

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW
DELHI

I.A. NO. 619 OF 2023
IN
ORIGINAL APPLICATION NO.287 OF 2022

IN THE MATTER OF:

Sh. Amit Kishore & Others ... Applicant

Versus

Uttar Pradesh State Pollution

Control Board & Others Respondents

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ADVOCATE FOR THE RESPONDENT NO.3 : MS. VEERA KAUL SINGH

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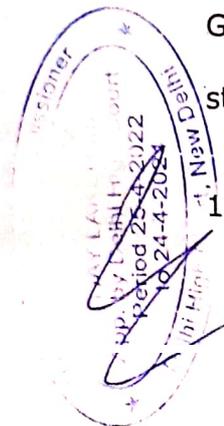
Uttar Pradesh State Pollution

Control Board & Others Respondents

REPLY ON BEHALF OF RESPONDENT NO. 3 – UTTAR PRADESH
AVAS EVAM VIKAS PARISHAD TO IA NO. 619/2023 DATED
08.07.2023 FILED BY THE APPLICANTS FOR CROSS
EXAMINING CERTAIN OFFICERS OF THE RESPONDENT
AUTHORITIES

I, Sunil Kumar Singh, son of Sri Raj Narain Singh, aged about 59 years,
working as Executive Engineer, Construction Division Ghaziabad-1, U.p.
Avas Evam Vikas Parishad, VasundhraYojna, Sector -16, Vasundhra,
Ghaziabad. U.P. presently at New Delhi do hereby solemnly affirm and
state as under:

1. That the deponent is working as Executive Engineer in the
Respondent No.3 Board and is well conversant with the facts and



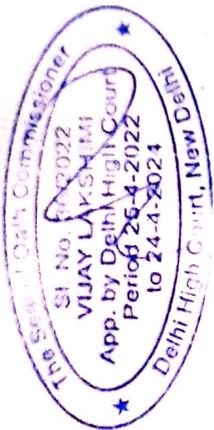
circumstances of the case and hence, competent to swear this affidavit.

PRELIMINARY SUBMISSIONS

- A. At the outset it is submitted that the Respondent NO.3 U.P. Avas Evam Vikas Parishad is a Statutory Government Body with a main objective of providing Housing and Development to the public at large at no profit no loss basis. In the present case, the said area was handed over to the Ghaziabad Nagar Nigam under Section 41 of the U.P. Avas Evam Vikas Parishad Adhiniyam, 1965. In the present context a parawise reply is being given herein below.

PARAWISE REPLY

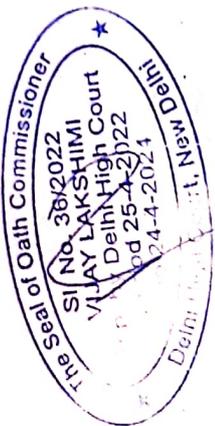
- 1) That the contents of paragraphs 1 and 2 are a matter of record which need no reply.
- 2) That the contents of paragraph 3 (b) are denied as false and misleading. It has been alleged by the petitioner/ applicants that the Short Synopsis dated 24.11.2022 filed by the Answering Respondent No. 3 was done without the leave or order of this Hon'ble Tribunal. However, it is important to bring to the notice of this Hon'ble Tribunal that the short synopsis dated 24.11.2022 filed by Answering Respondent No. 3 was done subsequent to the order of this Hon'ble Tribunal dated 23.11.2022 whereby this Hon'ble Tribunal after hearing the parties was pleased to reserve



the order in the present Original Application. The Answering Respondent No. 3, to put its submissions on record subsequent to the reservation of judgement had filed the Written Synopsis for the convenience of this Hon'ble Tribunal.

- 3) That the contents of paragraph 4 & 5 are denied as false and incorrect. It is most humbly submitted that the allegation to the effect that there are multiple contradictions in the affidavits filed by the Respondents is not true qua the Answering Respondent No. 3, i.e., U.P. Avas Evam Vikas Parishad. That the Answering Respondent No. 3 has been clear about its stand taken throughout the various affidavits filed before this Hon'ble Tribunal. It has been made amply clear that the Answering Respondent No. 3 has handed over the said Vasundhara Avas Yojana to Ghaziabad Nagar Nigam on 30.10.2002. That the maps placed before the Hon'ble Tribunal are true and correct copies of the same and signed duly by the respective authorities and the onus to explain whether or not there has been an encroachment on the green belt lies with them. The status of the Green Belt, subsequent to the handover can be explained by Ghaziabad Nagar Nigam acting in capacity of the maintaining authority.

