college owner.** The officials of revenue department informed that the Panchayat has about 15 acres of land adjoining to the college premises.*
- *As per officials of Panchayat Department **around 40 trees were cut down from Panchayat land by the college management.***
- *The spot from where officials of Panchayat Department claimed*

that trees were removed was inspected by the team. The team **spotted stumps (remnants) of 11 trees at the site. Further, 34 logs were found lying at site which could be of about 6 trees.** Pictures of stumps and logs are enclosed as Annexure-A.

- The officials of revenue department informed that the premises of college falls in revenue area of Village Nizampur, Tehsil Dhilwan, District Kapurthala and the panchayat land is under revenue area of Village Badshahpur of Tehsil Kapurthala.
- Thereafter the patwari of Village Nizampur also arrived at the site. He informed that the construction of college has been done in private land of college in revenue land of village Nizampur.

4.0 Salient Observations:

1. Construction of college has been carried out on private land.
2. Barbed wire fencing has been provided around the Panchayat land.
3. Remnants (Stumps) of 11 trees were observed during the visit.
4. Logs of around 06 trees were still found lying at the site.

5.0 Action taken by Concerned Department

The factual report prepared by the visiting team was put up before the Deputy Commissioner, Kapurthala. The matter was discussed in length and the committee was of the view that the evidence suggests that **cutting of trees has indeed been carried out on the Panchayat land of the Village Badshahpur, Tehsil & District Kapurthala. However, the identity of persons responsible for cutting of trees cannot be ascertained by all the departments present in the meeting.** The matter requires Police Investigation to find out the persons responsible for cutting of trees. The District Development and Panchayat Officer informed that the matter is already under consideration of his department since November, 2022. The Block Development and Panchayat Officer vide his letter no. 3445 dated 05.12.2022 had already requested the Deputy Superintendent of Police, Kapurthala to register an FIR against Mann Singh S/o Surjan Singh C/o M/s Lord Krishna College in view of Complaint submitted by Sh. S.C. Kaushal to the department. (Copy attached as Annexure-B)

Suggestions /Recommendations

1. The barbed fencing along the Panchayat land should be got removed by the Rural Development and Panchayat Department.

2. *Plantation should be carried out on the Panchayat land by the Department of Rural Development and Panchayats in-corporation with Forest Department.*
3. *Investigation as per recommendations of Rural Development Department should be carried out by the Department of Police and legal action must be initiated against responsible persons.”*

8. Same inspection Report was again submitted by Environmental Engineer, PSPCB vide e-mail dated 23.10.2023.

Reply dated 26.10.2023 filed by respondent 6:

9. Respondent 6 filed its reply dated 26.10.2023 denying all the allegations made against it. It is said that Lord Krishna Educational Society established and is running Lord Krishna College since 2002 imparting higher education to children in village Nizampur. Educational Society has planted about 2200 trees over the land. The complaint is not maintainable as barred by limitation and the cause of action first arose in early 2022 as per the own admission of the complainant but the complaint has been made to Tribunal on 15.03.2023. Further no case of involvement of any enactment specified under Schedule I to NGT Act, 2010 has been made out. Joint Committee itself has found that the person responsible for cutting of trees cannot be ascertained hence liability cannot be attributed upon respondent 6. No substantial question relating to environment has arisen and the complainant also does not show as to how he is a person aggrieved. There is no encroachment on Panchayat land as alleged. The college is built on a land owned by Lord Krishna Educational Society. The cutting of felling of 150 trees by the management of Lord Krishna College, is incorrect and no material has been placed to support this allegation. The complaint is nothing but an attempt to harass the college management which was earlier also involved in a Civil case i.e., **CS**

No.7419 of 2013, Kamla Devi vs. Daljit Singh & Ors. which was decided vide judgment dated 30.01.2018 (annexure R-5 to the reply at page 80). Trial Court found that Smt. Harpreet Kaur, daughter in law of Man Singh, is the owner of the college and wife of Sarpreet Singh, deponent of the reply was Bonafide purchaser and rightful owner of the disputed property.

10. **Tribunal's Order dated 30.10.2023:** Tribunal considered the matter on 30.10.2023 and observed that Joint Committee's observation that there was no encroachment on Panchayat land, was contrary to the reply filed by DDPO Kapurthala. In the reply of respondent 6, it was also not shown that the land though belongs to Gram Panchayat but there was any lease executed in favour of respondent 6 and with regard to cutting of trees illegally, matter has not been properly investigated by the concerned authorities.

Action taken Report filed on 01.12.2023 by Deputy Commissioner, Kapurthala:

11. Deputy Commissioner, Kapurthala pursuant to order dated 30.10.2023 submitted an action taken Report vide letter dated 30.11.2023 filed vide e-mail dated 01.12.2023. It is said that DDPO Kapurthala has informed vide letter dated 23.11.2023 that the lease agreement whereby land was given to Man Singh, son of Surjan Singh at the rate of Rs. 90,000 per annum for the year 2023-2024 has been cancelled vide DDPO Kapurthala order dated 07.11.2023. Further an order was passed for demarcation of the land to find out encroachment, if any, on the part of management of the college and the demarcation report has been submitted showing that the land measuring 5A-0K-13M was encroached by Lord Krishna College. Bathroom and service station have been built on the land

measuring 0-5 marla out of the above land in khasra no. 1//17(7-7) and there is boundary wall on khasra no. 1//18(0-18). Khasra no. 1//24(6-3) is occupied illegally with Basketball ground and land measuring 1 kanal-13 marla on khasra no. 6//3(2-4) has been occupied illegally with gate of Lord Krishna College. Land measuring 7 kanal-16 marla out of khasra no. 6//4(8-0) is occupied illegally with college ground. Khasra no. 6//5(8-0) occupied by Pond and Eucalyptus trees and land measuring 7 kanal-5 marla out of khasra no. 6//6(8-0) has been occupied illegally. Land measuring 1 kanal-13 marla out of khasra no. 6//3(2-4) is occupied illegally. Order is passed to evict the encroachers by initiating proceedings under law. Planks of wood and cut branches and leave/debris of trees were found on the spot and FIR no. 169 dated 25.11.2023 under Section 379/447/427 IPC, PS Subhanpur, District Kapurthala has been registered against Man Singh. The conclusions mentioned in the said reply are reproduced as under:

“Conclusion:

The grievances in this case are regarding encroachment on land owned by Gram Panchayat Badshahpur and illegally cutting and sale of trees standing over the same by one Man Singh S/o Surjan Singh, the Vice Chairman, Lord Krishna Education Society. The Hon’ble Principal Bench, National Green Tribunal, New Delhi, vide its order Dated 30.10.2023 sought a Fresh Action Taken Report from Deputy Commissioner, Kapurthala after looking into the issues personally and to file the same within one month. In compliance with the order dated 30.11.2023, Reports from District Development and Panchayat Officer, Kapurthala and Senior Superintendent of Police, Kapurthala have been called for.

- **Report of District Development and Panchayat Officer, Kapurthala** was perused. As per his report, the **lease agreement**, vide which the land was given to said Man Singh S/o Surjan Singh on lease @ Rs. 90,000 per annum for the year 2023-2024 **has been cancelled** by him (DDPO Kapurthala) as stated in detailed above.

Furthermore, **DDPO** Kapurthala vide his separate order dated 23.11.2023, **has passed an eviction order for the remaining land, encroached illegally by Lord Krishna College** (Copy attached at Annexure A). The due process as per law for delivering the possession of this land to Gram Panchayat Badshahpur has been initiated.

- **Report of Senior Superintendent of Police, Kapurthala** was perused. As per report, **trees were got cut by Man Singh from the Panchayat Land.** However, the planks of wood and debris of these trees were found on the spot which revealed that no theft of trees have been taken place by Sh. Mann Singh. Only the trees have been got cut by him. Hence, an FIR No. 169 Dated: 25.11.2023 U/s 379/447/427 IPC, PS Subhanpur, District Kapurthala has been registered against the respondent Mann Singh.”

12. **Tribunal's Order dated 15.12.2023:** In the order dated 15.12.2023, Tribunal observed that as per stand taken by respondent 6, lease land's possession was given in June 2023 and Joint Committee made inspection on 24.08.2023 but it was not clear as to whether trees were cut before the possession handed to respondent 6 or thereafter. In fact, respondent 6 himself is silent on this aspect. Accordingly, time was granted to file additional reply.

Reply dated 18.01.2024 filed by respondent 3:

13. Respondent 3 filed reply dated 18.01.2024 stating that as per Joint Committee, 11 trees were cut illegally. Forest Department can recover compensation only for such trees which are cut illegally from the Forest land. Since in the present case, trees were illegally cut from village land, it is the village Panchayat which is competent to take appropriate action in the matter.

Additional Reply dated 23.01.2024 filed by respondent 6:

14. Respondent 6 has filed additional reply dated 23.01.2024 stating

that though it is not admitting its liability or allegations but the amount of compensation for alleged felling of trees computed as Rs.39,550/- and demanded by Gram Panchayat, Badshahpur has been deposited by it on 22.01.2024. It however denied of cutting of the trees and said that complaint against him has no merit as cutting of trees took place prior to June 2023 i.e., between 13.12.2022 to 15.12.2022.

Report filed by Deputy Commissioner, Kapurthala on 23.02.2024:

15. Deputy Commissioner, Kapurthala has also submitted a report vide e-mail dated 23.02.2024 stating that directions were given to Additional Deputy Commissioner, Kapurthala, Sub-Divisional Magistrate, Kapurthala and DDPO Kapurthala to enquire into the allegations and submit report and the report dated 16.02.2024 submitted by Additional Deputy Commissioner (Development), Kapurthala) gives following details:

- “a) That, as per Gram Panchayat Lease Register of Village Badshahpur, the land bearing Khasra No 6/ / 3 (2-4), 4 (8-0), 5(8-0) 6(8-0), 7(8-0), 8(7-0), 9(0-9), 24(6-3), 25(8-0), 21(8-0), 23/ 1 (0-11), Total 64 Kanal 7 Marla has been given on lease to **Ramesh Kumar son of Shri Balram Rajat** at rate of Rs. 20,050 per annum on dated 04.12.2002.(Annexure A)*
- b) That on dated 23.12.2002, the land bearing Khasra No. 1(8-0), 2/ 1(2-10), 10/ 2 (5-6), 22(7-3), Total Area 22 Kanal 19 Marla was given on lease to **Surpreet Singh Son of Man Singh R/o Village Dham** at the rate of Rs. 9100 per Annum, (Annexure B)*
- c) However, after the year 2011-2012, no lease amount has been deposited with Panchayat, as per the records of the Panchayat. But **it is clear from the demarcation report dated 30.12.2014 that Lord Krishna College remained in possession on Gram Panchayat Land from year 2007 till 30.12.2014.***
- d) Further, as per resolution of Gram Panchayat of dated 13.03.2018 (Annexure P) and Lease Register (Annexure Q), the land in question was leased to Malkit Singh son of Surjit Singh resident of Badshahpur for a period of five years at the rate of Rs.65000/- per annum for the first two years and an increase of 5% was to be taken for the remaining three years, whereas*

Surpreet Singh son of Man Singh, resident of Dham, got cancelled the agreement/lease by filing case in the court of District Development & Panchayat Officer Kapurthala vide his order dated 12.04.2018 (Annexure R).

However, Gram Panchayat Badshapur filed an appeal against this order in the court of Director Rural Development and Panchayat Punjab-cum- Commissioner against the order passed by DDPO Kapurthala. Hence, due to the pendency of the case the Panchayat Land could not be given on lease to anyone during the said period.

