

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

**ORIGINAL APPLICATION NO: 558 OF 2023**

**IN THE MATTER OF:**

**ANUJ JAIN**

**...APPLICANT**

**VERSUS**

**UNION OF INDIA & ORS**

**...RESPONDENTS**

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**PLACE: DELHI**

**DATE: 16.04.2024**

*Anuj Jain*

**APPLICANT  
ANUJ JAIN**

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**REJOINDER BY THE APPLICANT AFTER LOOKING AT THE  
OVERALL REPLIES AND REPORTS GIVEN BY ALL THE  
RESPONDENTS AND THE JOINT INSPECTION COMMITTEE**

**MOST RESPECTFULLY SHOWETH:**

- I. That the applicant approached Delhi State Legal Services Authority (hereafter referred as DSLSA) and they provided legal assistance to present the original application before the Hon'ble National Green Tribunal in the prescribed manner. The original application contains only factual information and documents related thereto, hence it contains the answer to everything in itself. Rejoinder is only to exclude unnecessary things which tend to mislead the case.
- II. That Original application no. 558/2023 (Anuj Jain Vs Union of India & Ors.) is a case referred by DSLSA, which does not charge any fee from anyone for any case and

approves any case for further proceedings only after conducting a thorough investigation of the facts and grounds.

III. That the applicant is presenting his case himself with the view that the assistance from the DSLSA and funds generated through the Government system should be taken only as per requirement so that it can be useful to someone else in need.

IV. Article 51-A (g) which deals with Fundamental Duties of the citizens states: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."

V. **FACTS IN BRIEF:**

1. **This is clear from the Joint Inspection Committee report on dated 06.12.2023 point no. 7, as under:-**

***"7. The conditions of Environmental Clearances granted vide letter dated 24.05.2011 and Expansion of project granted vide letter dated 21.06.2018 have not been complied with."***

2. That No document, sanction plan etc. annexed with respect to the information given in the Joint Inspection Committee report, point no 4, list of the salient point

related to project M/s Nipun Saffron Valley, point no 3, as under:-

*“..... partial completion certificate issued by Ghaziabad Development Authority, Ghaziabad vide its letter no. 299/ Enforcement Zone-7/ 2019 Dated 22.01.2019 for Tower A and B”*

And point no 7, as under:-

*“..... Tower A and B are completed. For tower C,D and E civil work completed and finishing work is under progress. ....”*

3. That the Joint Inspection Committee report point no. 6 is as under:-

*“6. As per information provided by Ghaziabad Development Authority, Ghaziabad vide letter no. 1463/ प्रवर्तन खण्ड जोन-7/2023 dated 02.12.2023, it is mentioned that the project proponent has constructing 527 dwelling units against an approval of 577 dwelling units.....”*

It is open-ended and clarification needed regarding Ghaziabad Development Authority (hereafter referred as GDA) letter to know about facts.

4. That the information given in the Joint Inspection Committee report point no. 16(b) is as under:-

*“(b)Expansion of Environmental clearance granted on 21.06.2018 for revised built up area of 69,862.42 Sqm”*

Letter of Environmental Clearance, granted on 21.06.2018 and annexed as Annexure IV, does not contain any information about the sequences, as the GDA letter shows. No information given about and no document, sanction plan, approvals etc. annexed on which basis environment clearance has been given with an expansion for revised built up area of 69,862.42 Sqm.

5. This is clear from the letter given by GDA in The Joint Inspection Committee report and has been directly or indirectly accepted by GDA, as under:
  - i. The approved maps, related to the construction work that the builder is currently doing in the residential project Nipun Saffron Valley and has been done, have not yet been given to the builder by the GDA.
  - ii. The builder has in the past also constructed additional units as per 2.5 far of the residential project Nipun Saffron Valley without the approved map.
6. This is not clear from the letter given by GDA in The Joint Inspection Committee report:
  - i. No information has been given regarding increasing FAR from 1.5 to 2.5 by the government for group housing under Ghaziabad development area i.e. copy of Government order, order number, date and the date from which it is effective.

