

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, DELHI
OA NO. 341 OF 2024

IN THE MATTER OF:

PAWAN KUMAR BANTA

..... APPLICANT

VERSUS

STATE OF HIMACHAL PRADESH & ORS.

..... RESPONDENTS

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PLACE: Delhi

DATE: 16.12.2024


A.R. TAKKAR, SHRIYA TAKKAR, ASMITA DUGGAL, UNNATI ANAND,


KAPIL BAKSHI, AASTHA TYAGI AND MANAN TAKKAR

ARTLO

#P-6/2E, DLF PHASE-2, GURUGRAM-122002

MOB.: 9582209633

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, DELHI
OA NO. 341 OF 2024

IN THE MATTER OF:

PAWAN KUMAR BANTA

..... APPLICANT

VERSUS

STATE OF HIMACHAL PRADESH & ORS.

..... RESPONDENTS

**REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLY FILED BY HIMACHAL
PRADESH STATE POLLUTION CONTROL BOARD.**

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:

1. At the outset it is submitted that the reply submitted by the Respondent Board would clearly show that the Respondent Project proponent has constructed the project under question without obtaining any fresh Environment Clearance. That with respect to Consent to Establish, the reply submitted by the Respondent Board univocally states that earlier CTE dated 03.03.2017 was granted for Home Land Exotica Mixed Land use and the same expired on 02.03.2018. Thereafter, there was no renewal of CTE. Further, in compliance of the order dated 06.05.2021 passed by the Hon'ble High Court of Himachal Pradesh, the Respondent Board had granted Consent to Establish to the project proponent on 26.08.2023 but the same was also withdrawn by the Respondent Board vide communication dated 05.12.2023 for suppression/concealment of material facts. Hence, the project has been constructed without Consent to Establish as well. Therefore, the construction has come up without Environment Clearance, Consent to Establish etc. right under the nose of the Authorities concerned and thus it is a fit case for demolition of the illegal constructed buildings on already fragile Hill in Shimla and imposition of exemplary and heavy Environment Compensation upon the project proponent.

PARA-VISE REJOINDER TO THE REPLY:

1. That the contents of Para 1 of the OA are accepted as matter of record by the Respondent Board and hence, need no rebut. That the contents of the corresponding paragraph of the Original Application filed by the Applicant herein may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

- 2-7. That the contents of Para 2-7 of the reply depict that the construction of the said project in question has been undertaken by Respondent No.7 without Environment Clearance and without Consent to Establish. It is submitted that one Mr. Sunil Kumar Sood who was the owner of agricultural land bearing Khasra No's 641, 408, 613/1, 630, 631, 1368/1137/632, 1369/1137/632, 640, 642 to 649 at MohalKiyari, and Khasra No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 321/10 at Mohal Rirka, Tehsil and District Shimla, Himachal Pradesh measuring 31768.00 sqm., obtained License bearing no. 04/2015 dated 17.12.2015 valid till 16.12.2020 from the Department of Town and Country Planning (Himachal Pradesh) admeasuring 31768.00 sqm. It is submitted that the aforesaid land fell within limits of village MohalKiyari and Rirka, Tehsil and District Shimla which were included within the Municipal limits of Shimla vide Notification No. UD-A(1)-4/2006 dated 23.08.2006 and Notification No. UD-A(1)-6/2015 dated 14.10.2016 respectively. It is further submitted that the Environmental Clearance dated 01.04.2016 was granted to Mr. Sunil Kumar Sood for project "Homeland Exotica", a mixed land use construction project and the same is on record at Clause 5.12 of the 24th Meeting of the State Level Impact Assessment dated 02.03.2016. It is submitted that Environment Clearance was granted to Mr. Sunil Kumar Sood for project capacity of 46,599 sq. mtrs. It is submitted that the aforesaid Environment Clearance was granted subject to certain conditions. That Clause 4 of the General Conditions clearly states that:

“ 4. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.”

