

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

ORIGINAL APPLICATION NO. 68 OF 2022

In the matter of :

Raman Sharma

.....Applicant

Versus

State of Haryana & Ors

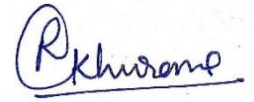
.....Respondent(s)

INDEX

Sr. No	Particulars	Pages
1.	Order dated 15.10.2024 passed by State Environment Impact Assessment Authority (Respondent No. 09) in compliance of order dated 13.09.2024	1-3

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BEFORE THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
HARYANA,
BAYS NO.55-58, PRAYATAN BHAWAN, SECTOR-2, PANCHKULA.
In the matter of

M/s Malibu Estate Pvt. Ltd.
.....Respondent No. 8

Reference: Original Application (OA) No. 68/2022 titled as Raman Sharma Versus State of Haryana & Ors.

Date of Hearing:

Present:

For the Respondent No. 8 (M/s Malibu Estate Pvt. Ltd.)

1. Mr. Sanjay Upadhyay (Advocate)
2. Sh. Subhash Raghav, (Authorized representative of Project Proponent)
3. Mr. Shubham (Advocate)

For the Applicant:

1. Sh. Raman Sharma (Complainant), through Video Conference

ORDER

1. Learned Counsel, Sh. Sanjay Upadhyay alongwith Sh. Subhash Raghav (authorized representative of Project Proponent) appeared on 11.10.2024 and made repeated submissions to emphasize that no violation(s) has been committed by the M/s Malibu Estate Pvt. Ltd. (Project Proponent) for the development of an area of 204.796 Acres, for the Residential Plotted Colony alongwith Group Housing Component at Village Fatehpur, Tikri, Adampur & Jharsa, Sector-47 & 50, District Gurgaon. Learned Counsel also submitted that Project Proponent had taken 32 number of Licences since 28.10.1992 and onward i.e. 31.01.2008 from Directorate of Town & Country Planning, Haryana. Learned Counsel submitted that as and when Environment Clearance (EC) was required for the project, same was obtained from the Competent Authorities. Further, a specific mention in this regard was made by referring to the EC dated 08.01.2008 and 04.09.2013 issued in the name of M/s Nikiyog Buildwell Pvt. Ltd and M/s Endure Realty Pvt. Ltd by the MOEF, GOI and SEIAA, Haryana, respectively.
2. Sh. Raman Sharma (Complainant), attended the proceeding through VC and argued that gross violations have been made by the Project Proponent by commercially exploiting

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the Green areas, beside other violations within the scope & meaning of EIA Notification dated 14.09.2006. Further, Sh. Raman Sharma (Complainant) claimed to have clear cut documentary evidences to establish and prove his pleas with regard to violations committed by the Project Proponent.

3. Upon having heard both the sides and perusing the documentary evidences it has been observed that M/s Malibu Estate Pvt. Ltd in its documents intimated that they have obtained 32 Number of Licenses since 28.10.1992 and onward i.e. 31.01.2008. Accordingly, they have claimed that they have approved Zoning plan much prior to the inception of EIA Notification dated 14.09.2006. Now, coming to the subsequent License No. 15 of 2008 dated 31.01.2008, the project proponent argued that there was no requirement for prior Environment Clearance as the referred Licence was granted for the development of plotted colony over an area of 24.681 Acres i.e. 9.97 Hectare which is less than 50 Hectare **[under category 8 (b)]**.
4. Therefore, it is appropriate to mention here that earlier M/s Malibu Estate Pvt. Ltd obtained Terms of Reference letter **dated 19.06.2015 (Flag-B)** for the construction of residential plotted colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram ***over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).***
5. Thereafter, the Project Proponent again applied in September 2017 under violation Category in compliance with Notification dated 14.03.2017 and 08.03.2018 for the construction of Residential Plotted Colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram ***over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).***
6. The Authority examined the submission made by the complainant vide email dated 28.08.2024 stating on page No. 10 at point B that while taking zoning plan/layout plan approval the Project Proponent proposed to shift facilities approved for 30 licences from 1992 to 1997 from their original locations as under:
 - i. Dispensary Site
 - ii. Creche
 - iii. Religious Site
 - iv. High Secondary School SiteNursery School Sites
 - v. Primary School Sites
 - vi. Residential Plot Sites.


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Further, the complainant at Point C stated that the size of sites in earlier licences were increased after the grant of License No. 15 of 2008 and license No. 86 of 2008. Details are as under:

- i. Commercial site
- ii. Public Health Site
- iii. Dispensary Site
- iv. Higher Secondary School Site
- v. Size of 71 Residential Plots (Annexure-4) against the approved category of plots (annexure-5)

7. The Authority examined the submissions made (without documentary evidence) by M/s Malibu Estate Pvt. Ltd vide email dated 14.10.2024 wherein it has been stated that there has been no change in the site allocation of the project and all the sites, as given in the 1998 zonal plan, have been retained in the 2008 plan as well without any substantial change in site.
8. At this juncture, the Authority feels that there is a requirement to seek clarification from the Director Town and Country Planning Department regarding scope of changes in Zoning Plan/layout plans of 1998 and 2008 as to whether the site plan/layout plan of earlier licences were modified while approving the site plan/layout plan of the licence no. 15 of 2008 in 2008.
9. Further, the Authority feels it appropriate to clarify that in the event there any change as alleged, then EIA Notification dated 14.09.2006 shall be applicable and M/s Malibu Estate Pvt Ltd shall be required to obtain Environment Clearance for the whole Project under violation category.


Virender Kumar Dahiya, IAS
 Member Secretary,
 SEIAA, Haryana

15/10/2024


P. K. Das, IAS (Retd.)
 Chairman,
 SEIAA, Haryana

15/10/2024