

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

Original Application No. 66/2020

In the matter of:-

Senior Citizens Safety and Security Council, Mashobra, Shimla

..... Applicant(s)

VERSUS

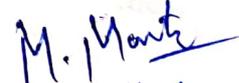
State of Himachal Pradesh and others

..... Respondent(s)

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1.	Status/ Action taken report in compliance to order dated 18.03.2020 on behalf of Deputy Commissioner, Shimla cum-Chairman, Special Area Development Authority, Kufri	

Drawn & e-Filed through:



Manojkumar

Assistant District Attorney-cum-
Law Officer, TCP Department, HP.

3. Needless to say that if it is found that construction is in violation of directions of this Tribunal, the Director, Town and Country Planning Department, H.P. and the District Magistrate Shimla may ensure compliance of order of this Tribunal by stopping such construction and demolishing any construction which may have already taken place in violation of law, by taking action in accordance with law.”

3. That the Deponent with utmost reverence to this Hon'ble Tribunal craves to make following submissions before this Hon'ble Tribunal:-

a) It is most respectfully submitted before this Hon'ble Tribunal that in pursuance to the directions passed order dated 18.03.2020 that the site in question falls within the purview of Special Area Development Authority Kufri.

b) That one Smt. Anita Sharma had applied for seeking planning permission to set up a Hotel on 08.10.2015 on land bearing khasra No. 959/470/5/1, 471/1 and 926/476/1 measuring 1001.00 sqm. situated at revenue village Mashobra. After receiving the planning permission case, site inspection was conducted by the officials of the SADA, Kufri and it found that the slope of the land is less than 45° and case was further examined in light of the regulations envisaged in Interim Development Plan Shimla amended vide Govt. notification dated 13.08.2015.

c) That final planning permission, to set up Hotel comprising of six storey i.e. four storey + two parking floor was granted in favour of Smt. Anita Sharma vide letter dated


Chairman
Special Area Development Authority
-Cum-
D.C. Shimla (HP)

29.11.2016, copy of which is hereby annexed as **Annexure R-I** for kind perusal of this Hon'ble Tribunal.

d) That it is most respectfully submitted before this Hon'ble Tribunal that the alleged illegal construction in question is not an unauthorized construction. Rather the construction is being carried out by the owner after taking a mandatory approval from Special Area Development Authority, Kufri, which is a statutory Authority to grant sanctions over the land in question. It becomes pertinent to mention herein that the planning permission in the instant case has been granted prior to passing of the judgment dated 16.11.2017 in the matter of Yogendra Mohan Sengupta versus State of Himachal Pradesh & others, 2018 NGTR (1) PB 250.

e) That the plot whereupon permission to set up Hotel was granted abuts with 5.00 meter path marked in the revenue paper and as per the prevailing bye laws at the time of submission/processing of case the requirement is of 3.00 meter path/road only. Thus, the sanction accorded to set up Hotel is in accordance with the provisions of the prevailing bye laws and the sanction stand accorded prior to the pronouncement of the order of this Hon'ble Tribunal in O.A. No. 121/2014.


Chairman
Special Area Development Authority
-Cum-
D.C. Shimla (HP)

f) That a complaint with regard to the alleged illegal construction of this Hotel was received by Special Area Development Authority from residents Misty Mountain, Green Wood Estate on 31.10.2019 and they were apprised by Special Area Development Authority on 02.12.2019 that

the construction is being undertaken as per the sanction accorded in favour of the owner of the proposed Hotel.

g) That in compliance to the order dated 18.03.2020, the Member Secretary, Special Area Development Authority; Shoghi along with officials had carried out a site inspection on 03.06.2020. As per the factual position at the site, it was found that sixteen number columns have been raised so far up to plinth level and length of the columns is even to lesser side from the approved plan.

h) That in view of the facts narrated above vide para supra it is established beyond doubt that the construction is being undertaken after obtaining mandatory approval and not an unauthorized construction as alleged by the applicant. The Sanction stand accorded prior to pronouncement of the judgment by this Hon'ble Tribunal on 16.11.2017 so there is no violation of direction of this Tribunal as alleged by the applicant. It is further submitted before this Hon'ble Tribunal that that after the aforesaid order no sanction / planning permission has been accorded contrary to the judgement passed in O. A No 121/ 2014 by the Competent Authority. The Deponent denies each and every averment and contention raised by the Original Applicant except those which have been expressly admitted by the answering Respondent in this affidavit. The Original Applicant has in fact made several baseless allegations, raised several contentions that are clearly devoid of any merit or substance whatsoever and has, purportedly in support thereof, made various false and misleading


Chairman
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-Cum-
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statements. The premise on which the present contentions of the Original Applicant is based has been filed is erroneous and is also contrary to the facts of the case and also the documents

In view of the above submissions, it is, respectfully and humbly prayed that the action taken report/ status report on behalf of the deponent may kindly be taken on record in the interest of justice, equity & fair play.

Verification:-

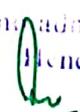
I, the above named deponent, do hereby further solemnly affirm that the contents of para 1 to 3 are true and correct to the best of my knowledge and nothing has been concealed there from.

