

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

IA No. 837/2023

IN

ORIGINAL APPLICATION NO. 161 / 2023

IN THE MATTER OF:

RANA IQBAL SINGH JOLLY & ORS.

....APPLICANTS

VERSUS

STATE OF PUNJAB & ORS.

....RESPONDENTS

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Dated: 20.02.2024
Place: New Delhi


(Karan Singh Jolly)
THROUGH COUNSEL


Vasu Bhushan
Bhushan & Associates,
i-34, GF, Jangpura Ext., New Delhi-14
Mobile: 9958417262
Email: adv.vasubhushan@gmail.com

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RANA IQBAL SINGH JOLLY & ORS.APPLICANT
 VERSUS
 STATE OF PUNJAB & ORS.RESPONDENTS

REPLY ON BEHALF OF THE APPLICANTS TO IA No. 837/2023 FILED BY THE R8 / HERMITAGE MARRIAGE PALACE

MOST RESPECTFULLY SHOWETH:

1. That for the kind convenience of this Hon'ble Tribunal, the present Reply to IA No. 837/2023 has been structured in the following broad heads:

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The relief sought is totally unreasonable and unimaginable	2
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2. That the primary relief sought in the IA filed by the R8 is as follows:

"II. Issue appropriate directions clarifying/modifying the directions contained in order dated 31.08.2023 passed by this Hon'ble Tribunal by appropriately permitting the Respondent No. 8 to operate/manage its affairs as per the applicable Govt. Policy [Clause 7(v) of Notification dated 11.08.2017], rules, law covering the case of the Respondent No. 8 considering the underlying issues and pendency of COCP No. 3086/2023 and COCP 1502/2023 before the Hon'ble Punjab & Haryana High Court at Chandigarh"

3. That the direction passed by this Hon'ble Tribunal's in its order dated 31.08.2023 is as follows:

“Interim Order dated 30.05.2023 shall continue to operate. However, it is clarified that nothing in this interim order shall bar respondent no. 8 from organizing marriage party or such like social functions in the premises in question on grant of CLU/EC/CTE/CTO, as the case may be, in accordance with the terms and conditions thereof and the environmental norms.”

The relief sought is totally unreasonable and unimaginable

4. That a bare perusal of the above order dated 31.08.2023 of this Hon'ble Tribunal clearly shows that this Hon'ble Tribunal has stayed the operation of the R8 / Hermitage Marriage Palace only till it obtains the “*CLU/EC/CTE/CTO, as the case may be, in accordance with the terms and conditions thereof and the environmental norms*”. By way of the present IA, what the R8/ Hermitage is praying for is effectively a **free-pass** to organize huge marriage parties and social functions (and cause pollution) without first complying with the environmental norms and obtaining the CLU/EC/CTE/CTO, as the case may be. Admittedly, the R8 has not yet been granted EC/CTE/CTO, as the case may be (para 6 of IA) and even CLU has been refused (para 7 of IA).
5. It is common knowledge that grant of NOC/EC/CTE/CTO involves a strict inspection process undertaken to ensure that the project proponent *has the capacity* to carry out the proposed activity at the scale at which it is proposed and that it *meets all requirements under applicable laws* including those relating to **air, water and noise pollution, disposal of waste, sewage treatment, etc.** The primary purpose of the exercise involved in grant of approvals is to ensure in advance that the proposed activities will not harm the environment by causing air (including noise) and water pollution. Keeping in mind the intent behind the process involved in grant of the said approvals, the relief sought in the present IA is **totally unreasonable, unimaginable and outrageous.**

*This Hon'ble Tribunal which has been bestowed the crucial duty of protecting the environment and bringing perpetrators to justice cannot by any extent of imagination grant such a relief/direction to allow somebody to **by-pass** the established and binding environmental laws/norms and give him a **free-pass** to pollute.* Hence the present IA is totally misconceived.

