

IN THE HIGH COURT FOR THE STATES OF  
PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 8322 OF 2018

Kanhaiya Lal and others ... PETITIONERS

VERSUS.

State of Haryana and others. ... RESPONDENTS

Total Amount of Court Fee

Affixed :

CHANDIGARH.

DATED : 02.04.2018.

(VIBHAV JAIN)  
P-1325/2000  
ADVOCATE  
COUNSEL FOR THE PETITIONERS

IN THE HIGH COURT FOR THE STATES OF  
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CIVIL WRIT PETITION NO. 8322 OF 2018

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LIST OF DATES AND EVENTS

- The petitioners are owners in possession of land measuring 19 Kanals 10 Marla, comprised in Mustil No. 7//13 (8 K – 0 M), 14 (8 K – 0 M) and 15/1 (3 K – 10 M) situated in the revenue estate of Village Ankhir, Tehsil and District Faridabad (Haryana) (hereinafter to be referred as 'the land in question'). As the ownership of the petitioners over the land in question is not disputed by the Respondents, therefore, the petitioners are not annexing true translated copy of Sale Deed and Mutation sanctioned in their favour. The same will

be placed on record, if so required by this Hon'ble Court.

06.03.2018 In exercise of powers conferred by sub-Section (7) of Section 29 of Faridabad Complex Administration (Regulation and Development) Act, 1971, the State of Haryana notified Final Development Plan of Faridabad, Ballabhgarh Controlled Area on 11.12.1991 and the same was published in the Extraordinary Haryana Government Gazette on 17.12.1991. Admittedly, the land in question falls within the recreational zone as per the said Final Development Plan. The petitioners established their Marriage Palace/ Banquet Hall over the land in question by the name of "K.K. Ujjawal Farms". It would not be out of place to mention herein that recently, on 14<sup>th</sup> of March 2018, Final Development Plan, 2031 of Faridabad-Ballabhgarh area has been notified and with regard to the land belonging to the petitioners, ground truthing exercise is still being carried out by the Office of District Town Planner,

Faridabad. Copy of a letter dated 6<sup>th</sup> of March 2018 to the said effect written by District Town Planner, Faridabad, to Respondent No. 4 is Annexure P-1.

20.08.2014 That a policy for regularization of existing Marriage Palaces, was formulated by the Government of Haryana and the same was notified vide Endst. No. CTP/TP/ATP-IV/A2/2014/4369-4467 dated 20.08.2014. It is pertinent to mention herein that the policy for regularization of existing Marriage Palaces/Banquet Halls was formulated by the Government of Haryana on the directions issued by this Hon'ble Court. A copy of the said policy dated 20.08.2014 is Annexure P-2.

10.01.2018 The petitioners on behalf of K.K. Ujjawal Farms applied for the regularization on 30.06.2014. It would not be out of place to mention herein that the draft regularization policy was placed on record before this Hon'ble Court in December 2013. In response to the said Application, a

Committee headed by Joint Commissioner, Municipal Corporation, Faridabad, Old Zone, comprising of Senior Town Planner, MCF and District Town Planner (Enforcement), Faridabad, was constituted in terms of the regularization policy to scrutinize the application of the petitioners. The said Committee recommended the case of the petitioners in the meeting held on 10<sup>th</sup> of January 2018. A copy of the minutes of meeting dated 10.01.2018 is Annexure P-3.

11.01.2018 All the documents submitted by the petitioners were scrutinized and the Senior Town Planner, Municipal Corporation, Faridabad, on behalf of Joint Commissioner, MCF-cum-Chairman of the Committee issued Letter of Intent dated 11.01.2018 to the petitioners. A copy of the said Letter of Intent dated 11.01.2018 is Annexure P-4.

-- After receiving the LOI dated 11.01.2018, the petitioners deposited Scrutiny Fee, Service Charges, Conversion Charges in full and 25% of

the External Development Charges (EDC), total amounting to Rs.1,85,45,243/-. The petitioners undertake to comply with all the conditions of LOI except condition No. 1. It would not be out of place to mention herein that despite repeatedly requesting Forest Department, Government of Haryana for giving NOC, the same is being withheld for the reasons best known to them. Interestingly, Forest Department, Haryana has issued NOC for the land belonging to Raj Kumari Bhatia and Brij Pal Singh, owners of Delight Garden, despite the fact that the status of their land is similar to that of the petitioners. Moreover, Delight Garden, which is similarly situated to the petitioners, has already been regularized by Municipal Corporation, Faridabad. As a matter of abundant precaution, the petitioners have applied to Government of India for approval of diversion of land under Forest (Conservation) Act, 1980.

28.10.2013 Another fact which is important for the adjudication of the present case is that a

Complaint was filed before the Hon'ble National Green Tribunal (NGT), New Delhi by one Divesh Bhutani with respect to non-forest commercial activities being carried out on Surajkund-Badhkal Road. Learned NGT vide Order dated 03.05.2013 restrained carrying on of any non-forest activities in the area concerned covered under Notification dated 18.08.1992 issued under Section 4 of the PLPA. The said Order was passed by learned NGT on the wrongful assumption that land notified under Section 4 of PLPA was a forest land. Some of the owners of similarly situated Marriage Palaces to that of the petitioners challenged the said Order passed by learned NGT, before the Hon'ble Supreme Court by filing Civil Appeal No. 10294 of 2013. A copy of the said Order dated 28.10.2013 is Annexure P-5. The said Civil Appeal is still pending final adjudication before the Hon'ble Supreme Court.

-- Petitioner No. 3 also moved before the Hon'ble Supreme Court by filing C.A. No. 8454 of 2014,

challenging the Order passed by learned NGT. The said case came up for hearing before the Hon'ble Supreme Court on 01.09.2014. The said Appeal is also pending for final adjudication before the Hon'ble Supreme Court. It would not be out of place to mention herein that the petitioners moved I.A. NO. 2760-61 of 2016 in I.A. No. 1785 of 2001 in W.P. (C) No. 4677 of 1985, inter alia praying for setting aside the Notifications dated 18.08.1992 issued under Section 4 of the PLPA, being illegal and void-ab-initio. The said application is still pending for final adjudication before the Hon'ble Supreme Court of India.

- The State of Haryana issued Notification dated 10.04.1992 under Section 3 of PLPA notifying whole of Tehsil Ballabgarh of District Faridabad admeasuring 1,83,977 Acres for the purposes of conservation of sub-soil water and prevention of erosion. On 18.08.1992, State of Haryana issued Notification under Section 4 of PLPA restricting use of land described in the said Notification. Though

as per PLPA, the restrictions can only be imposed temporarily, yet the restrictions are continuing for last about 50 years. The land in question belonging to the petitioners also falls within the ambit of the said Notification. Various provisions of PLPA came up for interpretation vis-a-vis Forest (Conservation) Act, 1980 before the Hon'ble Supreme Court in Civil Appeal No. 4682-83 of 2005 titled as "B.S. Sandhu Versus. Government of India and others". The said Appeal was decided by the Hon'ble Supreme Court vide its Judgment dated 21.05.2014, reported as (2014) 12 S.C.C. On a bare perusal of the aforesaid paragraphs, it clearly comes out that land notified under PLPA does not *ipso facto* becomes 'forest'. In the present case, it has been admitted by all the concerned authorities that the land in question is not a forest land in view of law laid down by the Hon'ble Supreme Court in B.S. Sandhu's case (supra).

07.03.2018 A news item appeared in certain newspapers on 28.02.2018, according to which the Spokesperson of an opposition party allegedly levelled certain allegations against the ruling party with respect to grant of Change of Land Use to certain influential persons. As a knee-jerk reaction to the said allegations, a Show Cause Notice was issued to the petitioners on 07.03.2018 asking them to explain why their Letter of Intent may not be cancelled on account of non-fulfilment of conditions laid therein. A copy of the said Show Cause Notice is Annexure P-6.

12.03.2018 The petitioners gave a comprehensive reply to the said Show Cause Notice, vide their letter, which was received in the Office of Municipal Corporation, Faridabad on 12.03.2018. A copy of the said Reply sans Annexures is Annexure P-7. The fact that the Show Cause Notice dated 7<sup>th</sup> of March 2018 was a knee-jerk reaction and actuated by adverse publicity in the newspaper can be gauged from the letter dated 1<sup>st</sup> of March 2018

written by Senior Town Planner, MCF to Deputy Mayor, MCF, wherein he has explained the issue of CLU/ regularization of the Marriage Palaces. A copy of the said letter dated 1<sup>st</sup> of March 2018 is Annexure P-8. Immediately thereafter, Show Cause Notices were issued to all the Marriage Palaces, to whom LOIs were issued for regularization.

20.03.2018 That without considering the reply filed by the petitioners, Respondent No. 4, vide Order dated 20.03.2018 has cancelled the Letter of Intent dated 16.05.2017, primarily on the ground that the petitioners have not taken NOC from the Forest Department. A copy of the impugned Order dated 20.03.2018 is Annexure P-9.

-- That the Order dated 20.03.2018 passed by Respondent No. 4 is illegal, arbitrary and violative of Article 14 of the Constitution of India and thus, liable to be set aside, on the grounds taken in the Writ Petition.

-- Hence, the present Civil Writ Petition in this  
Hon'ble Court.