It is submitted that the Consent to Establish under the Water Act, 1974 and Air Act, 1981 was granted to Mr. Sunil Kumar Sood by Himachal Pradesh Pollution Control Board on 03.03.2017 for establishing a mixed land use construction project i.e. Homeland Exotica with land area of 46,599 sqm. and the same was valid for one year i.e. till 02.03.2018. It is wrong and denied that it is the unit who has to apply for renewal of consent rather it is the Proponent (owner) who has to apply for renewal. It is also wrong to issue notices to the new entity for renewal, in spite of fact that the original proponent had written to the Respondent Board for cancelation of Consent to Establish granted to him. It is submitted that the said Consent to Establish was granted subject to compliance of conditions stated in the Environment Clearance dated 01.04.2016 and the same is evident from Clause 2 of the conditions imposed in the said Consent to Establish. It is submitted that the Consent to Establish expired on 02.03.2018 and no subsequent renewal or Consent to establish has been granted to the Construction project i.e. Homeland Exotica. It is further submitted that the Respondent Pollution Control Board issued Show Cause Notice dated 15.02.2019 to M/s Nirvana Woods & Hotels Pvt. Ltd. stating that upon inspection conducted on 14.02.2019 it was found that the Respondent Company has acted in non-compliance from 2017-18, 2018-19 as the Respondent Company did not apply for consent from the State Board, Environment Clearance etc in gross violation of Water Act, 1974 and Air Act, 1981. It is further submitted that despite gross violations by the Respondent Company for years the Respondent Pollution Control Board did not take any action against the Respondent Company giving them ample opportunities, one after the other, to renew the consent despite lapse of such prolonged period. It is submitted that the Municipal Commissioner, Shimla issued notice

dated 16.02.2019 to M/s Nirvana Woods & Hotels Pvt. Ltd. under Section 254(6) and 253 r/w 242 of the Himachal Pradesh Municipal Corporation Act, 1994. **It is submitted that the said notice stated that the Respondent Company has unauthorised and without approval of the Corporation carried out the construction of the building.** It was wrong to issue notices to Respondent Company because consent to Establish given to one entity expired on 02.03.2018 and cannot be renewed by any other entity. In this case the Consent to Establish was given to one Sunil Kumar Sood. It is further submitted that the Respondent Pollution Control Board issued an Office Order dated 16.11.2019 directing the State Electricity Board and the Executive Engineer, Electrical Division, Kasumpti, Shimla to disconnect the power supply to the Respondent Company M/s Nirvana Woods & Hotels Pvt. Ltd., Village Kiyari and Rirka, Tehsil and District Shimla, H.P. with further directions to the Respondent Company not to use DG Set. That in compliance of order dated 12.05.2020 passed by this Hon'ble Tribunal in O.A. No. 55 of 2020, the Respondent Pollution Control Board in connivance with the project proponent imposed Environmental Compensation of a meagre amount of Rs. 18,00,000/- on the Respondent Company. It is submitted that a mere Environmental Compensation of Rs. 18,00,000/- was imposed for numerous continuous wilful violations of environmental laws committed by the Respondent Company. That as stated by the Respondent Board in its reply, the Respondent Board filed an application before the Hon'ble High Court of Himachal Pradesh for modification of the impugned order dated 06.05.2021 as the same was passed without insisting upon the submission of fresh Environment Clearance Certificate which was mandatory as per law. Hence, it is clear that no fresh Environment Clearance was ever issued in favour of the Respondent No.7 and the Respondent Company could not have constructed any building without Environment Clearance. Further, as submitted by the Respondent Board the consent to establish dated

26.08.2023 granted by it to the Respondent No.7 was in compliance of order dated 06.05.2021 of the Hon'ble High Court of H.P. It is submitted that the order dated 06.05.2021 was partially passed due to connivance between the Respondent Board and the Respondent Company. The relevant part of para 7 of Hon'ble High Court order dated 06.05.2021 is reproduced as under:

*“On another pointed query to learned Counsel for respondent-Board as to under which particular statutory provision of any of the pollution laws, there was a necessity to obtain a fresh environmental clearance upon transfer of a Project and under which provision **the environmental clearance already granted by the competent authority to Unit is not valid post its transfer, learned Counsel for the respondent-Board submitted that the pollution laws do not envisage any such provision**”.*

The simple answer was that when there is a change of Parameters of the project a fresh Appraisal of project is required under the provisions the EIA Notification 2006. Therefore, the E.C. was not transferable. Moreover, the original proponent had already surrendered the E.C. on 14.03.2020.