Antecedents of R8: Violation of environmental and other norms has been confirmed by State Authorities

6. That the relief/direction sought by the R8 / Hermitage in the present IA is even more outrageous in background of the fact that the Joint Committee (comprising of representatives

of CPCB, PPCB & DC) constituted by this Hon'ble Tribunal vide order dated 14.02.2023 has already returned findings in its Report dated 29.05.2023 that R8 / Hermitage has been operating a marriage palace without permissions and has thus confirmed the Applicants' allegations in the following words:

"It was found that Sh. Sanjay Gupta (sic. Sanjiv Gupta) has non obtained any permission from any Department regarding establishment and operation of The Hermitage.

... ..

The Joint Committee made following observations:

7. No permission for playing DJ / Loud Speakers is obtained by The Hermitage ever from SDM Office, Kharar.

... ..

9. The Hermitage has never obtained for consent to establish (NOC) / consent to operate under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 as required from pollution angle from the Board.

... ..

11. The Hermitage has not provided ant ETP/STP for treatment of wastewater generated from kitchen and toilets. The representative informed that they have provided soakage pits."

7. That even the State of Punjab (R1) and PPCB (R2) vide their common Reply dated 17.08.2023 have confirmed the allegations of the Applicants in the following categorical words:

"6. That briefly stated the Marriage Palace namely The Hermitage at Village Karoran, Tehsil Kharar, District SAS Nagar has not obtained any permission, or consent to establish (NOC) or operate under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 from the Punjab Pollution Control Board. In view of the fact, the Marriage Palace is being operated on commercial basis...."

8. That further, even the Additional Chief Administrator, GMADA (R6) vide Reply dated 18.08.2023 has confirmed the allegations of the Applicants in the following categorical words:

"1. That it is humbly submitted that as per the report of the field Staff of Regulatory Branch, GMADA, the Respondent No. 8 (The Hermitage), has raised an unauthorized farm, house namely 'The Hermitage' without obtaining requisite approval from the Competent Authority under the Punjab New Capital Periphery Act, 1952 and the Punjab regional and Town Planning and Development Act, 1995... ..

2. That the Respondent No. 8 not only raised the unauthorized farm house, but is also using this land for marriage functions and other commercial activities, without obtaining the requisite approval from the Competent Authority..."

9. That the above categorical Report of the Joint-Committee constituted by this Hon'ble Tribunal and Replies of the Respondent government agencies make it crystal clear that R8/the Hermitage has no fear, let alone any regard for the Rule of Law. The said R8 has been organizing large gatherings, *blowing loud music on loudspeakers, using bright laser strobe*

lights and firecrackers all throughout the night time well into early mornings hours (around 3:00-4:00 am) causing grave air/noise pollution in violation of the Noise Pollution (Regulation and Control) Rules, 2000; generating waste on huge scale without adhering to provisions of Solid Waste Management Rules, 2016; discharging waste water without treatment; and violating various other rules/regulations and judgments/directions passed by this Hon'ble Tribunal, various High Courts and the Hon'ble Supreme Court of India time and again. These activities have caused immense mental disturbance to the Applicants by making it almost impossible for them to sleep at night and lead a peaceful life, thus grossly violating their fundamental right to life, other than adversely impacting the biodiversity of the adjacent forest area by causing noise/air and water pollution. For these reasons also the present IA is misconceived.

The question of validity of refusal of CLU which has been made the basis for seeking the direction/relief is beyond the jurisdiction of this Hon'ble Tribunal to decide