- e) *In the year 2023, an Eviction Petition for the eviction of the illegal occupants i.e. Maan Singh and others from Panchayat Land Badshapur was filed by Gram Panchayat Badshapur in the court of District Development and Panchayat Officer, Kapurthala-Cum-Collector Panchayat Land (Annexure S).*

*Vide **order dated 23.11.2023** (Annexure T), the court of District Development and Panchayat Officer, Kapurthala Cum Collector Panchayat Land **has passed the order for eviction of the illegal occupants ie Mann Singh Respondent no 6 & others from the Panchayat Land.** Further, for execution of this order of DDPO Kapurthala, **a warrant of possession has been issued to Tehsildar Kapurthala, for getting the land vacated before 31.03.2024** (Annexure U).*

- f) *On the other-hand the Concerned Revenue Officer i.e. Tehsildar Kapurthala, vide his letter no/ office Kanungo/429 Dated 13.02.2024, has submitted his report as per which the details of the land is as under:-*

*As per the Jamabandi for the year 2008-09, 2013-14 and 2018-19, entry in the ownership column of the Shamlat Land of Village Badshapur Tehsil & District Kapurthala Comprising Khasra No. 6// 3(2 - 4) , 4(8 + 0) 5(8-0), 6(8 + 0) 7(8 + 0) 8(7 + 0) 9(0-9) 1//24(6-3), 25(8-0), 2// 21(8 + 0) 22(7-3), 5// 1(8 + 0) , 2/1 * (2 - 10) 10/2 * (5 * 6) 2//23/1(0-11), Total 15 Kitta and Land measuring 87 Kanal 6 Marla, is "Shamlat Deh" and "Mafideaam" appears in cultivation column. However, there is no mention of the lease entry on above Khasra Numbers of Shamlat land during the relevant time period as mentioned above. (The Jamabandis for the year 1998-99, 2003-04, 2008-09, 2013-2014 and 2018-19 are attached herewith).*

The Demarcation Reports Dated 30.12.2014 (Annexure V) and Dated 21.11.2023 (Annexure W) indicating the possession on the Gram Panchayat Land is attached.

The eviction petition for the said Shamlat Land was filed

*in the year 2023 and has been decided vide order dated 23.11.2023 as stated in Para No. (e). **DDPO has issued Warrant of Possession to Tehsildar Kapurthala, returnable before 31.03.2024.***

16. **Tribunal’s Order dated 24.01.2024:** Tribunal considered the matter on 24.01.2024 and after considering the replies of various respondents observed that Deputy Commissioner, Kapurthala and DDPO shall place copies of relevant revenue record of the concerned years to show since when encroachments were alleged to have been made and eviction petitions were filed against respondent 6 and Man Singh and also the orders passed therein.

Compliance Report on behalf of DDPO vide e-mail dated 15.03.2024 and Status Report dated 02.05.2024 filed by Deputy Commissioner, Kapurthala:

17. Compliance Report on behalf of DDPO vide e-mail dated 15.03.2024 has been filed stating that DDPO’s post is lying vacant. However, Deputy Commissioner, Kapurthala submitted its status report dated 02.05.2024 and give details as under:

- 1. “a) That as per Gram Panchayat Lease Register of Village Badshahpur, the land bearing Khasra No 6//3 (2-4), 4 (8-0), 5(8-0), 6(8 -0), 7(8 -0), 8(7 - 0), 9(0 - 9), 24(6-3), 25(8 - 0), 21(8 - 0), 23/ 1 (0 - 11), Total 64 Kanal 7 Marla has been given on lease to **Ramesh Kumar son of Shri Balram Rajat** at rate of Rs. 20,050/- per annum on 04.12.2002 which is Annexure- A
- b) That on 23.12.2002, the land bearing Khasra No. 1(8-0), 2/ 1(2-10), 10/2 (5 - 6), 22(7 - 3) Total Area 22 Kanal 19 Marla was given on lease to **Surpreet Singh Son of Man Singh R/o Village Dham** at the rate of Rs. 9100/- per Annum, which is Annexure- B. The details of the same are as under:-

Sr. No.	Name of lease holder	Receipt No./ Page No. of	Date	Amount in Rs.	Contract time	Area	Enclosure
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		Cash Book					
1	Surpreet Singh	10	01.08.04	9100	2003-04	22 K 19 M	C
2	Surpreet Singh	11	03.08.04	9100	2004-05	22 K 19 M	D
3	Ramesh Kumar	12	05.10.04	20050	2003-04	64 K 7 M	E
4	Ramesh Kumar	27	28.04.06	20050	2004-05	64 K 7 M	F
5	Surpreet Singh	39	19.06.06	9100	2005-06	22 K 19 M	G
6	Surpreet Singh	40	30.06.06	9100	2006-07	22 K 19 M	H
7	Ramesh Kumar	67	08.10.07	20050	2006-07	64 K 7 M	I
8	Inderjit Singh	68	24.12.08	41600	2007-08	87 K 6 M	J
9	Inderjit Singh	71	17.03.08	41600	2008-09	87 K 6 M	K
10	Inderjit Singh	16	10.12.09	41600	2009-10	87 K 6 M	L
11	Inderjit Singh	16	10.12.09	4160	2009-10	87 K 6 M	M
12	Inderjit Singh	28	02.12.10	45760	2010-11	87 K 6 M	N
13	Inderjit Singh	39	30.11.11	45760	2011-12	87 K 6 M	O

2. That as per the records of panchayat, no lease amount has been deposited with it after the year 2011-2012. But it is clear from demarcation report dated 30.12.2014 that **Lord Krishna College remained in possession of Gram Panchayat Land from year 2007 till 30.12.2014.**

3. That as per resolution of Gram Panchayat of dated 13.03.2018, Annexure-P and Lease Register Annexure-Q, the land in question was leased to Malkit Singh son of Surjit Singh resident of Badshahpur for a period of five years at the rate of Rs.65000/- per annum for the first two years and it was to be enhanced at the rate of 5% for the remaining three years. However, Surpreet Singh son of Man Singh, resident of Dham, filed case in the court of District Development & Panchayat Officer Kapurthala, who vide his **order dated 12.04.2018, Annexure-R, cancelled the agreement/lease.** Thereafter, Gram Panchayat, Badshapur, filed an appeal against said order in the court of Director Rural Development and Panchayat, Punjab-cum- Commissioner. Hence, due to the pendency of the case the Panchayat Land

could not be given on lease to anyone. But as per the report which is Annexure-S of the concerned Kanugo, Lord Krishna college continues to be in illegal possession on the said land.

