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BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 677/2024

IN THE MATTER OF:

CHANDER PRAKASH

...APPLICANT

VERSUS

HARYANA STATE POLLUTION

CONTROL BOARD & ORS.

...RESPONDENTS

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THROUGH



SHIVASHISH DWIVEDI

COUNSEL FOR THE RESPONDENT NO.9

W-41, LGF, GREATER KAILASH-II,

NEW DELHI – 110048

PLACE: NEW DELHI

DATE: 29.01.2024

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**REPLY BY AND ON BEHALF OF THE RESPONDENT
NO.9 TO THE APPLICATION FILED BY THE
APPLICANT**

MOST RESPECTFULLY SHOWETH

At the outset, it is submitted that unless otherwise admitted, each and every allegation in the application filed by the Applicant, which is contrary to the record and except what is specifically admitted hereunder is denied and no allegation shall be deemed to be admitted on account of non-traverse. All allegations and claims of the Applicant are false, concocted and frivolous being unsubstantiated with proper reasoning whatsoever. Without prejudice to the above, the Respondent No.1 herein humbly submits the following:

PRELIMINARY OBJECTION/SUBMISSION

1. That the present application is not maintainable in the eyes of law as the Applicant has approached this Hon'ble Tribunal with unclean hands and has suppressed material facts and information in order to take advantage of his own wrongs. Thus, having concealed vital facts, the Applicant is guilty of "*suppresio veri*" and "*suggestion falsi*" and cannot seek any discretionary relief from this Hon'ble Tribunal.
2. That the Application filed by the Applicant is liable to be dismissed at the threshold as no cause of action has arisen in favour of the Applicant and against the Respondent No.9. A perusal of the complaint shows that there is no specific role assigned to the Respondent No.9 and the allegation so made in the application are concocted and an afterthought which are made solely for the purpose of wrecking personal vendetta of the Applicant.
3. That the Respondent No.9 is neither a proper nor necessary party to the present dispute as the issues raised before this Hon'ble Tribunal does not pertain to the Respondent No.9's scope of work. The Applicant has falsely impleaded the Respondent No.9 without any basis with the sole intention to cause unnecessary harassment and to settle his political score with the Respondent No.9.

4. That the Application filed by the Applicant is vague and based on conjecture and surmises wherein the Applicant has miserably failed to attribute any negligence or fault on the part of the Respondent No.9 except for vague and bald allegations without any documentary evidence. The Application filed before this Hon'ble Tribunal is bundle of lies which does not depict the actual facts and circumstances under which the trees have been cut after following due procedure as prescribed.
5. That the Respondent No.9 herein is a respectable member of the society who is serving as duly elected Sarpanch of Village Ahamadpur, Sirsa. The Respondent No.9 is well-reputed individual having clean antecedents and has never committed any illegal activity which is against the principles of law and justice. The Respondent No.9 performs his duty as Sarpanch with utmost diligence and efficiency.
6. It is submitted that the Government School which falls within the territory of Village Ahamadpur comes within the direct control of the Respondent No.8 where the Respondent No.9 is appointed as Head Mistress/Principal. It is submitted that the said school is rendering education to various children who comes from different areas including

nearby villages. The campus of the school is fully equipped with required facilities and offers safety environment for the children and staff working in the said school.

7. That for past many years, the school campus was surrounded by multiple trees which were maintained by the government department. Pertinently, some of the trees were extremely old and ran a risk of falling down within the campus and outside on the common facilities including road. Thus, in order to safeguard the interest of public at large and to secure the physical well-being of the students of the government school, it was recommended to cut down certain trees which were causing hindrance to the common facilities and damaging the school building.
8. Pursuant thereto, the Respondent No.7 issued proposal for cutting down the trees and sought consent of the Respondent No.8 and 10. Pertinently, the proposal for cutting down the trees was considered necessary to serve the general public and offer them convenience in daily activities. Thus, having received the recommendation and proposal from the Respondent No.7, the Respondent No.8 after examining the genuineness of the proposal, granted his consent for cutting down the old and risky trees at an agreed cost.

9. Upon receiving consent from the Respondent No.8 who is the deciding authority of the government school, the Respondent No.7 deputed forest officer for cutting down certain trees which were causing difficulty to the general public, students and school staff and causing damage to the school building. It is pertinent to mention that only old and risk trees were cut down by the concerned department after obtaining due approval from the relevant authorities and department.
10. It is submitted that the issue of plantation and cutting of tree falls within the exclusive control of the Respondent No.7 who is authorized to take steps to ensure public safety in case any tree infringes or encroaches upon the safety of a person or public at large. However, the said issue of plantation or cutting down of trees has no concern with the Respondent No.9 who is merely a Sarpanch and does not possess any authority to deal with the cutting of tree. The Respondent No.9 during the course of his statutory duties is required to only facilitate and assist any government department in case of exclusive direction or request from the said department but in the present case, the Respondent No.9 has no role to play as neither the Respondent No.9 has granted any

approval or acted upon any direction for cutting down the old and risky trees.