Place : Chandigarh

Dated : .04.2018

(VIBHAV JAIN)  
P-1325/2000  
ADVOCATE  
COUNSEL FOR THE PETITIONERS

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IN THE HIGH COURT FOR THE STATES OF  
PUNJAB AND HARYANA AT CHANDIGARH

(CIVIL WRIT JURISDICTION)

CIVIL WRIT PETITION NO. 8322 OF 2018

MEMO OF PARTIES

1. Kanhaiya Lal son of Shri Hira Lal, aged about 62 years, resident of # 430, Sector 21-A, Faridabad (Haryana);
2. Ashok Nath son of Shri Rajeshwar Nath, aged about 71 years, resident of # 10, May Fair Garden, Hauz Khas, Delhi through General Power of Attorney holder Shri Kanhaiya Lal son of Shri Hira Lal, resident of # 430, Sector 21-A, Faridabad (Haryana);
3. Kamal Jeet Singh son of Shri Munni Lal Zakhmi, aged about 51 years, resident of House No. 554, Sector 17, Faridabad (Haryana);
4. Manish Sharma son of Shri Kanhaiya Lal, aged about 36 years, resident of # 430, Sector 21-A, Faridabad (Haryana);

... PETITIONERS

VERSUS.

1. State of Haryana through the Principal Secretary to Government of Haryana, Local Government Department, Haryana Civil Secretariat, Chandigarh;
2. Director General, Urban Local Bodies, Haryana, Bays No. 11-14, Sector-4, Panchkula;
3. Municipal Corporation, Faridabad, through its Commissioner, B.K. Chowk, NIT, Faridabad – 121 001.
4. The Commissioner, Municipal Corporation, Faridabad, B.K. Chowk, NIT, Faridabad – 121 001.
5. District Town Planner (Enforcement), Sector 12, Faridabad (Haryana).

... RESPONDENTS.

Place : Chandigarh

Dated : .04.2018

(VIBHAV JAIN)  
P-1325/2000  
ADVOCATE  
COUNSEL FOR THE PETITIONERS

CIVIL WRIT PETITION under Article 226/227 of the Constitution of India for issuance of a Writ in the nature of Certiorari, quashing the Order dated 20.03.2018 (Annexure P-8), passed by the Respondent No. 4, whereby he has withdrawn Letter of Intent (LOI) dated 21.12.2017 (Annexure P-3) for regularization of the Marriage Palace/Banquet Hall under the name of "Yogi Farm", as the same is illegal and arbitrary.

FURTHER, to issue a Writ in the nature of Certiorari, quashing the Condition No. 1 stipulated in the Letter of Intent dated 21.12.2017 (Annexure P-3), whereby Respondent No. 4 insisted upon obtaining 'No Objection Certificate' (NOC) from Forest Department, Haryana, for the purpose of regularization of existing Marriage Palace/ Banquet Hall, despite the fact that the land in question upon which the Marriage Palace/ Banquet Hall of the petitioner, namely, "Yogi Farm" is constructed, is admittedly non-forest land.

FURTHER, to issue a Writ in the nature of Prohibition, prohibiting Respondent No. 4 from insisting upon obtaining 'No Objection Certificate' (NOC) from Forest Department, Haryana, for the purpose of regularization of existing Marriage Palace/ Banquet Hall of the petitioners, namely, "K.K. Ujjawal Farms", despite the fact that admittedly the same is constructed upon a non-forest land.

Any other appropriate Writ, Order or Direction, as this Hon'ble Court may deem just and proper, keeping in view the peculiar facts and circumstances of the present case, may also kindly be passed.

RESPECTFULLY SHOWETH :

1. That the petitioners being citizens of India, are entitled to invoke the extra-ordinary Writ Jurisdiction of this Hon'ble Court by way of filing the present Civil Writ Petition under Articles 226 and 227 of the Constitution of India. Petitioner No. 2 is being represented through his General Power of

Attorney Shri Kanhaiya Lal, who is also petitioner No. 1. A copy of the said Power of Attorney dated 01.03.2014 is annexed with the Writ Petition.

2. That the petitioners are owners in possession of land measuring 19 Kanals 10 Marla, comprised in Mustil No. 7//13 (8 K – 0 M), 14 (8 K – 0 M) and 15/1 (3 K – 10 M) situated in the revenue estate of Village Ankhir, Tehsil and District Faridabad (Haryana) (hereinafter to be referred as 'the land in question'). As the ownership of the petitioners over the land in question is not disputed by the Respondents, therefore, the petitioners are not annexing true translated copy of Sale Deed and Mutation sanctioned in their favour. The same will be placed on record, if so required by this Hon'ble Court.

3. That in exercise of powers conferred by sub-Section (7) of Section 29 of Faridabad Complex Administration (Regulation and Development) Act, 1971, the State of Haryana notified Final Development Plan of Faridabad, Ballabhgarh Controlled Area on 11.12.1991 and the same was published in the Extraordinary Haryana Government Gazette on 17.12.1991. Admittedly, the land in question falls within

the recreational zone as per the said Final Development Plan. The petitioners established their Marriage Palace/ Banquet Hall over the land in question by the name of "K.K. Ujjawal Farms". It would not be out of place to mention herein that recently, on 14<sup>th</sup> of March 2018, Final Development Plan, 2031 of Faridabad-Ballabhgarh area has been notified and with regard to the land belonging to the petitioners, ground truthing exercise is still being carried out by the Office of District Town Planner, Faridabad. Copy of a letter dated 6<sup>th</sup> of March 2018 to the said effect written by District Town Planner, Faridabad, to Respondent No. 4 is annexed herewith and marked as **ANNEXURE P-1**.

4. That a policy for regularization of existing Marriage Palaces, was formulated by the Government of Haryana and the same was notified vide Endst. No. CTP/TP/ATP-IV/A2/2014/4369-4467 dated 20.08.2014. It is pertinent to mention herein that the policy for regularization of existing Marriage Palaces/Banquet Halls was formulated by the Government of Haryana on the directions issued by this Hon'ble Court. A copy of the said policy dated 20.08.2014 is annexed herewith and marked as **ANNEXURE P-2**.

5. That the petitioners on behalf of K.K. Ujjawal Farms applied for the regularization on 30.06.2014. It would not be out of place to mention herein that the draft regularization policy was placed on record before this Hon'ble Court in December 2013. In response to the said Application, a Committee headed by Joint Commissioner, Municipal Corporation, Faridabad, Old Zone, comprising of Senior Town Planner, MCF and District Town Planner (Enforcement), Faridabad, was constituted in terms of the regularization policy to scrutinize the application of the petitioners. The said Committee recommended the case of the petitioners in the meeting held on 10<sup>th</sup> of January 2018. A copy of the minutes of meeting dated 10.01.2018 is annexed herewith and marked as **ANNEXURE P-3**.

6. That all the documents submitted by the petitioners were scrutinized and the Senior Town Planner, Municipal Corporation, Faridabad, on behalf of Joint Commissioner, MCF-cum-Chairman of the Committee issued Letter of Intent dated 11.01.2018 to the petitioners. A copy of the said Letter

of Intent dated 11.01.2018 is annexed herewith and marked as **ANNEXURE P-4**.

7. That after receiving the LOI dated 11.01.2018, the petitioners deposited Scrutiny Fee, Service Charges, Conversion Charges in full and 25% of the External Development Charges (EDC), total amounting to Rs.1,85,45,243/-. The petitioners undertake to comply with all the conditions of LOI except condition No. 1. It would not be out of place to mention herein that despite repeatedly requesting Forest Department, Government of Haryana for giving NOC, the same is being withheld for the reasons best known to them. Interestingly, Forest Department, Haryana has issued NOC for the land belonging to Raj Kumari Bhatia and Brij Pal Singh, owners of Delight Garden, despite the fact that the status of their land is similar to that of the petitioners. Moreover, Delight Garden, which is similarly situated to the petitioners, has already been regularized by Municipal Corporation, Faridabad.

As a matter of abundant precaution, the petitioners have applied to Government of India for approval of diversion of land under Forest (Conservation) Act, 1980.

8. That another fact which is important for the adjudication of the present case is that a Complaint was filed before the Hon'ble National Green Tribunal (NGT), New Delhi by one Divesh Bhutani with respect to non-forest commercial activities being carried out on Surajkund-Badhkal Road. Learned NGT vide Order dated 03.05.2013 restrained carrying on of any non-forest activities in the area concerned covered under Notification dated 18.08.1992 issued under Section 4 of the PLPA. The said Order was passed by learned NGT on the wrongful assumption that land notified under Section 4 of PLPA was a forest land. Some of the owners of similarly situated Marriage Palaces to that of the petitioners challenged the said Order passed by learned NGT, before the Hon'ble Supreme Court by filing Civil Appeal No. 10294 of 2013. The Hon'ble Supreme Court, on 28.10.2013, passed following Order :-

- " Permission to file Civil Appeal is granted.
- Delay condoned.
- Application seeking exemption from filing official translation is allowed.
- Issue Notice.

In the meanwhile, the appellants may carry on their business of hosting marriages."

A copy of the said Order dated 28.10.2013 is annexed herewith and marked as **ANNEXURE P-5**. The said Civil Appeal is still pending final adjudication before the Hon'ble Supreme Court.

Petitioner No. 3 also moved before the Hon'ble Supreme Court by filing C.A. No. 8454 of 2014, challenging the Order passed by learned NGT. The said case came up for hearing before the Hon'ble Supreme Court on 01.09.2014 and on the said date, the Hon'ble Supreme Court passed by the following Order :-

" Permission to file Civil Appeal is granted. Learned counsel for the appellants relies upon a decision of this Court rendered in the case of "B.S. Sandhu vs. Government of India and others", 2014 (7) SCALE 390 and contends that the notification in respect of the land in the instant case was issued under Section 3 of the Punjab Land Preservation Act, 1900, and that such a notification would not lead to

the unqualified inference that the land indicated in the notification would be forest land.

Delay condoned.

Issue notice.

In the meanwhile, the appellants may carry on their business of hosting marriages.

