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IN THE HON'BLE NATIONAL GREEN TRIBUNAL
AT PRINCIPAL BENCH, NEW DELHI

In Original Application No. 793 of 2022

Council of Engineer & ors. Vs State of Punjab & ors.

Affidavit of Kapil Dev (aged 47 years) S/o Shri Jagdish Chander, R/o #186-E, B.R.S. Nagar, Ludhiana, Punjab.

RESPECTFULLY SHOWETH:

I, the above mentioned deponent do hereby solemnly affirm and declare as under:-

1. That the deponent, who is one of the Applicants (in person) in O.A. No. 793 of 2022 filed with this Hon'ble National Green Tribunal.
2. That the contents of paras no. 1 to 4 of the accompanying application depicting non-compliance to orders of this Hon'ble Tribunal by the Municipal Corporation Ludhiana & other respondents are true and correct to my knowledge.



4993
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Place: Ludhiana
Dated: 04.11.2023

Verified that the affidavit SPA/GP has been readover & explained to the deponent/executant who seemed directly to understand the matter at the writing

Delma
DEPONENT

Verification:

Verified that the contents of para 1 and 2 of this affidavit are true and correct. No part of it is false, and nothing material has been kept concealed therefrom.

Place: Ludhiana
Dated: 04.11.2023

ATTESTED AS IDENTIFIED

Delma
DEPONENT

NOTARY PUBLIC, LUDHIANA (Pb.)

04 NOV 2023

Identified that the deponent has signed before me him/her personally

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
AT PRINCIPAL BENCH, DELHI**

In O.A. No. 793 of 2022

In the matter of:

Council of Engineer & ors. Applicants

vs.

State of Punjab & ors. .. Respondents

Submission regarding Non-compliance to orders dated 07-08-2023 & further allowing illegal commercial activities in Green Belt area by the Municipal Commissioner of Municipal Corporation Ludhiana by going against directions of this Hon'ble Tribunal.

It is most respectfully showeth:

1. That I, Er. Kapil Dev (Applicant No. 2) in O.A. 861 of 2022 is submitting application to non-compliance of orders dated 07-08-2023 by the Municipal Commissioner of Municipal Corporation Ludhiana. It is pertinent to humbly submit that this Hon'ble Tribunal vide orders dated 07-08-2023 has directed as under thus;

Para 22. Accordingly, we constitute another Committee comprising of Representatives of Regional Officer MOEF&CC and CPCB and representative of PSPCB preferably some officer from Chandigarh to be nominated by its Member Secretary and direct the same to meet within one month and verify the factual position with respect to averments made in the application and aspects mentioned above and suggest remedial measures. PSPCB will be the Nodal Agency for coordination and compliance. The District Magistrate Ludhiana and Commissioner,

Municipal Corporation, Ludhiana shall provide the relevant record and extend requisite cooperation to the Committee.

Para 23: Report be submitted by the newly constituted Joint Committee within two months 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.

Para 24: Further, we have noticed that in the reply filed by the Municipal Corporation of Ludhiana, it has been submitted that over the last five years, the Corporation has planted more than 150,000 plants and shrubs. Such plantation drives are carried out year after year but the survival rate is not documented and no tree census is conducted for this purpose in the area despite documentation of survival rate and census of trees being necessary for taking appropriate remedial measures in this regard.

Para 25: The Municipal Corporation of Ludhiana is stated to be maintaining 892 parks and green belts, and to have developed in the last year alone, approximately 20 acres of new green belts and parks. However, it appears that the details regarding such green belts and parks are not publically notified and there is no grievance redressal mechanism for redressal of grievances regarding encroachment on the same.

Para 26: The Municipal Corporation of Ludhiana is directed to upload the details regarding all the 892 parks and 20 acres of new green belts and parks developed on its website/District Administration Website within one month from the date of this order with requisite details regarding (i) boundaries, length and width and revenue number if any; (ii) encroachments if any made and action taken for removal of such encroachments and (iii) Grievance redressal mechanism evolved for redressing grievances regarding removal of encroachments. The Municipal Corporation, Ludhiana is directed to document survival rate of the plantation made and conduct census of the trees within municipal area within two months and take appropriate remedial measures for protection of plantation and trees.

Para 27: The Commissioner, Municipal Corporation, Ludhiana is directed to file Action Taken Report in this regard on or before

31.10.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

Para 28: It may also be observed here that State of Punjab, which has always been considered to be progressive and prosperous state inhabited by people who lead in the front in all spheres of human activities, does not have any law for protection of trees similar to the Delhi Trees Preservation Act, 1994 and any law for protection of green belts and parks similar to Uttar Pradesh Protection of Trees Act, 1976 and the Uttar Pradesh Parks, Play grounds and Open Spaces (Preservation and Regulation) Act, 1975. For appropriate remediation of environmental issues of protection of trees and open spaces, green belts and parks involved, we consider it appropriate to request the Chief Secretary to Government of Punjab (i) to place the matter before the Punjab Legislature for considering the desirability of enacting similar legislations and (ii) to issue appropriate administrative instructions for protection of trees and open spaces, green belts and parks till the enactment of such legislations.