- 4) That the contents of paragraphs 6 are denied as false and incorrect. The Answering Respondent No. 3 in its affidavit dated 05.09.2022 had stated that the encroachment upon the green belt must be removed by the Respondent No. 2. However, it is not the



position or prerogative of Answering Respondent No. 3 to verify or testify whether or not the Green Belt was encroached upon or destroyed by setting up the vending zone. Whether or not such encroachment or destruction of Green Belt had actually taken place had to be explained by the Answering Respondent No. 2 in capacity of the maintaining authority and in case, such encroachment had taken place, the Answering Respondent No. 2 was indeed duty bound to remove the said encroachment.

- 5) That the contents of paragraph 7 & 8 stating that the stand taken by Answering Respondent No. 3 in its affidavit dated 18.11.2022 to the effect that "as per the terms and conditions of the handover contract dated 30.10.2002, the Ghaziabad Nagar Nigam could not have made any changes to the basic structure, use, façade and service provided by the Answering Respondent No. 3 without a prior written permission" are true and are being reiterated. It is pertinent to emphasize that the zonal map as mentioned by the Applicant in para 8 is only a layout map for the entire zone being developed by the Respondent No.3.

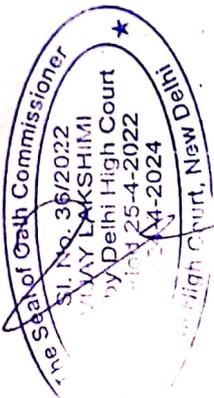
The Tribunal in its order dated February 22, 2023, directed the Respondent No.3 to specifically mention whether land in front of the CWR overhead tank is part of the green belt. Hence a detailed map of Sector 15 was filed. The green belt is interjected by the CWR boundary as shown in the detailed map. The first map was a layout map of the entire area being developed and the latter



was a detailed map only of Sector 15. The larger map perhaps does not reflect detailed area and hence inadvertently, the entire belt was regarded as a green belt as the map did not show/ reflect each sector in a detailed manner. Nevertheless, it has not affected the stand taken by the answering respondent to the effect that all the existing area of green belt with respect to the present case is free from all encumbrances as on date.

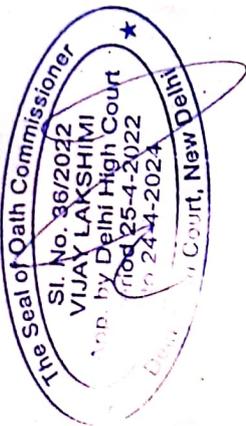
That the very contention of initiating proceedings under section 340 Cr. P.C. is totally absurd and arbitrary and a gross abuse of the process of law. The concerned Officer Aman Tyagi has neither given any false evidence nor has he tried to mislead this Hon'ble Tribunal. Since his affidavit is based on the record and any interpretation of the record neither amounts to perjury nor to the allegation of misleading of this Hon'ble Tribunal. Mr. Aman Tyagi is a responsible Government Officer and has had an impeccable career and holds this Hon'ble Tribunal in highest esteem and respect. At every date of hearing the concerned officer has been present in this Hon'ble Tribunal and has answered every query with utmost sincerity and commitment and has never shied away from assisting this Hon'ble Tribunal to the best of his knowledge and capacity.

Consequently, the affidavit submitted by the officer, Sh. Aman Tyagi neither misrepresents anything nor there is any kind of concealment as would be evident from the averments



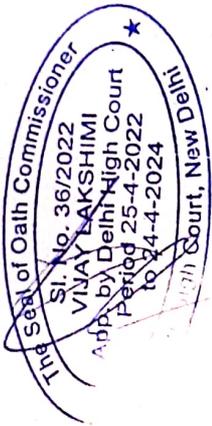
made herein above. Moreover, the concerned officer has filed the said affidavit with utmost diligence and sincerity and despite that if there is any inadvertent error on his part, he tenders his unconditional apology to this Hon'ble Tribunal for inconvenience caused, if any.

