

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

Original Application No.980/2019

Harminder Singh & Anr. ...Applicants

Versus

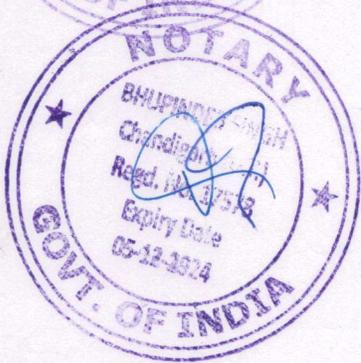
Union of India & Ors. ...Respondents

**Report by way of affidavit of Vini
Mahajan, IAS, Chief Secretary,
Punjab, Chandigarh.**

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

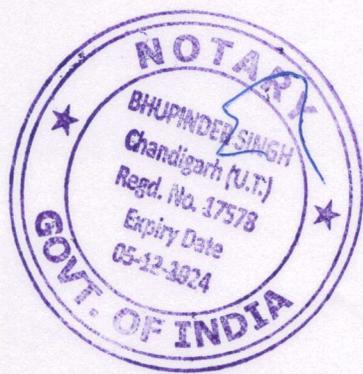
1. That the above said O.A. is pending in this Hon'ble Tribunal and next fixed for hearing on 24.02.2021.
2. That this Hon'ble Tribunal on 01.10.2020 passed the following interim order:

"4. Learned counsel for the applicants submits that the above report does not show compliance of the order of this Tribunal. Mere statement that the flow of the river is not obstructed is not adequate and is in conflict with the earlier reports referred to in the order dated 03.03.2020. It is also pointed out that the matter has been dealt with only by the Executive Engineer of the Water Resources Department, without involvement



of other concerned Departments, including GMADA, Housing and Urban Development Department, the Environment Department and the Irrigation Department.

5. In view of above, we direct the Chief Secretary, Punjab to call a meeting of the concerned departments viz GMADA, the Housing and Urban Development Department, the Irrigation Department, and the Environment Department within one month to look into the matter and take remedial action and furnish a report after taking information from all the said departments within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR support PDF and not in the form of Image PDF.



3. That the matter was discussed in the meeting headed by the deponent on 22.10.2020, in which the (i) Principal Secretary, Water Resources and Housing & Urban Development (Administrative Department for GMADA) (ii) Principal Secretary Science, Technology and Environment (iii) Member Secretary Punjab Pollution Control Board, (iv) Chief Engineer/Drainage-cum-Mining & Geology-I and (v) Superintending Engineer, Drainage Circle Patiala participated. After detailed deliberations it was agreed that in view of the factual position

brought out by Chief Engineer Drainage, the following remedial measures, as proposed were found appropriate:

(i) That the 2 pipes of 5 feet diameter, being inadequate to take 700 cusec discharge of the tributary of Siswan River, need to be replaced with a bridge of 50 feet span at Point B in Annexure-A. The cost should be paid for by Omaxe.



(ii) The cross section of Siswan's Tributary needs to be restored to its original capacity of 700 cusec in the Lake Project Area by Omaxe under the supervision of Drainage Wing of the Water Resources Department.

(iii) The illegal and unauthorized embankments created in the main bed of the Siswan River by private land owners, which divert and restrict the flow of water, away from their fields and towards and along VR 6 Master Plan Road need to be removed to restore the original course of the river.

(iv) Adequate flood protection works need to be carried out in the Siswan River (Including

plugging the 2 pipes of 5 feet diameter; Point A in Annexure-A) and along its bank abutting VR-6 road.

A copy of the proceedings of the meeting held on 22.10.2020 is annexed and marked as **Annexure-A.**

4. That during the meeting held on 22.10.2020, the report dated 05.12.2019 was also considered, wherein certain recommendations were made. On the basis of the said recommendations, the Chief Engineer, Department of Drainage made his suggestions.

5. That the remedial actions taken by the department on the aforesaid remedial measures are given point-wise as under:-

(i) That after completing all the technical and codel formalities work for the construction of box culvert at point B has been started at site; excavation of one side of road has been completed. The photograph of excavated site is attached and marked as **Annexure-B.**

(ii) That the work relating to restoration of Siswan's Tributary to its original land width/capacity has been completed.



A handwritten signature in blue ink, consisting of a stylized 'S' shape.

(iii) That the work relating to removal of the unauthorized embankments in the main bed of Siswan River will be completed after the harvesting of standing crops with the help of the Local Administration and the Police Authorities.

(iv) That the Point 'A' in Annexure-A has been plugged and necessary flood protection work of providing wire crates filled with stones/boulders in the shape of revetment alongside VR-6 Roads from Point 'A' to 'B' stands completed at site.