2. That despite passing of almost three months from the date of directions issued by this Hon'ble Tribunal, **the Municipal Corporation Ludhiana has failed to upload the details all the 892 parks and 20 acres of new green belts and parks developed on its website/District Administration Website.** Further, the no reply is found to be uploaded on NGT website by MCL as on date too. Thus, the MCL has deliberately & intentionally failed to comply with the orders of this court. Such an act by MCL is because of failure in encroachments done by private persons/politicians in large number of Public Parks coming under the jurisdiction of MCL.
3. That despite knowing the facts that change of use of land belonging to parks and greenbelts for some other purpose is against the directions of Hon'ble Supreme Court as well as this Hon'ble Tribunal but the working of MCL has been contrary to the rule of law leading

towards damage to Environment again and again. Recently, the Municipal Corporation Ludhiana has allowed one private contractor to construct **Commercial Shop in the name of “Pet Café”** along with provision of Pet Clinic on land belonging to Green Belt area developed by Ludhiana Improvement Trust. After getting the information regarding the same, the Applicant Association immediately sent one Notice to the Principal Secretary of Local Government Department, Municipal commissioner of Ludhiana as well as Chairman of Ludhiana Improvement Trust by citing the directions of law as well as reference of this subjudice matter but the MCL has failed to remove the structure of commercial shop constructed in the Greenbelt area, thus leading towards damage to Environment by deliberately and intentionally ignoring the directions of Hon’ble Supreme Court as well as this Hon’ble Tribunal. The Copy of Notice served by Applicant Association is produced herewith as **Annexure PA-1**. Two Photographs depicting the construction of Structure of Commercial Shop in Greenbelt Area backside Zone-D, MCL is produced herewith as **Annexure PA-2**.

4. That the newly appointed committee was directed to visit the impugned locations within one month of the date of orders. However the Applicants are not aware of any information regarding visit to the impugned sites i.e. Encroachments over Greenbelts as done by the School as well as Lodhi Club by the new committee as no report has been found to be uploaded on NGT website as on date.

Date: 04-11-2023

Place: Ludhiana



Er. Kapil Dev

(Petitioner No. 2)

(Petitioner in Person)



Engineers Council <engineerscouncilindia@gmail.com>

Demand Notice against Commercialization of Dog Park (Public Park) by opening of Private Commercial Shop & installation of solid concrete tiles in Green Belt/Park Area – an Act against directions of Hon’ble Supreme Court, Hon’ble NGT, Environment (Protection) Act, 1986 & also against Right to life of residents of Ludhiana - with demand of immediate closure of commercial activities, nullifying the contract & replacement of solid tiles with perforated tiles in the said greenbelt area.

Engineers Council <engineerscouncilindia@gmail.com>

Tue, Sep 5, 2023 at 3:57

PM

To: "secy.lg" <secy.lg@punjab.gov.in>, CommLudhiana <Commissionermcl@gmail.com>, joint.comm.m@gmail.com, ldh_it_2009@yahoo.co.in

1. The Principal Secretary
Department of Local Government
Plot No. 3, Sector 35A,
Chandigarh

2. The Municipal Commissioner
Municipal Corporation,
Zone-D, Sarabha Nagar
Ludhiana

3. The Chairman
Ludhiana Improvement Trust
Feroze Gandhi Market
Ludhiana

Subject: Demand Notice against Commercialisation of Dog Park (Public Park) by opening of Private Commercial Shop & installation of solid concrete tiles in Green Belt/Park Area – an Act against directions of Hon’ble Supreme Court, Hon’ble NGT, Environment (Protection) Act, 1986 & also against Right to life of residents of Ludhiana - with demand of immediate closure of commercial activities, nullifying the contract & replacement of solid tiles with 50% perforated tiles in the said greenbelt/park area.

References:

1. Directions of Hon'ble Supreme Court in M.C. Mehta v. Union of India, (2009) 17 SCC 683 & similar decided matters
2. Directions of Hon'ble NGT in President, Budhela Welfare Association vs. Govt. of NCT of Delhi (Original Application No. 515/2019).
3. Directions of Hon'ble NGT in case title Akash Vashishtha Vs. Union of India & Ors. (Original Application No.165 of 2013)
4. Environment Protection Act, 1986
5. Article 21 & 51A of Constitution of India

Sirs,

It has come to knowledge of undersigned through print media that the Municipal Corporation Ludhiana has permitted opening of one commercial Shop in the name of "PET CAFÉ" in Green belt area (after developing the greenbelt and than converting into Dog Park) whereas it is a well-known fact that commercial activities in Green Belts and parks is contrary to the judgments passed by the Hon'ble Supreme Court as well as National Green Tribunal. Further, the interlocking tiles used in the parking area are solid concrete tiles which is also contrary to the directions of Hon'ble NGT.