- ii. No information given about date of application for compounding (“Shaman”) by builder and copy of application.
- iii. No information has been given on the scope and the basis of which law/section/rule the compounding has been done by the authority.
- iv. Basis for granting purchasable FAR in case of non-payment of compounding fee and under which law/section/rule the purchasable FAR approval was granted by the Authority after compounding.
- v. No information regarding fees for purchasable FAR and incentive FAR.
- vi. No information has been given about the prescribed population density at which 577 units have been approved. There is also no information whether the 527 constructed units include EWS units or not.
- vii. No information was given about the law/section/rule according to which the plans are approved whereas the project fee has not yet been paid by the builder and the plans have also not been issued.
- viii. Partial completion certificate of Tower A and B is not annexed with The Joint Inspection committee's report.
- ix. In all the sequences, no information given about what is provisional and what is a matter of right. No information on how provisional matter is justified.

7. Apart from the above mentioned points no.1-6, no information has been collected related to OA 558/2023 and nor given in The Joint Inspection committee's report nor any document has been annexed. The committee neither asked the builder for documents related to the sanction plan of construction and approvals of the project nor did the builder provide them.
8. Whereas the Joint Inspection Committee based on the order of NGT dated 14.09.2023 inspected and observed the project, wherein appropriate action has been taken by Hon'ble National Green Tribunal on all aspects of environment, but on other aspects other than the main points of OA 558/2023 the applicant does not express any opinion to avoid misdirecting the matter.
9. Respondent no. 1, Ministry of Environment, Forests and Climate Change (MoEF&CC) didn't file any reply/response.
10. That in reply Affidavit dated 09.01.2024 given by Respondent no. 2, the Central Pollution Control Board, point no. 4 is as under:-  
  
*".....As per Rule 10 of the said Rules, CPCB is to prepare operational guidelines related to environmental management of construction and demolition waste*

*management; analyze and collate the data received from the State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs) to review these rules from time to time; coordinate with all the SPCBs and PCCs for any matter related to the development of environmental standards; submit annual compliance report to Central Government based on reports given by SPCBs & PCCs.”*

From this, it is clear that the selection of CPCB as the Respondent in OA 558/2023 is correct and the CPCB's rejection of the entire contents of OA 558/2023 in point no. 2 of the reply affidavit is not correct.

11. That in reply Affidavit point no. 12 & 13, all matters relating to excess construction and all the sequences in OA 558/2023 are matter of records as per Respondent no 2, Central Pollution Control Board. No information or justification has been given by CPCB as to how all these sequences are merely for record and have no impact on the environment. No information about guidelines/rules regarding impact on environment on issues of increasing population density.
12. CPCB has not mentioned anything related to the committee report in the entire affidavit. There is no information and documentation annexed regarding the impact on environment of increasing FAR from 1.5 to 2.5

and so on, and guidelines/rules so that what is wrongly entered can be prevented.

13. That in a view as a whole reply affidavit made by CPCB, CPCB while reiterating the points of OA 558/2023, has distorted its statements and left it in a directionless state, due to which it is not possible to reach any conclusion.
14. In reply Affidavit dated 09.01.2024 given by Respondent no 2, instead of accepting the facts in OA 558/2023 and stopping the things which are harmful to the environment, the Central Pollution Control Board has adopted reverse approach to oppose everything in OA 558/2023.
15. Respondent no. 3, State of UP, didn't file any reply/response.
16. That in the Status Report dated 16.01.2024 given by Respondent no 4, the Uttar Pradesh Pollution Control Board, no information has been given and no action has been taken as per the order dated 08.12.2023 passed by Hon'ble NGT point no. 2 and 3, which are as follows:-  
*"2. The issue raised in the original application is that Respondent No.6-Nipun Builders & Developers Pvt. Ltd. had started construction in the project namely 'Nipun Saffron Valley', Ghaziabad, a group housing project at*

*Village Pasona Pargana, Loni, District Ghaziabad, UP, comprising of 5 towers A to E. It is alleged that initially construction at the site was done in violation of sanction plan and compounding of excess illegal construction was done but thereafter again construction has been done by Respondent No.6 evading the sanction plan.*

