

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
IN
O.A No. 661 OF 2018

IN THE MATTER OF:

PRAVEEN KAKKAR & ORS.

...APPLICANT

VERSUS

MOEF & CC & ORS.

...RESPONDENTS

AND

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DIVYA SINHA
SCIENTIST 'E'
CENTRAL POLLUTION CONTROL BOARD
PARIVESH BHAWAN, EAST ARJUN NAGAR,
DELHI- 110032

PLACE: - DELHI
DATED: - 14.10.2019

Urban Pollution Control - I Division
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar, Delhi - 110032

**Subject: Hon'bl NGT Order dated 13.09.2019 in the matter of O.A. No. 661 of 2018
titled as Praveen Kakar & Ors. Vs MoEF&CC & Ors.**

Hon'ble NGT vide Order dated 13.09.2019 in above said matter passed following Order:

- "4. Further steps need to be taken as follow up of above directions. We find from the affidavit filed by the CGWA on 09.07.2019 that compensation has been assessed for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00 per annum. The said amount may be recovered as interim compensation. The CGWA claims to have written letter dated 08.02.2019 to the Deputy Commissioner, Gurgaon to seal illegal wells.*
- 5. Let the compliance reports be filed by the CPCB, State PCB, SEIAA, Haryana, CGWA, Town and Country Planning Department, Haryana, Dakshin Haryana Bijli, Vitran Nigam, Haryana Shahari Vikas Pradhikaran and District Magistrate Gurgaon within one month by e-mail at judicial-ngt@gov.in."*

It should be noted that, in compliance of Hon'ble NGT Order dated 21.05.2019, Directions dated 18.06.2019 issued under Section 5 of the Environment (Protection) Act, 1986 to the concerned Authorities to take actions as mentioned in the said Directions and to forward Action Taken Report to CPCB within 07 days from the date of receipt of the Directions. It is to mention that none of the Authorities submitted the ATR even after issuing reminder e-mail dated 10.07.2019. However, Ansal Properties & Infrastructure Ltd. has responded vide their letter dated 25.06.2019 and had requested CPCB to reconsider the Environmental Compensation imposed and raised some points in support of their non-violation of the environmental norms.

Therefore, and as predecided, a meeting was convened on 13.09.2019 with all the concerned Authorities in this matter to review the progress made in compliance of the directions. Minutes of the Meeting has been annexed with the list of participants (Annexure - A).

Following recommendations have been made by the Members attended the meeting:

- (i) M/s Ansal Properties & Infrastructure be asked to provide revised ATR and to deposit the Environmental Compensation of Rs. 16.729 Crore (Rupees Sixteen Crore, Seventy Two Lakhs Ninety Thousand) only (till 13.09.2019) and to deposit the compensation assessed by the Central Ground Water Authority for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00/- per annum.
- (ii) As per submission of DTCP representative, two licenses were issued after notification of EIA notifications, 2006 (after 14.09.2006) which led to expansion of the project and thus the project need Environmental Clearance from SEIAA-Haryana and CTE & CTO from HSPCB.
- (iii) It was informed by DTCP that some colonies built by M/s Ansal Properties & Infrastructure, at Sushant Lok-1, Gurugram has been transferred to MCG vide letter dated 12.02.2019, while the matter is still subjudice. Also license for expansion of the project has been granted by DTCP, although the project did not have necessary EC. DTCP may provide an explanation as to how the property has transferred to MCG when the matter is subjudice and also how completion certificate has been granted.
- (iv) In view of above, DTCP is directed not to grant license for expansion /completion certificate to any other project within its jurisdiction if any court matter is pending against the project /EC is not granted to the project.
- (v) Similarly, explanation be called from HSPCB as to how Consents/ Authorization have been issued to the project when it has not been granted EC and be further directed not to grant any Consent/ Authorization to projects which did not have EC.
- (vi) In view of above discussion, all the members agreed that the Municipal Corporation Gurugram (MCG) may be directed further to examine the matter and to take necessary action at their level also.

- (vii) It is decided that all the Agencies will send their action taken report to CPCB in compliance of CPCB's directions dated 18.06.2019 at the earliest so that CPCB may file Report before Hon'ble NGT.

The Minutes of the meeting has been circulated among all the concerned with requesting to take necessary action at their end.



[Divya Sinha]
Scientist-E and Divisional Head,
UPC-I Division, CPCB, Delhi

Central Pollution Control Board
Urban Pollution Control Division-I
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Minutes of Meeting

In the matter of OA No. 661/2018 titled as Praveen Kakar & Ors. Vs MoEF&CC & Ors.