Respondent Board had already filled an application for modification of order dated 06.05.2021 on the ground that Consent to set up cannot be given in the absence of environmental clearance in the name of the Respondent

Company. Further the Respondent Board has stated it has withdrawn the consent letter for the reason for withdrawal in the letter dated 05.12.2023 is reproduced as under:

“As such after going through the matter in detail it has emerged that you have concealed vital facts/ information from the State Board and Hon’ble High Curt of H.P. for obtaining RCTE and Name Change which are as below”:

“That the CTE granted in favour of Sh. Sunil Kumar for his project named M/s Homeland Exotica has not been transferred to any other person as the same has been surrendered by the original proprietor, thus the same cannot be renewed”

Hence, the project has been constructed without Consent to Establish as well. That with respect to the inspection report dated 13.08.2024, the same has not been annexed by the Respondent Board and hence the same cannot be relied upon. However, if the contents of the same as stated by the Respondent Board are taken to be true, the same clearly show that such a huge construction of the project has been completed without any Environment Clearance and Consent to Establish. The Respondent Board has certified that at present one block is under construction along the nallah. Directions were issued to the Respondent Company to ensure that C & D waste generated is disposed of scientifically and proper record is maintained. The unit has proposed that waste water generated will be

disposed of through common STP of SJPVL. The unit has proposed an Effluent Treatment Plant for the scientific disposal of waste water generated from laundry. Solid waste will be disposed of through Municipal Corporation, Shimla. Instead of issuing the notice to stop the ongoing construction of one block. The Respondent Board is giving instruction as the Respondent Company as the Respondent Company is holding Environmental Clearance and Consent to Establish. Therefore instead of taking legal action against the Respondent Company, the Respondent Board seems to be in connivance with the Respondent Company. That the contents of the corresponding paras of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

8. That the contents of Para 8 need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
9. That the contents of Para 9 of the OA are accepted as matter of record by the Respondent Board and hence, need no rebut. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
10. That the contents of Para 10 of the reply need no rebut. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
11. That the contents of Para 11 are wrong and hence denied. It is submitted that in the agreement dated 03.08.2017 executed between Respondent Company and Director Town & Country Planning, it has been stated at Para

1(f) of Agreement that Respondent Company will obtain Environmental Clearance from Himachal Pradesh State Assessment Authority and consent to set up from H.P. State Pollution Control Board under Water Act, 1974 and Air Act 1981 in its name within a period of one year from the date of Agreement i.e. upto 03.08.2018 which was not obtained by the Respondent Company. Therefore, the transfer of maps and license are not valid and in eyes of Law of Agreement is null and void after 03.08.2018. The State Board has intentionally chosen not to bring this fact on records of this Hon'ble Tribunal, for the reason best known to it. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

12-15. That the contents of Para 12-15 of the reply need no rebut. That the contents of the corresponding paras of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

16. That the contents of Para 16 of the reply need no rebut. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

17. That in response to the contents of Para 17 of the reply, that the Respondent Board has rightly submitted that the 'Consent to Establish' was granted in favour of Sh. Sunil Kumar Sood, (Prop.) for Homeland-Exotica Mixed Land Use Construction Project on 03.03.2017 on the basis of Environmental Clearance dated 01.04.2016 issued by SEIAA which was valid up to 02.03.2018. Thereafter, the unit didn't apply for 'Renewal of Consent to Establish. However it is wrong to say that the unit did not apply for Renewal of Consent to Establish, because any application by the Respondent company for

renewal had to be rejected out rightly, because the Respondent Company is not eligible for making an application for renewal, therefore the use of the word "unit" is misleading. It is only the proponent Sunil Kumar Sood who was eligible for making application for renewal which he did not make, rather he surrendered the Consent to Establish. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and not repeated for the sake of brevity.

18. That the contents of Para 18 of the reply need no rebut. That the contents of the corresponding para of the Original Application filed by the Applicant may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
19. That the contents of Para 19 of the reply are wrong and denied. **At the outset, it is respectfully submitted that the Respondent Board failed to take decisive action against the Respondent Project Proponent, limiting its response to the issuance of show-cause notices. The Respondent Project Proponent initiated and completed the construction of the project without obtaining Environmental Clearance or Consent to Establish from the Respondent Board, which did not take any concrete measures to address this violation.** It is submitted that the Respondent Board issued a Show Cause Notice dated 15.02.2019 to M/s Nirvana Woods & Hotels Pvt. Ltd. stating that upon inspection conducted on 14.02.2019 it was found that the Respondent Company has acted in non-compliance from 2017-18, 2018-19 as the Respondent Company did not apply for consent from the State Board, Environment Clearance etc in gross violation of Water Act, 1974 and Air Act, 1981. That despite gross violations by the Respondent Company for years the Respondent Pollution Control Board did not take any action against the Respondent Company giving them ample opportunities. It is submitted that the Pollution Control Board had no right to ask the Respondent company to

