

**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 911 OF 2022

IN THE MATTER OF:

PROF. DR. SANJEEV BAGAI & ORS.

...APPLICANTS

VERSUS

DEPARTMENT OF ENVIRONMENT,
GNCTD & ORS.

...RESPONDENTS

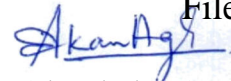
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New Delhi

Dated: 02/01/2023

Filed by-



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**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI**

(Under Section 14 and 15 of the National Green Tribunal Act, 2010)

ORIGINAL APPLICATION NO. 911 OF 2022

IN THE MATTER OF:

PROF. DR. SANJEEV BAGAI & ORS. ...APPLICANTS

VERSUS

DEPARTMENT OF ENVIRONMENT,

GNCTD & ORS. ...RESPONDENTS

**REPLY BY THE RESPONDENT NO. 18 TO THE APPLICATION
UNDER SECTION 14 AND 15 OF THE NATIONAL GREEN
TRIBUNAL ACT, 2010.**

I. PRELIMINARY OBJECTIONS

1. That the purported application made under section 14 & 15 of National Green Tribunal Act, 2010 (hereinafter referred to as 'the Act'), is beyond the scheme and purpose of the act as no *substantial question relating to environment* is set out in the application by the applicant, the reliefs sought are not in accordance with section 15 of the Act. The applicants have failed to specify any actual environment harm or damage in its application or through the evidence.

2. That the purported application is premised and based on pruning of the trees alleged to be undertaken by Respondent Nos. 12-18 without permission of the appropriate authorities/ concerned authorities in reference to the Guidelines dated 01.10.2019 under Delhi Preservation of Trees Act, 1995 (hereinafter referred to as 'the Guidelines') although the Guidelines, under clause 5 provide that for pruning upto 15.7 cms of grith, no permission is required.
3. That the purported application and accusations made therein against the Respondent No.18 is bereft of any cause, facts and evidence. No particular/ specific harm or damage is shown to have been caused to the environment. The Annexure 12 is the only evidence in the form of photographs which are neither date stamped, nor place marked and therefore does not comprise as evidence under the law. The certificate under section 65-B of the Indian Evidence Act, 1872 submitted by the applicant along with the application does not satisfy the conditions in relation to the information and computer in question and therefore are not admissible in the said proceedings as evidence. The applicants have failed to provide any information as to the number, location or category of trees which were alleged to have been pruned by the Respondent No.18 to cause death or damage to the tree or the environment. The application is bereft of any particulars.

4. That there is no cause of action against the Respondent No.18. The purported case of the applicant is, *inter alia*, pruning undertaken to be done without the permission of the concerned authorities and anticipation that there has been violation of law. No case has been made out for any actual damage caused to the environment or that any pruning of trees has led to the death or destruction of the tree. No case has been made that the pruning of trees was not required in the Vasant Vihar area, in fact the applicant has itself made an interim prayer (paragraph C) to '*direct Respondent Nos. 2-6 and/or the concerned authority/ land owning agency/ civic body to undertake pruning of trees in Vasant Vihar, on their own, on immediate basis...*'.
5. The prayer made by the applicant in the purported application is beyond the scope and scheme of section 15 of the National Green Tribunal Act, 2010 wherein the act provides:

15. Relief, compensation and restitution.—

- (1) The Tribunal may, by an order, provide,—
- (a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);
 - (b) for restitution of property damaged;
 - (c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

6. It is evident from the prayer and pleading of the applicants that there is no victims of pollution, and no environmental damage has been caused, therefore, no restitution of environment or property or area has been prayed for. Thus, the prayer made in the application is *malafide* and motivated, contradictory to the purpose of the act and not made in the interest of the environment or public.
7. It is submitted that neither was there any threat to the environment nor exists any. The pruning is being undertaken by the Municipal Corporation of Delhi in compliance of order dated 21.12.2022 of this Hon'ble Tribunal.