10. That the R8 in its IA (para 7) has stated that the concerned State Authority has refused its application for Change of Land Use (CLU). Such denial of the CLU according to the R8 is *allegedly* in violation of various orders passed by the Hon'ble High Court of Punjab & Haryana (Paras 3-5, 9 of IA). Without going into the merits of the said argument, it is most humbly submitted that even from the bare description of the said orders afforded by the R8 itself, it is clear that the said orders have been passed in matters on the *unconnected issue of 'Land Use' and not the issue of 'environmental pollution'*, that too in matters pertaining to *unconnected parties*. Dissatisfied by the refusal of CLU, the R8 is trying to obtain a relief /direction from this Hon'ble Tribunal which has no jurisdiction as far as the issue of 'Land Use' under the local laws of Punjab is concerned, which as a matter of record are not Scheduled Enactments under the National Green Tribunal Act, 2010. In such circumstances, the present IA is totally misdirected and non-maintainable. **Since this Hon'ble Tribunal cannot go into the question of validity of refusal of CLU, there arises no question of granting the relief sought in the present IA as it would necessarily entail returning a finding on the validity of refusal of CLU under enactments which are not scheduled under the NGT Act, 2010.**
11. Since the R8 also realizes in its heart of hearts that this Hon'ble Tribunal does not have the requisite jurisdiction to deal with the issue of refusal of CLU, it has itself moved a Contempt Petition COCP No. 3086 of 2023 before the Hon'ble High Court of Punjab & Haryana in this regard. It is only the Hon'ble High Court of Punjab & Haryana which has the jurisdiction to consider the matter so far as it relates to CLU. Therefore, the filing of the present IA and complaining about the refusal of CLU before this Hon'ble Tribunal is only a desperate and misdirected attempt on part of the R8 and deserves to be rejected with costs.
12. At this juncture it must also be clarified that any orders passed in the above COCP or in any application thereunder does not mean that the orders passed by this Hon'ble Tribunal are not

to be complied with. There is no stay against the orders passed by this Hon'ble Tribunal. The meaning of the Hon'ble High Court's orders is only that if the R8 is making land use against the CLU, the authorities therein *dealing with CLU* will not take coercive action against him. However, it does not protect the R8 from actions for violation of environmental laws/norms. This Hon'ble Tribunal has clearly said in its orders dated 31.08.2023 and 08.12.2023 that without getting CLU and *Environmental Clearance / Consent To Operate / Consent To Establish*, as the case may be, R8 cannot organize any marriage parties or social gatherings. Admittedly, R8 has not obtained any CLU and *Environmental Clearance / Consent To Operate / Consent To Establish*. Therefore, the organizing of marriage parties and social gatherings by the R8 in the present circumstances when no clearances have been obtained is totally impermissible and in gross violation of the orders and authority of this Hon'ble Tribunal.

R8 is seeking a licence to pollute because others are allegedly polluting

13. That it is astonishing to note that the R8 in para 12 of its IA has effectively stated that while other marriage palaces are being permitted to hold large gathering in the vicinity without having any permissions and are making use of right strobe lights and loudspeakers throughout the night time, the R8 is being selectively targeted and being denied the opportunity (to pollute). It is most respectfully submitted that even if it is supposed to be true that some other establishments are violating the law, that can never become the justification for permitting R8 to also violate the law. Rather, the right approach is to bring all perpetrators to justice who have been polluting the environment with no fear of authority and no concern for the life and safety of others. Therefore, the reason cited by R8 in para 12 of its IA as a justification for seeking the relief/direction of being allowed to operate marriage palace even without the requisite permissions is totally astonishing, outrageous and unreasonable.

Reliance on Punjab Government's Notification dated 18.10.2023 is irrelevant

14. That in para 14 of its IA, the R8 has tried to rely on the Government of Punjab's Notification No. 08/04/2023-4HG1/2288 dated 18.10.2023 floated by the Department of Housing & Urban Development wherein various unauthorized institutions which have come up without permissions or have deviated from the sanctioned plans have been granted the opportunity of regularization by submitting applications and following the process therein. The R8 has further stated that it is eligible to get benefit of the said scheme. It is most respectfully submitted that without going into the details of the scheme, firstly, no proof has been furnished that R8 has applied for regularization and secondly, the scheme regularizes only defects of lack of permissions (as per master plan/regional plan) and deviations from earlier sanctioned plans and does not/cannot give a free-pass to override all environmental laws and norms and operate without CLU/EC/CTO/CTE as the case may be. *The scheme has no bearing on the permissions/clearances which are required to be taken as per the extant environmental laws/norms.* Therefore, the reliance placed by the R8 on the said scheme in

seeking the relief/direction is of no consequence and deserves to be ignored as being totally frivolous and misplaced.