*3. The issue relating to construction of a group housing project in violation of the environmental norms and raising construction in violation of EIA Notification, 2006 is involved in the matter.”*

17. That “completion certificate” is not annexed with respect to the information given in Reply dated 16.03.2024 given by Respondent no 4, the Uttar Pradesh Pollution Control Board, Annexure-I, Inspection Report, point no. 5, which is as follows:-

*“5. Year of Establishment-2019 (as per completion certificate issued by GDA on 22.01.2019)”*

18. That No document, sanction plan etc. annexed with respect to the information given in Reply dated 16.03.2024 given by Respondent no 4, the Uttar Pradesh Pollution Control Board, Annexure-I, Inspection Report, point no. 6, which is as follows:-

*“6. Capacity- Group housing project (Plot area- 13636 sqm and built-up area of 69862.42 SQM). Dwelling units 527.”*

19. Apart from the above mentioned points no. 16-18, no information regarding OA 558/2023 has been given in Reply dated 16.03.2024 given by Respondent no 4, the Uttar Pradesh Pollution Control Board nor any document has been annexed.
20. Respondent no. 5 didn't file any reply/response. GDA's letter given in the committee report is the only response which has been explained in point no.5 & 6.
21. Respondent no. 6 gave its reply on dated 18.03.2024, a day before the hearing date 19.03.2024.
22. As the directions given by Hon'ble National Green Tribunal, Principal Bench, on dated 18th January 2024 in OA 558/2023 (Anuj Jain Vs Union of India & Ors.) to serve the notice by registered post to Respondent No. 6, Nipun Builders and Developers Pvt. Ltd., the copy of notice issued on dated 18/1/2024 and previous notice issued on dated 8/12/2023 have been sent by Speed Post no. EU324366154IN on dated 23/01/2024 at Regd. Office-509,Nipun Tower, Plot No. 15, Community Centre, Karkardooma, Delhi-110092 online status is Item delivered on dated 25/01/2024 and copy of the same by Speed Post no. EU324366171IN on dated 23/01/2024 at

Site Office-102-134, North Sahibabad, G.T. Road, Sahibabad, Ghaziabad-201005 (Uttar Pradesh) online status is Item delivered on dated 27/01/2024, but the order is specific for registered post, so the copy of the same have been sent by Registered Post No. RD868636551IN on dated 29/01/2024 at Regd. Office-509,Nipun Tower, Plot No. 15, Community Centre, Karkardooma, Delhi-110092 online status is Item delivered on dated 01/02/2024, which details have been sent on mail-id judicial-ngt@gov.in dated 14/03/2024 for filing proof of service and Registered Post no. RU090287432IN on dated 06/02/2024 at Site Office-Nipun Saffron Valley, 102-134, North Sahibabad, G.T. Road, Sahibabad, Ghaziabad-201005 (Uttar Pradesh) online status is Item delivered on dated 08/02/2024. Despite this, the reply by respondent No. 6 was sent at such an inopportune time that it could not be read till the hearing in OA 558/2023 dated 19.03.2024.

23. That, notice has been sent by e-mail in OA No. 558/2023 following the order dated 8/12/2023 by the Registrar Office, NGT. Letter No. G42080/C-1/G-727/C.B.No./2023 dated 06.12.2023 is annexed as Annexure-I to the report submitted on dated 16.01.2024 by UPPCB before NGT, wherein UPPCB has specifically

stated in OA 558 /2023 which was enough for the awareness of Respondent No. 6, Nipun Builders and Developers Pvt. Ltd.

24. In the reply dated 18.03.2024, Respondent No. 6 Nipun Builders and Developers Pvt. Ltd. in the “REPLY ON MERITS” has denied or stated wrong all the points of OA 558/2023 without any basis, but has not presented any document or approved map of Nipun Saffron Valley related to the reality of the construction.
25. In the rest of the reply, Nipun Builders and Developers Pvt. Ltd., apart from reiterating what has been said in OA 558/2023, Committee Report and the reply of other respondents, has only focused on other aspects where it is wrong but it feels that it can Somehow he will be able to prove himself right as he has incredibly taken clearance from the UP PCB despite not paying the UPPCB penalty and the order of the Hon'ble National Green Tribunal on the same. The purpose of stating this here is only to show the wrong working style of Nipun Builders and Developers Pvt. Ltd. and on other aspects other than the main points of OA 558/2023 the applicant does not express any opinion to avoid misdirecting the matter.