4. That the Gram Panchayat Badshahpur has filed the eviction petition against the illegal occupants in the court of District Development and Panchayat Officer, Kapurthala, which is Annexure-T. The said petition has been decided on 23.11.2023 Annexure-U. Vide this order, the illegal occupants/respondents have been ordered to be evicted from the Land in question and warrant of possession has been issued to Tehsildar Kapurthala, for necessary action which is Annexure-V.
5. That vide letter no. 685 dated 16.04.2024, the detailed report regarding occupation on 10Acres-6Kannal-13Marlas Shamlat land from 2011-12 to June 2023 of Gram Panchayat, Badshapur was sought from the committee headed by ADC (D) Kapurthala.
6. That the committee headed by ADC (D) Kapurthala has submitted the detailed report vide letter no/reader/ddpo/876 dated 26.04.2024 which is Annexure-W. The said report is accompanied by the statements of Dail Singh Ex-sarpanch, Sh. Gurbaksh Singh Nambardar and Sh. Sukhdev Singh, Panchayat Secretary of Gram Panchayat-Badshapur, who have stated that **Lord Krishna College/Mann Singh, residents of village Dham, are in illegal possession on Shamlat Land of Gram Panchayat, Badshapur from 2011-12 till date.** In the above report it has been mentioned that the Demarcation reports of circle Kanugo dated 30.12.2014 and 21.11.2023, have further corroborated the illegal possession of Mann singh/ Lord Krishna College. Moreover FIR no. 169 dated 25.11.2023 has been registered at Police Station Subanpur, Kapurthala under section 447, 379 and 427 of IPC which is Annexure-X against Mann singh/ Lord Krishna College on the basis of the report of Block Development & Panchayat Officer, Dhilwan which is Annexure-Y. It is pertinent to mention here that **Mann singh/Lord krishna college had also deposited rupees 39550/- as compensation amount assessed in lieu of damage to the panchayat property after the direction of Hon'ble National Green Tribunal, New Delhi. The said amount has been deposited to Gram Panchayat Badshapur Account Number 50100045384611 vide NEFT by Mann Singh/Lord Krishna College which is Annexure-Z.**

Thus, the findings given in the report of the committee headed by ADC (D) Kapurthala shows that **Mann singh/Lord Krishna College was in illegal possession on the said land from**

year 2011-12 till June 2023. Further, the FIR no 169 dated 25.11.2023 under section 447, 379 and 427 of IPC and the compensation amount of Rupees 39550/- deposited by Mann Singh/Lord Krishna College in Gram panchayat account also shows the acceptance of the damage caused by Mann singh to the Panchayat land.”

18. **Tribunal’s Order dated 18.03.2024:** Tribunal by order dated 18.03.2024 required Deputy Commissioner, Kapurthala to inform as to who was in actual position of land in question after 2011 and 2012 till June 2023 alongwith relevant revenue record, eviction petition and orders passed. Respondent 6 was also required to file affidavit stating whether Lord Krishna College or Man Singh were in possession of any Gram Panchayat land during the period of 2011 to June 2023 on any part thereof.

Status Report dated 02.05.2024 filed by DDPO Kapurthala

19. DDPO Kapurthala also submitted a similar Status Report dated 02.05.2024 hence the same is not being repeated.

Additional Affidavit dated 08.05.2024 filed by respondent 6:

20. Pursuant to order dated 18.03.2024, respondent 6 has filed an additional affidavit dated 08.05.2024 in which it has categorically stated in para 4 to 11 as under:

- “4. I state that **the construction of Respondent No. 6 college took place in the year 2002 to 2003.** During the said time, Mr. Inderjit Singh was the Chairman of the college and the entire construction was carried out under his supervision and on his instructions. Furthermore, it is relevant to point out that the college is situated at the border of Nizampur and Badshapur village.
5. I state that the **Gram Panchayat land in question was leased by Mr. Sarpreet Singh and Mr. Ramesh Kumar from 2002 to 2007, who were/are members of the Respondent No. 6/College Trust.** Later, from the years

2007-2012, one Mr. Inderjit Singh (also the member and the then Chairman of Respondent No.6) leased the said land.

6. I state that the **said land after the aforementioned period was not in the possession of Respondent No. 6 directly or indirectly.**
7. I state that **Respondent No. 6 and/or its members were not in possession of the Gram Panchayat Land from the year 2012** to June 2023. I state that in the year 2018, the land in question was leased to Mr. Malkit Singh for a period of 5 years. The said Auction was challenged by the undersigned in the Court of District Development & Panchayat Officer, Kapurthala, who vide **order dated 12.04.2018 cancelled the lease executed in favour of Mr. Malkit Singh.**
8. I state that the **land in question was finally lease to Mr. Maan Singh in June 2023 for a rent of INR 90,000/- for one year, however the said lease got cancelled in the month of November 2023.** Furthermore, the land was leased for the benefit of Respondent No. 6, however, the said land was not utilized by Respondent No. 6 or Mr. Maan Singh in any manner from June 2023 till November 2023. **The legal possession though remained with Mr. Maam Singh for the said period, he never took physical possession and utilized the land.** Accordingly, after cancellation of the said lease, the possession of the said land is with Panchayat only. Neither Mr. Maan Singh nor Respondent No. 6 ever claimed any possession on the said land except the period mentioned hereinabove, nor refused to act upon any in instruction issued by Panchayat in this regard.
9. I further state that the **deponent/Respondent No. 6 or Sh. Maan Singh, were not in possession of the said land prior to June 2023 during the alleged felling of trees.**
10. I state that a vague eviction petition was filed against Mr. Maan Singh in March 2023 regarding alleged illegal possession of a part of land in question. A reply disputing the contents of the said eviction petition was filed by him. It is submitted that DDPO without appreciating the response of Mr. Maan Singh, allowed the eviction petition vide order dated 23.11.2023 without giving any cogent reasons and non-appreciation of evidence. The copy of the said eviction petition alongwith copy of reply filed by Mr. Maan Singh and final order dated 23.11.2023 are annexed herewith as Annexure-A (Colly).