R8 has approached this Hon'ble Tribunal with unclean hands: Blatant violation of this Hon'ble Tribunal's Stay Orders disentitles R8 from seeking any relief

15. That while on one hand the R8 has filed the present IA seeking a relief/direction from this Hon'ble Tribunal to modify its order dated 31.08.2023 and allow it to operate the marriage palace (even in absence of permissions), on the other hand the reality is that R8 never stopped operating as a marriage palace and has been organizing marriage parties and social functions *in blatant violation of this Hon'ble Tribunal's orders*. The fact of the continuous violations by R8 is proved by the recent *news reports dated 12.02.2024 in various newspapers* namely 'The Tribune' and 'Amar Ujala' which reported that in a random check by the Excise Department on two marriage palaces including Hermitage, *liquor was found being served illegally in a marriage function* without the requisite permits. As per the news reports, the Excise Department has even registered FIR against the R8 / Hermitage in PS Nayagaon. This clearly establishes that the orders of this Hon'ble Tribunal are being blatantly violated without any fear or regard for this Hon'ble Tribunal and social gatherings are still being organized without obtaining the CLU/EC/CTE/CTO. This clearly amounts to contempt of this Hon'ble Tribunal's authority. A copy of the news reports dated 12.02.2024 in newspapers 'The Tribune' and 'Amar Ujala' is annexed herewith as **Annexure-1**.
16. It is trite law that a party who approaches a judicial forum with unclean hands is disentitled from claiming any relief. In a long line of judgments, in one such judgment titled **Ramjas Foundation and Ors. v. UOI and Ors. MANU/SC/0930/2010** the Hon'ble Supreme Court held:

"The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in other courts and judicial forums. The object underlying the principle is that every Court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have bearing on adjudication of the issue(s) arising in the case."

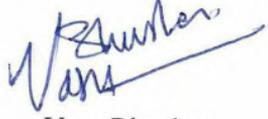
Since the R8 / Hermitage has approached this Hon'ble Tribunal by filing the present IA with unclean hands and has been violating the orders of this Hon'ble Tribunal which has been proved above (which amounts to *contempt of court*), the R8 is disentitled at the threshold itself from claiming any relief, apart from the fact that the relief sought is totally unreasonable, unimaginable and outrageous.

In light of the above facts and circumstances, it is most humbly prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the R8's IA No. 837/2023 with costs.

And for such act of kindness, the Applicants shall forever pray!

Dated: 20.02.2024
Place: New Delhi


(Karan Singh Jolly)
THROUGH COUNSEL


Vasu Bhushan
Bhushan & Associates,
i-34, GF, Jangpura Ext., New Delhi-14
Mobile: 9958417262
Email: adv.vasubhushan@gmail.com

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VERSUS
STATE OF PUNJAB & ORS.RESPONDENTS

AFFIDAVIT

I, Karan Singh Jolly, aged about 43 years, S/o Sh. Rana Iqbal Singh Jolly, R/o Village Karoran, Nayagaon, Dist. SAS Nagar (Mohali), Punjab, do hereby solemnly declare and state as under:-

1. That I am the Applicant No. 2 in the above titled Original Application and being well conversant with the facts and circumstances of the case, I am competent to swear this Affidavit.
2. That I have gone through the contents of the accompanying Reply to IA No. 837/2023 that has been drafted by my counsel on my instructions and state that the facts mentioned therein are true to the best of my knowledge.
3. That the Applicant Nos. 1 and 3-9 have authorized me to carry out the proceedings on their behalf before this Hon'ble Tribunal in the titled Original Application. The authorization includes engaging legal counsel, signing the pleadings and taking all other actions that may be necessary for proceeding with the titled Original Application.



VERIFICATION

I, the above named deponent, presently at Mohali, do hereby verify that all what is contained in my above affidavit is true and correct to the best of my knowledge and belief.

Verified and signed at Mohali on this 20 day of February, 2024.

Karan Singh Jolly
DEPONENT

Attested As Identified

Karan Singh Jolly
DEPONENT

MOHAN LAL *Mohan Lal*
NOTARY (Govt. of India)
Mohali (Pb.)

29/2/24

News report in the Tribune (12th February, 2024) and Amar Ujala showing that R8 / Hermitage Marriage Palace is still organizing gatherings in blatant disregard of this Hon'ble Tribunal's orders and in total violation of law

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Hermitage Farms, two others challaned for serving liquor

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TRIBUNE NEWS SERVICE

MOHALI, FEBRUARY 12

The Mohali Administration has written to the various departments to ensure implementation of the National Green Tribunal ban on Hermitage Farms at Karoran village, in wake of the Excise Department's action against the former and two others for serving liquor illegally there.