II. REPLY TO THE APPLICATION

1. The contents of paragraph 1 to 10 of the application under reply are matters of record and argument. The answering respondent craves leave to refer and rely upon the records for its true meaning and purport. It is however stated that case law relied by applicant titled as *Pradeep Indulkar v. Municipal Corporation for the city of Thane and others*; Hon'ble NGT (Western Zone), Bench, Pune (bearing Application No. 157 of 2016) is not relevant to the facts of the present case arising out of different factual matrix. It is denied that any law or rule has been violated by the answering respondent.

2. The contents of paragraph 11 of the application under reply are denied. It is denied that any illegal/ unauthorized acts of cutting, felling or pruning of trees were carried on by the Respondent No. 18. Pruning had been done within the boundary of law and under the supervision and control of the appropriate authorities.

III. REPLY TO THE FACTS IN BRIEF

1. The contents of paragraphs I and II of the facts in brief in the application under reply are matter of record except that the Respondent Nos. 12-17 were responsible and involved in the illegal act of cutting, felling and pruning of trees without obtaining requisite approvals which is denied, and it is reiterated that pruning was carried out as per law and under the active supervision and control of the appropriate authorities.
2. The contents of paragraph III and IV of the facts in brief in the application under reply are denied. It is denied that tree(s) were cut/ fell in Vasant Vihar with any understanding/ consent of the Respondent Nos 12-18 with/ without the approval of the authorities. It is stated that no pruning of more than 15.7 cm was undertaken by the answering Respondent and a letter dated 01.12.2022, in this behalf, was sent to the Deputy Conservator of Forest by the Respondent No. 18. No reply/ objection to the said letter was received by the Respondent No.18. A copy of the aforesaid letter dated 01.12.2022 is annexed herewith as **Annexure R-1**.

The complaint dated 28.10.2022 is matter of record and is not in the knowledge of Respondent No. 18. It is categorically denied that Respondent No.18 was responsible for any felling of trees on 30.09.2022 or on 20.11.2022. To the knowledge of Respondent No. 18, the purported police complaint filed *vide* diary number 78775 with the Vasant Vihar Police Station is under investigation.

3. The contents of paragraph V of the facts in brief in the application under reply are matters of record and that information about pruning was duly given to the residents of the Vasant Vihar. It is denied that pruning was done without permission of the authorities. It is reiterated that pruning was done with the approval and under the control and supervision of the concerned authorities and in accordance with the extant laws and rules.
4. The contents of paragraph VI to XV of the facts in brief in the application under reply are self-serving, baseless and false. It its reiterated that the allegations made in these paragraphs are without any merit or evidence. The pruning was done *bona fine*, in the interest and welfare of the trees and the environment. It is denied that pruning was undertaken by private contractor. Respondent No.18 had only provided the facility of the skylift for carrying out the work of pruning which was undertaken under the supervision and control of the appropriate authorities in complete compliance of the Delhi Preservation of Trees Act, 1995, the Guidelines

and other relevant environmental laws. It is however denied that pruning was suspended on 24.11.2022 on the plea that few residents had raised concerns regarding prior approval of pruning of trees and it is categorically denied that huge amount of money was being spent on private contractors for this purpose. It is stated that the applicants have misconstrued the statement that 'pruning is not covered by any model code of conduct' while it conveyed that 'pruning was not in violation of any model code of conduct'.

5. The contents of paragraph XVI to XIX of the facts in brief in the application under reply are matters of record and the answering Respondent craves leave to refer to and rely upon the records for its true meaning and purport. It is however denied that the answering Respondent had ignored any aspect of care and protection of the environment and trees. The pruning was done to save the trees from felling and for their better growth. No trees were damaged in the pruning process.
6. The contents of paragraph XX to XXI of the facts in brief in the application under reply are self-serving, baseless and false. It is reiterated that the allegation made in these paragraphs are without any merit or evidence. It is denied that there was any haste to cut/ prune trees. It is denied that Respondent No. 18 made any irresponsible comments and shallow assurances to the residents of Vasant Vihar. In fact, every activity

was carried on in a very transparent manner under the care, control and supervision of the concerned authorities. It is denied that any private agency was involved for any illegal or unlawful activity by the answering Respondent. It is denied that any atmosphere of hatred or passing of any derogatory comment is/was created by the answering Respondent, the applicants are only victimizing themselves for self-serving interest. It is submitted that no case of environmental pollution has been made out by the applicants except unsubstantiated and bald allegations against specific members of the Respondent No.18. No victims of environment pollution has been highlighted, there is absolutely no particular/ specific harm or damage shown to have been caused to the environment. The applicants have failed to provide any information as to the number, location or category of trees which have been harmed by the Respondent No.18 so as to cause death or damage to the tree or the environment. It is submitted that no illegal act was carried on by the Respondent No.18.

