

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

O.A. No. 635/2017

In the matter of:-

Ramesh Chand

V/s

... Applicant

State of Himachal Pradesh & others

.....Respondents

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AFFIDAVIT (RESPONSE/ OBJECTIONS) IN COMPLIANCE OF HON'BLE NATIONAL GREEN TRIBUNAL ORDER DATED 29.07.2019 ON BEHALF OF RESPONDENT STATE THROUGH SECRETARY (TOWN & COUNTRY PLANNING/ URBAN DEVELOPMENT) TO THE GOVERNMENT OF HIMACHAL PRADESH.

I, Rajneesh S/o Shri R.R. Garg, aged 47 years, presently working as Secretary (Urban Development/ Town & Country Planning) to the Government of Himachal Pradesh do hereby solemnly affirm and say as under:-

1. That the aforesaid O.A. No. 635/2017 is pending for adjudication before this Hon'ble National Green Tribunal and is fixed for hearing on 18.03.2020.
2. That vide order dated 29.07.2019 the Hon'ble Tribunal was pleased to pass the following directions, the relevant operative part of which is reproduced herein as under:-

"We are of the view that the Expert Committee report must be accepted. We direct the State of Himachal Pradesh to act on the basis of above report, take further preventive and remedial action and file a compliance report within three months by email at judicialngt@gov.in."

3. That in pursuance to the order/ directions passed by the Principal Bench of the Hon'ble National Green Tribunal vide its

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order dated 29.07.2019, the State Government's final response on the basis of the report has been prepared which is submitted hereby as follows :-

Recommendation	Response
<p>1. Enforce a complete ban on construction activities in Manali MC and Mcleodganj except the construction of residential houses for their own uses/purpose and government buildings. The construction of other types should only be permitted unless and until adequate provisions for solid waste management and water supply are put in place."</p>	<p>Manali MC- That no new cases of construction activities are being allowed/ permitted in Manali MC, consequent upon the passing of the aforesaid order of this Hon'ble Tribunal by the Respondent State, except the construction of residential houses for their own uses/purpose and government buildings. The construction of other types will not be permitted unless and until adequate provisions for solid waste management and water supply are put in place."</p> <p>Mcleodganj- That no new cases of construction activities are being allowed/ permitted in Mcloedganj, consequent upon the passing of the aforesaid order of this Hon'ble Tribunal by the Respondent State, except the construction of residential houses for their own uses/purpose and government buildings. The construction of other types will not be permitted unless and until adequate provisions for solid waste management and water supply are put in place."</p>
<p>2. Environmental Sustainability</p> <p>a. Overall environment</p>	<p>a. Overall environment</p> <p>The Himachal Pradesh State Pollution Control Board has not provided any fresh consent to establish/ NOC for the Hotels/ Guest Houses in Mcleodganj and Manali after passing of the order</p>

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dated 29.07.2019 by this Ld. Tribunal. The HP State Pollution Control Board shall not issue the consent to operate to new construction activities in Manali MC and Mcleodganj unless and until adequate provisions for solid waste management and water supply are put in place by the Applicants(s).

b. Solid Waste Environment

b. Solid Waste Environment

The Respondent State has developed H.P. State SWM Strategy for compliance of SWM Rules, 2016 in the State. The SWM Strategy lays down the procedure to achieve the targets/statutes under SWM Rules, 2016. The compliance of Strategy in Manali & Dharamshala area are as below:

Component of Strategy	Status of compliance in Manali	Status of compliance in Dharamshala
Door-to-Door garbage collection	100% door to door garbage collection is being done in Manali Municipal Council, Manali	100% door to door garbage collection is being done in Dharamshala Municipal Corporation area
Source segregation of waste	70% of waste generated in MC Manali is segregated at source. Rest is being segregated at the waste processing facility	50% of waste generated in MC Dharamshala area is segregated at source. Rest is being segregated at the waste processing facility
Wet waste	Waste to Energy	For wet waste