Deputy Commissioner Aashika Jain said on Monday that a random check was conducted by officials of the Excise Department at Hermitage Farms in Karoran village, Udaan Manor in

Balongi village, and Forest Hill Resort in Nayagaon two days ago. She added that a case was registered under the Punjab Excise Act, 1914, against Hermitage Farms and Udaan Manor at Balongi, while Forest Hill Resort has been challaned for violation of Punjab Liquor Licence Rules, 1956, and Punjab Intoxicant Licence and Sale Orders, 1956.

Based on the report submitted by the Excise Department today, it has been learned that despite the NGT orders, Hermitage Farms is still organising gatherings, which is a viola-

tion of the NGT ban imposed on the resort.

As per the orders, Hermitage Farms has been prohibited from organising any function on its premises. DC Aashika Jain cautioned the public that, in view of the NGT orders, they should avoid organising any sort of gathering at Heritage Farms to avoid action by the departments concerned.

The instructions to implement the NGT orders have been passed on to all officials concerned to take the necessary course of action to prevent further violations of the orders.

अमर उजाला

नयागाव के दो रिजॉर्ट में बिना अनुमति पिलाई जा रही थी शराब, मामला दर्ज

मोहाली। आबकारी विभाग ने औचक निरीक्षण के दौरान नयागांव के फॉरेस्ट हिल रिजॉर्ट में शादी समारोह में बिना परमिशन शराब परोसने पर कड़ी कार्रवाई की। फॉरेस्ट हिल रिजॉर्ट का पंजाब इंटाक्सिकेंट लाइसेंस एंड सेल ऑर्डर, 1956 के नियम-1 और पंजाब लिक्वर लाइसेंस रूल, 1956 के नियम 38 (14)(1) के तहत चालान किया गया है। इसके साथ क्लब/बार के स्टॉक रजिस्टर भी जब्त कर लिए हैं।

उधर, नयागांव में आते एक गैर

पंजीकृत फार्म हाउस हेरमिटेज फार्म्स, गांव करोरा में भी शादी समारोह के दौरान अवैध रूप से शराब परोसी जा रही थी। फार्म हाउस के पास एल-50 परमिट नहीं था। जांच में शराब की तीन बोतलें पाई गईं जो चंडीगढ़ में ही बिक्री के लिए थीं। एक बोतल सिर्फ हरियाणा में बिक्री के लिए थी। इस मामले में पंजाब आबकारी अधिनियम, 1914 की संबंधित धाराओं के तहत नयागांव पुलिस थाने में केस दर्ज किया है। आबकारी विभाग का निरीक्षण अभियान आगे भी जारी रहेगा। संवाद



Vasu Bhushan <adv.vasubhushan@gmail.com>

Advance Service of Rejoinder in OA & Reply in IA

1 message

Vasu Bhushan <adv.vasubhushan@gmail.com> 20 February 2024 at 15:05
To: Dushyant Dahiya <adv.dushyantdahiya@gmail.com>, Sunieta Ojha <sunieta.ojha@gmail.com>, chairman.ptl.ppcb@punjab.gov.in, dc.mhl@punjab.gov.in, officeofkaransharmaor@gmail.com

Ref.: OA No. 161/2023 titled 'Rana Iqbal Singh Jolly & Ors. v. State of Punjab & Ors.'

Dear Sir/Madam,

Please find attached the copies of:

- Rejoinder on behalf of the Applicants in OA 161/2023 to the Reply filed by R8 / Hermitage
- Reply on behalf of Applicants to IA 837/2023 filed by the R8 / Hermitage.

Regards,

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Vasu Bhushan
Advocate

Bhushan & Associates
Address: i-34, Ground Floor, Jangpura Ext., ND-14
Mobile: +91-9958417262
Email: adv.vasubhushan@gmail.com



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2 attachments

Reply to IA.pdf
7345K

Rejoinder in OA.pdf
10243K