11. *In view of the aforementioned facts and circumstances, I on behalf of Respondent No. 6 state that the said present OA. 428/2023 be dismissed, since even the **requisite compensation as demanded by the District Development and Panchayat Officer, Kapurthala has been deposited in the Gram Panchayat Badshahpur Account. Furthermore, the said compensation has been paid by the Respondent no. 6, without admitting any liability as raised in the present application.***

Compliance Report dated 12.07.2024 filed by Deputy Commissioner, Kapurthala:

21. Deputy Commissioner, Kapurthala has filed a Compliance Report dated 12.07.2024 giving following facts:

- “i) Firstly, the **warrant of possession** issued by District Development & Panchayat Officer Kapurthala Cum-Collector Panchayat Lands in case of Gram Panchayat Badshahpur V/s Maan Singh & Others **has been executed by Tehsildar Kapurthala on dated 07.06.2024 and 20.06.2024 to the extent wherein the illegal encroachment of Mann Singh is mentioned.** On the day of execution of warrant of possession Mann Singh and his son Surpreet Singh were present on the possession site. The **possession of the panchayat land was taken by Gram panchayat Badshahpur following the due procedure of law with the help of local police.** The warrant of possession is annexed as Annexure A and the document seeking police help is annexed as Annexure B.
- ii) The detailed Revenue reports submitted by Tehsildar Kapurthala vide Letter no. 577/Reader dated 13.06.2024 and Letter no. 685/Reader dated 02.07.2024 are attached as Annexure-C.
- iii) Further, District Development & Panchayat Officer Kapurthala referred to letter no 1791 dated 05.07.2024 of Block Development & Panchayat Officer Dhilwan wherein it is clearly mentioned that the **illegal encroachment of Mann singh has been removed from the land in dispute and currently it is in the possession of Gram Panchayat Badshahpur. The report and the Photographs are attached as Annexure-D.**”

Objections dated 05.08.2024 filed by applicant:

22. Applicant has filed an objection vide e-mail dated 05.08.2024 stating that the affidavit filed on behalf of respondent 6 i.e., Man Singh, is not his

own affidavit but is an affidavit sworn by Sarpreet Singh which should not be accepted as the affidavit must be given by Man Singh himself.

23. The applicant has also stressed upon the fact that the amount of damages/penalty imposed by Gram Panchayat has been deposited by Man Singh which shows that trees have been illegally cut and, therefore, further action for damage to environment due to illegal felling of trees must be taken by Competent Authority against respondent 6.

24. We find from record that one of the disputes raised in the present letter petition relates to encroachment upon Gram Panchayat land by Lord Krishna College. Report dated 12.07.2024 of Deputy Commissioner, Kapurthala shows that the land which was in possession of respondent 6 has been reclaimed and the possession has been taken back by Gram Panchayat, Badshahpur. Even otherwise, the issue relating to issue of illegal possession of Gram Panchayat land, *per se*, is not within the jurisdiction of this Tribunal since it is not an issue which relates to the enactments mentioned in Schedule I of NGT Act, 2010 and, therefore, if there was/is any unauthorized possession/encroachment on Gram Panchayat land and any rental penal otherwise is payable for some period, it is for Gram Panchayat to take appropriate action in accordance with law but this Tribunal has no jurisdiction in this regard, hence, we do not propose to proceed on this aspect any further.

25. Now coming to the aspect of illegal felling of trees, Joint Committee Report shows that around 40 trees were cut down from Panchayat land by College Management. The factum of cutting of trees, illegally, at Panchayat land, is also supported by report of DDPO Kapurthala. It is also evident from record that for cutting of illegal trees, damages/penalty of

Rs.39,550/- was imposed upon respondent 6 and the same has been deposited by Man Singh/ Lord Krishna College in Gram Panchayat account.

26. It is true that in the reply of respondent 6, though it admits of deposit of sum of Rs.39,550/- with Gram Panchayat, Badshahpur but simultaneously has also claimed that it has not cut any tree illegally and, therefore, is not liable. The stand taken by respondent 6 is self-contradictory in as much as there is nothing on record to show that accepting the liability of illegal felling of trees under protest, penalty/damage/compensation of Rs.39,550/- has been deposited by respondent 6 with Gram Panchayat, Badshahpur being basically the price of the property which Gram Panchayat was deprived of, by respondent 6, by cutting of illegal trees. Therefore, in the facts and circumstances of the case, we have no manner of doubt that for cutting of trees illegally on the land of Gram Panchayat, respondent 6 is responsible and its bare denial that it has not cut the trees, is not acceptable for the reasons discussed above.

27. Now the question is whether payment of penalty/damages of trees, felled illegally by respondent 6, to Gram Panchayat, Badshahpur will relieve respondent 6 from any further liabilities or respondent 6 is also liable to pay environmental compensation for causing damage to environment due to illegal felling of trees and thereby depriving the environment of the benefits it would have due to standing green and healthy trees.