- 6) That the contents of paragraph 9 of the IA filed by the Applicants are denied as false and incorrect. It is most humbly stated that the Applicants have made such strong allegations without any basis only with a view to mislead this Hon'ble Tribunal. It is important to state herein that a synopsis is filed for the convenience of this Hon'ble Tribunal and therefore, may not be required to be accompanied by an affidavit.
- 7) That the short synopsis dated 24.11.2022 filed by the Answering Respondent No. 3 emphasizes on layout plan of 1994 and that the averments made therein suffer from no contradiction. The said map was filed for the convenience and kind perusal of this Hon'ble Tribunal in view of the direction of this Hon'ble Tribunal to file a detailed layout map of the area in question. While the handover Zonal plan annexed by the Answering Respondent No. 3 in its affidavit dated 18.11.2022 pertained to the entire zone in which the Vasundhara Yojana was developed by the Answering Respondent No. 3, the Layout Plan of 1994 annexed by the Answering Respondent No. 3 in its affidavit dated 24.11.2022 pertained specifically to Sector 15, Vasundhara, Ghaziabad. The

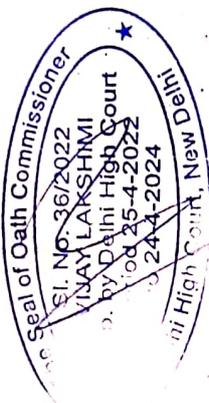


said Layout Plan of 1994 wherein all the details were earmarked is duly signed by the superintending Engineer of the Answering Respondent No. 3 and thus the allegation to the effect that the same is without any legal authority is completely false and incorrect.

- 8) That a perusal of the said affidavit dated 24.11.2022 would show that there has been no diversion in the stand taken by Respondent No. 3 from its earlier stand as has been alleged by the Applicant. It The allegation to the effect that the Answering Respondent in its Short Synopsis dated 24.11.2022 has argued that the location in question is not a green belt is false as no such contention has been raised by the Answering Respondent No. 3 in the said Synopsis. Such allegations have been made with a view to mislead and deceive this Hon'ble Tribunal.
- 9) In fact, it has been stated in the said Short Synopsis that so far as the exact location of the Green Belt is concerned, it would be for the concerned authorities to show the exact location. It was also stated that the Ghaziabad Nagar Nigam is the authority maintain civic amenities in the said area and that it is not the prerogative of the Answering Respondent No. 3 either to setup a kiosk or to demolish it. This has been the stand of the Answering Respondent No. 3 since the very beginning, therefore, there has been no contradiction as alleged by the Applicants in their IA for Cross-Examination.



- 10) That the contents of paragraph 9 (c) are denied as false and incorrect. The onus to prove the sanctity of Layout Plan placed on record by Respondent No. 7 to 48 is upon them. As far as the Layout Plan placed on record by Respondent No. 3 is concerned, the same hold legal authority as has already been stated.
- 11) It is most humbly submitted that the Answering Respondent No. 3 has stated the factual status as per law. Neither any incorrect statement has been made nor anything has been concealed by the Answering Respondent No. 3. However, it is very strange that despite everything being clarified by the respective authorities of the Government and appropriate action being taken in this regard, the Applicant is once again trying to mislead and confuse this Hon'ble Tribunal by bringing up issues which are not relevant for the purpose of deciding what has been prayed for as per prayer (a) & (b) at Pg. 11 of the Original Application.
- 12) That the contents of paragraph 12 are denied as false and incorrect as there has been no contradiction in the stand taken by Respondent No. 3 in its affidavit dated 17.04.2023. The said affidavit was filed subsequent to order of this Hon'ble Tribunal dated 21.02.2023 whereby the Hon'ble Tribunal posed a specific question to the Answering Respondent No. 3 inquiring whether the land in front of the C.W.R. is a green belt or not. The said affidavit was filed in view of the same, clearly stating therein the actual position at that relevant point of time i.e., that there was no green



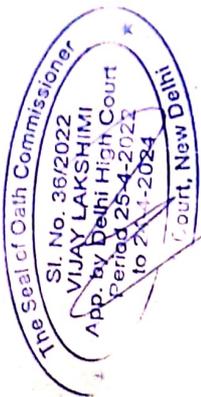
belt on the CWR boundary, however, the green belt continues on both sides of the CWR interjected by the 18-meter-wide road on the left side of the CWR.