11.The decision regarding cutting of old and risky trees has been taken by the Respondent No.7 with the consent and approval of the Respondent No.8 and 10 and without any involvement of the Respondent No.9. Without prejudice to the fact that the trees have been cut after following the due procedure, if any irregularity is found out in cutting the said old and risky trees, it is the Respondent No.7, 8 and 10 who would be liable to bear the consequences.

12.The Respondent No.9 herein has neither approved the proposal of cutting the trees within the school campus nor has he taken any action to cut down the said trees. The Respondent No.9 is wholly and completely stranger to the entire act of cutting down of trees. The Respondent No.5 has already conducted an enquiry to ascertain the veracity of the allegations made by the Applicant in his complaint. It is submitted that even a perusal of the report prepared and submitted by the Respondent No.5, the Respondent No.9 has neither been accused of any irregularity nor any action has been recommended against him.

13.That the Respondent No.9 is a model citizen who bear great love and affection towards nature, however, considering

that the old and risky trees which run a risk of falling during storm or windy weather, may cause fatal injury to the person, it is expedient to for the concerned department to take corrective measures to avoid the possibility of any mishappening. The trees in question had already caused substantial damage to the school building as the branches of trees had damaged the foundation of the school walls due to their heavy branches which were spreading onto the building.

14.It is submitted that the Respondent No.9 is completely innocent who has been falsely impleaded by the Applicant to somehow extort money from him. The Application under reply is bereft of merit and devoid of any contention which warrants no interreference of this Hon'ble Tribunal. Therefore, it is expedient in the interest of justice that the Application filed by the Application be dismissed with exemplary cost for being frivolous and highly malicious in nature

PRAYER

In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal be pleased to:

A. Dismiss the Original Application No. 677/2024 titled as
‘Chander Prakash vs Haryana State Pollution Control Board
& Ors.’ with exemplary cost

And/or;

B. Pass any other order as this Hon’ble Tribunal may deem fit
and proper in light of peculiar facts of the present matter

THROUGH



SHIVASHISH DWIVEDI

COUNSEL FOR THE RESPONDENT NO.9

W-41, LGF, GREATER KAILASH-II,

NEW DELHI – 110048

PLACE: NEW DELHI

DATE: 29.01.2024

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...RESPONDENTS

AFFIDAVIT

I, Sandeep Kumar, Son of Shri Lekh Raj, aged about 33 years, Resident of 167, Ahamadpur (149), Sirsa, Haryana – 125055, do hereby solemy affirm and declare as under:

1. That I am the Sarpanch of Village Ahamadpur and also the Respondent No.9 in the present matter and as such I am well conversant with the facts and circumstances of the present case, hence competent to swear the present affidavit.
2. I say that the accompanying reply has been drafted by my counsel under my instruction. I further say that the contents of the accompanying reply are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

Identified By:
Namit Goyal
Adv.

[Signature]
DEPONENT

VERIFICATION:

Verified at Sirsa on this 27th day of January 2025, that the contents of the above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

[Signature]
DEPONENT

No. *611* Date *27-1-2025*
Certified that above declaration has
been made before me by *Sandeep Kumar*
who has been identified by Sh. *Namit Goyal*
& read over & explained to him
he seemed to understand the same

[Signature]
Darshan D. Advocate
Oath Commissioner
Distt. Sirsa
27-1-2025

ATTESTED

[Signature]
Darshan D. Advocate
Oath Commissioner
Distt. Sirsa
27-1-2025

Reply on behalf of the Respondent No.9 in OA No. 677/2024 titled as "Chander Prakash vs HSPCB & Ors"

1 message

Shivashish Dwivedi <dwivedi.shivashish11@gmail.com>

29 January 2025 at 19:15

To: Anubhav Singh <advanubhavsingh@gmail.com>

Dear Sir,

Please find attached herewith Reply on behalf of the Respondent No.9 in OA No. 677/2024 titled as "Chander Prakash vs HSPCB & Ors"

Please treat the present email as an advance service of reply.

Regards,
Shivashish Dwivedi
Advocate

Kred-Jure
W-41, Greater Kailash-II,
New Delhi: 110048
Telephone: (+91) (11) 40532096
Mobile: (+91) 9619619241

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