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	<p>processing</p>	<p>plant established at Rangri, Manali where all the waste collected from town is being processed. The 1st Section of this Plant, i.e. Refuse Derived Fuel (RDF) making section has been made functional in the month of Feb, 2020. All the waste received at site is being processed daily and converted into RDF which is further sent to ACC Barmana for co-processing. The 2nd section of the plant is energy generation, which is presently under installation phase.</p>	<p>processing 27 composting pits have been constructed where the biodegradable waste is converted into compost/manure.</p>
	<p>Dry waste processing</p>	<p>Material Recovery Facility (MRF) established. Recyclables sent for recycling and non-recyclables processed further for preparing refuse derived fuel (RDF).</p>	<p>A Material Recovery Facility (MRF) has also been established at Dharamshala processing site where all the non-biodegradable waste is further sorted into recyclable & non-recyclables. The recyclables are channelized into recycling through rag-</p>

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		pickers & scrap-dealers and non-recyclable is packed & sent to cement plants for co-processing.
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MC Manali has issued notice to 287 hotels within the jurisdiction of MC for processing of their wet waste within their own premises.

The litterbins of adequate capacity have been installed in Manali & Dharamshala public area and the dumpers have been removed from both the town.

For management of Construction & Demolition (C&D) waste, a site in MC Manali has been identified and notified vide resolution No. 115, dated 24.2.2020. MC Dharamshala also has identified & notified the C&D waste disposal site. All C&D waste is disposed at notified sites only in these towns. The State Govt. has also notified Construction and Demolition Waste Management Policy on 20.07.2019.

In addition, a baling machine has been installed at MC Dharamshala, which is used to make bales of segregated combustible fraction (SCF) of waste and sending it to Cement plant for co-processing.

The Respondent State has already signed centralized Memorandum of Understanding with 3 cement companies having their plants in the State for utilizing SCF (Segregated combustible

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fraction) of ULBs in their cement kilns as fuel. A Trommel machine has also been installed at MC Dharamshala for clearing of legacy waste. Almost 10% of legacy waste at MC Dharamshala SWM site has been cleared till now.

Also to have mechanized treatment of organic portion of segregated waste CBG (Compressed Bio Gas) (anaerobic decomposer) model are being planned to be installed at two places, one at Mcleodganj and one at Sidhpur (Sidhbari) area of the MC, Dharamshala and another at Mcleodganj.

The State Govt. is also in process of procuring sanitary waste incinerator in each ULB of H.P. for disposal of sanitary waste.

c. Water/Wastewater/Sewage Environment

Manali area:

c. Water/Wastewater/Sewage Environment

The River monitoring around and within MC Manali area is regularly conducted by the Pollution Control Board. As per the latest results of river monitoring received for the month of January' 2020, the results of the point in and point around MC Manali are observed as Class-B.

Sewage: There is one common sewage treatment plant of I & PH for handling and disposal of sewage within Manali Municipal area and is being regularly monitored by the HPSPCB.

STP Manali is being regularly inspected by Regional Office Kullu, HPPCB on monthly basis and collection samples are being analyzed at Regional Laboratory Sundernagar.

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Results are as below:

Date of Collection	BOD (mg/l)	COD (mg/l)	O&G (mg/l)	pH
20-01-2020	22	124	0.8	6.70

Dharamshala (Mcleodganj area):

Water quality monitoring: Regular sampling and water quality monitoring of water resources is being undertaken by the HPSPCB in Mcleodganj area and the results were reported to be within limits. The Himachal Pradesh State Pollution Control Board is regularly monitoring the water quality and takes appropriate measures to address any gaps, if found.

Four STP's based on Root zone treatment technology has been constructed by Dharamshala Smart City limited and the existing STP at Chilgari has been augmented. The total installed sewage treatment capacity has been increased to 3.5 MLD.

d. Air Environment.

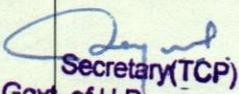
Manali area:

The **Air quality monitoring** of Manali Town is regularly conducted through NAMP (National Air Quality Monitoring Programme) station at Manali. The latest results of monitoring for the month of December'2019 are observed to be meeting the norms for SO₂, NO_x, NH₃, RSPM and PM_{2.5}

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d. Air Environment.


