

Item No. 4

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

O.A No. 68/2022

Raman Sharma

Applicant

Versus

State of Haryana & Ors.

Respondents

Date of hearing: 15.03.2023

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

Applicant: Mr. Raman Sharma and Ashiesh Shukla in person.

Respondents: Mr. Rahul Khurana, Advocate for Respondents No. 1 to 4 and 6.
Mr. Noopur Singhal, Advocate for Respondent No. 5.
Ms. Radhika Gautam, Advocate for Respondent No. 7.
None for Respondent No. 8.

Application is registered based on a letter petition received by email.

ORDER

1. Grievance in the application is regarding running of 10 DG sets in the green belt of Integrated Residential Colony Gurugram, Haryana, dumping of construction waste and raising of constructions by M/S Malibu Estate Pvt. Ltd. in Malibu Town, Sohna Road, Gurgaon(North), Haryana in violation of environmental norms.

2. Vide order dated 02.02.2022, this Tribunal constituted a Joint Committee comprising of the HSPCB, SEIAA, HUDA, DFO and District Magistrate-Gurugram (Haryana) and directed the same to submit factual and action taken report within three months.

3. In compliance thereof interim report and compliance report were filed vide emails dated 10.10.2022.

4. Vide order dated 11.10.2022, notices were ordered to be issued to the respondents no. 1 to 7 requiring them to file their reply/response within two months.

5. Replies have been filed by Respondents No. 2 and 3 vide emails dated 09.01.2023 and by Respondents No. 1, 4, 5 and 6 vide emails dated 10.01.2023.

6. Vide order dated 11.01.2023, M/s Malibu Estate Pvt. Ltd. was impleaded as Respondent No. 8 and notice was ordered to be served on Respondent No. 8 through the District Magistrate, Gurugram.

7. As per office report Respondent No. 8 has been duly served but none has appeared for Respondent No. 8 today.

8. Respondent No. 5-HSVP has filed reply vide email dated 10.01.2023 submitting that site in question is a private colonization area under a licence issued by Town & Country Planning Department, State of Haryana and greenbelt of the integrated residential colony does not fall under its jurisdiction.

9. Detailed replies have not been filed by Respondents No. 2 and 4 in terms of order dated 11.01.2023 and learned Counsel for Respondents No. 1 to 4 and 6 seeks adjournment for filing of detailed replies on behalf of Respondents No. 2 and 4.

10. Detailed replies/response on behalf of Respondents No. 2 and 4 be filed **within ten days** by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

11. It may be observed here that the grievance in the application is regarding running of 10 DG sets in greenbelt without any approval in violation of environmental norms, dumping of construction waste in green area and raising of unauthorized constructions.

12. In its report dated 10.08.2022, the Joint Committee had mentioned that the DTP(P) had accepted that they had not given any permission for placement of any DG sets in the green area but subsequently in its reply filed vide email dated 10.01.2023, Respondent No. 4 has taken contradictory stand that no Objection to placement of DG sets in Green Area was conveyed by the department to DTP(E), Gurugram.

13. So far as the questions of raising unauthorized construction by the Project Proponent is concerned, the it is evident from the replies and documents produced in the case that the Project Proponent did not obtain Environment Clearance (EC) and CTE/CTO as required under the EIA Notification 2006 and the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 on which prosecution was filed against the Project Proponent and closure directions have been issued by HSPCB vide order dated 23.12.2012 which reads as under

“The closure order has also been issued to the project proponent on dated 23.12.2022 with the following directions:-

(a) The project proponent shall stop all construction activities related to the project with immediate effect till it obtains environment clearance under EIA Notification dated 14.09.2006 and Consent to Establish (NOC)/Consent to Operate from the Board under Water Act, 1974 and the Air Act, 1981.

(b) The project proponent shall not allow any new occupancy and shall not allow any new possession in the premises of the project with immediate effect.

(c) Town & Country Planning Department/concerned authorities that have issued the license/ LoI and approved the building/layout plans for the development of the project shall take necessary action to stop further construction activities relates to the project till the project proponent obtains Environment Clearance under EIA Notification dated 14.09.2006 and Consent to Operate from the Board under the Water Act, 1974 and the Air Act, 19831.

(d) The Revenue Authorities shall not register any sale deed relates to any plot/flat/house/shop/any other component of this project with immediate effect.

(e) The DHBVN authorities shall not release any new electric connection for this project or to any of its components with immediate effect.””

14. The case regarding imposition of environmental compensation on the concerned Project Proponent is stated to be under process and the same has not been finalized so far despite serious environmental violations spread over long period of time.

15. In its reply, the Respondent No. 3, has mentioned that permission was granted to M/s Goyal Iron Steels for disposal of C&D waste vide memo dated 29.09.2020 but M/s Goyal Iron Steels did not dispose of the C&D waste. Fine of **₹50,000/-** was imposed on the owner Jagdish Chand Chaudhary on 28.10.2021 which was deposited on 30.10.2021. Subsequently, Respondent No. 3 withdrew permission of self-disposal of C&D waste and recovered the amount of **₹33,43,568/-** from Jagdish Chand Chaudhary and took over the process of removal of the C&D Waste. The C&D Waste was removed after more than six months even

after filing of the present case and remained lying for almost two years within the knowledge of the Municipal Corporation, Gurugram which was bound to get the same removed and processed immediately in discharge of its statutory obligations and Municipal Corporation, Gurugram is itself liable to pay environmental compensation but no proceedings for imposition of environmental compensation on Municipal Corporation, Gurugram have been initiated by the HSPCB.

16. The insensitivity/inaction/negligence on the part of the concerned officers and submission of evasive/vague replies as to the matter being under process without taking the requisite remedial measures immediately raises serious concerns about implementation of environmental laws and discharge of Constitutional/Statutory obligations by the State and its instrumentalities and requires serious consideration for adoption of measures regarding accountability of the concerned officers.

17. List for further consideration on 28.03.2023.

18. In the facts and circumstances of the case, we consider presence of the Member Secretary, HSPCB, Commissioner, Municipal Corporation Gurugram and the Director, Town and Country Planning before this Tribunal on the date fixed to be essential for production of the relevant record pertaining to the matters under adjudication and assisting this Tribunal in just and proper adjudication of the questions involved in the case and accordingly, they are directed to remain present before this Tribunal on the date fixed.

19. A copy of this order be sent to the Member Secretary, HSPCB, Commissioner, Municipal Corporation Gurugram and the Director, Town and Country Planning by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

March 15, 2023
AVT