

2387

IN THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW DELHI

OA No. 68 OF 2022

IN THE MATTER OF:

Raman Sharma

----- Petitioner

v/s

State of Haryana and others

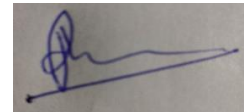
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Place: Gurugram

Date : 22-03-2025



Raman Sharma
Petitioner

That under the direction of Hon'ble Bench on 19-03-2025 the NEED OF ENVIRONMENT CLEARANCE is present hereunder– The Ministry of Environment and Forest issued the Environment Impact Assessment Notification, 2006 under the Environment Protection Act, 1986, whereby all new Building and Construction Projects and **all such existing projects for undergoing any expansion or modernization of more than 20,000 sq. meters built-up area prior to any construction required to obtain Environmental Clearance.** Under the Schedule, projects with built up area of ≥ 20000 sq. meters and $< 1,50,000$ sq. meters were categorized under item 8(a) as “Building & Construction Projects” and projects covering an area ≥ 50 ha and built-up area $\geq 1,50,000$ sq. meters were categorized as item 8(b) as “Township and Area Development project” **Page no. 1943**

The construction project Malibu Towne in question obtained license no. 15 of 2008 for 24.681 Acres of land scattered at 9 different places in expansion process of main Licenses vide no. 71-75 of 1992 obtained by five Companies for an area 107.682 Acres. Following are details of expansion of Project-;

1. That Construction project namely “Malibu Towne” located in sector 47 & 50, Gurugram got license in 1992 for the area 107. 681 Acres in 1992 and thereafter till 2008 received 27 more additional licenses for an area of 97.12 Acres*. The Project Proponent i.e Respondent no. 8 and its Directors are habitual offender and never hasitated while doing violations and making illegal gains.
2. The Completion Certificate was denied to Respondent no. 8 by the Respondent no. 4 (see page no. 1499, 1502, 1503, 1507, 1523, 1949, 1950) are documents which confirms violation of conditions imposed on Respondent no. 8 by the Respondent no. 4 and all Part Completion Certificates and same were liable to be cancelled as per the conditions imposed as construction was allowed on 55% of 204.796 Acres but on ground **construction was done on 73.56% land i.e 136.728 Acres by conversion of land illegally beyond 55 hectare.** To prove this statement the layout plans and Demarcation plans were already submitted **(1525 to 1537) before the Hon'ble bench.**
3. That 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. **Respondent no. 8 admitted that they**

had taken 32 number of Licences since 28-10-1992 to 31-01-2008 from Respondent no.8 for a single project.

4. That Respondent no. 8 has made **Expansion of project** by amalgamation of land of all licenses. Modified project by **Respondent no.8** is as under-;
 - i. That Amalgamation of land of all licenses obtained from 1992 to 1997 with the land added to project vide License no. 15 of 2008 (24.681 Acres and License no. 86 of 2008. (see **page no. 893 & 894**).
 - ii. That shifting of sites 5 times from 1993 to 2008 (residential plots, commercial sites, Dispensary Sites, Group Housing, all school sites, religious site, green area). Same is admitted by Respondent no. 4 and Respondent no. 8.
 - iii. That Change in size of sites 5 times from 1993 to 2008 (commercial sites, Dispensary Sites, Group Housing, all school sites, religious site, green).
 - iv. That Sale of land (**73.56% of 204.796 acres**) beyond the permissible limit was allowed from much more then the prescribed limit of 55% on and after the year 2008 (**see page no. 646**), which reduces the actual green area and **increase POLLUTION LOAD**. The Land under GREEN AREA was reduced by Amalgamation of land under all licenses obtained from 1992 to 2008.
 - v. That 30.02% of 2,48,858.864 Sqm Land was planned as **GREEN AREA** according to Respondent no. 8 i.e Project Proponent M/s Malibu Estate Pvt Ltd (**see page no. 1543**). Whereas in service plan estimates 24.3 Acres was provisioned and part completion certificate was issued accordingly – (**see page no. 2333 & 2334**) and on **page no. 931**. Thereafter Respondent no. 8 transferred the total land under GREEN AREA measuring 20.694 Acres under Public Parks (excluding green area) to Respondent no. 3 i.e MCG on the Orders of Respondent no.4 i.e DTCP, Haryana on 15-06-2022. But according to Respondent no. 4 on **page no. 824** the total Green area was planned 12.064 Acres. When the land under green area is not ascertained and approved plans are under violation from toes to head then how licensing authority can deny the requirment of Environment Clearance, as no one knows how much green area for particular license is sold.
 - vi. The Environment Clearance dated 08-01-2008 and 04-09-02013 was issued in the name of M/s Nikiyog Buildwell Pvt Ltd and M/s Endure Reality Pvt Ltd by the MoEF, GOI and SEIAA, Haryana respectively for the Construction project namely Malibu Towne in question. But land under group housing planned through licenses granted in 1992 to 1994 were not obtaiend Environment Clearance for the area measuring