Tag with Civil Appeal D. No. 36804 of 2013, titled Balesh and others vs. Divesh Bhutani and others."

The said Appeal is also pending for final adjudication before the Hon'ble Supreme Court. It would not be out of place to mention herein that the petitioners moved I.A. NO. 2760-61 of 2016 in I.A. No. 1785 of 2001 in W.P. (C) No. 4677 of 1985, inter alia praying for setting aside the Notifications dated 18.08.1992 issued under Section 4 of the PLPA, being illegal and void-ab-initio. The said application is still pending for final adjudication before the Hon'ble Supreme Court of India.

9. That the State of Haryana issued Notification dated 10.04.1992 under Section 3 of PLPA notifying whole of Tehsil Ballabhgarh of District Faridabad admeasuring 1,83,977 Acres

for the purposes of conservation of sub-soil water and prevention of erosion. On 18.08.1992, State of Haryana issued Notification under Section 4 of PLPA restricting use of land described in the said Notification. Though as per PLPA, the restrictions can only be imposed temporarily, yet the restrictions are continuing for last about 50 years. The land in question belonging to the petitioners also falls within the ambit of the said Notification. Various provisions of PLPA came up for interpretation vis-a-vis Forest (Conservation) Act, 1980 before the Hon'ble Supreme Court in Civil Appeal No. 4682-83 of 2005 titled as "B.S. Sandhu Versus. Government of India and others". The Hon'ble Supreme Court vide its Judgment dated 21.05.2014, reported as (2014) 12 S.C.C. page 172 held as follows :-

"19. In our view, therefore, land which is notified under Section 3 of the PLP Act, 1900 and regulated by orders of the local Government under Sections 4 and 5 of the PLP Act, 1900 may or may not be "forest land". Therefore, the conclusion of the High Court in the impugned order that the entire land of Village Karoran, District Ropar, which has been notified under Section 3 of the PLP Act, 1900 and is regulated by the prohibitory directions notified under Sections 4 and 5 thereof is "forest land" is not at all correct in law. The basis for inclusion of the entire area in Village Karoran, District Ropar, in the list of forest areas in the

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State of Punjab pursuant to the order dated 12-12-1996 of this Court in *T.N. Godavarman Thirumulpad v. Union of India* [*T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267] is legally not correct. Similarly, the conclusion of the High Court in the impugned order [*Court on Its Own Motion v. State of Punjab*, (2004) 4 RCR (Civil) 619 : (2005) 2 ICC 16 (P&H)] that the entire land in Village Karoran, District Ropar, having been notified under Section 3 of the PLP Act, 1900 and being under the regulatory regime of Sections 4 and 5 of the said Act is "forest land" is also legally not correct.

20. In fact, the High Court failed to appreciate the meaning of "forest" and "forest land" in Section 2 of the Forest (Conservation) Act, 1980 as given by this Court in the order dated 12-12-1996 in *T.N. Godavarman Thirumulpad v. Union of India* [*T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267]. The relevant portions of the order dated 12-12-1996 of this Court in *T.N. Godavarman Thirumulpad v. Union of India* [*T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267] on the meaning of the words "forest" and "forest land" is extracted hereinbelow: (SCC pp. 269-70, para 4)

"4. The Forest (Conservation) Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word 'forest' must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of



ownership. This is a factual question and the High Court should have decided this factual question on the basis of government records as on 25-10-1980 and other materials filed before the High Court, but the High Court has instead decided this question by reference to the provisions of the PLP Act, 1900 and the records of the Forest Department in which the land was shown to be under the Forest Department because of the fact that the land was closed under the PLP Act, 1900 several decades before the enactment of the Forest (Conservation) Act, 1980. Moreover, by recording a blanket finding that all land in Village Karoran, District Ropar, was "forest land" for the purpose of Section 2 of the Forest (Conservation) Act, 1980, the High Court has affected the legal rights of several villagers, agriculturists, farmers, shop owners, inhabitants of Village Karoran, District Ropar, who were carrying on their respective occupations on their land even before the enactment of the said Act on 25-10-1980. In our view, the High Court should have been very careful before recording findings which affect the property rights of persons protected by Article 300-A of the Constitution.

23. We have also examined the two decisions of this Court in the *first* and *second* cases of *M.C. Mehta* [*M.C. Mehta v. Union of India*, (2004) 12 SCC 118] , [*M.C. Mehta v. Union of India*, (2008) 17 SCC 294] cited on behalf of the State of Punjab and we find that the aforesaid decisions have been rendered in the case of *Aravalli Hills* in the State of Haryana and it was held therein that as the State Forest Department had been treating and showing the areas as "forest", in fact and in law, the area was forest and non-forest activities could not be allowed in such areas without the prior permission of the Central Government under Section 2 of the Forest (Conservation) Act, 1980. In these two decisions, this Court has not enquired into the basis of inclusion of the areas in forest by

the State Forest Department nor has this Court considered as to whether a land becomes "forest land" by mere inclusion of the same under the notification under Section 3 of the PLP Act, 1900. In the present case, on the other hand, the State Government has in its affidavit stated before this Court that the basis of inclusion of the entire land of Village Karoran, District Ropar, in forest areas in the records of the Forest Department of Government of Punjab was that the land was closed under the PLP Act, 1900 and we have found this basis as not correct in law."

On a bare perusal of the aforesaid paragraphs, it clearly comes out that land notified under PLPA does not *ipso facto* becomes 'forest'. In the present case, it has been admitted by all the concerned authorities that the land in question is not a forest land in view of law laid down by the Hon'ble Supreme Court in B.S. Sandhu's case (supra).

10. That a news item appeared in certain newspapers on 28.02.2018, according to which the Spokesperson of an opposition party allegedly levelled certain allegations against the ruling party with respect to grant of Change of Land Use to certain influential persons. As a knee-jerk reaction to the said allegations, a Show Cause Notice was issued to the petitioners on 07.03.2018 asking them to explain why their Letter of Intent may not be cancelled on account of non-

fulfilment of conditions laid therein. A copy of the said Show Cause Notice is annexed herewith and marked as **ANNEXURE P-6**. The petitioners gave a comprehensive reply to the said Show Cause Notice, vide their letter, which was received in the Office of Municipal Corporation, Faridabad on 12.03.2018. A copy of the said Reply sans Annexures is annexed herewith and marked as **ANNEXURE P-7**. The fact that the Show Cause Notice dated 7<sup>th</sup> of March 2018 was a knee-jerk reaction and actuated by adverse publicity in the newspaper can be gauged from the letter dated 1<sup>st</sup> of March 2018 written by Senior Town Planner, MCF to Deputy Mayor, MCF, wherein he has explained the issue of CLU/regularization of the Marriage Palaces. A copy of the said letter dated 1<sup>st</sup> of March 2018 is annexed herewith and marked as **ANNEXURE P-8**. Immediately thereafter, Show Cause Notices were issued to all the Marriage Palaces, to whom LOIs were issued for regularization.

12. 11. That without considering the reply filed by the petitioners, Respondent No. 4, vide Order dated 20.03.2018 has cancelled the Letter of Intent dated 16.05.2017, primarily on the ground that the petitioners have not taken NOC from

the Forest Department. A copy of the impugned Order dated 20.03.2018 is annexed herewith and marked as **ANNEXURE**

**P-9.**

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13 ——— (13.) That the Order dated 20.03.2018 passed by Respondent No. 4 is illegal, arbitrary and violative of Article 14 of the Constitution of India and thus, liable to be set aside, on *inter alia*, following grounds amongst others :-

**GROUND S**

- i) BECAUSE the land belonging to the petitioners, upon which the Marriage Palace in question is constructed, admittedly is not recorded as forest in any Government record. The position of law with regard to the lands notified under PLPA have been clarified by the Hon'ble Supreme Court in B.S. Sandhu's case (supra), wherein, it has been categorically held that lands notified under PLPA are not forest land merely on account of the fact that certain restrictions have been imposed upon them under Sections 4 and 5 of PLPA. In view of the said categorical position of law, MCF cannot

insist upon obtaining NOC from Forest Department, which has nothing to do with the land in question.

- ii) BECAUSE the Respondents are estopped from taking divergent stand on different occasions. Merely on account of certain adverse media coverage, the Respondents have made non-submission of NOC form Forest Department as ruse to cancel the LOI. The aforesaid averment further gains strength from the fact that though LOI was issued to the petitioners on 11.01.2018 and they were required to fulfil the terms and conditions within a period of 30 days therefrom, no communication was ever sent to them stating that NOC from Forest Department is required and in absence of the same, their LOI will be cancelled. For the first time, Show Cause Notice was issued on 07.03.2018 i.e. just after 28.02.2018, when the news item as described in the preceding paragraphs, was published. This clearly shows that the Show Cause Notice was

issued without application of mind and as a knee-jerk reaction.

- iii) BECAUSE MCF regularized the case of Delight Garden Marriage Palace (belonging to Raj Kumari Bhatia and Brij Pal Singh), which is similarly situated to that of the petitioners. The petitioners' case cannot be segregated from that of Delight Garden and as Delight Garden was regularized, the Marriage Palace of the petitioners also has to be regularized. Any decision to the contrary would violate principles of equality enshrined under Article 14 of the Constitution of India.
- iv) BECAUSE the impugned Order dated 20.03.2018 is cryptic, illegal and non-speaking. The petitioners gave a detailed reply to the Show Cause Notice dated 07.03.2018. None of the pleas taken in the said Reply have been considered by Respondent No. 4. In the impugned Order, it has been merely stated by Respondent No. 4 that he has considered the reply given by the petitioners, without discussing the pleas raised therein.