Accordingly, the Council of Engineers # 186-E, BRS Nagar, Ludhiana (email: engineerscouncilindia@gmail.com) through its President, Er. Kapil Dev serves following notice on you:

1. That the Parks, green-belts and recreation facilities are the places that people go to get healthy and stay fit. According to studies by the Centres for Disease Control and Prevention, creating, improving and promoting places to be physically active can improve individual and community health and result in a 25 percent increase of residents who exercise at least three times per week.
2. That as per clause 3.1 (iv) of Smart City Mission guidelines, one of some typical features of comprehensive development of Smart Cities is **"Preserving and developing open spaces — parks, playgrounds, and recreational spaces in order to enhance the quality of life of citizens, reduce the urban heat effects in Areas and generally promote eco-balance;"**. However, the Ludhiana Improvement Trust has fixed solid interlocking tiles contrary to the directions of Hon'ble NGT vide

which it has already been decided that the interlocking tiles should have 50% space for percolation of rainwater through them and the total area of interlocking tiles should not be more than 5% of Park/Greenbelt area.

3. That despite knowing above facts that any commercial activity in Public Park or Green Belt areas is strictly prohibited but despite knowing the facts, the Municipal Corporation Ludhiana has allowed opening of one Commercial shop in newly developed DOG PARK at Block-D, BRS Nagar, Ludhiana. It is pertinent to mention here that this park has been given on contract (may be on lease) **to private party i.e. Contractor of Hyderabad based M/s Dog Pet Hospital.** It is further pertinent to mention here that as per the contents of news, the Dog Park has been developed by Public Money spent by Ludhiana Improvement Trust and the contractor is also going to charge Rs 40/- for entry to this Public Place and for entire park area and opening of Private Pet Cafe & Private Pet Clinic, the MCL is going to get Rs 10,000/- per month. It is pertinent to mention here that the said area is Greenbelt area as per the Master Plan of Ludhiana and the Ludhiana Improvement Trust has developed the areas as Public Park/Greenbelt. Thus it is a complete violation of directions of Hon'ble Supreme Court as well as the NGT.

4. That in a the case title M.C. Mehta v. Union of India, (2009) 17 SCC 683, the Hon'ble Supreme Court as held as under thus;

Para No. 4. The second point raised by Mr Mehta is that a large number of parks in the city are being used for construction of marriage pandals and for hosting other functions, etc. According to Mr Mehta, the frequent use of parks for such purposes is bound to degrade the environment and the utility of the parks as a recreation for the public.

xxx xxx xxx

Para No. 6. We agree with Mr Mehta that the recreational and other aesthetic uses of the parks cannot be curtailed. Mr Mehta is also correct that the permitted use of the sparks being recreation under the master plan, it cannot be permitted for any other use. But at the same time, keeping in view the need of the

society, it is necessary to bring the parks back to their normal use in a sustained manner.

5. That in a case title President, Budhela Welfare Association vs. Govt. of NCT of Delhi (Original Application No. 515/2019) while deciding on issue of use of parks for social, cultural, commercial, marriage or other functions, the Hon'ble Green Tribunal has held as under thus;

Let the DPCC take further action in accordance with law in the light of grievances of the applicant by maintaining vigil and preventing violation of environmental norms, following due process of law. In view of the order of the Delhi High Court prohibiting use of parks for social, cultural, **commercial**, marriage or other functions and the directions of DPCC dated 13.12.2019 under the Water, Air and EP Acts that no park can be used for social, cultural, commercial, marriage or other functions and the Executive Engineer (Horticulture) of DDA and the MCD will be accountable for the violations, further direction of installing ETP is contradictory as such question does not arise if no such social, cultural, commercial or marriage function is to be held in the parks. This needs to be strictly enforced by the Horticulture Department of DDA and MCD. The DPCC may also modify its directions accordingly and strictly enforce the prohibitions as per orders of Delhi High Court. Similarly, plea of DPCC to depend on amendment by DDA is an attempt to avoid responsibility as even without such amendment powers under the EP Act and the Water Act override any other statute which cannot stand in the way of enforcement of environmental norms particularly in view of orders of Delhi High Court, prohibiting use of parks for such functions.