31061.622 Sqm placed on **page no. 897**. But Group Housing, two commercial buildings, Dispensary Building (constructed twice from 2018 to as on date), Club building, school buildings etc. not obtained Environment Clearance despite crossing 20,000 sqm built up area.

- vii. That M/s Malibu Estate Pvt. Ltd obtained Terms of Reference letter dated 19-06-2015 for the construction of residential plotted colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram over on area of 8,28,780.01 Sqm (204.796 Acres) and built up area will be 6,64,412.826 Sqm. Total site area for group housing is 48117,13 Sqm (11.89 Acres) and total site area for plotted colony 7,80,662.88 Sqm (192.906 Acres).
- viii. 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 Sqm (204.796 Acres) and built up area will be 6,64,412.826 Sqm. Total site area for group housing is 48117,13 Sqm (11.89 Acres) and total site area for plotted colony 7,80,662.88 m2 (192.906 Acres).

TOTAL AREA UNDER SALEABLE CATEGORY IN MALIBU TOWNE THROUGH APPROVED LAYOUT PLAN FOR AN AREA OF 204.796 ACREA (Drg. No. DGTCP-5626 Dated-28-09-2016- ;

a. Area under Commercial	- 03.99 %	07.70
b. Area under Plots	- 54.10 %	96.668
c. Area under Community Buildings	- 07.03 %	15.05
d. Area under Group Housing	- 05.80%	11.89
e. Area under Oversized Plots	- 02.64%	05.42

	73.56%	136.728

f. Area under unapproved construction – (as mentioned in Layout plan)	0.411%	0.843

	73.971%	137.571 Acres

- ix. The sold land under the category of Plots is much more than the total measurement 390191.09 Sqm (96.418 Acres) shown in Land Schedule of Layout Plan and Demarcation (**see page no. 901, 902, 905, 907 and 1521 & 1522**) as oversize 71 nos of plots from the approved category beyond top size i.e 840 Sqm were placed on record. These 71 plots have taken additional land from green area (21954.66 Sqm i.e 5.42511 Acres). This is a serious environmental violation. The size of sites in earlier licences were MODIFIED after the grant of License No. 15 of 2008 and license No. 86 of 2008. Details are as under:
- a. Commercial sites
 - b. Public Health Site
 - c. Dispensary Site
 - d. Higher Secondary School Site
 - e. Size of 71 Residential Plots against the approved category of plots
- x. The shifting of facility sites approved under the land parcel of 26 licences from 1993 to 2008 from their original locations as under:
- a. Dispensary Site
 - b. Crèche
 - c. Religious Site
 - d. High Secondary School Site
 - e. Nursery School Sites
 - f. Primary School Sites
 - g. Residential Plot Sites
5. That Construction Projects was included in the Schedule to the EIA Notification, 1994 **by way of an amendment Notification dated 07.07.2004** wherein Construction Projects including **new townships, industrial townships, settlement colonies,**
- i. **commercial complexes** – 5 nos in Malibu Towne - **Page no. 782**
 - ii. **hotel complexes** - 1 no. of 204 rooms in Malibu Towne - **Page no. 782**
 - iii. **hospitals** and Dispensary – one each mentioned in Layout plan
 - iv. **office complexes** for more than **1,000 (one thousand) persons** – in four commercial sites for more than 1200 persons.
 - v. **discharging sewage of more than 50,000 (fifty thousand) litres per day** – according to service plan estimates **discharging sewage of more than 1,50,000 (One lakh fifty thousand) litres per day**
 - vi. with an **investment of more than Rs.50,00,00,000/- (Rupees fifty Crores)** The project cost is estimated more than Rs. 2,00,00,00,000/- (Rs. Two Hundred Crores)

