

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

IN REVIEW APPLICATION NO. 03 OF 2026

(In O.A. No. 793 of 2022)

In the matter of:

Municipal Corporation Ludhiana Applicant

Vs.

Council of Engineers & ors. Respondents

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Date: 04-07-2026

Place: Ludhiana

(Er. Kapil Dev)

(Respondent No. 2)

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In the matter of:

Municipal Corporation Ludhiana **Applicant**

Vs.

Council of Engineers & ors. **Respondents**

Counter Affidavit by Respondents (Original applicants) in Application of
Condonation of Delay as well as Review Application filed by Applicant MCL.

Hon'ble sir

Respectfully sheweth

The Respondents (Original Applicants in O.A.) in IA for Condonation of Delay and
Review Application humbly submit as under:

REGARDING CONDONATION OF DELAY FILED BY APPLICANT MCL:

1. The present Review Petition assailing the order dated **04.10.2024** deserves to be dismissed in limine as being hopelessly barred by limitation. A review is a statutory remedy and must be invoked strictly within the period prescribed by law. The Municipal Corporation has approached this Hon'ble Tribunal after an inordinate and unexplained delay without disclosing any

"sufficient cause" as required under Section 5 of the Limitation Act, 1963. The settled position of law is that the law of limitation is founded on sound public policy to ensure certainty and finality in litigation, and the Courts cannot extend limitation on equitable considerations alone. The Hon'ble Supreme Court in **Basawaraj & Anr. v. Special Land Acquisition Officer, (2013) 14 SCC 81**, held that where a party fails to establish sufficient cause, delay cannot be condoned merely on sympathetic or equitable grounds, as the law of limitation has to be applied with full rigour.

2. The Hon'ble Supreme Court has consistently held that the law of limitation is founded on public policy and must be applied with its full rigor. In *Basawaraj & Anr. v. Special Land Acquisition Officer*, the Hon'ble Supreme Court held that *"the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes*. Similar principles were reiterated in *Popat Bahiru Govardhane v. Special Land Acquisition Officer* and *P.K. Ramachandran v. State of Kerala*, wherein the Hon'ble Supreme Court emphasized that limitation provisions must be strictly enforced and cannot be diluted by judicial discretion.
3. It is further submitted that the Municipal Corporation, being a statutory authority, cannot claim any special privilege or exemption from the law of limitation. Administrative delays, movement of files, bureaucratic procedures, or obtaining internal approvals do not constitute sufficient cause for condonation of delay. In **Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr., (2012) 3 SCC 563**, the Hon'ble Supreme Court categorically held that Government departments are under a

special obligation to act with diligence and that the plea of impersonal machinery and bureaucratic red tape cannot be accepted as a ground for condoning inordinate delay. The Court further observed that the law of limitation binds everybody, including the Government, and that a different yardstick cannot be applied merely because the applicant is a public authority.

4. The order dated **04.10.2024** has thus attained finality, and valuable rights have accrued in favour of the answering party. The extraordinary jurisdiction of review cannot be invoked as a substitute for an appeal or to reopen concluded proceedings after the expiry of the prescribed period of limitation. The Hon'ble Supreme Court in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649**, has held that although a liberal approach may be adopted in appropriate cases, such an approach cannot extend to condoning gross negligence, lack of bona fides, or unexplained inordinate delay.
5. That the conduct of the Applicant–Municipal Corporation Limited (MCL) further demonstrates gross negligence and lack of bona fides. Instead of pursuing the remedy of review within the prescribed period of limitation, MCL chose to invoke the writ jurisdiction of the Hon'ble Punjab and Haryana High Court only in **October 2025**, after allowing more than **one year** to elapse from the order dated **04.10.2024**. The said writ petition was subsequently **withdrawn by MCL on 29.11.2025**, without obtaining any liberty that could extend or preserve the period of limitation for filing the present review application. **Even thereafter, MCL failed to approach this Hon'ble**

Tribunal within a reasonable time and continued to remain inactive,

thereby demonstrating complete lack of diligence. The period spent in pursuing the writ petition cannot automatically be excluded unless the Applicant satisfies the mandatory requirements of **Section 14 of the Limitation Act, 1963**, which are conspicuously absent in the present case. The sequence of events clearly establishes that the delay is neither bona fide nor sufficiently explained but is a result of deliberate inaction and negligence. Such unexplained and prolonged delay disentitles the Applicant to any equitable relief and, in view of the law laid down by the Hon'ble Supreme Court in **Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr., (2012) 3 SCC 563, Basawaraj & Anr. v. Special Land Acquisition Officer, (2013) 14 SCC 81, and Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649**, the present Review Petition deserves to be dismissed as hopelessly barred by limitation.