Moreover a cyclostyled order has been passed in all the cases of marriage palaces situated in the area in question, where L.O.I. for regularization was issued, without discussing their individual peculiarities. This further shows non-application of mind on the part of Respondent No. 4, while passing the impugned Order.

- v) BECAUSE it is well settled law that any executive decision has to be based upon sound reasoning. In the present case, despite the fact that Municipal Corporation, Faridabad itself acknowledges the fact that land in question is not a forest land, yet, the Letter of Intent issued to the petitioners has been primarily withdrawn on the ground that they have not submitted NOC from the Forest Department. There is no relevancy of NOC from Forest Department, as it is concerned only with the lands which are declared as forests in the Government record. In view of the admitted fact that the land in question is not

forest, Respondent No. 4 cannot insist upon getting an NOC from the Forest Department.

vi) BECAUSE prior to 28<sup>th</sup> of February 2018, Respondents themselves did not consider the NOC from Forest Department as mandatory. It was only on account of some adverse media coverage that a knee-jerk reaction has been taken and LOI issued to the petitioners has been cancelled. In fact, the impugned Order of Respondent No. 4 runs contrary to the Orders passed by the Hon'ble Supreme Court on 28.10.2013 and 01.09.2014, whereby the Hon'ble Supreme Court allowed the petitioners to carry out their business of hosting marriages despite the fact that the land in question belonging to the petitioners was notified under Section 4 of PLPA vide Notification issued on 18.08.1992. In view of the said Order, Respondent No. 4 has no jurisdiction to insist upon NOC from Forest Department.

vii) BECAUSE the impugned Order also violates the petitioners' Fundamental Right to carry on business enshrined under Article 19(1)(g) of the Constitution of India. Despite fulfilling all the conditions, as noted by the Committee in its meeting held on 6<sup>th</sup> of October 2016, yet LOI has been cancelled on totally illegal and unsustainable grounds.

viii) BECAUSE Respondent No. 4 had no jurisdiction to pass the impugned Order, as the Committee, which was formed to consider the case of the petitioners, was headed by Joint Commissioner. Even in the regularization policy framed by State of Haryana, the Committee to look into the individual case of the Marriage Palaces, is to be headed by Joint Commissioner. In view of the said fact, any decision with regard to the regularization of the petitioners' Marriage Palace had to be taken by the Joint Commissioner and not Respondent No. 4, who has passed the impugned Order.

14

13. That the substantial questions of law, which arise in the present Civil Writ Petition, for the kind consideration of this Hon'ble Court, are as under :-

- i) WHETHER the impugned Order dated 20.03.2018 is illegal, arbitrary and violative of Article 14 of the Constitution of India?
- ii) WHETHER the impugned Order dated 20.03.2018 is cryptic, non-speaking and thus, violative of principles of natural justice?
- iii) WHETHER the Respondent No. 4 can insist upon submission of NOC from Forest Department, when the land admittedly is not recorded as forest in any Government record?
- iv) WHETHER the Marriage Palace/Banquet Hall of the petitioners is liable to be regularized, as similarly situated Delight Garden has already been regularized?

15

14. That the petitioners have been left with no other alternative speedy and efficacious remedy of Appeal or

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to :-

- i) summon the entire records of the case for its kind perusal;
- ii) issue of Writ a Writ in the nature of Certiorari, quashing the Order dated 20.03.2018 (Annexure P-8), passed by the Respondent No. 4, whereby he has withdrawn Letter of Intent (LOI) dated 21.12.2017 (Annexure P-3) for regularization of the Marriage Palace/Banquet Hall under the name of "Yogi Farm", as the same is illegal and arbitrary.
- iii) issue a Writ in the nature of Certiorari, quashing the Condition No. 1 stipulated in the Letter of Intent dated 21.12.2017 (P-3), whereby Respondent No. 4 insisted upon obtaining 'No Objection Certificate' (NOC) from Forest Department, Haryana, for the purpose of regularization of existing Marriage Palace/ Banquet Hall, despite the fact that the land in question upon which the Marriage Palace/ Banquet Hall of the petitioner, namely, "Yogi

- iii) issue a Writ in the nature of Certiorari, quashing the Condition No. 1 stipulated in the Letter of Intent dated 11.01.2018 (Annexure P-4), whereby Respondent No. 4 insisted upon obtaining 'No Objection Certificate' (NOC) from Forest Department, Haryana, for the purpose of regularization of existing Marriage Palace/ Banquet Hall, despite the fact that the land in question upon which the Marriage Palace/ Banquet Hall of the petitioner, namely, "K.K. Ujjawal Farms" is constructed, is admittedly non-forest land.
- iv) issue a Writ in the nature of Prohibition, prohibiting Respondent No. 4 from insisting upon obtaining 'No Objection Certificate' (NOC) from Forest Department, Haryana, for the purpose of regularization of existing Marriage Palace/ Banquet Hall of the petitioners, namely, "K.K. Ujjawal Farms", despite the fact that admittedly the same is constructed upon a non-forest land.
- v) issue any other appropriate Writ, Order or Direction, as this Hon'ble Court may deem just

and proper, keeping in view the peculiar facts and circumstances of the present case;

- vi) dispense with the serving of advance notices upon the Respondents;
- vii) exempt the petitioners from filing the certified copies of Annexures P-1 to P-9 and also grant permission to place on record true/Photostat copies of Annexures with the Writ Petition;
- viii) award the costs of this Writ Petition in favour of the petitioners and against the respondents.

#### **INTERIM PRAYER**

It is further most respectfully prayed that during the pendency of the present Civil Writ Petition in this Hon'ble Court, the operation of the impugned Order dated 20.03.2018 passed by Respondent No. 4, may kindly be stayed and Respondents may kindly be restrained from taking any coercive action against the Marriage Palace/Banquet Hall,

namely, "K.K. Ujjawal Farms" belonging to the petitioners, in the interest of justice, equity and fair play.

CHANDIGARH.

PETITIONER NO. 1    PETITIONER NO. 2

DATED : .04.2018

PETITIONER NO. 3    PETITIONER NO. 4

THROUGH COUNSEL :

(VIBHAV JAIN)  
P-1325/2000  
ADVOCATE

VERIFICATION :

Verified that the contents of paras No. 1 to 12, 14 and 15 of the above Writ Petition are true and correct to our knowledge and those of para No. 13 are based on the legal advice of the Counsel, which are believed to be true. No part of it is false and nothing material has been kept concealed therein.

CHANDIGARH.

PETITIONER NO. 1    PETITIONER NO. 2

DATED : .04.2018

PETITIONER NO. 3    PETITIONER NO. 4

IN THE HIGH COURT FOR THE STATES OF  
PUNJAB AND HARYANA AT CHANDIGARH  
CIVIL WRIT PETITION NO. \_\_\_\_\_ OF 2018

Kanhaiya Lal and others.

... PETITIONERS

VERSUS.

State of Haryana and others.

... RESPONDENTS

AFFIDAVIT OF Shri Kanhaiya Lal son of Shri Hira Lal, aged about 62 years, resident of # 430, Sector 21-A, Faridabad (Haryana).

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

1. That the accompanying Civil Writ Petition has been drafted under my instructions. I have read the contents of the same and state that the factual averments made therein are true and correct to my knowledge. The legal submissions made therein are on the basis of advice of the Counsel, which are believed to be true. No such or similar Civil Writ Petition has earlier been filed by the petitioners either in this Hon'ble Court or in the Hon'ble Supreme Court of India, on the same cause of action.

PLACE : CHANDIGARH

DATED : .04.2018

DEPONENT

VERIFICATION:-

Verified that the contents of my aforesaid Affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.

PLACE : CHANDIGARH

DATED : .04.2018

DEPONENT

Sr. No. 145-4

C.W.P. No. 8322 of 2018

\*\*\*\*

**Kanhaiya Lal and others Vs. State of Haryana and others**

Present:- Mr. Puneet Bali, Senior Advocate with  
Mr. Vibhav Jain, Advocate  
for the petitioners.

\*\*\*\*

Notice of motion.

On asking of the Court, Mr. Rajesh K. Sheoran, Addl. A.G.,  
Haryana, who is present in Court accepts notice on behalf of respondents  
No.1,2 and 5.

Mr. Lokesh Sinhal, Advocate, appears on behalf of respondents  
No.3 and 4.

Learned counsel for the respondents are directed to file reply  
within a period of two weeks, especially by considering the reasons  
mentioned in the impugned order as well as instances relating to similarly  
situated persons mentioned in para No. 8 at page Nos. 48 and 49 of the writ  
petition.

To come up on 30.4.2018.

Meanwhile, respondents are directed not to proceed further till  
the next of hearing.

The petitioners are also at liberty to deposit the amount, in case  
the same is required to be deposited and the same shall be subject to  
outcome of this writ petition.

April 06, 2018  
pooja

**(DAYA CHAUDHARY)**  
**JUDGE**



**HARYANA STATE POLLUTION CONTROL BOARD**  
Faridabad Region, Opp. Hewo Appmt., Sector-16A, Faridabad  
Website: [www.hspcb.gov.in](http://www.hspcb.gov.in)



NO. HSPCB/FR/2020/ 5356.

Dated: 19/2/2020

To

The DFO (District Forest Officer),  
Faridabad.

**Sub: Inspection in the matter of Varun Sheokand Vs Union of India & Others.**

Kindly refer to the subject noted above it is intimated that, inspections of the sites in question was conducted by the committee of following officers on 31.12.2019-

- a) Senior Town Planer, MCF
- b) District Mining Officer, Faridabad
- c) Tehsildar, Badkhal
- d) Regional Officer, HSPCB Faridabad

During inspection it was found that Respondent no. 10 (Kamaljeet S/o Munilal R/o House No. 8, Faridabad, Haryana) and 11 (Kanhaiyalal R/o House No.430 Sector 21 (A), Faridabad, Haryana) has constructed a temporary shed and two room set which is not covered under consent management of Board. In view of above, it is requested to look into the nature of construction done by respondent no. 10 and 11 and take appropriate action in accordance with law and to intimate this office please.

