

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

AT PRINCIPAL BENCH, NEW DELHI

(In O.A. No. 861 of 2022)

Kuldeep Singh Khaira & ors. Applicants

vs.

State of Punjab & ors. Respondents

Affidavit of Kuldeep Singh Khaira (aged 46 years) s/o s. Ujjagar Singh Khaira, r/o #125, Ishar Nagar, Ludhiana.

RESPECTFULLY SHOWETH:

I, the above mentioned deponent do hereby solemnly affirm and declare as under:-

- 1. That the deponent (Petitioner No. 1) along with other petitioners have filed the Original Application before this Hon'ble National Green Tribunal.
- 2. That the contents of paras no. 1 to 4 of the Rejoinder along with Annexures and one Video captured on 08-03-2024 are true and correct to my knowledge.



**Place: Ludhiana
Dated: 08.03.2024**

verified that the affidavit S.P.A/GPA ...
been readover & explained to the deponent
executant who seemed Directly to under-
stand the same at the time making thereof

Kuldeep Singh Khaira

DEPONENT

Verification:

Verified that the contents of para 1 and 2 of this affidavit are true and correct. No part of it is false, and nothing material has been kept concealed therefrom.

**Place: Ludhiana
Dated: 08.03.2024**

Authenticated as *Scholarship*

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Kuldeep Singh Khaira

DEPONENT

08 MAR 2024

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

In O.A. No. 861 of 2022

In the matter of:

Kuldeep Singh Khaira & ors. Applicants

vs.

State of Punjab & ors. .. Respondents

Rejoinder in O.A. No. 861 of 2022 depicting non-compliance to the orders of this Hon'ble Tribunal by Municipal Corporation Ludhiana and other respondents till date resulting into contamination of Surface Water.

Hon'ble Sir,

It is most respectfully sheweth:

1. That this Hon'ble Tribunal vide previous order dated 11-01-2024 in the said case has directed the Municipal Corporation as under thus:

Para 4: In the proceedings dated 21.07.2023, the Tribunal had taken note of the stand of the Municipal Corporation, Ludhiana that 90% of garbage is cleaned from the canal and rest 10% shall be cleaned and disposed of according to rules within the period of next three months. Substantial time has lapsed thereafter and even today, statement of the Commissioner, Municipal Corporation, Ludhiana who has appeared virtually, is that 90% has been cleaned from the canal and rest of the garbage is still lying there. No progress to resolve the grievance raised in the OA is reflected after the previous order of the Tribunal. The Commissioner, Municipal Corporation, Ludhiana

has also failed to disclose any effective step taken to remediate the situation.

Para 5: In the circumstances of the case, the prayer made by learned Counsel for Municipal Corporation, Ludhiana to grant **two weeks' time to file further report is allowed by imposing the cost of Rs. 25,000/-** which is to be deposited with the Registrar General of the Tribunal.

2. That despite repeated directions of this Hon'ble Tribunal, the Municipal Corporation Ludhiana has deliberately not complying to the orders and no report is found to be uploaded on NGT website by MCL as on date. Further, the MCL is still daily dumping garbage on prohibited area (against the directions in various orders by this Hon'ble Tribunal). One Photograph clicked on 08-03-2024 depicting the Garbage being dumped on bank of Sidhwan Canal (near Gill Bridge) is produced herewith as **Annexure P-7**. It is pertinent to humbly submit here that this illegal dump is one of prime source of pollution in Sidhwan Canal.
3. That besides above illegal dump, the encroachers of Sidhwan Canal Bank area near the illegal impugned dump are contaminating the Sidhwan Canal daily and are also operating illegal fish market, dumping the waste and garbage directly into the Sidhwan Canal but MCL as well as Irrigation Department, both have failed to remove the polluters from the location. Thus both MCL & Irrigation Departments have failed to comply with directions of this Hon'ble Tribunal again and again leading to Environment damage as well as contamination of Water on daily basis. Four Photographs clicked on 08-03-2024 depicting encroachment over Banks of Sidhwan canal are produced herewith as **Annexure P-8** and two photographs depicting the illegal fish market operating on the Bank are produced herewith as **Annexure P-9**. One Video depicting the illegal dump, encroachment over bank of Sidhwan canal & illegal fish market operating on

Sidhwan Canal Bank is produced herewith as **Annexure P-10** which is being attached in email for kind consideration by this Hon'ble Tribunal.