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Vehicular pollution monitoring: Vehicular monitoring is conducted in collaboration with the Indian Oil authorities, RTO's, Police authorities etc. and the challan are issued by Police authorities in case any violation is observed.

Regional Office Manali: Camps in Manali have been organized at Bhang barrier in association with Transport Department and Police authorities on dated 02.01.2020, 23.01.2020 and 30-01-2020 regarding vehicular emissions checking cum awareness. The details of the checking are as below:

Date of Inspection	Number of Vehicles inspected
02-01-2020	406
15-01-2020	122
23-01-2020	89
30-01-2020	107
Total vehicles inspected	724

Noise monitoring of Manali town is also conducted by the HPSPCB and results are regularly sent to District administration and police authorities for necessary action. A 'No Honking Campaign' in Shimla & **Manali** has been started by the State Government to spread awareness on noise pollution. The State government has also created a statewide mobile app 'Shoor Nahin', which is an initiative to check noise pollution in the State. The app has been

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developed to report any noise pollution complaints to the authorities including Deputy Commissioner and the Superintendent of Police.

DG sets: DG sets are allowed to be installed only with acoustic enclosure with exhausted mufflers and stack. DG sets are allowed to be installed for standby purpose only. The specification of DG sets with respect to stack Height has been prescribed by the Central Pollution Control Board. The noise standard has been prescribed in the Noise Rules 2000.

Dharamshala (Mcleodganj area)-

Air quality monitoring: Two numbers of Air quality monitoring stations are operational in Dharamshala area, i.e. in Kotwali Bazar and in the premises of the office of the State Pollution Control Board at Dari, Dharamshala and the results were reported to be within limits. The Himachal Pradesh State Pollution Control Board continuously monitors the air quality and takes appropriate regulatory measures.

Vehicular Pollution: Special vehicle monitoring camps were organized by the State Pollution Control Board at different sites of the Dharamshala area and fuel samples were checked for fuel adulteration and public was made aware of PUC's, pressure horns, littering etc.

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Vehicle monitoring camps

Regional Office Dharamshala:

Special Vehicle monitoring camps have been organized by the HP State Pollution Control Board in association with Transport Department and Police authorities at different sites of the Dharamshala area. Details of which are as under:

Date of Inspection	Number of Vehicles inspected
24-07-2019	84
29-08-2019	102
23-10-2019	100
Total	286

DG Sets: - The hotels of the area installed with standby soundproof DG sets have been directed to have adequate stack height as per norms. The specification of DG sets with respect to stack Height has been prescribed by the Central Pollution Control Board. The noise standard has been prescribed in the Noise Rules 2000.

3. Ground water and
Water supply Status.

The I&PH Department has constructed two bore wells in the Manali. Since the river Beas is recharging the ground water body of the area, the construction of two number bore wells does not affect the ground water levels in the area.

Private bore wells constructed by the hoteliers are duly registered with I & PH Department.

In reference to the issue of rain water harvesting, it is respectfully submitted that there

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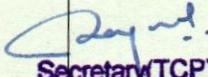
are existing provision in the HP Municipal Act under Section 107 and adequate provision for rain water harvesting structure, @ 20 Liters per sqm. of the roof top area and underground in the parks and open spaces The Appendix VI of Himachal Pradesh Town and Country Rules 2014 makes it mandatory that the collection of rain water from the roof tops of the building is compulsory.

The private hoteliers have been sensitized by organizing workshops on the need to conserve water and are being made aware that indiscriminate pumping of bore wells could lead to land subsidence and landslides especially keeping in view the very steep slopes in the area and can also result in drying up of springs in the area.

The HP State Pollution Control Board had received sample of final outlet of STP Manali through Executive Engineer, I & PH Manali for analysis, which have been analyzed on 21.01.2020 & 31.01.2020 and the same is within limits.

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4. Geology, structural stability and Hazard status/ Disaster Management.

It is respectfully submitted that the construction activities are being regulated by the provisions of Appendix-I of the Himachal Pradesh Town & Country Planning Rules, 2014, which clearly provides under its general regulations as under:-

“3. Maximum acceptable slope for

development shall be 45 degrees.”