DA/ Copy of: Application.

*Kausdie*  
REGIONAL OFFICER  
FARIDABAD REGION

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

ORIGINAL APPLICATION No. 192 of 2019

IN THE MATTER OF:

Varun Sheokand, RTI Activist

..... Petitioner

Versus

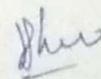
State of Haryana & Others

..... Respondents

REPORT ON BEHALF OF HARYANA STATE POLLUTION  
CONTROL BOARD IN COMPLIANCE OF ORDER DATED  
15.04.2019

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal has taken cognizance of the letter alleging illegal mining and illegal construction of marriage/banquet halls in Aravali Hills range, Faridabad. The Hon'ble Tribunal vide order dated 15.04.2019 directed the Haryana State Pollution Control Board to look into the matter, take appropriate action in accordance with law and furnish a factual & action taken report in the matter.
2. That the applicant has alleged that it is humbly submitted that answering Board has not granted Consent to Establish/Operate at present to any mining project in Aravali Hills Range, Faridabad. So far as marriage/banquet halls are concerned their discharge is less than 10 KLD and are not covered under the Board Policy of the Consent Management.



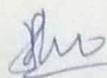
3. That instances of the illegal mining, if any is being handled by the Dept. of Mines & Geology, Haryana and in case of illegal construction of farm houses etc, action is being taken by the Municipal Corporation of Faridabad. Therefore, after receiving the information about the present proceedings, the answering Board sought factual position/action taken report from these two authorities.

**REPORT IN REGARD TO CONSTRUCTION OF FARM HOUSES:**

4. That as per information received from the Municipal Corporation of Faridabad, action is being taken by the corporation from time to time.

(i) It is submitted that vide order dated 20.02.2018, the then Commissioner, Municipal Corporation of Faridabad constituted a Committee for survey of the area in the revenue estate of village Anangpur and to submit the report. Accordingly, survey of the area was done and map was prepared spotting the illegal farm houses. Thereafter, demolition drive was carried out against some illegal farm houses.

(ii) It is submitted that vide order dated 20.09.2019, the present Commissioner, Municipal Commissioner of Faridabad constituted a Committee to survey and ascertain the **exact** position/details of illegal farm houses. Copy of order dated 20.09.2019 is being annexed herewith as **Annexure R/1**. As per survey conducted in pursuance to order dated 20.09.2019, it found that some farm houses are fully constructed and some have only boundaries. Such total farm houses were found 92 in numbers. The Municipal Corporation has issued Show Cause Notice and pasted on the wall

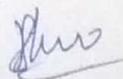


of the farm house. Demolition Order has passed and demolition action has been taken against 35 Farm Houses as per provisions of the Municipal Corporation Act, 1994. Action against remaining farm houses is in progress. Further survey and action shall be taken in accordance with law.

It is worthwhile to mention here that this Hon'ble Tribunal passed the order restraining the non forest activities in farm houses/banquet halls running at the SurajKund Badkal Road. Owner of some Farm house have challenged the said order before the Hon'ble Supreme of India by way of Civil Appeal No.11000/2013, Civil Appeal No.10294/2013, Civil Appeal No.8454/2013 and Civil Appeal No.8173/2016. The Hon'ble Supreme Court of India has permitted the appellants to carry on business of hosting marriages. Copy of order dated 28.10.2013 passed in CA No.29962/2013, Order dated 02.12.2013 passed in CA No.36804/2013 are annexed herewith as Annexure-R/2. In CA No.8173/2016, the Hon'ble Supreme Court vide order dated 30.09.2016 has directed to maintain the status-quo. Copy of order dated 30.09.2016 passed in CA No.8173/2016 is annexed herewith as Annexure-R/3. The said appeals are pending before the Hon'ble Supreme Court of India.

#### **REPORT IN REGARD TO MINING ACTIVITIES:**

5. The Mining Officer, Faridabad has reported that in regard to mining activities in Surajkund area is concerned, it is submitted that no contract/ lease (mineral concession) for winning of mineral is in operation. During the routine checking inspection teams of this department visits the above area and keep vigil to ensure that no



mineral is excavated illegally. Apart from sporadic cases of theft, there is no organized mining activity in and around area. It has further been reported that in case of stray incident of theft of mineral observed, FIR is been lodged in concerned police station. District Level Task Force constituted by the State Government is maintaining vigil to check illegal mining, if any in the area.

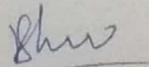
**Report in regard to project 'M/s Delite Aravali View':**

6. The facts pertaining to project in question and permissions granted by various authorities are as under:

(i) The Ministry of Environment of Forest had accorded permission for diversion of  $0.8755+0.0060=0.8815$  hec. of forest land for Development of Club-cum-Recreational Complex (0.8755 hectare. plot area notified under Section 4 of PLPA Act, 1900 and 0.0060 hectare. P.F. area for access to site/plot) at village Ankhir along Badkhal-Surajkund road, under Forest Division and Distt. Faridabad, Haryana vide letter No. 9-HRB-627/2010-CHA/4415 dated 28-10-2010. The photocopy of the letter addressed to Financial Commissioner-Cum Secretary (Forest), Forest Department Govt. of Haryana with a copy to Divisional Forest Officer, Faridabad Smt. Raj Kumari Bhatia, 1-C-119, New Township, Faridabad is appended at **Annexure-A**.

(ii) The Municipal Commissioner Faridabad vide its memo No.MCF/CTP/2014/450 dated 21-05-2015 had accorded Regularization of Marriage Place/Banquet Hall in the property bearing khasra No. 24/1/1,23/4,5 in the Revenue Estate of village Ankhir, Faridabad to the project proponent. Photocopy of the letter is appended at **Annexure-B**.

(iii) Thereafter, the unit/project proponent M/s Delite Aravali view vide its application No. 2199412 dated 27-05-2015 applied for Consent to Established through OCMMS Portal for construction of



Hotel. The then Regional Officer had recommended the grant of CTE for the construction of Hotel ignoring the purpose for which permission for diversion of  $0.8755+0.0060=0.8815$  hectare. of forest land was accorded by the MoEF of Development of Club-Cum-Recreational Complex at above mentioned site. The Competent Authority had approved the Consent to Established (CTE) to the project Proponent vide letter No. HSPCB/Consent/2827015FDBDCTE2199412 dated 25-11-2015 with the validity for 24 months. Photocopy of the CTE granted along with Note History are appended at **Annexure-C**.

(iv) Thereafter, the Joint Commissioner of Old Faridabad vide its memo no MCF/JC(F)/2016/832 dated 06-09-2016 had approved the building plan for construction of Marriage Place with validity up to 25-08-2021 to Smt. Raj Kumari Bhatia, 1-C-119, New Township, Faridabad. Photocopy of the approval of building plan is appended at **Annexure-D**.

(v) The project proponent in question had applied for Extension in the validity period of CTE already granted on 25-11-2015 through OCMMS portal vide letter dated 25-08-2017. The Regional Officer, Faridabad had granted Extension of CTE following the recommendation of the then field officer vide letter No. HSPCB/consent/2827018FDBDCTE4470596 dated 10-02-2018. Photocopy of the Extension of CTE of the Hotel at the mentioned site is appended at **Annexure-E**.

(vi) The Board revoked the CTE & Extension of CTE granted and MCF also issued notice vide memo No.MCF/STP/2018/433, dated 16.04.2018 to the owner to stop the construction which was being carried out as per the said building plan. However, the said action of this Corporation was challenged by the owner of the said Banquet Hall before the Hon'ble High Court for the States of Punjab & Haryana by filing CWP No. 10777 of 2018 and the Hon'ble court vide its order dated 02.05.2018 stayed the action of this Corporation. Copy of order dated 02.05.2018 is appended as **Annexure-F**.

Howe

(vii) The project proponent submitted to Board in writing on 26.12.2018 that they are starting hospitality services i.e. marriage palace/Banquet Hall, club cum recreational complex. Which does not fall in the consent management of the HSPCB.

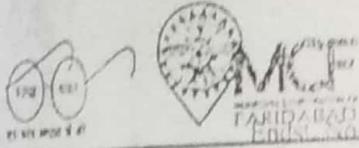
(viii) The project proponent requested the Corporation to withdraw its order dated 16.04.2018 whereby it was directed to stop the construction. As per field report of MCF, double basement has been constructed at the site and no further construction activity is going on presently. The CWP No. 10777 of 2018 is now fixed for 25.03.2020 for hearing.

(ix) The Dept. of Mines & Geology has issued permits from time to time for disposal of mineral extracted during construction. The letter received from the Mining Officer, Faridabad is appended as **Annexure-G**.

The report is submitted accordingly for kind consideration of this Hon'ble Tribunal.

  
Regional Officer,  
Haryana State Pollution Control Board  
Faridabad

Dated: 12.11.2019  
Place: Faridabad



Municipal Corporation, Faridabad

B.K. Chowk N.I.T. Faridabad - 121001, Haryana-India  
Tel. 0129-2411649, 2411664, 2415549

Fax: 0129-2416465

Email: mcf@faridabad.gov.in

Date: 20/09/2019

A copy of the order dated 20-09-2019 issued by Ld. M.C. is forwarded to

concerned for necessary compliance please.

No. MCF/P/2019/1004

Date: 20/09/19

XEN/17

30UE

20/09/2019

Sub: Field survey of unauthorized construction in the revenue estate of village Anangpur.