- Meeting date & time** : 13th September, 2019 at 5:00 PM
- Venue** : Committee Room, 5th Floor, CPCB, Delhi
- Agenda** : Follow-up of Directions dated 18.06.2019 issued under Section 5 of the Environment (Protection) Act, 1986 in compliance of Hon'ble NGT order dated 21.05.2019 in the matter of OA No. 661/2018 titled as Praveen Kakar & Ors. Vs MoEF&CC & Ors.
- Participants** : List is enclosed as Annexure-1

Smt. Divya Sinha, Additional Director and DH-UPC-I, CPCB welcomed all the participants. After introduction of all, Sh. R. Debroy, Additional Director and Convener of the meeting briefed about objectives of the meeting and presented the copy of above said directions once again and invited inputs from the Executive Agencies attended the meeting. Following points were discussed.

Agencies	Directions issued	Inputs from Representatives of the Agencies
The Chairman, Ansal Properties & Infrastructure	a. To stop all the construction/expansion activities in Shushant Lok, Phase-I, Gurugram with immediate effect. b. To pay Environment Compensation of Rs. 16.729 Crore (Rupees Sixteen Crore, Seventy Two Lakhs Ninety Thousand) only to CPCB on account of discharge of untreated sewage for 375 days (till 17.06.2019) to CPCB's Union Bank of	No representative was present in the meeting.

	<p>India A/c no. 532702010009078, IFSC code U13IN0553271, Branch-IP Extension, Delhi as per Environmental Compensation Policy framed in compliance of Hon'ble NGT order dated 31.08.2018 in OA No. 593/2017 within 7 days from the receipt of these directions. In case of delay in deposition of Environment Compensation, penal interest shall be charged as per rules.</p> <p>c. To pay another Environmental Compensation determined by Central Ground Water Authority on account of extraction of ground water without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram.</p> <p>d. To submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of report within 7 days from the receipt of these directions and to rectify all the shortcomings as highlighted in the concluding remarks of report within 30 days from the receipt of these directions. Action taken report be submitted along with necessary documentary evidences immediately after completion of action taken.</p>	
<p>The Chairman, Haryana State Pollution Control Board</p>	<p>a. NOCs, Consents and Authorization granted to M/s Ansal Properties & Infrastructure Ltd. Gurugram be revoked immediately</p>	<p>No representative was present in the meeting.</p>

	<p>and shall not be considered in future also till compliance of these directions are made.</p> <p>b. Discharge of untreated sewage from the premises of the company into storm water drain be stopped.</p>	
The Member Secretary, Central Ground Water Authority	Environmental Compensation on account of extraction of ground water through 39 nos. of tube-wells without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram, be determined and levied immediately.	Dr. R. Chandra, Sct. 'D', CGWA has attended the meeting and submitted that an affidavit in this matter has been filed before Hon'ble NGT. Copy of the same was produced by him in the meeting and it is informed that compensation had been assessed for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00/- per annum and they had written letter dated 08.02.2019 to the Deputy Commissioner, Gurgaon to seal illegal wells.
The Chairman, State Environment Impact Assessment Authority, Haryana	Environmental Clearance(s) granted to the Company, if any, be revoked immediately. No expansion case in future related to this site be considered till compliance of these directions are made.	Sh. Vijay Kumar Gupta, Chairman, SEAC attended the meeting and submitted that no EC has been issued to the proponent for the site under reference.
The City Magistrate, CTM Gurugram	<p>a. Compliance of these directions issued to the Company and other State Government departments be ensured.</p> <p>b. Collection of Environmental Compensation imposed by CPCB be ensured.</p>	No representative was present in the meeting.

The Director Town and Country Planning Department, Haryana	a. No further expansion of the project be considered. b. No completion certificate be granted to the Company and any such Certificate already granted be revoked immediately.	Sh. Mahipal Sigh, ATP, DTCP(E), GGM had attended the meeting and submitted that DTCP had already conducted a demolition program of some encroachments on 13.02.2018 and handed over various licensed colonies to Municipal Corporation Gurugram vide DTCP order 12.02.2019. (Letter produced by DTCP but not legible)
The Chairman cum Managing Director, Dakshin Haryana Bijli, Vitran Nigam	No electricity supply be provided for any further expansion of the project by the company in Sushant Lok-1, Gurugram.	No representative was present in the meeting.
The Chief Administrator, Haryana Shahari Vikas Pradhikaran	No water supply to the company be sanctioned for any further expansion of the project in Sushant Lok-1, Gurugram.	Sh. Yajesh Mohan Mehra, ACE, HSVP, GGM has attended the meeting and submitted that they are abiding by CPCB's directions and will send the ATR to CPCB.

Copies of CPCB's Directions and email to attend the meeting also were sent to following Ministries and organizations also for information and appropriate action at their level:

- i. The Secretary, Ministry of Environment, Forests and Climate Change, New Delhi.
- ii. The Secretary, Ministry of Housing and Urban Affairs, New Delhi.
- iii. The Director, Delhi School of Planning and Architecture, New Delhi.