were included in the Schedule as Entry 31 which then required prior EC. Of course, there was no mention of existing townships or area development projects where development works were complete. Construction project namely “Malibu Towne” located in sector 47 & 50, Gurugram contains all above mentioned components which require Environment Clearance and all are admitted in writing by Respondent no. 8 and same are on the record of the Hon’ble NGT.

6. That the answering Respondent has applied for Environmental Clearance twice in the past which is evident and same were admitted in writing by Respondent no. 8. (**see page no. 1542**) whether any third-party rights have been created, if so, what is the number of persons in whose favour third party rights have been created and what is the amount invested by them and what is the stage of the projects for which EC is required.” Through the same Order, State Environment Impact Assessment Authority (hereinafter referred as “SEIAA”) was also directed to look into the aspects of present status of the project for which EC is required.
7. It is clearly stated that the covered area is much more than 1,50,000 sqm. The unapproved construction by Respondent no.8 and 7 is not taken on account. The few document placed on **page no. 939, 1495, 1497, 1498, 1500, 1504, 1508, 1510, 1513, 1516, 1517, 1518, 1520, 1937**, to prove the misuse of land after 2008 and unapproved construction raised on approximately 42 acres has further increase the BUILT UP area. The document placed on **page no. 1943**.
8. That two Individual land allottees of commercial plots in Construction project namely “Malibu Towne” who have constructed on the allotted plot and where the said **construction has been beyond the threshold of built-up area of 20,000 Sq. mts. have obtained prior Environmental Clearance (EC) for their projects**. Two such examples include M/s Nikiyog Buildwell Pvt. Ltd. (EC- 08.01.2008); M/s Endure Realty Pvt. Ltd. (EC- 04.09.2013). (**See page no. 1583** point no. 20.6)
9. That all Part Completion Certificates issued from 1996 to 2016 are violated and same has to be taken afresh as per the provision and condition imposed. (See page no. 1018 to 1025, 1030, 1932 to 1958, 2324 to 2337, 2361 to 2373) The documents annexed confirms that unapproved construction, modification in plan without approval and

expansion of project with addition of new land parcel with amalgamation of old parcel by shifting of sites enforced the provisions-

- I. EXPENSION
- II. MODIFICATION
- III. POLLUTION LOAD
- IV. TOTAL CONSTRUCTION AREA
- V. GREEN AREA
- VI. PART COMPLETION CERTIFICATE -
 - i. Order of DTCP, Haryana to Respondent no. 8 for Hand over colony to MCG i.e Respondent no. 3.
 - ii. The Part Completion Certificates (**see page no. 894**) were issued with 13 conditions. Most of the conditions were violated by Project Proponent i.e Respondent no. 8. All Part Completion Certificates are liable to be cancelled as serious violations of conditions were found at site and one F.I.R at PS Sadar, Gurugram vide no. 628 of 2020 was registered by the DTP (E), Gurugram and DTCP, Haryana i.e Respondent no. 4. (**See page no. 911 to 918**) refused to issue Completion Certificates to Project Proponent i.e Respondent no. 8.
 - iii. The Regional Officer, HSPCB North Gurugram also filed two cases in Environmental Court Faridabad for serious violation of Environmental Laws by Project Proponent i.e Respondent no. 8.
 - iv. The Part Completion Certificates were issued for services only as per the requirment & demand of the area and same is accepted by Project Proponent i.e Respondent no. 8 under point no. 20.2 at **page no. 1582**. But various sites are functional for other purposes against the approved plans.
 - v. The Part Completion Certificates were issued before the approval of Service Plan Estimates which itself is sufficient reason for the cacellation of Part Completion Certificates as the HUDA/HSVP Respondent no. 5 who was the agency responsible to check the Service Plan Estimates and sucessful completion of services reported objections with detail of violations. **See page no. 1947**.
 - vi. The augmentation of services not shown in any of the the Part Completion Certificates which were issued after addition of additional land, shifting of various sites before the issuance of fresh additional licenses.
 - vii. The Part Completion Certificates were found to erroneous and in violation of terms and conditions and same were accepted by the Respondent no. 2, 3, 4 and 5.