Place: CHANDIGARH

DATE: 23-2-21

DEPONENT
(VINI MAHAJAN) IAS
CHIEF SECRETARY PUNJAB

CHIEF SECRETARY
GOVERNMENT OF PUNJAB

VERIFICATION:

Verified that the contents of my above affidavit from paras No.1 to 5 are true and correct to the best of my knowledge and belief as per information derived from official record. No part of it is false and nothing has been concealed therein.

Place: CHANDIGARH

DATE: 23-2-21

1625

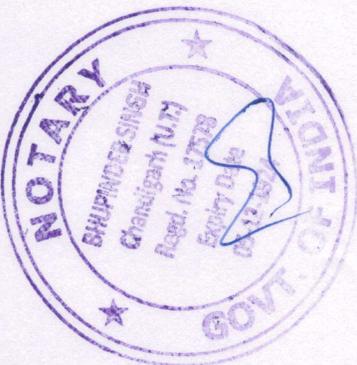
DEPONENT
(VINI MAHAJAN) IAS
CHIEF SECRETARY PUNJAB

CHIEF SECRETARY
GOVERNMENT OF PUNJAB

ATTESTED AS IDENTIFIED

NOTARY, Chandigarh

23-2-21



I identify the deponent who has signed/Thumb Marked in my presence

Signature

XEN (DRC-1) Digitally signed by Vini Mahajan

Proceedings of the meeting held by Chief Secretary, Punjab on 22.10.2020 at 3:30 PM, on the directions of Hon'ble NGT in OA No. 980/2019 (Harminder Singh & Others V/s Union of India & Others).

Present:

1. Sh. Sarvjit Singh, Principal Secretary Water Resources; and Principal Secretary, Housing and Urban Development.
2. Sh. Alok Shekhar, Principal Secretary, Science, Technology and Environment.
3. Sh. Krunesh Garg, Member Secretary, Punjab Pollution Control Board.
4. Sh. R.L. Sandhu, Chief Engineer/Drainage-cum-Mining and Geology-1.
5. Sh. Devinder Singh, Superintending Engineer, Drainage Circle, Patiala.

1. Principal Secretary, Department of Water Resources briefed about the background of the case and submitted that the petitioner had represented before the Hon'ble NGT that Omaxe Chandigarh Extension Developers Pvt. Ltd. has set up a residential complex project named 'The Lake' which has obstructed natural flow of river Siswan by filling up and closing a part of it in village Bharounjian and diverted it to nearby village Kansala, Sub Tehsil Majri, District S.A.S Nagar Mohali, which results in environmental damage and flooding in the area.

2. Hon'ble NGT vide its orders dated 25.09.2019 constituted a committee of *Additional Chief Secretary, Housing and Urban Development, Punjab, Secretary, Irrigation Department, Punjab and SEIAA, Punjab* to submit factual and action taken report through SEIAA, Punjab as nodal agency.

3. The Committee, after discussions and site visit, submitted its report to Hon'ble NGT through SEIAA, Punjab on 05.12.2019 with the following recommendations:-

- I. GMADA will construct culverts at point A for passing 2000 cusecs of water and at point B for passing of 2650 cusecs of water after vetting drawings from the Water Resources Department. (Annexure-I)


CE/D-



- II. M/s Omaxe Chandigarh Extension Developer Pvt. Ltd. shall remove the debris from the water way of the natural drain and restore the Level of the land to the original level. GMADA shall ensure the compliance of the notice issued by it.
- III. M/s Omaxe Chandigarh Extension Developer Pvt. Ltd shall protect the left side of creek of the reach adjoining to 'The Lake' Project and the left edge of the road from point A to B along the creek with the help of stone pitching as per the undertaking 22/10/2019 submitted by it. GMADA and Water Resource Department shall ensure the compliance of the same.
4. Hon'ble NGT in the light of report submitted by Committee ordered as below on 03.03.2020:

"The state PCB may assess and recover compensation on 'Polluter Pays' principle. The GMADA may also enforce its directions in letter dated 28.03.2014, Annexure B-1 to the report. The Committee may look into the issue of diversion of river at village Kansala which has not been gone into so far. Illegal filling up of the river and raising illegal construction and remedial action be also examined by the Committee. The illegal construction may either have to be removed or compensation assessed and recovered. For this purpose, representatives of the Central Pollution Control Board (CPCB), IIT Roorkee and the State PCB will be a separate Committee. The nodal agency for compliance and coordination would be the State PCB."