OBJECTIONS AGAINST REVIEW APPLICATION FILED BY MCL

1. That the Applicant Municipal Corporation Ludhiana has not come up with the clean hands and has cleverly tried to produce the false facts before this Hon'ble Tribunal, thus the review petition is liable to be rejected in toto and strict directions may please be issued for producing false facts before this Hon'ble Tribunal. Earlier, the MCL failed to admit that the impugned areas are greenbelt but after the second report of Joint Committee, the MCL had no

other choice but to admit that the impugned areas fall under the category of Greenbelts/Parks as per the Master Plan.

2. That the Municipal Corporation, Ludhiana (MCL) at Paragraph No. 3 (Page 9) of impugned Review Application has falsely and misleadingly asserted in the Review Application that all issues arising out of the Original Application, except the library building, have been resolved. The said assertion is patently incorrect and contrary to the factual position on record. The illegal encroachments upon public parks by Lodhi Club, the School, and other private persons continue unabated. Likewise, **the unlawful parking and concretisation of the green belts along both the impugned roads, namely Lodhi Club Road and Jagraon Bridge to Sherpur Chowk Road,** continue to exist even as on date. MCL has failed to restore these green areas to their original condition despite repeated directions of this Hon'ble Tribunal. The false plea of compliance is a deliberate attempt to mislead this Hon'ble Tribunal, suppress the true factual position, and evade its statutory and constitutional obligations. The Review Applicant has, therefore, not approached this Hon'ble Tribunal with clean hands and is seeking to escape its lawful duty even after the lapse of more than **three years** from the filing of the Original Application.

3. That the Municipal Corporation in its Review Application has tried to mislead in Para No. 7 of impugned Application that the construction of Library building is only on 7.63% area of the Park whereas the Report of Learned Court Commissioner vide Report dated 21-01-2025 clearly depicts that the

area of impugned park is 350 Sq yards and broadly about 50% of the area is green and in the remaining area (i) library is constructed and (ii) covered with interlocking tiles. Such the claim of concretization of 7.63% is liable to be set aside and rejected.

4. That the Applicant–Municipal Corporation, Ludhiana (MCL), in the **List of Dates and Events** at page 2 of the Review Application, has stated that **Civil Writ Petition No. 32564 of 2025** was filed on **12.11.2025**. However, the record itself reveals that the first hearing in the said writ petition took place on **03.11.2025**, i.e., **prior to the alleged date of filing**. The dates, therefore, are self-contradictory and factually impossible, demonstrating that the Review Application has been filed without due care and verification. The Applicant is directed to explain this apparent discrepancy and place the correct factual record before this Hon'ble Tribunal, as inaccurate statements in pleadings materially affect the credibility of the Applicant's case.
5. That the Applicant–Municipal Corporation, Ludhiana (MCL) had earlier challenged the impugned order by filing **CWP No. 32564 of 2025** before the Hon'ble Punjab & Haryana High Court, primarily relying upon the State Government Notification dated **11.05.2017**. During the course of hearing, the Hon'ble High Court, vide order dated **03.11.2025**, specifically directed the MCL to address the substantial question of law as to **whether the Notification dated 11.05.2017 could, in law, amend, modify, or override the statutory Master Plan**. However, when the matter was taken up on **29.11.2025**, the MCL failed to furnish any response whatsoever to the said query. In the absence of any justification on the core legal issue, the Hon'ble

High Court declined to interfere with the impugned order and disposed of the writ petition without granting any relief to the MCL. Having failed to substantiate its case before the Hon'ble High Court on the very same issue, the Applicant cannot now seek to re-agitate identical grounds by way of the present Review Application, which is nothing but an abuse of the process of law. The copy of orders dated 03-11-2025 in CWP **No. 32564 of 2025 are produced herewith as Annexure RA/1.**

6. That though the ground of 15% coverage as per policy dated 11.05.2017 is being raised again and again but it is deliberately been misinterpreted by MCL because, as per clause 2.3 of Park Maintenance policy of 2017 (Page no. 63 of Review Application), **the ULBs shall ensure that the hard surface in the parks doesn't exceed 15% of total area of Park**". It is pertinent to humbly submit here that the surface doesn't mean, construction of any building over the park. It is further pertinent to humbly submit here that such issue has already been taken up during proceedings by this Hon'ble Tribunal earlier in the Original Application too.