apply for renewal of consent to establish (RCTE). However, the Respondent Company failed to do so. It is wrong to say that the Respondent Company i.e. M/s Nirvana Woods and Hotels Pvt. Ltd. was given the consent to establish on 26.08.2023 in terms of Hon'ble High Court order dated 06.05.2021 because it is the admission of the Respondent Board that state board had already filled CMP No. 7537/2021 (in CWP No. 2428/2020 for the Hon'ble High Court for modification of impugned order dated 06.05.2021. It is the admission of the Respondent Board that the renewal of consent to establish was later withdrawn vide communication dated 05.12.2023 for suppression/ concealment of material facts on part of Respondent Company from the Hon'ble High Court as well as from the Respondent Board. It is further submitted that the Respondent Pollution Control Board issued an Office Order dated 16.11.2019 directing the State Electricity Board and the Executive Engineer, Electrical Division, Kasumpti, Shimla to disconnect the power supply to the Respondent Company M/s Nirvana Woods & Hotels Pvt. Ltd., Village Kiyari and Rirka, Tehsil and District Shimla, H.P. with further directions to the Respondent Company not to use DG Set. It is submitted that in compliance of order dated 12.05.2020 passed by this Hon'ble Tribunal in O.A. No. 55 of 2020, the Respondent Pollution Control Board in connivance with the project proponent impose Environmental Compensation amounting to just Rs. 18,00,000/- on the Respondent Company. **It is submitted that a mere Environmental Compensation of Rs. 18,00,000/- was imposed for numerous continuous wilful violations of environmental laws committed by the Respondent Company. The said Environmental Compensation does not bear any semblance with the violations committed by the Respondent Project Proponent and the imposition was a mere formality on behalf of the Respondent Board.** The Hon'ble High Court vide order dated 24.03.2021 in CWP No. 2428 of 2020 directed to list the Writ Petition for hearing on 06.04.2021 and granted the Respondent therein a week to file their reply to

the Application bearing CMP No. 3608 of 2021, filed by the Petitioner therein seeking for restoration of electricity and water connections. It is submitted that the Hon'ble High Court vide order dated 06.05.2021 in CWP No. 2428 of 2020 has mistakenly observed that the disconnection of electricity and water supply on the direction of Assistant Environment Engineer, Himachal Pradesh State Pollution Control Board is not sustainable in the eyes of law. That as stated by the Respondent Board in its reply, the Respondent Board filed an application before the Hon'ble High Court of Himachal Pradesh for modification of the order dated 06.05.2021 as the same was passed without insisting upon the submission of fresh Environment Clearance Certificate. Hence, it is clear that no fresh Environment Clearance was ever issued in favour of the Respondent No.7 and the project under question has been constructed without Environment Clearance. Further, as submitted by the Respondent Board the consent to establish dated 26.08.2023 granted by it to the Respondent No.7 in compliance of the order dated 26.08.2023 was also withdrawn by the Respondent Board vide communication dated 05.12.2023 for suppression/concealment of material facts. Hence, the project has been constructed without Consent to Establish as well. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and are not repeated for the sake of brevity.

- 20-21. That the contents of Para 20-21 of the reply need no rebut. That the contents of the corresponding paras of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
22. That the contents of Para 22 of the reply are accepted as a matter of record, hence, need no rebut. That the contents of the corresponding para of the

Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

23. That the contents of Para 23 of the reply are accepted as a matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
24. That in response to the contents of Para 24 of the reply, it is submitted that the submission of the Respondent Board clearly depict that the Respondent Project Proponent did not have Environment Clearance and Consent to Establish. It is submitted that after passing of the order dated 05.12.2019 the fees deposited by Respondent Company could not have been accepted by Respondent Board because Respondent Company was not eligible to apply for Renewal of Consent to Establish (RCTO) and the directions were wrongly kept in abeyance till 03.01.2020. The Respondent Board had no powers to process the application for Renewal of Consent to Establish filled by Respondent Company as the original Promoter had surrendered the Consent to Establish granted to him on 03.03.2017. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and are not repeated for the sake of brevity.
- 25-26. That the contents of Para 25-26 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding paras of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
27. That the contents of Para 27 need no rebut. That the contents of the corresponding para of the Original Application may be read as part and

parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

28. That in response to the contents of Para 28 of the reply, it is submitted that Mr. Sunil Sood vide letters dated 14.03.2020 requested Member Secretary, H.P. PCB, Shimla, Environment and Chairman, HP State Pollution Control Board, Shimla to cancel/surrender the Consent to Establish dated 03.03.2017 granted in favour of M/s Homeland Exotica for land admeasuring 46599 sq. mtrs. whose sole proprietor was Mr. Sunil Sood. It is submitted that the said letters mention that Mr. Sunil Sood had previously made similar request for cancellation/surrender of aforesaid Consent to Establish dated 03.03.2017 vide letters dated 04.05.2019, 15.10.2019, 18.12.2019 and 02.01.2020. In the said letters Mr. Sunil Sood has also mentioned that he never applied for renewal of the said consent as the same was valid till 02.03.2018 and that land measuring 03-17-68 hectares on which illegal/unauthorised construction has been done by M/s Nirvana Woods and Hotels Pvt. Ltd., is under dispute in COMS. No. 23 of 2018 pending before the Hon'ble High Court of Himachal Pradesh as consideration of Rs. 10.32 crores for the sale of the land has not been paid by the Company. That the Writ Petition bearing no. 2428/2020 was filed by the project proponent only against the order dated 27.06.2020 issued by the Respondent Board imposing Environment Compensation. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
29. That the contents of Para 29 of the reply are accepted as a matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

30. That the contents of Para 30 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
31. That the contents of Para 31 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
32. That the contents of Para 32 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
33. That the contents of Para 33 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
34. That the contents of Para 34 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
35. That in response to the contents of Para 35 of the reply, it is submitted that all is alleged with malice and vested interest. That the Respondent Board has failed to attach any inspection report whatsoever to substantiate its claim with respect to several inspections having been carried out. Further, the Respondent has also failed to attach copy of any such directions issued to the Respondent Project Proponent with respect to disposal of muck

generated from the project. That the statements of the Respondent Board cannot be relied upon in absence of any documentary proof whatsoever. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

36. That the contents Para 36 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

37. That the contents of Para 37 are wrong and denied except those which are specifically admitted herein. It is denied that the Environment Compensation was imposed as per the methodology prescribed by this Hon'ble Tribunal. That in compliance of order dated 12.05.2020 passed by this Hon'ble Tribunal in O.A. No. 55 of 2020, the Respondent Pollution Control Board in connivance with the project proponent impose Environmental Compensation amounting to just Rs. 18,00,000/- on the Respondent Company. **That a mere Environmental Compensation of Rs. 18,00,000/- was imposed for numerous continuous wilful violations of environmental laws committed by the Respondent Company. The said Environmental Compensation does not bear any semblance with the violations committed by the Respondent Project Proponent and the imposition was a mere formality on behalf of the Respondent Board.** That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

38. That the contents of Para 38 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

39. That the contents of Para 39 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
40. That the contents of Para 40 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
41. That the contents of Para 41 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
42. That the contents of Para 42 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
43. That the contents of Para 43 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
- 44-46. That the contents of Para 44-46 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding paras of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
47. That in response to the contents of Para 47 it is submitted that it was further held that Himachal Pradesh Pollution Control Board being a statutory body

can only exercise such powers, which are provided for in the laws, implementation of which is the duty of the Board and it cannot call upon a party to perform such acts which are not envisaged in any of the pollution laws. It was further held that no statutory provision was brought in the notice of the Court to the effect that after the transfer of a Unit in favour of another party, post-transfer a fresh environmental clearance certificate was required for the unit. It is further submitted that the counsel of the Applicant herein was present via Video Conferencing during the course of the hearing however, neither his appearance nor his contentions were recorded/considered while passing the aforesaid order. Further, as submitted by the Respondent Board the consent to establish dated 26.08.2023 granted by it to the Respondent No.7 in compliance of the order dated 26.08.2023 was also withdrawn by the Respondent Board vide communication dated 05.12.2023 for suppression/concealment of material facts, by the Respondent Company from the Hon'ble High Court of H.P. and also from Respondent Board. Hence, the project has been constructed without Consent to Establish as well. Even the latest inspection conducted by the Respondent Board on 13.08.2024 although not valid due to any supporting document but the Respondent Board has admitted that Development works for flats along the Nallah (Stream) is still under progress along with channelization of Nallah. Further the Respondent Board has certified that one Block is under construction at present along the nallah. However, no legal action has been taken till date against the Respondent Company, therefore, the Respondent Board is hand in glove with the Respondent Company. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