4. That despite facing penalty of Rs 25000/-, the MCL is not performing the lawful duty towards Environment and is indulged in act of contamination of Surface Water which is an offence under National Green Tribunal Act, 2010, The Water (Prevention and Control of Pollution) Act 1974, the Environment (Protection) Act 1986 and relevant provision of both are produced herewith as under:

- i. Section 28 of NGT Act, 2010:

Section 28. Offences by Government Department.—(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- ii. Environment (Protection) Act, 1986:

SECTION 17: OFFENCES BY GOVERNMENT DEPARTMENTS.-

- (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

iii. Relevant Provisions of Water Act of 1974:

Section 48. Offences by Government Departments.—Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Keeping in view of gross violation of various Environment laws as well as directions of this Hon'ble Tribunal by MCL & Irrigation Department, the Applicants humbly prays to this Hon'ble Tribunal to impose Environment Penalty under the provisions of the NGT Act 2010 and issue directions to PPCB for initiation of lawful proceedings against MCL under various Environment laws (supra) & accept out prayer as submitted in main petition. As already submitted, the Applicants further pray this Hon'ble Tribunal for directions to MCL to construct artificial lake for performance of rituals by people from all religions.



Er. Kapil Dev

(Petitioner No. 2)

(Petitioner in Person)

Date: 08-03-2024

Place: Ludhiana

ANNEXURE P-7

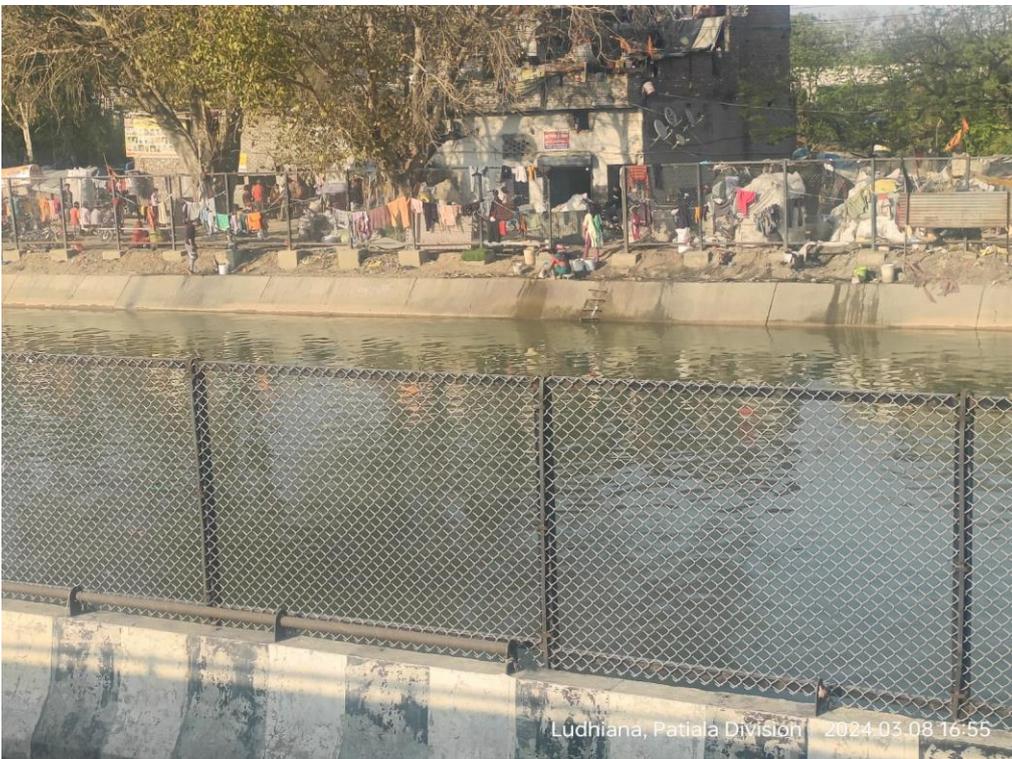
ONE PHOTOGRAPH CLICKED ON 08-03-2024



ANNEXURE P-8

FOUR PHOTOGRAPHS CLICKED ON 08-03-2024





ANNEXURE P-9

ILLEGAL FISH MARKET ON BANK OF SIDHWAN CANAL
(PHOTOGRAPHS CLICKED ON 08-03-2024)