- 13) That the contents of paragraph 13 and 14 are being denied as false and misleading. It is most humbly submitted that there has been no contradiction in the stand taken by the Answering Respondent No. 3 in its affidavit dated 17.04.2023 and affidavit dated 05.09.2022 for the reasons already stated in paragraph 4 and 13 of this Reply and are not being repeated for the sake of brevity.
- 14) That the contents of paragraph 15 are being denied as false and incorrect for the reasons already stated in the foregoing paragraphs of this Reply and are not being repeated for the sake of brevity.
- 15) That the Applicants, in support of their IA have annexed the order of this Hon'ble Tribunal dated 17.04.2023 in R.D. Singh Bandral Vs. Union of India in paragraph 17. This Hon'ble Tribunal in the aforesaid case had issued directions for summoning of the Chief Engineer, PWD (R&B) as well the DFO for the purpose of examination. However, a perusal of the said order would show that the Hon'ble Tribunal had directed the Chief Engineer, PWD (R&B) as well the DFO to appear before the Tribunal, however, the same order was disobeyed and the officers failed to be present before the Hon'ble Tribunal despite specific directions to appear.



Therefore, in the facts and circumstance of the case, this Hon'ble Tribunal exercised its powers to summon the officers for the purpose of examination as they had failed to obey the directions of this Hon'ble Tribunal.

- 16) In view of what has been stated herein above, it is the humble submission of the Answering Respondent No. 3 that there has been no deviation or contradiction in the stance of Respondent No. 3. The attempt of Answering Respondent No. 3 has been to ably assist this Hon'ble Tribunal and in view of the same various affidavits apprising the Hon'ble Tribunal of the status quo have been filed. A collective perusal of the affidavits filed by the Answering Respondent No. 3 would show that no such contradictions, as has been alleged by the Applicant, surface.
- 17) However, if this Hon'ble Tribunal finds and deems it fit that for the purpose of adjudication of the present Original Application \ the issuance of summons to the officer of the Answering Respondent No. 3 for the purpose of cross-examination by the Applicant isrequired and warranted, the Answering Respondent No. 3 shall be duty bound to obey the orders and directions of the Hon'ble Tribunal in letter and spirit.
- 18) That the contents of paragraph 25 to 29 are denied as false and incorrect for the reasons already stated in the foregoing paragraphs of this Reply and are not being repeated for the sake of brevity.



VERIFICATION :

Handwritten signature in blue ink, partially overlapping the verification text.

I, the deponent above named do hereby solemnly swear and verify that the contents of above mentioned paragraphs of this affidavit are true to my knowledge; and are based on the perusal of record and on legal advice which all I believe to be true and no part of it is false and nothing material has been concealed.

23 SEP 2023

Verified at New Delhi on 23rd day of September, 2023.

Handwritten signature of the deponent.

DEPONENT
Executive Engineer,
Construction Division GZB-01
U.P. Awas Evam Vihar Parishad
Vasundhara, Ghaziabad

Seal of Oath Commissioner
Sl. No. 36/2022
VIJAY LAKSHMI
App. by Delhi High Court
Period 25-4-2022
to 24-4-2024
Delhi

Seal of Oath Commissioner
Sl. No. 36/2022
VIJAY LAKSHMI
App. by Delhi High Court
Period 25-4-2022
to 24-4-2024
Delhi High Court, New Delhi

Handwritten signature: Sun Sun
I S/o D/o / W/o
Verified by Ms. *Karlay Sun*
do hereby solemnly affirm before
me and correct of my knowledge
23/9/23 Sl. No. *1/11*
Oath Commissioner, New Delhi