- viii. All the services mentioned in Part Completion Certificates were altered, modified without any permission for commercial gain.
 - ix. The Part Completion Certificates were issued without the construction of Service Road (**See page no. 940 to 951**) services remained underdesigned and with respect to the site requirement due to less quantity.
 - x. The Part Completion Certificates contains no mechanism for sewage disposal (**See page no. 1022, 1027, 1030, 1932, 1933, 2328,**).
 - xi. The Part Completion Certificates contains no mechanism for storm water disposal. (**See page no. 1022, 1027, 1030, 2328**).
12. That COMPLETION CERTIFICATE was denied on 11-11-2020 by the Respondent No. 4 the DTCP, Haryana (**page no. 1499**) who happens to be the Licensing authority. Even in the Order for handover of township, same is mentioned. The application for REGULARIZATION of Public Utility Buildings by Respondent no. 8 affix at **page no. 1495** confirms the violation of Part Completion Certificates.

That nothing more to present in this matter. Kindly allow these facts. It is prayed to allow this Application with above stated objections and facts and issue necessary directions to M/s Malibu Estate Pvt Ltd & Ors to take Environment Clearance. The above written statement may kindly be taken on record.

Date : 22-03-2025

Place : Gurugram

Submission of Application



Raman Sharma

CW-58, F.F, Malibu Town, Sector-47, Gurugram-122018
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ANNEXURE – 1

To
The Registrar General
National Green Tribunal (Principal Bench)
New Delhi.

Date - 03-12-2021

Sub - Complaint against the responsible Officials of the Town & Country Planning Department Haryana, Chandigarh, Municipal Corporation Gurugram and Haryana State Pollution Control Board, Panchkula for not providing necessary Approvals/Permissions to adopt the provisions of SWM Rules 2016 and C & D Waste Management Rules 2016 and violation under the provisions of Air Act 1981 despite the Directions of the National Green Tribunal (Principal Bench) in the matter of Application No. 519 Of 2016 with other Applications (copy attached)

1. The placement of 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 has 6 Towers, 4 Commercial centres and Shopping malls in 8 Acres — each with 5-14 floors, Five story Dispensary Building, 8 multi-story school buildings and many more unapproved construction. The chimneys of all the DG sets, however, do not extend above the roof heights of the residential towers but end right above the DG sets. They, therefore, release all exhaust emissions at the ground level.
2. The Consent to Operate under the Water Act, 1974 and Air Act 1981 was refused by the Haryana State Pollution Control Board (HSPCB) but all the 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 are still running with the silent approval of the responsible officers.
3. That in the area of 204.796 Acres, there is not a single composting plant to follow the provisions of the SWM Rules 2016 and no agency is ready to grant permission to place the Composting Plant (copy of application is attached).
4. That the builders are flouting the directions and the provision of C & D Waste Management Rules 2016 and putting the construction waste in green areas. (Copy of letter attached).

It is requested to accept the Complaint as one Application is under process in the matter where the **Licensee Company has not obtained the Environment Clearance before the construction and placement of placement of 10 DG Sets in Green Belt** without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 has 6 Towers, 4 Commercial centres and Shopping malls in 8 Acres — each with 5-14 floors, Five story Dispensary Building, 8 multi-story school buildings and many more unapproved construction.