26. The proponent, in the mistaken belief that saying everything wrong would create confusion and hide all the mistakes, has not produced documents relevant to the case which corroborate the veracity of the statements made in OA 558/2023.
27. The respondents have not presented the documents related to the actual case in the given reports and replies and an attempt is being made to divert the direction of the case by creating a confusing situation.

**VI. GROUNDS:-**

That the Violation of environmental norms by excess construction done in Nipun Saffron Valley by Nipun Builders and Developers Pvt. Ltd. can be noticed only up to the construction phase. With the increasing population density, pollution caused by the resources used by people will increase the already existing problem for the environment. Other factors may be added if the definition of air pollutant is changed in the Air (Prevention and Control of Pollution) Act, 1981 in future. The Air (Prevention and control of pollution)Act, 1981 defines air pollutant under Section 2(a) of the Act as:

*“Air pollutant” means any solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to*

*human beings or other living creatures or plants or property or environment.”*

While definition of Air pollution on WHO Website as following:

*“Air pollution is contamination of the indoor or outdoor environment by any chemical, physical or biological agent that modifies the natural characteristics of the atmosphere.”*

By these two definition it is clear that Air (Prevention and control of pollution) Act, 1981 covers or consider only chemical form /agent for air pollutant, but partially covers physical form:-

(a) By including noise, which refers to any unwanted or disturbing sound that causes physical discomfort and has characteristics such as frequency, amplitude, and waveform.

(b) as radioactive air pollution in section 52 of air (prevention and control of pollution) act 1981, which is as following:

*“Save as otherwise provided by or under the Atomic Energy Act, 1962 (33 of 1962), in relation to radioactive air pollution the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.”*

For example, nonionizing electromagnetic RF emitted by Mobile Towers/BTS is a type of Physical Air Pollutant.

This is also clarified by Telecom Regulatory Authority of India Information paper No. 01/2014-QoS dated 30.07.2014 (Link:-[https://www.trai.gov.in/sites/default/files/EMF\\_Information\\_Paper\\_30.07.2014.pdf](https://www.trai.gov.in/sites/default/files/EMF_Information_Paper_30.07.2014.pdf)), page no.20, point no.1.27, as following:-

*“1.27 The report also specifies monitoring of the EMF radiation. It also proposed that the provision of EMF radiation monitoring network may be considered similar to that of the national ambient air monitoring network or ambient noise monitoring network or weather monitoring stations. It also recommended provision of online monitoring of radiation levels through establishment of static testing and measuring centers at major 21 cities. The collected data could then be sent to central servers for further processing. This is similar to the measurement of pollution levels (noise and air quality) by the Central Pollution Control Board, under the Ministry of Environment and Forests.”*

#### **VII. SUMMERY IN BRIEF:-**

Everything, from The Joint Inspection Committee report to the reply given by respondent No. 6, Nipun Builders and Developers Pvt. Ltd., directly or indirectly proves or points towards the correctness of everything stated in OA No. 558/2023.

**VIII. LIMITATION**

That the Rejoinder is being filed within the scope and the limitation of filed OA 558/2023 before the National Green Tribunal.

**IX. PRAYER**

In light of the facts and circumstances stated above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass the order as the Hon'ble Tribunal may deem fit and proper in facts and circumstances of the case.

Place: Delhi

Dated: 16.04.2024



**APPLICANT**  
**ANUJ JAIN**  
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**anujjain11667@gmail.com**

**VERIFICATION**

I, Anuj Jain, S/o, Late Shri. Sumat Prasad Jain aged about 49 years, R/o E-1158, Hariom Gali, Near Bus Terminal, Babarpur Extn., Shahdara, Delhi-110032, do hereby verify that the contents of the Paras I to IX are true to my personal knowledge and those of paras No. I to IX are true and correct on be basis of the legal information, received and believed to be true and correct and that I have not suppressed any material fact.



**APPLICANT**