Further, as per Appendix 1 of the Rules ibid and under general regulations, **maximum hill cut of 3.50 Metre height shall be permissible. No building shall be built to abut against an earth cutting including a toe wall supporting an earth cutting and minimum 1.00 Metre distance shall be maintained between building and toe wall etc.**

As per the provisions of Section 31 of the Himachal Pradesh Town & Country Planning Act' 1977, it is mandatory for any person who intends to carry out any sort of construction activities to submit a Structural Stability Certificate of the building before putting the same into use, in the manner prescribed including soil investigation report and structural design basis report as per provisions for safety against natural hazard.

5. Transport and parking.

Parking: - Master Plan has been prepared for the construction of parking in Manali and Dharamshala. The status is as under

Manali. There are existing public parking lots available for 581 vehicles and 75 vehicles can be accommodated in future planning up to 2023.

The Hon'ble High Court in CWPIL no. 15 of 2010-B had issued the directions to the State of Himachal Pradesh vide its order dated 16.12.2011 had restricted construction up to three storeys for Kullu Valley Planning Area


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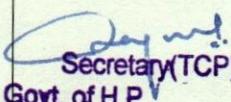
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including Manali MC. The Hon'ble High Court further clarified, vide its order dated 16.11.2012 that, "**as per the provisions of Town and Country Planning Rules parking floor is mandatory, so clarification in regard to number of storeys may kindly be accorded whether these three storeys are inclusive of parking floor or parking floor is in addition to the prescribed three storeys. It is made clear that one extra parking floor can be allowed with three storeyed building. We also make it clear that where this Court in its earlier order ordered 3+1 storeys that may also be read as 3+2, in case two parking floor are to be constructed. It is made clear that the additional floor can be used only as parking area.**"

Dharamshala: - Presently public parking is available for 365 vehicles in different parts of the Municipality and further 14000 Sqm areas is available for proposed Parking in the Town which will accommodate 350 vehicles in planning up to 2023.

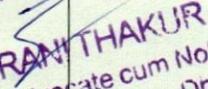
A new parking near Dalai Lama Temple has been proposed under Smart City Project for 135 ECS (Equal Car Spaces) for which tenders have been floated.

E-buses for public transport are being planned under Smart City Project in the entire Dharamshala Planning Area.


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<p>6. <u>Policy & Planning.</u></p>	<p>The issue of policy of planning and issue of construction activities are effectively governed by the existing provisions of the Himachal Pradesh Town & Country Planning Act, 1977 read with the Rules, 2014 viz-a-viz the Development Plan for Dharamshala & Manali. The issue of construction activities and planning permissions are already detailed in point no.1 supra.</p>
<p>7. <u>Forests & Biodiversity.</u></p>	<p>Frequent monitoring of the forests is being done by the forest Department required for understanding the dynamics of vegetation</p> <p>Every Year, the Forest Department carries out afforestation activities after assessing the open forestland and enrichment plantations in Forests where the crop is thinly spaced. The HP State Govt. has launched the EkButaBetikeNaam scheme for sensitizing the local peoples towards the forest conservation as well as to protect the Girl child. Also Eco-restoration of degraded forest is being done across Kullu division by planting local species.</p> <p>As far as the forest land is concerned, any non-forestry activity is not permitted without approval of Central Govt. under Forest Conversation Act-1980 both in Manali MC & Mcleodganj.</p>

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In view of the above submissions, it is, respectfully and humbly prayed that the response/ objections on behalf of State/

Respondent may kindly be taken on record in the interest of justice, equity & fair play.

[Signature]
....Deponent
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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 17th March'2020

ATTESTED
[Signature]
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[Signature]
....Deponent
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Certified that the above/overleaf who was declared before me on solemn affirmation on this 17th day of March 2020 at Shimla in the District of Shimla by Sh. Rajneesh who is identified by Sh. Mayank Manta who is personally known to me, the above contents of the affidavit are dully read and explained to the deponent in vernacular who admitted the contents thereof to be true (A-D-A)

[Signature]
Rani Thalley
17/3/2020

Identified by
Mayank Manta
ADA, (TCP)