48. That the contents of Para 48 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the

Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

49. That the contents of Para 49 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
50. That the contents of Para 50 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
51. That the contents of Para 51-52 of the reply need no rebut. That the contents of the corresponding paras of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
52. That the contents of Para 53 of the reply need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
53. That the contents of Para 54 of the reply are accepted as matter of record, hence, need no rebut. That the contents of the corresponding para of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.
54. That the corresponding grounds of the Original Application may be read as part and parcel of the rejoinder and the same are not repeated herein for the sake of brevity.

PRAYER

In light of the facts and circumstances mentioned herein above, it is prayed that this Hon'ble Tribunal may be graciously pleased to:

- A. Take the present Rejoinder on record;
- B. Pass such other/ further Order(s) as this Hon'ble Tribunal may deem fit & proper in the facts of the present matter in favour of the Applicant.

PLACE: Delhi

DATE: 16.12.2024


(A.R. TAKKAR, SHRIYA TAKKAR, ASMITA DUGGAL, UNNATI ANAND,


KAPIL BAKSHI, AASTHA TYAGI AND MANAN TAKKAR
ARTLO

#P-6/2E, DLF PHASE-2, GURUGRAM-122002
MOB.: 9582209633

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, AT NEW DELHI.

ORIGINAL APPLICATION NO.: 341/2024

IN THE MATTER OF:

PAWAN KUMAR BANTA

....APPLICANT

VERSUS

STATE OF HIMACHAL PRADESH & ORS.

....RESPONDENTS

AFFIDAVIT

I, Pawan Kumar Banta S/o. Lt. Sh. Gian Chand Banta R/o H. No. 500-A, Sector 4, New Shimla, Shimla Urban (T), Kasumpti, Shimla, Himachal Pradesh – 171009 the above named deponent do hereby solemnly affirm and state as under:

1. That the Rejoinder has been drafted under the authority and instructions of the deponent and after perusing its contents, the deponent has duly signed it, and the contents of paragraph Nos. 1 to 54 thereof are true and correct to the knowledge of the deponent, and the same may be read as contents of this affidavit also, which are not being reproduced for the sake of brevity. No part of it is false and nothing material has been kept concealed therefrom.
2. That the contents of paragraphs no. 1 to 54 of above tilted Rejoinder are true and correct to my knowledge, no part of it is false and nothing material has been kept concealed therefrom.

ATTESTED

Atul G Sood
Advocate & Notary
Shimla (Urban) Himachal Pradesh
Sr. No.
Date

(Signature)



3. That the Annexures attached with the Rejoinder are true copies of their respective original.

Place:

[Signature]

Date:

DEPONENT

VERIFICATION:

Verified that the contents of para 1 and 3 of my affidavit are true and correct to my knowledge. No part of it is false and nothing material has been kept concealed therefrom.

Place:

[Signature]

Date:

DEPONENT



Certified that the contents mentioned above document/ affidavit are declared before me on solemn affirmation on ...13th day of Dec, 2024 at Shimla (H.P.) by...Dr. Pawan Kumar Bantia who has been identified by Sh. Janak Raj Adw) whom I know. The contents of the same have been read and explained to the deponent in vernacular who admitted the contents to be true and correct. The document/affidavit is hereby attested.

Advocate & Notary Public

[Signature]
13/12/2024

ATTESTED

[Signature]
Atul G. Sood

Advocate & Notary

Shimla (Urban) Himachal Pradesh

Sr. No.

Date:

[Signature]
Identified by

PROOF OF SERVICE


REJOINDER TO THE REPLY FILED BY HPPCB IN OA NO 341 OF 2024 TITLED AS PAWAN KUMAR BANTA VS STATE OF HIMACHAL PRADESH AND ORS.

From Prince <prince@artlo.in>

Date Mon 12/16/2024 4:08 PM

To hppc.itdivision@gmail.com <hppc.itdivision@gmail.com>; cs-hp@nic.in <cs-hp@nic.in>

Cc Unnati <Unnati@artlo.in>; Manan Takkar <manantakkar@artlo.in>; Aastha Tyagi <aastha@artlo.in>

 1 attachment (2 MB)

organized (89).pdf;