28. We intend to clarify at this stage that an illegality committed in felling of trees in violation of the laws which requires permission from the

Competent Authority before felling of trees, and penalty imposed for such violation, is not something akin to the loss caused to the environment due to illegal felling of trees for which environmental compensation is to be determined and leviable by application of principle of 'Polluters Pay'. Further, deterioration of environmental compensation is not within the Province of Forest Officers or any district authority but within the power and ambit of concerned Pollution Control Board/Committee under the Environmental Statutes and this Tribunal by virtue of Section 15 read with Section 20 of NGT Act, 2010.

29. The purpose of imposition of fine by the forest authorities is for non-compliance of the provisions of Statutes which require their permission, if any operating or enforced in the area concerned and/or to charge penalty upon the violator for the property in the trees which is/are cut illegally provided trees are on public land. This later aspect does not cover the trees which are cut on private land.

30. However, the purpose of environmental compensation is totally different. Environmental compensation is imposed when an act or omission on the part of a person has caused any loss/damage to the environment which requires its remediation. This would include loss to the environment caused due to illegal cutting of trees, whether on forest land or on non-forest land.

31. Tribunal has repeatedly held that assessment/computation of environmental compensation for restoration of the damaged environment should take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of being punitive. The idea is not only for

restoration/remediation or to mitigate damage/loss to environment, but also to discourage people/proponents from indulging in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment.

32. The imposition of environmental compensation is in furtherance of the application of principle of 'Polluter Pays'.

33. In the context of this Tribunal, NGT Act, 2010 vide Section 20 itself recognizes application of the said principle but for the Statutory Authorities who have power to issue statutory directions for enforcement of environmental laws, principle of 'Polluter Pays' is available being integral part of environmental jurisprudence. The power of Statutory Authorities to levy Environmental Compensation by application of 'Polluter Pays' principle is available in the provisions of environmental laws containing provisions to issue direction like Section 33A of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act, 1974**', Section 21A of Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as '**Air Act, 1981**') and Section 5 of Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**'), etc.

34. When environment is damaged on account of act of someone's illegal activity in violation of environmental laws and norms, such violator is liable to share the cost which may be incurred for remediation and rejuvenation of damaged environment. This has been recognized as principle of 'Polluter Pays'.

35. This Principle was recognized as part of environmental law in India in ***Indian Council for Enviro-Legal Action vs. Union of India, (1996) 3 SCC 212***. Certain industries producing assets were dumping their waste.

Even untreated waste water was allowed to flow freely polluting atmosphere and sub-terrain supply of water which ultimately caused darkening and dirtiness of wells and the streams water rendering it unfit for human consumption. Certain environmentalists' organizations broadly alleging severe damage to villager's health, filed a Writ petition as PIL in 1989 before Supreme Court. By that time, some of the units were already closed. Referring to Article 48-A in Directive Principles of State Policy and 51-A in the Fundamental duties of citizens, Supreme Court observed that said provisions say that State shall endeavour to protect and improve environment and to safeguard the forest and wildlife of the country. One of the fundamental duties of citizens is to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creature. Where a **Proponent has established its commercial unit and operate contrary to law flouting norms provided by law, Statutory Regulator is bound to act and if it fails, a judicial forum can direct it to act in accordance with law.**

36. Referring to Oleum Gas leak case, i.e., ***M.C. Mehta vs. Union of India, (1987) 1 SCC 395***, Court observed in para 58 that the constitution bench held that **enterprise must be held strictly liable for causing such harm as a part of social cost of carrying on the hazardous or inherently dangerous activity.** Hazardous or inherently harmful activities for private profits can be tolerated only on the condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of carrying on of such hazardous or inherently dangerous activity, regardless of whether it is carried on carefully or not.

37. Court also referred to its earlier decision in ***Indian Council for Enviro Legal action vs. Union of India, (1995) 3 SCC 77***, wherein concerned Pollution Control Board identified about 22 industries responsible for causing pollution by discharge of their effluent and a direction was issued by Court observing that they were responsible to compensate the farmers. It was the duty of State Government to ensure that this amount was recovered from the industries and paid to the farmers. In para 67 of the judgment, Court said that the **question of liability of respondent units to defray the costs of remedial measures can also be looked into from another angle which has now come to be accepted universally as a sound principle**, for example, 'Polluter Pays' principle. On this aspect, Court further observed as under:

“67. ...The Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays' principle was promoted by the Organization for Economic Co-operation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialized society. Since then, there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed.

Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ([1987] OJ C 328/ 1) makes it clear that **the cost of preventing and eliminating nuisances must in principle be borne by the polluter**', and the polluter pays principle has now been incorporated into the European

Community Treaty as part of the new Articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the Community, and that action is to be based on three principles: the need for preventative action; the need for environmental damage to be rectified at source; and that the polluter should pay.”

38. Court further said that **according to the above principle of ‘Polluter Pays’, responsibility for repairing the damage is that of the offending industry**. Sections 3 and 5 of EP Act, 1986 empower Central Government to give directions and take measures for giving effect to this principle. Court further said:

*“...In all the circumstances of the case, **we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment [Protection] Act, 1986**. It is, of course, open to the Central Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit.”*

39. The above principle has been followed in **Vellore Citizen Welfare Forum vs. Union of India, 1996 (5) SCC 647**. In para 25, direction no. 2 reads as under:

*2. The authority so constituted by the Central Government shall implement the “precautionary principle” and the “polluter pays” principle. **The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.***

40. In ***Bittu Sehgal and Another vs Union of India & Others, (2001) 9 SCC 181***, referring the earlier judgments, Supreme Court has said that 'Precautionary Principle' and 'Polluter Pays Principle' have been accepted as part of the law of the land.