With Regards

Raman Sharma

CW-58 , F.F , Malibu Town , Sohna Road , Gurugram -122018

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[Quoted text hidden]

6 attachments

HSPCB-Refusalconcent-MEPL.jpe

196K

HSPCB-Refusalconcent-MEPL-1.jpe

235K

cancellationletter-Dispensary-30-11-2021.jpe

60K

MCG-dispenseryDemolition-Permission-Malibu.jpe

116K

 **MCG_Compost Plant_ 26 Nov 2021.pdf**

276K

 **Final Report in OA No.519 of 2016 Hardeep Singh Vs SDMC.pdf**

13960K

ANNEXURE – 2 – Approved Layout Plan of Malibu Towne for License No. 71-75 of 1992 for an area measuring 107.682 Acres



ANNEXURE – 3 – Copy of interim Orders against the Directors of Licensee Company M/s Malibu Estate Pvt Ltd.

CNR No: HRGR030625032024

CIS No: COMA-246-2024

HSPCB VS M/S MALIBU ESTATE PVT LTD.

Present: Ms. Pragati Dahiya, ADA, for the complainant.
Accused No.1, Gurbachan (2), Sameer (3), Kumkum (5),
Naveen (6) and Accused No. 9 not present.
Proceedings against accused Sudershan Kumar (4) dropped
vide order dated 29.08.2023.

There is no report regarding issuance of court notice to remaining accused persons. Ahlmad is warned to be careful in future. Let, fresh court notice to accused at Sr. No. 7, 8 and 10 to 42 be issued for **01.07.2025**.

Case called several times since morning, but accused has not turned up. It is already 01:00 P.M. Waited sufficiently. No further wait is justified. Hence, bail of accused No.1, Gurbachan (2), Sameer (3), Kumkum (5), Naveen (6) and Accused No. 9 is hereby cancelled and personal bonds and surety bonds are forfeited to the state. Now, presence of accused be procured through warrant of arrest for **01.07.2025** through concerned SHO/IO. Notice under Section 446 Cr.P.C. be also issued to the accused and to their sureties.

Date of Order: 07.03.2025

Raveena

(Vishal)
JMFC/GGM
UID NO . HR0546

Affidavit

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

APPLICATION NO. OA- 68 of 2022

In the matter of :

Raman Sharma

..... APPLICANT

Verse

SATE OF HARYANA & ORS

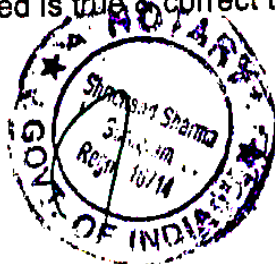
..... RESPONDENT(s)

AFFIDAVIT ON BEHALF OF APPLICANT FOR FILING OBJECTIONS

Affidavit of Sh. Raman Sharma aged about 57 years, S/o Sh. Narendar
Nath Sharma, R/o CW-58-FF, Malibu Towne Gurgaon.

We, the above-named deponents do hereby solemnly affirm and declare as
under:

1. That the deponent is an applicant and is well conversant with the facts and circumstances of the case and hence competent to swear this affidavit.
2. That the deponents affirm the present application for objection has been filed by the Deponent in accordance to actual factual matrix and all the facts mentioned in the application for objection are true and to best of our knowledge.
3. That the Deponents affirm that the content of application for objection are drafted in accordance with documents/ evidence mentioned herein alongwith the laws mentioned in the application for objection. The contents of the IA filed is true & correct to our knowledge.

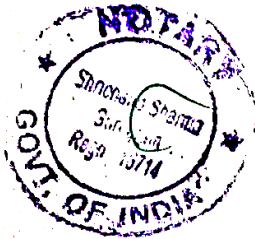



Deponents

Verification: Verified at Gurugram on this Date of _____ 2024 that the contents of the above affidavit are true and correct to the best of our knowledge and belief and nothing material fact has been concealed therefrom.

Date:


Deponents



ATTESTED

SHRI CHAND SHARMA
ADVOCATE & NOTARY
GURGAON

05 JAN 2024