Signed and Verified at Shimla on day of _____ June' 2020


...Deponent
Chairman
Special Area Development Authority
-Cum-
D.C. Shimla (HP)


...Deponent
Chairman
Special Area Development Authority
-Cum-
D.C. Shimla (HP)

Verified by me the undersigned official.
Drawn by affidavit before me on this 19th June 2020
by Shri Mayank Mani Sharma, A.D.A., T.C.P.
Mayank Mani Sharma, A.D.A., T.C.P.
Assistant District Attorney-cum-Law Officer,
TCP Department, HP.
who is personally being personally
to the deponent was admitted it to
correct & true Hence attested
returned


Executive Magistrate,
Shimla (U)

BEFORE THE PRINCIPAL BENCH, NATIONAL GREEN
TRIBUNAL, NEW DELHI

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Senior Citizens Safety and Security Council, Mashobra, Shimla

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**STATUS/ ACTION TAKEN REPORT IN
COMPLIANCE TO ORDER DATED 18.03.2020
ON BEHALF OF DEPUTY COMMISSIONER,
SHIMLA CUM CHAIRMAN, SPECIAL AREA
DEVELOPMENT AUTHORITY, KUFRI.**

I, Amit Kashyap, S/o late Sh. K.N. Kashyap, aged about 56
years presently working as Deputy Commissioner, Shimla-cum-
Chairman, Special Area Development Authority, Kufri do hereby


Chairman
Special Area Development Authority

-Cum-
D.C. Shimla (HP)

solemnly affirm and declare as under:-

1. That the aforesaid Original Application no. 66 Of 2020 is pending for adjudication before this Hon'ble National Green Tribunal and is fixed for hearing on 28.07.2020.
2. That the Hon'ble National Green Tribunal vide order dated 16.09.2019 was pleased to pass the directions in the aforesaid matter , the relevant extract of which is hereby summarized as under:-

***“Before proceeding further, we find it necessary to require a factual and action taken report in the matter from the Director, Town and Country Planning Department, H.P., Shimla and the District Magistrate Shimla within one month by e-mail at judicial-ngt@gov.in.*”**

SPECIAL AREA DEVELOPMENT AUTHORITY
KUFRI SPECIAL AREA

NO.SADA(K)Case No.740/2015 - 1033

Dated:- 29-11-2016

To

Smt Anita Sharma,
R/o Amer Niwas Dhalli Shimla,
Distt Shimla 171012.

Subject: - Application for permission for development.

Reference: -Your application No. Nil dated 22/11/2016 .

You are hereby granted permission under sub-section (1) of section 31 of the H.P. Town & Country Planning Deptt. As mentioned in your application under reference subject to the following namely:-

1. Building permission shall be obtained from the concerned before the commencement of the development.
2. Building construction shall be carried out strictly in accordance with the approved building plan.
3. Front set back should be As per Drg mtr. Side set back As per Drg mtr. Each and rear set back As per Drg mtr. Respectively set backs shall be as per approved plan.
4. You shall have essentially to engage a registered Graduate Engineer for the structural design of the building. Supervision of actual construction will also be done by him. The NOC for service connection shall be entertained only through a duly authorized Architect/Planner/engineer who will certify the present and future safety of the structure.
5. No projection beyond 45 cm is allowed within the prescribed set back.
6. No tree should be cut without the prior permission from the competent authority.
7. The date of commencement of development shall be intimated to this office.
8. The no objection certificate at plinth level shall be obtained from this office. Otherwise NOC for service connection shall not be issued.
9. Minimum permissible distance of construction from the circumference of a tree/boundary of forest shall be 2.0m. & 5.0m. respectively .
10. No construction shall be permissible above vision line i.e. 1.50m. on valley sides of highways/major roads.

SADA(K) Form

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Assistant Town Planner
Divn. Town Planning Officer
Shimla, H.P.

11. Building shall not be put to use prior to the issue of completion certificate by the Competent Authority.
12. The height of parking floor shall be 4.00mtr.
13. The height of sloping roof shall be zero at eaves and maximum 2.70m.at ridge.
14. Submission of structural stability certificate of the building at the time of its completion shall be mandatory.
15. Maximum hill cut of 3.50m.height shall be permissible.
16. The NOC from this authority at plinth level and at every floor level shall be mandatory otherwise the NOC for service connection shall not be issued.
17. The construction of rain harvesting tank is mandatory.
18. The safety norms of H.P.S.E.B. may be followed where HT/LT lines are crossing over the plot.
19. The construction shall be carried out strictly as per approved plan otherwise NOC for service connection shall not be issued.
20. The sanction is valid for Three years only.
21. One copy of approved plan is enclosed herewith.

Encl:As above.

Prem
(Prem Singh Chauhan)
Assistant Town Planner,
Special Area Development Authority,
Kufri-cum-Divnl. Town Planning Office,
Kasumpti, Shimla-9.

Prem
Assistant Town Planner
Divnl. Town Planning Officer
Shimla, H.P.