41. In ***Research Foundation for Science vs. Union of India & Ors., (2005) 13 SCC 186***, in para 26 and 29, Court, on 'Polluter Pays' Principle, has said as under:

“26. The liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter-pays principle. These principles are part of the environmental law of India. There is constitutional mandate to protect and improve the environment. In order to fulfill the constitutional mandate various legislations have been enacted with attempt to solve the problem of environmental degradation.

29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.”

42. In ***Karnataka Industrial Areas Development Board vs. C. Kenchappa & Others, (2006) 6 SCC 371***, principle of 'Polluter Pays' has been explained in detail referring to the earlier judgments in ***Indian Council for Enviro-Legal Action vs. Union of India (supra)*** and ***Vellore Citizen Welfare Forum (supra)***.

43. So far as the cutting of trees is concerned, if a tree is illegally cut in a forest area, the provisions of Forest (Conservation) Act, 1980 take care

so far as the Forest Department is concerned but with regard to the damage to environment due to loss caused by removal of tree, environmental compensation has to be assessed by Statutory Regulator(s) under the environmental laws. Similarly, in the case of non-forest area, different Provincial Legislations make laws to govern and regulate felling/removal of trees in given circumstances. There also, if felling of trees is illegal, for the damage caused to environment, environmental compensation has to be assessed and imposed by Statutory Regulators under the environmental laws.

44. In other words, it can be said that illegal cutting of a tree in a forest area or in non-forest area has equal damaging and adverse impact upon environment irrespective of the fact whether tree which has been removed was in forest area or in non-forest area. Therefore, for the purpose of application of environmental laws, considerations relevant for environmental protection have to be taken into consideration and applied accordingly in both the cases i.e., where a damage is caused to tree(s) illegally, whether in forest area or non-forest area.

45. Felling/cutting of trees is commonly known as deforestation. It represents a critical environmental challenge with far-reaching consequences. The causes of cutting of trees may be many. For example, timber production, land clearing for agriculture, urban development and forest management. The reasons may be genuine but damage to environment is normally same or similar and therefore, while permitting cutting of trees, the principle of 'Sustainable Development' has to be kept into consideration and while there is illegal felling of trees, appropriate action includes application of 'Polluters Pay' principle, i.e. the polluter

must pay for the damage caused to the environment for its restoration. There may be instances where felling of trees may be necessary for economic development or safety reasons. It is crucial to comprehend its implications for environment and essential role that trees play in maintaining ecological balance. A renowned environmentalist, Wangari Maathai once said *“it is the little things citizens do. That is what will make the difference. My little thing is planting trees”*.

46. The above quote encapsulates the importance of trees not only in combating climate change, but also in fostering biodiversity and supporting human well-being. Trees play a vital role in the ecosystem by offering numerous benefits that extend beyond their physical presence. They provide habitats and sustenance for a wide array of species, thereby support biodiversity. Trees absorb carbon dioxide from atmosphere and thereby help mitigation of climate change by reducing greenhouse gas levels.

47. According to a study published in ‘Nature’, forests are responsible for sequestering approximately 30% of global carbon emissions and this highlights their critical role in climate regulation. Trees influence water cycle by maintaining soil moisture, reduce runoff and prevent erosion. They act as natural sponges that absorb rainfall and release it slowly into environment thereby regulating stream flow and reduce flood risk. Trees improve air quality by filtering pollutants such as Sulfur Dioxide, Ammonia and Nitrogen Oxide. The extensive root system of trees stabilizes soil, prevents erosion and promotes nutrient cycle within ecosystems. Trees are crucial in regulating both local and global climates by influencing

temperature and precipitation pattern. They serve as natural buffers against extreme weather events such as floods and droughts.

48. In brief, understanding importance of trees and recognizing impact of tree felling is essential for developing sustainable practices that balance human needs and environmental conservation. The importance and effect of trees on the environment of the ecology may be placed under the following heads:

(I) Habitat Loss and Biodiversity Decline

(a) Impact on Species Diversity: With more than 80% of terrestrial species found there, forests are hotspots for biodiversity. Habitat fragmentation brought on by tree loss can separate species populations and interfere with their mating habits. For example, in order to move and obtain food, huge creatures like tigers and elephants need to occupy large areas. These animals frequently have to relocate to smaller places where they are unable to flourish when forests are cut down.

(b) Ecosystem Services Interrupted: Forests provide essential ecosystem services such as pollination, seed dispersal, and nutrient cycling. The loss of tree cover can disrupt these processes, leading to reduced agricultural productivity and compromised food security for animal kingdom that rely on these services.

(c) Extinction Risks: The loss of habitat puts an estimated 1 million species in danger of going extinct, according to the International Union for Conservation of Nature (IUCN).

Individual species are not the only ones impacted by this loss; entire ecosystems may become unstable. For instance, the loss of one pollinator species may have a domino effect on the capacity of other species to reproduce and obtain food.

(II) Soil Erosion and Degradation

- (a) Soil Erosion Mechanisms:** By binding soil together, tree roots stop wind and water erosion. The soil becomes loose and more susceptible to erosion when trees are cut down. Significant land degradation can result from topsoil being washed away by heavy rains. In tropical areas with frequent heavy rainfall, this process is very severe.
- (b) Increased Flooding Risks:** Deforested areas are more prone to flooding because there are fewer trees to absorb rainfall and slow down runoff. This increased runoff can lead to flash floods that devastate communities downstream and erode riverbanks.
- (c) Extended Loss of Soil Fertility:** Additionally, the normal nutrition cycle is upset when trees are cut down. Organic matter and decomposing leaves add to soil fertility; in the absence of trees, this organic input is greatly reduced. This can eventually result in bare terrain that is unfit for natural regeneration or cultivation.

(III) Climate Change and Carbon Emissions

- (a) Role of Trees in Carbon Sequestration:** Trees play a critical role in sequestering carbon dioxide (CO₂) from the atmosphere through photosynthesis. When trees are cut down, not only are

this carbon storage capacity lost, but the act of cutting down trees releases stored carbon back into the atmosphere.