No representative from M/s Ansal Properties & Infrastructure had attended the meeting. However, in the meeting Ansal's reply dated 25.06.2019 received in compliance with CPCB's directions was referred. Dr. Meenakshi Dhote, HOD-LA, Delhi School of Planning and Architecture attended the meeting and submitted that M/s Ansal Properties & Infrastructure should submit relevant documents in response of its claim as highlighted in their reply dated 25.06.2019.

Outcome of the meeting:

- (i) M/s Ansal Properties & Infrastructure be asked to provide revised ATR and to deposit the Environmental Compensation of Rs. 16.729 Crore (Rupees Sixteen Crore, Seventy Two Lakhs Ninety Thousand) only (till 13.09.2019) and to deposit the compensation assessed by the Central Ground Water Authority for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00/- per annum.
- (ii) As per submission of DTCP representative, two licenses were issued after notification of EIA notifications, 2006 (after 14.09.2006) which led to expansion of the project and thus the project need Environmental Clearance from SEIAA-Haryana and CTE & CTO from HSPCB.
- (iii) It was informed by DTCP that some colonies built by M/s Ansal Properties & Infrastructure, at Sushant Lok-1, Gurugram has been transferred to MCG vide letter dated 12.02.2019, while the matter is still subjudice. Also license for expansion of the project has been granted by DTCP, although the project did not have necessary EC. DTCP may provide an explanation as to how the property has transferred to MCG when the matter is subjudice and also how completion certificate has been granted.
- (iv) In view of above, DTCP is directed not to grant license for expansion /completion certificate to any other project within its jurisdiction if any court matter is pending against the project /EC is not granted to the project.
- (v) Similarly, explanation be called from HSPCB as to how Consents/ Authorization have been issued to the project when it has not been granted EC and be further directed not to grant any Consent/ Authorization to projects which did not have EC.
- (vi) In view of above discussion, all the members agreed that the Municipal Corporation Gurugram (MCG) may be directed further to examine the matter and to take necessary action at their level also.
- (vii) It is decided that all the Agencies will send their action taken report to CPCB in compliance of CPCB's directions dated 18.06.2019 at the earliest so that CPCB may file Report before Hon'ble NGT.

Meeting ended with the vote of thanks to the chair.



Annexure-I

List of Participants in the Meeting

In the matter of OA No. 661/2018 titled as Praveen Kakar & Ors. Vs MoEF&CC & Ors.

Venue: Committee Room, 5th Floor, CPCB, Delhi

Date: 13th September, 2019

Sl. No.	Name & Designation	Organization
1.	Sh. Vijay Kumar Gupta, Chairman-SEAC	State Environmental Impact Assessment Authority, Haryana
2.	Mr. Yajesh Mohan Mehra, ACE,	Haryana Shahari Vikas Pradhikaran, Gurugram
3.	Sh. Abhinan Verma, XEN	Gurugram Metropolitan Development Authority (GMDA)
4.	Sh. Mahipal Sigh, ATP	Town and Country Planning Department, Haryana
5.	Dr. R. Chandra, Sct. 'D'	Central Ground Water Authority
6.	Dr. Meenakshi Dhote, HOD-LA,	Delhi School of Planning and Architecture
7.	Sh. Rajesh Debroy, Sct 'E'	Central Pollution Control Board
8.	Mrs. Divya Sinha, AD	Central Pollution Control Board

Item No. 03

Court No. 1

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

Original Application No. 661/2018

(With Report dated 21.06.2019)

Praveen Kakar & Ors.

Applicant(s)

Versus

Ministry of Environment & Forests & Ors.

Respondent(s)

Date of hearing: 13.09.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Respondent(s): Mr. Shok Chandra, Advocate for CPCB
Mr. Rahul Khurana, Advocate for HSPCB

ORDER

1. The question for consideration is the remedial action for encroachment of green areas, extraction of ground water and violation of other statutory norms by M/s Ansal Properties and Infrastructure Ltd., Sushant Lok, Phase-I, Gurgaon (the project proponent). Vide order dated 19.09.2018, a report was sought from a joint Committee comprising representatives of the Central Pollution Control Board, Town and Country Planning Department, Haryana, Delhi School of Planning and Architecture, Central Ground Water Authority and State Environment Impact Assessment Authority, Haryana. Report dated 16.11.2018 was considered on 08.01.2019 which pointed out various deficiencies. The Tribunal directed the CPCB to exercise the statutory powers and take measures for closure of

the project, initiating prosecution and recovering compensation for the damage to the environment in accordance with law.