6. That the conversion of this Dog Park for Commercial activity is contrary to directions of Hon'ble Green Tribunal as held in a case title Akash Vashishtha Vs. Union of India & Ors. (Original Application No.165 of 2013), on September 29, 2014 produced under thus:

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Orders dated 29-09-2014

The Learned Counsel appearing for the Applicant has placed before us photographs showing that the walking paths are being concretized and even the green areas are being concretized in excess of the prescribed limits. The Learned Counsel appearing for the Applicant has also informed us that the photographs that have been produced before us relates to the area that has jurisdiction of the Ghaziabad Nagar Nigam / Ghaziabad Development Authority.

Secondly, the areas which are required to be tiled so as to ensure that the water percolates are concretized to the extent that there is no percolation of water. **In our order dated 20th February, 2014, we had clearly observed that the tiling / concretization of pavements should not exceed more than five percent and the foot-path and tracks constructed only with the permeable and semipermeable, perforated blocks. There is a clear violation of our order.**

7. That in a subjudice matter of encroachments over greenbelts by the Lodhi Club & Sacred Heart School at BRS Nagar, Ludhiana as filed by the undersigned applicant (**Council of Engineers & ors. State of Punjab & ors. – O.A. No. 799 of 2022 with MCL as one of the respondents in the case**), the Hon'ble NGT has issued orders dated as under:

Para no. 25. The Municipal Corporation of Ludhiana is stated to be maintaining 892 parks and green belts, and to have developed in the last year alone, approximately 20 acres of new green belts and parks. However, it appears that the details regarding such green belts and parks are not publicly notified and there is no grievance redressal mechanism for redressal of grievances regarding encroachment on the same.

Para No. 26. The Municipal Corporation of Ludhiana is directed to upload the details regarding all the 892 parks and 20 acres of new green belts and parks developed on its website/District Administration Website within one month from the date of this order with requisite details regarding (i) boundaries, length and

width and revenue number if any; (ii) encroachments if any made and action taken for removal of such encroachments and (iii) Grievance redressal mechanism evolved for redressing grievances regarding removal of encroachments. The Municipal Corporation, Ludhiana is directed to document survival rate of the plantation made and conduct census of the trees within the municipal area within two months and take appropriate remedial measures for protection of plantation and trees.

Para No. 27. The Commissioner, Municipal Corporation, Ludhiana is directed to file Action Taken Report in this regard on or before 31.10.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

Para No. 28. It may also be observed here that State of Punjab, which has always been considered to be progressive and prosperous state inhabited by people who lead in the front in all spheres of human activities, does not have any law for protection of trees similar to the Delhi Trees Preservation Act, 1994 and any law for protection of green belts and parks similar to Uttar Pradesh Protection of Trees Act, 1976 and the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975. For appropriate remediation of environmental issues of protection of trees and open spaces, green belts and parks involved, we consider it appropriate to request the Chief Secretary to Government of Punjab (i) to place the matter before the Punjab Legislature for considering the desirability of enacting similar legislations and (ii) to issue appropriate administrative instructions for protection of trees and open spaces, green belts and parks till the enactment of such legislations.

8. That in another subjudice matter of Commercialisation & installation of Statue of Private person in Rakh Bagh (Public Park) by Municipal Corporation Ludhiana, the Hon'ble NGT vide its orders dated 21-04-2023 (**in Case title Dr. Amandeep singh Bains & anr. vs. State of Punjab & ors. - O.A. No. 292 of 2023**) had directed the Municipal Corporation Ludhiana to submit the reply within two months but the Municipal Commissioner of Ludhiana failed to submit the reply in time and requested for time

of three weeks which was allowed by the Hon'ble NGT vide orders dated 13-07-2023. **However, despite the passing of more than three weeks, the Municipal Commissioner of Ludhiana has not submitted any reply till date.**

Sirs, Since the said Dog Park newly developed by Ludhiana Improvement Trust is Greenbelt area and cannot be utilised for any Commercial activity. Further, the interlocking tiles used in said greenbelt area should have 50% percolation for seepage of rainwater. **Thus keeping in view the directions of Hon'ble Apex as well as Green Tribunal and other facts produced above, the contract for conversion of Public Park for Commercial activities must be abolished, nullified & invalidated and the solid interlocking tiles must be replaced with 50% perforated interlocking tiles with area not more than 5% of total Greenbelt/park area.** In case you do not act in time i.e. by 20-09-2023, the undersigned stands authorised by the Council of Engineers to file a petition with Hon'ble National Green Tribunal for redressal of its legitimate grievances mentioned above.

Meanwhile, please acknowledge receipt of this notice.

Thanking you,

Yours faithfully,

Er. Kapil Dev
President
Council of Engineers
186-E, BRS Nagar,
Ludhiana
Mobile: 98720-07872

