

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. NO. 769 OF 2025
IN
APPEAL NO. 05 OF 2024

In the matter of:

Haryana State Pollution Control Board

...Appellant

Versus

M/s Malibu Estate Pvt. Ltd.

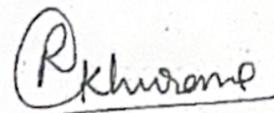
...Respondent

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Dated: 29.01.2026

Filed By



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**REPLY ON BEHALF OF HARYANA STATE
POLLUTION CONTROL BOARD**

PRELIMINARY SUBMISSIONS

1. The present IA has been filed by the Project Proponent to stay the proceedings in the complaint "COMA-290, titled as HSPCB Vs M/s Malibu Estate Pvt. Ltd." pending before the Ld. Judicial Magistrate First Class (JMFC), Gurugram for violation EIA Notification, 2006 read with Environment (Protection) Act, 1986 (EP Act, 1986) and the same is pending for adjudication and fixed for 30.01.2026.
2. That IA with such prayers in the proceedings pending under provisions of the National Green Tribunal Act, 2010 is not maintainable and IA is liable to be dismissed. It is most respectfully submitted that making observation or passing directions to stay, suspend or interfere with criminal proceedings pending before a competent criminal court are beyond the scope of provisions of the NGT Act, 2010.
3. That it is worthwhile to mention here that the complaint pending before the learned Judicial Magistrate has been lawfully instituted in exercise of statutory powers, alleging commission of cognizable environmental offences under the EP Act, 1986, which are required to be adjudicated independently by the competent criminal court. The applicant in the IA has not approached the Court of competent jurisdiction under provisions of the Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 and/or the Constitution of India, 1950 to which the Judicial Magistrate First Class is subordinate.

4. That it is worthwhile to mention here that the power to stay or regulate criminal proceedings vests exclusively with criminal courts under the Code of Criminal Procedure (now BNSS) or with constitutional courts under Articles 226/227 of the Constitution of India. Once a criminal complaint is lawfully instituted, its continuation or suspension lies solely within the domain of the criminal court or the Hon'ble High Court. The applicant has tried to mislead this Hon'ble Tribunal giving mis-impression that this Hon'ble Tribunal can assume the role of an appellate, revisional or supervisory authority over criminal courts. It is humbly submitted that such supervisory jurisdiction is constitutionally vested exclusively with the Hon'ble High Courts. Thus, granting the relief sought would amount to indirect interference with the administration of criminal justice and would clearly transgress the legislative mandate and statutory limitations of the National Green Tribunal Act, 2010.
5. That it is a well-established principle that Civil and criminal proceedings are separate. Criminal liability must be decided only by the criminal court on the basis of evidence. It is further submitted that Section 41(d) of The Specific Relief Act, 1963 provides that injunction cannot be granted to restrain any person from instituting or prosecuting any proceeding in a criminal matter. This statutory bar is designed to prevent civil courts from interfering with the administration on criminal justice and ensuring criminal matters are handled by the criminal courts. Thus, this Hon'ble Tribunal has no jurisdiction to entertain the present application.

PARA-WISE REPLY

1. That the contents of the Para No. 1 are matter of record, hence, needs no reply.
2. That the contents of the Para No. 2 are matter of record, hence, needs no reply.
3. In reply to this Para preliminary submissions are being reiterated.
4. That the contents of Para No. 4 are matter of record, hence, needs no reply.
5. That in reply to contents of Para No. 5, it is submitted that perusal of the facts of the present matter and the application categorically reflect that complaint has been filed in the present matter for violation of the provisions of the Water

Act, 1974 and the Air Act, 1981. Before proceeding further, it is necessary to bring into the notice that amended Water Act, 1974 has not yet been adopted by the State and still the unamended Water Act, 1974 is applicable. Further, it is necessary to mention here that in the present matter violation has been committed by the Respondent No. 1 before the amendments. Thus, applicant/respondent No. 1 cannot seek any benefit on the basis of the amendment in the Water Act, 1974. **Relevant portion of the amended Water Act, 1974 is reproduced here to show that the amended Water Act will be applicable in the State of Haryana after the adoption:**

1. *“Short title application and commencement*

(1)...xxx...xxx...xxx...xxx...

(2) *It applies, in the first instance, to the whole of the States of Himachal Pradesh and Rajasthan and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.*

(3)...xxx...xxx...xxx...xxx...”

Further submitted that the amendment in the Air Act, 1981 through the Jan Vishwas Amendment Act came into effect from 1st April, 2024, but in the present matter, offence qua the violation of Section 21 of Air Act, 1981 punishable under Section 37 has been committed by the accused before the amendment and thus, keeping in view of the Section 4 of the Jan Vishwas (Amendment of Provisions) Act, 2023, all the accused including Respondent No. 1 are liable to be prosecuted under Section 37 for violation of Section 21 of the Air Act, 1981. **Relevant portion of the Section 4 of The Jan Vishwas (Amendment of Provisions) Act, 2023 is reproduced here:**

“4. The amendment or repeal by this Act of any enactment shall not affect any other enactment in which the amended or repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of, or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any

past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby amended or repealed;

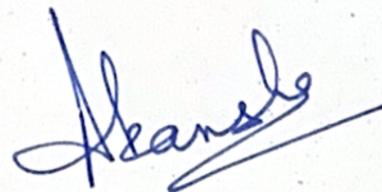
nor shall the amendment or repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force."

6. That the contents of the Para No. 6 are matter of record, hence, needs no reply.
7. That the contents of the Para No. 7 are wrong, hence denied. It is further submitted that preliminary submission are being reiterated in reply to this Para.
8. That the contents of the Para No. 8 are wrong, hence denied. It is further submitted that preliminary submissions are being reiterated in reply to this Para.

PRAYER

In view of the facts and submissions stated above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss I.A. No. 769 of 2025 as being non-maintainable and devoid of merit.

Date: 29.01.2026
Place: Gurugram



Akansha Tanwar, Regional Officer,
Gurugram Region (North)
Haryana State Pollution Control Board

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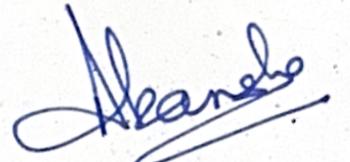
M/s Malibu Estate Pvt. Ltd.

...Respondent

AFFIDAVIT

I, Akansha Tanwar, Regional Officer, Haryana State Pollution Control Board, Gurugram Region (N), aged about 36 years do hereby solemnly affirm and state as under:-

1. That in the aforesaid official capacity, I am well conversant with the facts and circumstances of the case, therefore, I am competent to swear this affidavit.
2. That I have gone through the contents of accompanying reply which has been drafted under my instructions.



Deponent

Verification:

Verified at Gurugram on 29th day of January , 2026 that the contents of affidavit are true and correct to my knowledge and on the basis of information derived from the official record which I believe to be true and no material fact has been concealed therein.



Deponent