AE(0)  
2/429  
07-10-19

85-11

It has been reported to the undersigned by the field staff that constructions / change of land use / sub-division / carving of plots are coming up illegally and unauthorizedly at different sites falling in the revenue estate of village Anangpur. All these activities are not only against the relevant provisions of Haryana Municipal Corporation Act, 1994 but are also against the explicit provisions of India Forest Act, 1927 and Punjab Land Preservation Act, 1990 also the related provisions of Mines Act, 1952 as amended from time to time.

2. In order to ascertain the exact position/ details of the said illegal activities, a Survey team of the following officers/officials is hereby constituted with the direction to conduct physical survey of the said area and submit detailed report within 2 days positively.

1. Sh. Ombir Singh, XEN, MCF (In-charge);
2. Njab Tehsildar, MCF
3. Sh. Vinod AE, MCF
4. Sh. Rajkumar, AE, MCF
5. Sh. Khemchand, AE, MCF
6. Sh. Sunil, JE, MCF
7. Sh. Tek Chand, JE, MCF
8. Sh. Baljeet Patwari

Ombir Singh  
Executive Engineer-III

~~Sh. Vinod~~  
Sh. VINOD  
AE

Sonal Goel  
(Sonal Goel IAS)  
Commissioner  
Municipal Corporation  
Faridabad  
AE

Copy to:

Sh. B.S. Dhillon, Sr. Architect with the direction to ensure timely and effective survey of the area in question.

ANNEXURE - A 5

ITEM NO. 303

COURT NO. 5

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 29962 OF 2013

NARINDER SINGH & ORS

Appellant (s)

VERSUS

DIVESH BHUTANI & ORS

Respondent(s)

(With application for permission to file appeal and office report)

Date: 28/10/2013 This Appeal was called on for hearing today.

CORAM :

- HON'BLE MR. JUSTICE A.K. PATNAIK
- HON'BLE MR. JUSTICE SURINDER SINGH NIDJAR
- HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s)

- Mr. Mukul Rontagi, Sr. Adv.
- Mr. Krishnan Venugopal, Sr. Adv.
- Mr. P. Rajesh, Adv.
- Mr. Tejaswi Kumar Pradhan, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

- | Permission to file Civil Appeal is granted.
- | Delay condoned.
- | Application seeking exemption from filing official translation is allowed.
- | Issue notice.
- | In the meanwhile, the appellants may carry on their business of hosting marriages.

[KALYANI GUPTA]

| [SHARDA KAPOOR]

[COURT MASTER]

| [COURT MASTER]

TRUE COPY

ITEM NO.20

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.8173/2016

PAWAN SINGH AND ANR.

Appellant(s)

VERSUS

JAGAT SINGH AND ORS.

Respondent(s)

(with appln. (s) for permission to place addl. documents on record and stay and office report)

Date : 30/09/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s)

Mr. Jayant Bhushan, Sr. Adv.  
Mr. Ankit Swarup, Adv.  
Ms. Tanya Swarup, Adv.  
Mr. L.K. Grover, Adv.  
Mr. Ketan Paul, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

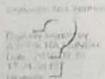
Issue notice.

Tag along with Civil Appeal No.10294 of 2013 and other connected matters.

In the meantime, the parties shall maintain status-quo as on today.

(Ashok Raj Singh)  
Court Master

(Veena Khera)  
Court Master



(25)

Annex-A

20  
Annex A-2  
715

भारत सरकार  
पर्यावरण एवं वन मंत्रालय  
उत्तर क्षेत्रीय कार्यालय

वेज़ नम्बर 24-25  
दक्षिण मार्ग  
सेक्टर 31 ए  
घण्डीगढ़ 160030  
दिनांक 28.10.2010

फाईल नम्बर:-9-HRB 627/2010-CHA / 4445  
सेवा में,

श्री. राहुल एवं राधिका (वन),  
हरियाणा सरकार, वन विभाग,  
लघु राधियालय, सेक्टर 17  
घण्डीगढ़।

**विषय:** Diversion of 0.8755+0.0060=0.8815 hec. of forest land for Development of Club-Cum--  
Recreational Complex ( 0.8755 hec. plot area notified under Section 4 of PLPA Act,  
1900 and 0.0060 hec. P.F. area for access to site /plot ) at village Ankhir along  
Badkhal- Surajkund road , under Forest Division and Distt. Faridabad, Haryana.

महोदय,  
कृपया उपर्युक्त विषय में सम्बन्धित राज्य सरकार के पत्र संख्या 8179-va-2-2010/1434 दिनांक 01.10.2010 एवं  
नोडल आफिसर हरियाणा सरकार के पत्र संख्या प्रशा-डी-तीन-4224/7705 दिनांक 25.10.2010 का अवलोकन करें, जिसमें  
वन (संरक्षण) अधिनियम, 1980 की धारा- 2 के अधीन केन्द्रीय सरकार की अनुमति मांगी गई है।

राज्य सरकार के प्रस्ताव का ध्यानपूर्वक अध्ययन करने के पश्चात् उपर्युक्त उद्देश्य हेतु 0.8815 वन भूमि के  
उपयोग के लिए सखाम प्राधिकारी की स्वीकृति निम्नलिखित शर्तें पूरी करने पर प्रदान की जाती है:-

- वन भूमि की विधिवत परिस्थिति बदली नहीं जाएगी।
- प्रस्ताव के अनुसार कोई वृक्ष बाधक नहीं है अतः कोई वृक्ष काटा नहीं जायेगा।
- प्रतिपूर्ति पौधारोपण प्रस्ताव के अनुसार Dayalpur-Haripur Road Km 0-11, B/side में प्रयोक्ता एजेंसी से प्राप्त 4,24,350/-रूपये (रूपये चार लाख चौबीस हजार तीन सौ पचास) की राशि से 882 पौधे लगाकर किया जायेगा। प्रतिपूर्ति पौधारोपण इस पत्र के जारी होने की तिथि से एक वर्ष के अन्दर हो जाना चाहिए।
- वैनल प्रतिपूर्ति पौधारोपण प्रस्ताव के अनुसार Dayalpur-Haripur Road Km 0-11, B/side में प्रयोक्ता एजेंसी से प्राप्त 9,52,956/-रूपये (रूपये नौ लाख बायस हजार नौ सौ छप्पन) की राशि से 1764 पौधे लगाकर किया जायेगा प्रतिपूर्ति पौधारोपण इस पत्र के जारी होने की तिथि से एक वर्ष के अन्दर हो जाना चाहिए।
- भारत सरकार पत्र संख्या 5-2/2006-FC दिनांक 20.05.2006 के तहत दिये गये अनुदेशों के अनुसार NPV तथा दूसरों सभी निधियों प्रतिपूर्ति पौधारोपण निधि प्रबंधन तथा योजना प्राधिकार के तदर्थ निष्काय के लेखा संख्या CA-1590, कारपोरेशन बैंक ( भारत सरकार का उपक्रम ) ब्लाक-11 भूतल सी.जी.ओ.काम्पलेक्स, फेज-1 लोधी रोड, नई दिल्ली-110003 या लेखा संख्या 344901010070128 भारतीय यूनिचन बैंक, सुंदरनगर, नई दिल्ली में जमा करवाई जाये।
- वन भूमि का प्रयोग प्रस्ताव में दर्शाये उद्देश्य के अलावा अन्य किसी उद्देश्य के लिये नहीं किया जायेगा।
- प्रस्ताव से सम्बन्धित हरियाणा प्रदूषण कंट्रोल बोर्ड द्वारा जारी अज्ञापति प्रमाण पत्र एवं Environmental Clearance प्राप्त करने से पहले प्रोजेक्ट प्रारम्भ न किया जाये।
- यदि कोई अन्य सम्बन्धित अधिनियम/अनुच्छेद/नियम/न्यायालय आदेश/अनुदेश आदि इस प्रस्ताव पर लागू होते हैं तो उनके अधीन जरूरी अनुमति लेना राज्य सरकार की जिम्मेवारी होगी।

26

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--2--

मन्त्रालय इस स्वीकृति को स्थगित/रद्द कर सफ़्ता है यदि उपरोक्त शर्तों में से किसी भी शर्त का कार्यान्वयन सन्तोषप्रद नहीं है। राज्य सरकार वन विभाग के माध्यम से इन शर्तों का पालन सुनिश्चित करेगा।

भवदीय

( श्री कृष्ण सहरावत )

VCअपर प्रधान मुख्य वन संरक्षक (केन्द्र)

- 1. प्रधान मुख्य वन संरक्षक, हरियाणा सरकार, C-18, वन भवन सेक्टर 6, पंचफुला हरियाणा।
- 2. अपर महानिदेशक (FC), पर्यावरण एवं वन मंत्रालय, पर्यावरण भवन, सी जी ओ बंगला, लोधी रोड नई दिल्ली
- 3. Divisional Forest Officer Faridabad Haryana.
- 4. Smt. Raj Kumari Bhatia, 1-C-119, New Township, Faridabad, Haryana.
- 5. गार्ड फाईल।

FCA  
8/11

2206  
9/11/10

No 3477 dt 3/12/10

A Copy is Forwarded to Smt Raj Kumari Bhatia 119, New Township Faridabad Haryana for Inf and n/a please.

Divisional Forest  
Faridabad Forest  
PARIDABAD

(22)

Annex - B

(22)

Annex A.3

From  
Commissioner,  
Municipal Corporation,  
Faridabad.