2. The matter was thereafter considered on 21.05.2019 as follows:-

“Compliance report has been filed vide email dated 05.04.2019 indicating the steps taken. There is however nothing to show the exercise of statutory power for prosecution. The CPCB has suggested that the project proponent should furnish an action plan and CGWA should determine compensation for illegal extraction of ground water. We are of the view that such powers can be exercised by the CPCB itself by giving directions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. A Pollution Board is entitled to disconnect the electricity and water supply and take measures for stopping illegal activities as condition for continuing consent to establish or to operate.”

3. Accordingly, further action taken report has been filed on 21.06.2019 to the effect that CPCB initiated action as follows:-

“1. In exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, CPCB, following directions have been issued on 21.06.2019 to the Project Proponent and concerned Authorities to ensure compliance of Environmental Regulations and Orders issued by Hon'ble NGT.

1.	The Chairman, Ansal Properties & Infrastructure	-	a. To stop all the construction/expansion activities in Shushant Lok, Phase-I, Gurugram with immediate effect. b. To pay Environment Compensation of Rs. 14.6962 Crore (Rs. Fourteen Crone, Sixty Nine Lacs, Sixty, two Thousand only)only to CPCB on
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account of discharge of untreated sewage for 281 days (till 17.06.2019) to CPCB's Union bank of India A/c no. 532702010009078, IFSC code U13IN0553271, Branch-IP Extension, Delhi as per Environmental Compensation Policy framed in compliance of Hon'ble NGT order dated 31.08.2018 in OA no. 593/2017 within 7 days from the receipt of these directions. In case of delay in deposition of Environmental Compensation, penal interest shall be charged as per rules.

c. To pay another Environmental Compensation determined by Central Ground Water Authority on account of extraction of ground water without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram.

d. To submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of report within 7 days from the receipt of these directions and to rectify all the shortcomings as highlighted in the concluding remarks of report within 30 days from the receipt of these directions. Action taken report be submitted along with necessary documentary evidences immediately after

			completion of action taken.
2.	The Chairman Haryana State Pollution Control Board	-	a. NOCs, Consents and Authorization granted to M/s Ansal Properties & Infrastructure Ltd. Gurugram be revoked immediately and shall not be considered in future also till compliance of these directions are made. b. Discharge of untreated sewage from the premises of the company into storm water drain be stopped.
3.	The Member Secretary Central Ground Water Authority	-	Environmental Compensation on account of extraction of ground water through 39 nos. of tube-wells without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram, be determined and levied immediately.
4.	The Chairman State Environment Impact Assessment Authority, Haryana	-	Environmental Clearance(s) granted to the Company, if any, be revoked immediately. No expansion case in future related to this site be considered till compliance of these directions are made.
5.	The City Magistrate, CTM Gurugram	-	a. Compliance of these directions issued to the Company and other State Government departments be ensured. b. Collection of Environmental Compensation imposed by CPCB be ensured.
6.	The Director Town and Country Planning Department,	-	a. No further expansion of the project be considered. b. No completion certificate be granted to the Company and any such

	<i>Haryana</i>		<i>certificate already granted be revoked immediately.</i>
7.	<i>The Chairman cum Managing Director, Dakshin Haryana Bijli, Vitran Nigam</i>	-	<i>No electricity supply be provided for any further expansion of the project by the company in Sushant Lok-1, Gurugram.</i>
8.	<i>The Chief Administrator, Haryana Shahari Vikas Pradhikaran</i>	-	<i>No water supply to the company be sanctioned for any further expansion of the project in Sushant Lok-1, Gurugram.</i>

2. Copies of CPCB Directions are sent to following Ministries and organizations also for information and appropriate action at their level:

i. The Secretary, Ministry of Env., Forests and Climate Change, New Delhi.

ii. The Secretary, Ministry of Housing and Urban Affairs, New Delhi.

iii. The Director, Delhi School of Planning and Architecture, New Delhi."

4. Further steps need to be taken as follow up of above directions.

We find from the affidavit filed by the CGWA on 09.07.2019 that compensation has been assessed for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00 per annum. The said amount may be recovered as interim compensation. The CGWA claims to have written letter dated 08.02.2019 to the Deputy Commissioner, Gurgaon to seal illegal wells.

5. Let the compliance reports be filed by the CPCB, State PCB, SIEAA, Haryana, CGWA, Town and Country Planning Department, Haryana, Dakshin Haryana Bijli, Vitran Nigam, Haryana Shahari Vikas Pradhikaran and District Magistrate Gurgaon within one month by e-mail at judicial-ngt@gov.in.

6. Copies of this order be sent to CPCB, State PCB, SIEAA, Haryana, CGWA, Town and Country Planning Department, Haryana, Dakshin Haryana Bijli, Vitran Nigam, Haryana Shahari Vikas Pradhikaran and District Magistrate Gurgaon by e-mail.

List for further consideration on 20.11.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 13, 2019
Original Application No. 661/2018
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