7. It is well settled that in matters concerning environmental protection, the mandate of the National Green Tribunal cannot be diluted or defeated by any inconsistent State policy, executive decision, or local planning regulation. The Hon'ble Supreme Court in Mantri Techzone Pvt. Ltd. v. Forward Foundation categorically held that environmental laws enacted by Parliament prevail over conflicting State laws and planning regulations, and that the Tribunal is fully empowered to issue directions necessary for restoration and protection of the environment. The Supreme Court has further affirmed the

wide and overriding jurisdiction of the National Green Tribunal to secure environmental justice and ensure effective implementation of environmental principles, notwithstanding any contrary State policy or executive action.

8. That the Parks and Greenbelts acts as green lungs for Urban Areas and such green areas are very essential to curb Air Pollution of critically polluted Ludhiana. Under the provisions of Air (Prevention & Control of Pollution) Act 1981, taking cognizance of National Clean Air Program (NCAP), this Hon'ble Tribunal pleased to pass directions in the matter of Original Application No. 681 of 2018 dated 08-10-2018 for Clean Air Action Plan and accordingly, the Clean Air Action Plan of Ludhiana was prepared & finalized by the Directorate of Environment and Climate Change, Department of Science, Technology and Environment, Government of Punjab on 30th April 2019 and the mandatory duty of Respondent No. 2 under **Chapter-6- Control of Road Dust (CRD) is under:**

6.6 CRD 5 –**Greening of parks, open areas, community places, schools and housing societies: In order to increase greenery in the city, the Municipal Corporation shall identify open areas/ lawns/ vacant lands including community places and schools in the city and these places be allocated to the NGOs or Industrial Associations for tree plantation and their maintenance.** The activity of identification of the suitable sites shall be completed in a time bound manner and shall be allotted to the NGOs or Industrial Associations.

9. That despite the binding directions issued by this Hon'ble Tribunal, the Municipal Corporation, Ludhiana (MCL) has deliberately and continuously reduced the green cover of Ludhiana by permitting and constructing permanent structures over designated green areas and public parks. Shockingly, even after the lapse of more than **21 months** from the date of the judgment directing restoration of the impugned park, the illegally constructed library building continues to stand undemolished. The deliberate non-compliance with the Tribunal's orders reflects wilful disobedience, defeats the doctrine of restitution, erodes the rule of law, and renders the orders of this Hon'ble Tribunal ineffective unless appropriate coercive action is taken against the defaulting officials.
10. That the contention of the Applicant–Municipal Corporation, Ludhiana (MCL) that construction of a permanent building within a public park does not adversely affect the environment is wholly untenable, contrary to settled environmental jurisprudence, and deserves outright rejection. The Hon'ble Supreme Court has consistently held that public parks and urban green spaces are indispensable ecological assets which cannot be diverted for non-park purposes merely on the ground of public utility. In *Bangalore Medical Trust v. B.S. Muddappa*, the Hon'ble Supreme Court held that open spaces and parks are meant to preserve ecological balance and improve the quality of life, and that their conversion for construction is impermissible. Similarly, in *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, the Hon'ble Supreme Court ordered demolition of an underground shopping complex constructed beneath a public park, holding that preservation of parks and

green areas is paramount and cannot be sacrificed in the name of development. The Hon'ble Supreme Court has repeatedly emphasized that reduction of urban green cover directly affects environmental quality, ecological balance, and the citizens' right to a clean and healthy environment under Article 21 of the Constitution. Therefore, the plea raised by the MCL is contrary to binding judicial precedents and deserves to be rejected with exemplary costs.

11. That the Respondents respectfully submit that they have approached and continue to assist this Hon'ble Tribunal as public-spirited citizens and whistle-blowers, solely to uphold the rule of law, protect the environment, and discharge their fundamental duty under Article 51A(g) of the Constitution of India. In contrast, the Applicant–Municipal Corporation, Ludhiana (MCL) has deliberately prolonged the restitution of the damaged environment for more than **21 months** after the judgment dated **04.10.2024**. The present Review Application merely reiterates the very same grounds and contentions which were raised, considered, and conclusively adjudicated by this Hon'ble Tribunal while passing the said judgment. Significantly, on **04.10.2024**, the MCL itself sought time before this Hon'ble Tribunal to undertake appropriate measures for restoration of the impugned park and compliance with the directions issued. However, instead of honouring its own undertaking and implementing the judgment, the MCL has allowed more than **21 months** to elapse and has now filed the present Review Application only to delay compliance, frustrate the process of environmental restitution, and avoid implementation of the binding directions of this Hon'ble Tribunal. Such

conduct constitutes a clear abuse of the process of law and disentitles the Applicant to any discretionary relief in review jurisdiction.