To  
Smt. Raj Kumari Bhatia and Sh. Brij Pal Singh,  
R/o. 327, Sector-21-B,  
Faridabad,

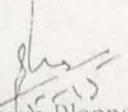
Memo No. MCF/CTP/2015/450 Dated: 21/5/15

Sub: Regularization of marriage palace/banquet hall of the property bearing khasra No.24//1/1, 23//4, 5 in the revenue estate of village Ankhir on Badkhal-Surajkund Road, Faridabad.

In continuation to this office memo No. MCF/CTP/2014/606 dated 21.10.2014 and in reference your application dated 17.11.2014 on the subject cited as above.

Since you have fulfilled the conditions of LOI issued vide memo No. MCF/CTP/2014/606 dated 21.10.2014, therefore, final permission for regularization of marriage palace/banquet hall of the property bearing khasra No.24//1/1, 23//4, 5 in the revenue estate of village Ankhir on Badkhal-Surajkund Road, Faridabad, has been granted by Commissioner, MCF vide his orders dated 15.5.2015. A copy of site/demarcation plan is enclosed herewith. This permission for regularization to the following conditions:-

1. That this Corporation has no objection to access of road with binding that you will submit an undertaking in form of an affidavit that in future, if there is any change in road geometries, you shall adhere to the same and will have no objection to it in future.
2. That in case any additional charges / fee etc. are found payable towards this regularization / sub-division as per audit then the same shall be paid by you without any objection immediately as and when demanded by this office.

  
Chief Town Planner  
For: Commissioner.

Encl: As above.



(28)  
Annex - C

(28)  
Annex A-4

**HARYANA STATE POLLUTION CONTROL BOARD**  
**C-11, SECTOR-6, PANCHKULA**

Website - [www.hspcb.gov.in](http://www.hspcb.gov.in) E-Mail - [hspcb.pkc@ymail.com](mailto:hspcb.pkc@ymail.com)  
Telephone No. - 0172-2577670-73

No. HSPCB/Consent/ : 2827015FDBDCTE2199412

Dated: 25/11/2015

To

M/s : DELITE ARAVALI VIEW  
REVENUE ESTATE OF VILLAGE ANKHIR BADKHAL SURAJKUNJ  
ROAD FARIDA  
FARIDABAD  
121001

**Sub. : Issue of Consent to Establish from pollution angle .**

Please refer to your Consent to Establish application received in this office on the subject noted above. Under the Authority of the Haryana State Pollution Control Board vide its agenda Item No. 47.8 dated 28.04.83 sanction to the issue of "Consent to Establish" with respect to pollution control of Water and Air is hereby accorded to the unit DELITE ARAVALI VIEW, for manufacturing of Hotel cum marriage palace/banquet hall with the following terms and conditions:-

1. The industry has declared that the quantity of effluent shall be 40 KL/Day for Trade Effluent, 0 KL/Day for Cooling, 40 KL/Day for Domestic and the same should not exceed .
2. The above "Consent to Establish" is valid for 24 months from the date of its issue to be extended for another one year at the discretion of the Board or till the time the unit starts its trial production whichever is earlier. The unit will have to set up the plant and obtain consent during this period.
3. The officer/official of the Board shall have the right to access and inspection of the industry in connection with the various processes and the treatment facilities being provided simultaneously with the construction of building/machinery. The effluent should conform the effluent standards as applicable
4. That necessary arrangement shall be made by the industry for the control of Air Pollution before commissioning the plant. The emitted pollutants will meet the emission and other standards as laid/will be prescribed by the Board from time to time.
5. The applicant will obtain consent under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 as amended to-date-even before starting trial production.
6. The above Consent to Establish is further subject to the conditions that the unit complies with all the laws/rules/decisions and competent directions of the Board/Government and its functionaries in all respects before commissioning of the operation and during its actual working strictly.
7. No in-process or post-process objectionable emission or the effluent will be allowed, if the scheme furnished by the unit turns out to be defective in any actual experience
8. The Electricity Department will give only temporary connection and permanent connection to the unit will be given after verifying the consent granted by the Board, both under Water Act and Air Act.
9. Unit will raise the stack height of DG Set/Boiler as per Board's norms.

- 10. Unit will maintain proper logbook of Water meter/sub meter before/after commissioning.
- 11. That in the case of an industry or any other process the activity is located in an area approved and that in case the activity is sited in an residential or institutional or commercial or agricultural area, the necessary permission for siting such industry and process in an residential or institutional or commercial or agricultural area or controlled area under Town and Country Planning Laws (TCU) or Municipal laws has to be obtained from the competent Authority in law permitting this deviation and be submitted in original with the request for consent to operate.
- 12. That there is no discharge directly or indirectly from the unit or the process into any interstate river or Yamuna River or River Ghaggar.
- 13. That the industry or the unit concerned is not sited within any prohibited distances according to the Environmental Laws and Rules, Notification, Orders and Policies of Central Pollution control Board and Haryana State Pollution Control Board.
- 14. That of the unit is discharging its sewage or trade effluent into the public sewer meant to receive trade effluent from industries etc. then the permission of the Competent Authority allowing and operating such public sewer giving permission letter to this unit shall be submitted at time of consent to operate.
- 15. That if at any time, there is adverse report from any adjoining neighbor or any other aggrieved party or Municipal Committee or Zila Parishad or any other public body against the unit's pollution; the Consent to Establish so granted shall be revoked.
- 16. That all the financial dues required under the rules and policies of the Board have been deposited in full by the unit for this Consent to Establish.
- 17. In case of change of name from previous Consent to Establish granted, fresh Consent to Establish fee shall be levied.
- 18. Industry should adopt water conservation measures to ensure minimum consumption of water in their Process. Ground water based proposals of new industries should get clearance from Central Ground Water Authority for scientific development of previous resource.
- 19. That the unit will take all other clearances from concerned agencies, whenever required.
- 20. That the unit will not change its process without the prior permission of the Board.
- 21. That the Consent to Establish so granted will be invalid, if the unit falls in Aravali Area or non conforming area.
- 22. That the unit will comply with the Hazardous Waste Management Rules and will also make the non-leachate pit for storage of Hazardous waste and will undertake not to dispose off the same except for pit in their own premises or with the authorized disposal authority.
- 23. That the unit will submit an undertaking that it will comply with all the specific and general conditions as imposed in the above Consent to Establish within 30 days failing which Consent to Establish will be revoked.
- 24. That unit will obtain EIA from MoEF, if required at any stage.
- 25. In case of unit does not comply with the above conditions within the stipulated period, Consent to Establish will be revoked.

**Specific Conditions**

- 1 Unit shall obtain trial consent to operate before start of production

**Other Conditions :**

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1. The unit will obtain all prior requisite permissions from all all the concerned competent authorities, in case at any stage it is found that the project is violating any law/order of court/Notifications/Acts/Policies/Rules, then this CTE stands invalid/cancelled/revoked automatically 2. The unit will not make any changes in proposed project at any stage without obtaining requisite permissions.

Regional Officer, HQ  
For and on behalf of chairman  
Haryana State Pollution Control Board

---It is system generated certificate no signature is required---

(53)

Annex - D

(28)

Annex A-5

BR-III  
Form of Sanction

From :

Joint Commissioner,  
Municipal Corporation,  
Old Faridabad.

To

Shri Raj Kumar Bhatia & Shri Brij Pal Singh  
Kh No - 24/1/1, 23/4, 23/5 Village Ankhur  
Suraj Kund - Badkhal Road Faridabad

Memo No. : MCF/JC (F)/2016/ 832 Dated : 6-9-2016

Sub. :

Approval of Building Plans Shri Raj Kumar Bhatia & Brij Pal Singh  
Kh No - 24/1/1, 23/4, 23/5 Village Ankhur on Badkhal - Suraj Kund Road  
Faridabad

Reference your application dated 15-11-16 for grant of permission to erect / re-erect-  
add to / alter building on the site mentioned as per subject.

Permission is hereby granted for aforesaid construction of  
Marriage Place subject to the provision of section 347 of Haryana  
Municipal Corporation Act, 1994 read with the provisions of Punjab Scheduled Roads and  
Controlled Areas Restriction of Unregulated Development Rules, 1965 and with the following  
conditions:

1. The plans are valid for a period of ~~one~~ <sup>five</sup> years ending on 25-8-2021.
2. The owner shall give one week's advance notice to the Joint Commissioner, Municipal Corporation Old Faridabad before commencement of construction work at site.
3. Plinth level will be kept minimum 0.45 meter above the adjoining road level as measured from the center of the metalled portion, in case of basement it shall be 1.20 meter.
4. In case the adjoining building is constructed at site, the basement shall be constructed after leaving 2.44 meter set back from the constructed adjoining building.
5. The owner shall obtain D.P.C. Certificate from the Joint Commissioner, Municipal Corporation, Faridabad, before proceeding further construction of super-structure.
6. It will be the duty of owner of the plot and Architect who has prepared the plans, to ensure that the sanctioned plans are as per present building bye-laws, if the infringement of bye-laws or any court directions remain unnoticed, the Joint Commissioner, Municipal Corporation, Old Faridabad reserve the right to amend the plans as and when the infringement comes into its notice and the Municipal Corporation, Faridabad will stand indemnified against any claim on that account.
7. In case Municipal Water Supply is not available in the area then the owner shall ensure adequacy of constant reliable water supply at site as required under the rules.
8. The owner shall construct the gate and boundary wall as per approved standard design.
9. Municipal Corporation Faridabad shall stand indemnified and kept harmless from all proceedings in courts and before other authorities from all expenses / losses / claims which the Municipal Corporation Faridabad may incur or become liable to pay, as a result or in consequences of the sanction accorded by it to the building plans.