IV. REPLY TO THE GROUNDS

1. The contents of paragraph A of the grounds in the application under reply are denied for being false and beyond the legal provisions. That the purported application made under section 14 & 15 of National Green Tribunal Act, 2010, is beyond the scheme and purpose of the act as *no substantial question relating to environment* is set out in the entire

application by the applicants and no action is shown to cause environment pollution or damage.

2. The contents of paragraph B to H of the grounds in the application under reply are matter of record and argument and the answering Respondent craves leave to refer to and rely upon the records and laws for its true meaning and purport. It is however stated that case law relied by applicant titled as *Pradeep Indulkar v. Municipal Corporation for the city of Thane and others*; Hon'ble NGT (Western Zone), Bench, Pune (bearing Application No. 157 of 2016) is not relevant to the facts of the present case. It is brought to the attention of the Hon'ble Tribunal that in the Guidelines dated 01.10.2019, clause 5 provides that for regular pruning/general trending up to 15.7 cm, no permission is required. It is again reiterated that the activity of pruning undertaken by the Respondent No.5 was as per law and under the active supervision and control of the concerned authorities and its officers. It is submitted that no pruning of more than 15.7 cm was undertaken by the answering Respondent and a letter dated 01.12.2022, in this behalf, was also sent to the Deputy Conservator of Forest by the Respondent No. 18.
3. The contents of paragraph I to P of the grounds in the application under reply are beyond the knowledge and concern of the answering Respondent therefore merit no reply. It is denied that pruning was carried

on by private contractors by the Respondent No.18, it is reiterated that pruning was undertaken under the active supervision and control of the concerned authorities and ancillary services were facilitated by the Respondent No.18. It is submitted that pruning is not in violation of any model code of conduct and for pruning of upto 15.7 cms, no permission is also required to be taken as per the Guidelines dated 01.10.2019. It is also submitted that all the wood/lops/tops that are created by the pruning, are being removed by Municipal Corporation of Delhi in their vehicles to their nursery for onward use as they deem fit and as per the norms and rules. A copy of the photographs showing the waste being picked up by Municipal Corporation of Delhi in their truck for onwards use is annexed herewith as **Annexure R-2 (colly)**.

4. The contents of paragraph Q to T of the grounds in the application under reply are matter of record and argument and the answering Respondent craves leave to refer to and rely upon the records and laws for its true meaning and purport.
5. For the reasons stated in the preliminary objections, the application has no merit and the reliefs sought herein are not maintainable under the scheme of the Act. The application therefore merits to be dismissed.

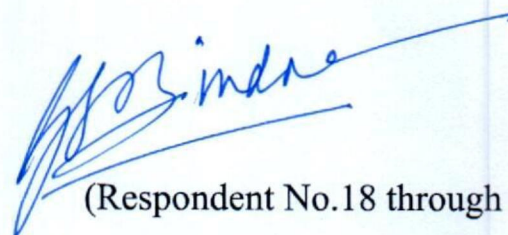
V. REPLY TO INTERIM PRAYER

That the interim prayer made by the applicant herein is infructuous. Pursuant to the order dated 21.12.2022 passed by this Hon'ble Tribunal, the Municipal Corporation Delhi has undertaken the work of pruning and there exists no involvement of the Respondent No. 18 in the same.

VI. REPLY TO PRAYER

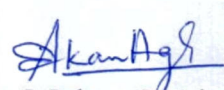
That the prayer made by the applicant is beyond the scheme of section 14 & 15 of the National Green Tribunal Act, 2010 is beyond the scheme and purpose of the act as no *substantial question relating to environment* is set out in the application by the applicant, the reliefs sought is not in accordance with section 15 of the Act.

In view of the aforesaid facts and circumstances, it is respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the application with costs in favor of the Respondents.