12. That the Respondents (Original applicants in OA) respectfully submit that the findings recorded in the **Second Joint Committee Report**, the **Report of the Learned Court Commissioner**, and the other documentary evidence placed on record conclusively establish the continued violations and non-compliance by the Applicant–Municipal Corporation, Ludhiana (MCL). The Respondents have already filed detailed Replies, Rejoinders, Written Submissions, and other pleadings dealing comprehensively with the factual as well as legal issues arising in the Original Application. To avoid unnecessary repetition, the contents thereof, together with the documents annexed thereto, may kindly be treated as **read into and forming an integral part of the present Counter Affidavit**, as if reproduced herein verbatim, and may be considered while adjudicating the present Review Application.

PRAYER

In view of the facts and circumstances stated hereinabove, the material available on record, the binding judicial precedents, and the provisions of the Limitation Act as applicable, the present Review Application is wholly misconceived, hopelessly barred by limitation, devoid of any ground warranting review, and constitutes a clear abuse of the process of this Hon'ble Tribunal. The Review Applicant has failed to disclose any error apparent on the face of the record or any other ground permissible in law for invoking the review jurisdiction.

The Respondents, therefore, most respectfully pray that this Hon'ble Tribunal may be pleased to dismiss the present Review Application with exemplary costs, uphold the finality of the judgment under review, and pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, in the interest of justice.



Dated: 04-07-2026

Kapil Dev

Place: Ludhiana

(Respondent No. 2 in person)

(Original Applicant in OA)

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**MUNICIPAL CORPORATION LUDHIANA
V/S
THE NATIONAL GREEN TRIBUNAL AND ANR**

Present: Mr. Ashish Verma, Advocate
for the petitioner.

Learned counsel for the petitioner, when confronted with the query of the Court that whether notification dated 11.05.2017 (Annexure P-9) can lead to amendment/modification of master plan, prays for time to seek instructions.

List on 29.11.2025.

**(SHEEL NAGU)
CHIEF JUSTICE**

03.11.2025
mohit goyal

**(SANJIV BERRY)
JUDGE**

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

In Review Application No. 03/2026
(in O.A. No. 793 of 2022)

IN THE MATTER OF:

Municipal Corporation Ludhiana

Applicant

Versus

Council of Engineers & ors.

Respondents

AFFIDAVIT

I, Er. Kapil Dev (aged 50 years) s/o Sh. Jagdish Chander, r/o 186-E, BRS Nagar, Ludhiana do solemnly affirms as under:

1. That the deponent is Respondent No. 2 in the Review Application No. 03 of 2026 filed before this Hon'ble Tribunal by Municipal Corporation, Ludhiana in subjudged matter of OA 793 of 2022 in which deponent is Original Applicant.
2. That the facts stated in the Counter Affidavit from Paragraph No. 1 to 12 from Page No. 1 to 13 accompanying this Affidavit are true and correct to the best of my knowledge and nothing has been concealed there from.

1477
04-07-2026

Verified that the affidavit has been readover & explained to the deponent, executant who seemed directly to understand the same at the time of signing thereof.

[Signature]
DEPONENT



Verified at Ludhiana on this 04th Day of July 2026, I the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

[Signature]
DEPONENT

I know the Deponent personally and he/she Signed/Thumb impression in my presence

ATTESTED AS IDENTIFIED

[Signature] 04-07-2026

NOTARY-PUBLIC
LUDHIANA (PB.)

04 JUL 2026

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Kapil Arora <aroraengineers@gmail.com>

**Service of Documents - Counter Affidavit in Review
Application No. 03 of 2026**

Kapil Arora <aroraengineers@gmail.com> Sun, Jul 5, 2026 at 2:39 PM
To: secy.lg@punjab.gov.in, dc.ldh@punjab.gov.in, lodhiclub.ldh@gmail.com,
ldh_it_2009@yahoo.co.in, contact@ludhianaimprovementtrust.org,
info@sacredheartschoolludhiana.com, commissionerml@gmail.com,
chambersofnaginderbenipal@gmail.com

Dear sir

PFA Copy of Counter affidavit in Review Application No. 3 of 2026 as Service of documents

Regards

Er. Kapil Dev
Respondent No. 2
in Review Application No. 03 of 2026
M: 9872007872

 **Counter Affidavit by Respondents in Review Application 3 of 2026.pdf**
926K