5. Thereafter, a compliance report, in view of the above directions, was submitted to Honb'le NGT by the Chief Engineer, Drainage, Punjab through SEIAA on 08.09.2020, which stated as below:

"The flow of the creek passing through the pipe culverts near 'the lake' project again returns to the right side and runs through the old bed of the river and follows downstream. At present, there is no obstruction in the natural flow of the river near village Kansala."

dhruv

6. The above report submitted by SEIAA, Punjab was contested before the Hon'ble NGT, by the applicant and it was ordered on 01.10.2020, as below:

"XXXX

4. Learned Counsel for the applicants submits that the above report does not show compliance of the order of this Tribunal. Mere statement that the flow of the river is not obstructed is not adequate and is in conflict with the earlier reports referred to in the order dated 03.03.2020. It is also pointed out that the matter has been dealt with only by the Executive Engineer of the Water Resources Department, without involvement of other concerned Departments, including GMADA, Housing and Urban Development Department, the Environment Department and the Irrigation Department.

5. In view of above, we direct the Chief Secretary, Punjab to call a meeting of the concerned departments viz. GMADA, the Housing and Urban Development Department, the Irrigation Department, and the Environment Department within one month to look into the matter and take remedial action and furnish a report after taking information from all the said departments within three months."

7. In view of the above directions, the Chief Engineer Drainage, Department of Water Resources briefed, as below:-

- i. Referring to a schematic drawing (Annexure A) flow of water in seasonal river Siswan, it was submitted that the committee constituted by Hon'ble NGT, vide orders dated 25.09.2019, submitted a report through SEIAA to Hon'ble NGT on 05.12.2019. This report was apparently based on the site conditions at the relevant time. It seems that the revenue record and the approved master plan of New Chandigarh was not seen by the committee at the time of their visit. He further informed that as per revenue record, the creek forming a loop towards the Omaxe site does not exist but

Handwritten signature and initials: a large checkmark followed by "CE/D"

Handwritten signature: dhuc.

has been created due to man-made embankments in the bed of the main river.

- ii. He further produced revenue records for the years 1962-63, 1998-99, 2003-04, and 2008-09 (i.e., prior to the approval of Master plan and the approval of lake project thereafter). It was informed that lake project developed by Omaxe is not in the riverbed and the project has been duly approved as per the master plan(Annexure C).
- iii. Chief Engineer further informed that in the riverbed area, whose width is between 870-1300 feet, the discharge in the river has been reduced from 7350 cusecs to 2330 cusecs (Annexure-D, depicting discharge data), due to construction of Siswan dam upstream of this site. Hence, the flow of water can easily pass through the main riverbed, being wide enough.
- iv. A tributary of Siswan river with peak discharge of 700 cusec passing through Lake Project of Omaxe joins the Main Siswan River after crossing the VR 6 Master Plan Road, which has been marked and labelled on attached site map(Annexure A).
- v. The two 5 feet pipes are inadequate to take the 700 cusec discharge and therefore, these needs to be replaced with a bridge of 50 feet span at an appropriate spot.
- vi. He further informed that some private land owners have created embankments in the Main River bed of Siswan, to divert water away from their fields, towards the abutting VR 6 Master Plan Road. If these illegal / unauthorised embankments are removed, the river bed of Siswan is more than adequate to take the peak discharge of the river during the rains, which in any case has been reduced from 7350 cusec to 2330 cusec, as detailed above.

8. Principal Secretary, Housing and Urban Development informed that Master Plan of New Chandigarh, cast for 2008 – 2031 (*Annexure-B*) has been approved by the Department of Town & Country Planning, Punjab on 09.12.2015, after inviting objections from Public and all concerned Departments, wherein the main riverbed has been shown on the left side of VR-6 road.

CB/D

dhul

9. Chief Engineer, Drainage, Department of Water Resources proposed the following actions:-

- i. That the 2 pipes of 5 feet diameter, being inadequate to take the 700 cusec discharge of the tributary of Siswan River, need to be replaced with a bridge of 50 feet span at Point B in Annexure A. The cost should be paid for by Omaxe.
- ii. The cross section of Siswan's tributary needs to be restored to its original capacity of 700 cusec in the Lake Project Area by Omaxe under the supervision of Drainage Wing of the Water Resources Department.
- iii. The illegal/ unauthorised embankments created in the main bed of the Siswan River by private land owners, which divert and restrict the flow of water, away from their fields and towards and along VR 6 Master Plan Road need to be removed to restore the original course of the river.
- iv. Adequate flood protection works need to be carried out in the Siswan River, (including plugging the 2 pipes of 5 feet diameter ; Point A in Annexure A) and along its bank abutting VR-6 road.

10. Chief Engineer drainage submitted that if the above proposed actions are taken in accordance with the Northern India Canal and Drainage Act, 1873, it will redress the grievances of the petitioner.

11. After detailed deliberations, it was agreed that in view of the factual position brought out by Chief Engineer Drainage, the remedial measures, as proposed are appropriate and should be implemented urgently, after placing the matter before Hon'ble NGT and obtaining its orders in this respect.

The meeting ended with vote of thanks to the Chair.


CE (D)


12.11.2020