(b) Global Warming Contribution: Deforestation contributes significantly to global warming. The Food and Agriculture Organization (FAO) reports that deforestation accounts for approximately 10-15% of global greenhouse gas emissions. The release of carbon from felled trees exacerbates climate change, leading to more extreme weather events such as droughts, hurricanes, and heatwaves.

(c) Feedback Loops: As climate change progresses due to increased greenhouse gas emissions from deforestation, it creates feedback loops that further threaten forests. For example, rising temperatures can lead to increased forest fires or pest infestations that further reduce tree cover.

(IV) Disruption of Water Cycles

(a) Transpiration Process: Trees contribute significantly to local water cycles through transpiration—the process by which water is absorbed by roots from the soil and released as vapor through leaves. This process helps to regulate local humidity levels and precipitation patterns.

(b) Altered Rainfall Patterns: Deforestation can lead to reduced rainfall in previously forested areas due to decreased moisture release into the atmosphere. Studies have shown that regions experiencing deforestation often see a decline in annual precipitation levels.

- (c) **Impact on Aquifers:** Forests play a crucial role in recharging aquifers by allowing rainwater to infiltrate the ground slowly. Without trees, rainwater runs off quickly rather than being absorbed into the soil, leading to lower groundwater levels and increased risks of drought during dry seasons.

(V) Air Quality Deterioration

- (a) **Pollutant Absorption:** Trees improve air quality by absorbing pollutants such as sulfur dioxide (SO₂), ammonia (NH₃), nitrogen oxides (NO_x), and particulate matter (PM). They filter these pollutants from the air and release oxygen through photosynthesis.
- (b) **Health Implications:** The removal of trees leads to poorer air quality in urban areas where pollution levels are already high due to industrial activities and vehicle emissions. Increased air pollution can exacerbate respiratory diseases such as asthma and bronchitis among urban populations.
- (c) **Urban Heat Island Effect:** In urban areas, tree cover helps mitigate the urban heat island effect where cities become significantly warmer than surrounding rural areas due to human activities. The loss of trees contributes to higher temperatures in cities, increasing energy consumption for cooling purposes and exacerbating heat-related health issues.

(VI) Socioeconomic Impacts

- (a) **Food Security Risks:** Deforestation can disrupt local food systems by reducing agricultural productivity due to soil

degradation and altered water cycles. As forests are cleared for agriculture without sustainable practices in place, communities may face food insecurity as crop yields decline.

(b) The displacement of Native American communities: Forests are essential to the livelihoods, culture, and identity of many indigenous groups. They are frequently displaced as a result of deforestation, which occurs when land is destroyed for urbanization or cultivation. Their way of life is in danger, and traditional knowledge about sustainable land management is being undermined by this displacement.

(c) The Impact on the Economy: Although logging or land conversion for agriculture (such as palm oil plantations) may result in short-term financial rewards, deforestation frequently causes long-term financial losses because it reduces ecosystem services like flood protection and clean water supply.

49. The above discussion shows that trees are an essential part of our ecosystem. They provide oxygen, regulate climate and support biodiversity. While tree felling may be necessary for various reasons, like harvesting wood for construction, furniture, paper products and fuel, creating space for agricultural expansion, facilitating urban development and infrastructure projects, removing diseased or hazardous trees to prevent accidents, thinning forests to promote healthy growth, providing shelter and food sources for wildlife, preventing spread of pests and diseases, but simultaneously it also cannot be ignored that the trees have significant environmental impact. Therefore, felling of trees wherever is regulated by statute must strictly follow the procedure prescribed in such Statutes and

felling should be strictly controlled by such provisions. Wherever any permission for felling of trees is granted, the condition for reforestation should also be imposed so as to mitigate the damage as much as possible. But wherever felling of trees is not required, or felling does not follow the procedure prescribed in this Statute or is not in accordance with the Regulatory Statute or there is otherwise illegal felling of trees, punitive, prohibitive and compensatory regime must be implemented and applied so as to act as deterrent against felling of trees. The Regulatory measures may also contain provisions for imposition of fine for violation of the statutes with regard to felling of trees and also for realization of cost of timber/wood realizable by Forest Department or any other regulatory Authority under such provisions but with regard to damage caused to the environment due to illegal felling of trees, it is the responsibility of Authority who are under an obligation to take care of the environment to issue necessary directions which includes, application of 'Polluter Pays' principle by requiring the violator to pay environmental compensation.

50. The environmental compensation due to felling of trees illegally is not a component on account of illegal felling of trees without permission of the competent Authority or in violation of the statutes regulating felling of trees but for damage caused to the environment and the cost needed for its restoration which is required to be compensated by the violator by application of principle of 'Polluter Pays' which is well recognized in the jurisprudence of environment by the highest Court of the land.

51. In view of the above discussion, we are clearly of the view that respondent 6 is also liable to pay environmental compensation by application of principle of 'Polluter Pays' due to felling of trees illegally at

Gram Panchayat land Badshahpur. Accordingly, we direct PSPCB to take action for computation and assessment of environmental compensation for illegal felling of trees by respondent 6, after giving due opportunity of hearing and in accordance with principles of natural justice and pass appropriate order imposing environmental compensation and recover the same from respondent 6.

52. The above exercise shall be completed by PSPCB within 3 months and a Compliance Report shall be submitted with Registrar General of this Tribunal by 15.07.2025. If any further order is required, Registrar General may place the matter before the appropriate Bench.

53. With the above directions, this OA is accordingly disposed of.

54. Copy of this judgment be forwarded to PSPCB; Deputy Commissioner, Kapurthala; Divisional Forest Officer, Kapurthala; District Development and Panchayat Officer, Kapurthala; Sarpanch, Gram Panchayat, Kapurthala; and Manager, Lord Krishna College by e-mail for information and compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

March 06, 2025
Original Application No.428/2023
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