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10. The party shall not occupy or permit it to occupy the building for use or permit to be used the building or any part thereof unless and until the occupancy certificate is issued by Joint Commissioner, Municipal Corporation, Old Faridabad.
11. Any violation of Zoning Plan and building bye-laws will not be compounded.
12. The door and window shutters shall be fixed in such a way that they shall not, project on any street when open.
13. The building shall not be constructed within minimum distance as specified in Indian Electricity Rules from voltage line if passing adjoining the plot / site.
14. The land left open in consequence of the enforcement of the set back rules shall not form part of the public street.
15. No trade affluent is allowed.
16. The internal services shall be arranged by the party itself.
17. That you will make all provisions required for rain water harvesting as per Govt. Instructions / Notifications.
18. That you will ensure that the building will be constructed strictly in accordance with the seismic parameters as per rule / National Building code.
19. That you will make arrangement for sufficient parking inside your premises as per rules / norms
20. That you will make provisions of fire fighting in the building as per N.B.C. and will submit clearance from competent authority within a period of 60 days from the date of sanction.
21. This building plan will not be used for any other purpose except as approved.
22. That only WC connection is allowed into Govt. sewer.
23. That you will submit NOC consent from Haryana State Pollution Control Board for air / water pollution in the premises at the time of issuance of occupation certificate.
24. That this permission will not provide any immunity to you against or qua any other NOC / Permission / Sanction that may be required under any Act / Rules / Policy / Court directions as may be applicable whatsoever.
25. This sanction will be void abinitio, if any of the conditions mentioned above are not complied with.
26. The structure stability responsibility will be of the owner and Architect.
27. All the National Green Tribunal directions / Hon'ble Courts' / Competent Authority's guidelines and instructions etc. will be followed and it shall be the responsibility of the owner for the strict compliance, as are / may be issued from time to time.

Joint Commissioner,  
Old Faridabad Zone

Encl. : A set of sanctioned building plan.

Endst. No. : MCF/JC(F)/2016/

Dated :

A copy of the above is forwarded to Chief Town Planner, MCF, for information and necessary action.

-sd-  
Joint Commissioner,  
Old Faridabad Zone

(3)

Annex - E

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**HARYANA STATE POLLUTION CONTROL BOARD**

**C-11, SECTOR-6, PANCHKULA**

Website: [www.hspcb.gov.in](http://www.hspcb.gov.in) E-Mail - [hspcb.pkl@sifymail.com](mailto:hspcb.pkl@sifymail.com)  
Tele Fax No.: 0172-2577870-73

Dated: 10/02/2018

No. HSPCB/Consent/ : 2827018FDBDCTE4470596

To.  
M/s : DELITE ARAVALI VIEW  
REVENUE ESTATE OF VILLAGE ANKHIR BADKHAL  
SURAJKUNJ ROAD FARIDA  
FARIDABAD 1  
121001

Sub : Extension in the validity period of NOC case of M/s DELITE ARAVALI VIEW

Kindly refer to your application for extension in validity of NOC received in this office on 2017-08-25 on the subject noted above.

The matter has been examined by the board and as per the decision, the validity period of Consent to Establish already granted vide letter No. dt. 10/02/2018 is hereby extended for further period i.e. from 24/11/2017 to 23/11/2020 with the same usual terms and conditions as mentioned in the previous NOC.

Conditions :

Other Conditions :

1. The unit will provide APCM / STP / ETP.
2. The unit will install adequate acoustic enclosures/chambers on their DG SETS with proper stack height and APCM as per prescribed norms to meet the prescribed standards under EP Rules, 1986.
3. Unit will made agreement with authorized recyclers / Re-refiners for dispose off hazardous waste i.e. used/spent oil.
4. The unit will comply all the provisions of HWM Rules, 2016.
5. The unit will obtain prior NOC/Permission from central Ground Water Authority in case under ground water resource is used.
6. Unit will comply E-Waste Rules, 2016.
7. Unit will measures all safety measures required for these types of projects.
8. The unit will comply all the directions issued time to time by Hon'ble NGT, Hon'ble High Court and Hon'ble Supreme Court of India.
9. The unit will all the directions issued time to time by SPCB, CPCB, MOEF and other State Central Government Agencies.
10. Unit will comply the guidelines on Environment Management of Construction & Demolition Waste in March, 2017 issued by CPCB.
11. Unit will comply conditions mentioned in clearance issued by forest department vide file no. 9-HRB627/2010-CHA/4413 dated 28-10-2010 and clearance issued by MCF vide their memo no. MCF/CTP/2015/450 dated 21-05-2015.

Vijay  
Chaudhary  
Digitally signed by  
Vijay Chaudhary,  
Date: 2018.02.10  
17:18:15 +05:30

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11. The unit will obtain all necessary clearances from the concerned authorities and will adhere to all the applicable Environmental Laws/Acts/Notification regularly. In case of any violation found at any stage, this CTE will be automatically deemed revoked.

Vijay Chaudhary  
y

Digitally signed  
by Vijay  
Chaudhary  
Date: 2018.02.10  
12:18:01 +05'30'

*Regional Officer, HQ  
For and on behalf of chairman  
Haryana State Pollution Control Board*

CWP No. 10777 of 2018

DELITE Aravali View & Anr. Vs. State of Haryana & Ors.

PRESENT:

Mr. Puneet Bali, Senior Advocate with  
Mr. Vibhav Jain, Adv. For the Petitioners.

\*\*\*

Notice of motion for 09.07.2018.

To be heard along with CWP No. 8219 of 2018

Interim order in the same terms as passed in CWP No.  
8219 of 2018

02.05.2018

DAYA CHAUDHARY  
Judge

// TRUE COPY //

91

ANNEXURE R-9 Cally

Sr.No.145

CWP No. 8319 of 2018

Kanwaljeet Singh and another Vs. State of Haryana and others

Present: Mr. Puneet Bali, Senior Advocate with  
Mr. Vibhav Jain, Advocate for the Petitioners

\*\*\*\*

Notice of motion.

On asking of the Court, Mr. Rajesh K. Sheoran, Addl. A.G., Haryana, who is present in Court accepts notice on behalf of respondents No.1, 2 and 5.

Mr. Lokesh Sinhal, Advocate, appears on behalf of respondents No.3 and 4.

Learned counsel for the respondents are directed to file reply within a period of two weeks, especially by considering the reasons mentioned in the impugned order as well as instances relating to similarly situated persons mentioned in para No.8 at page Nos. 48 and 49 of the Writ Petition.

To come up on 30.4.2018.

Meanwhile, respondents are directed not to proceed further till the next of hearing.

The petitioners are also at liberty to deposit the amount, in case the same is required to be deposited and the same shall be subject to outcome of this writ petition.

April 06, 2018

DAYA CHAUDHARY  
JUDGE

// TRUE COPY //

Anneex - G

From  
The Mining Officer,  
Mines & Geology Deptt.,  
Faridabad.

To  
The Regional Officer,  
State Pollution Control Board,  
Haryana, Faridabad.

Memo No. 21183

Dated 11/11/19

Subject: Regarding O.A. No. 192/2019 titled as VarunSheokand V/s State of Haryana  
in Hon'ble NGT, New Delhi.

\*\*\*\*\*

Your office letter no. HSPCB/FR/2019/3092-93 dated 19.09.2019.

On the above cited subject it is intimated that project in question i.e. 'Delite Aravali View' is not the project of mining activity. It may be clarified that during the course of construction of residential projects/ or development of other projects in case of excavation during digging of foundation/ basement etc in case any mineral is excavated. the same is not covered under mining operations as the purpose of such digging is not for winning of mineral. The Section 3 (d) of THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957 provides that mining operation means any operation undertaken for the purpose of winning any mineral.

2. It may be further pointed out that the mineral excavated in the process of developmental activities falls under exempted categories as per provisions of Rule, 6 of the the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 is allowed to be consumed or disposed of on payment of royalty and issuance of a permit for allowing such disposal. .

3. It may be noted that as per provisions of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012, this office has given/issued the short term permit for disposal of extracted mineral in the development project/construction of the project in question at Ankheer-Surajkund road also on submission of application along with Approved Building Plan from the concern Department and Forest Clearance from MoEF&CC( in case the area falls under Forest land

*Handwritten signature*

-11-

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) on depositing the advance royalty amount for such quantity of mineral and security equal to 50 % of total amount of advance royalty amount.

4. In case of the project of 'Delite Aravali View' STP for disposal of 69100 MT of Stone was granted and total amount of Rs. 3533430/- as royalty was recovered deposited. Now the construction work of the project has been completed and no mineral is being excavated/ disposed of from the area.

5. In regard to mining activities in *Surajkund* area is concerned, it is submitted that no contract/ lease (mineral concession) for winning of mineral is in operation. It is pointed out that during the routine checking inspection teams of this department visits the above area and keep vigil to ensure that no mineral is excavated illegally. Apart from sporadic cases of theft, there is no organized mining activity in and around area. In case of any stray incident of theft of mineral observed, FIR are being lodged in concerned Police Station. Further, District Level Task Force constituted by the State government ( RO, HSPCB is also member to the same ) is also maintaining vigil to check illegal mining, if any in the area/ district.

This is for your kind information please.



Mining Officer,  
Mining & Geology Department,  
Faridabad.

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Item No. 09

Court No. 1

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

Original Application No. 192/2019

Varun Sheokand, RTI Activist

Applicant(s)

Versus

State of Haryana

Respondent(s)

Date of hearing: 13.11.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Respondent(s): Mr. Anil Grover, AAG and Mr. Rahul Khurana,  
Advocate for Respondents

**ORDER**

List after the decision of Civil Appeal Nos. 29962/2013,  
36804/2013 and 8173/2016 which are said to be pending before the  
Hon'ble Supreme Court on the subject.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 13, 2019

A