(Respondent No.18 through its
President Mr. Gurpreet Singh Bindra)

New Delhi
Dated: 02.01.2022

Represented by-

(Ekta Mehta & Akanksha Agrawal)
Advocate for the Respondent No.18
Nizamuddin East Market rd rd
2nd and 3rd Floor, New Delhi-13
Mob- No. + 919971443037
Email: ektadmehtha@gmail.com

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AFFIDAVIT

I, Gurpreet Singh Bindra, age about 74 years, S/o Late Mohinder Singh Bindra, resident of 2 Palam Marg, Vasant Vihar, New Delhi 110057, do hereby solemnly affirm and state as under-

1. That I am the President of Respondent No.18 association and am duly authorised and competent to file the accompanying reply. I am aware of the facts and circumstances of the matter to depose by way of this affidavit.
2. I say that the accompanying reply is drafted by my counsel under my instructions. I have read and understood the contents thereof, that are based on the records of the case believed to be correct.



Gurpreet Singh Bindra
DEPONENT

VERIFICATION

So verified at New Delhi on this 2 Jan 2023 2022 that
the contents of the aforesaid affidavit are true to my knowledge and
nothing material is concealed therefrom.

[Handwritten Signature]
DEPONENT

[Handwritten Signature]
Signature Identified
AKANRSHA AGRAWAL

I Identify the deponent who has
signed in my Presences.



CERTIFIED THAT THE DEPONENT
Shri/Smt./K... Age...
S/o / W/o / D...
R/o...
Identified by...
Has signed...
On 02 JAN 2023 at Delhi
contents of the affidavit which have been
read & explained to his / her are true &
Correcter to his / her / knowledge
Oath Commissioner, Delhi.
[Handwritten Signature]

**VASANT VIHAR WELFARE ASSOCIATION (Regd.)**

Kalyan Kendra, 9 Paschimi Marg, Vasant Vihar, New Delhi 110 057
Tel: 2614 7409, 2614 8645, Email : hellovvwa@gmail.com

Ref:VVWA/05/2022

1st Dec. 2022

The Dy. Conservator of Forest,
Department of Forest & Wildlife,
West Forest Division,
Mandir Lane,
New Delhi 110 060

Dear Sir,

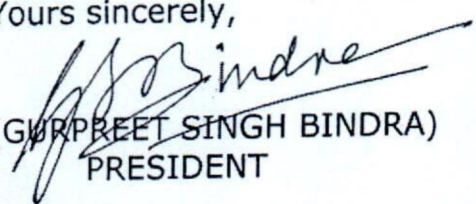
Sub: Pruning of Trees in Vasant Vihar.

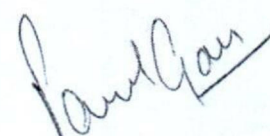
As you are aware that, currently, we are carrying out pruning of our trees in Vasant Vihar. The trees are being pruned as per orders contained in Department of Forest & Wildlife order No.8(193)/CF/TA/07.18.19/8473-80 dated 1st October 2019. The work is under constant and active supervision of the Horticulture staff of Municipal Corporation of Delhi (MCD). The rules are being strictly adhered to.

We write to assure that all the relevant rules will be strictly followed, and in no case would the pruning be greater than 15.5 cms be carried out. This norm is being strictly followed and will be adhered to all times.

Thanking you,

Yours sincerely,


(GURPREET SINGH BINDRA)
PRESIDENT


(PARUL GAUR)
DIRECTOR (OPERATIONS)

cc: The Assistant Director (Horticulture),
Municipal Corporation of Delhi,
Green Park,
New Delhi 110 016

cc: Mr. Narender Tyagi,
Horticulture Inspector,
Municipal Corpn. Of Delhi,
A-1, Street, Vasant Vihar,
New Delhi 110 057


(TRUE COPY)

ANNEXURE R-2 (COLLY).



Akan Ags
(TRUE COPY)



Akan Agil
(TRUE COPY)



Akan Agri
(TRUE COPY)



Akan Agil
(TRUE COPY)

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...RESPONDENTS

VAKALATNAMA

KNOW ALL to whom these presents shall come that

I/We Gurpreet Singh Bimba, President of Vasant Vihar Welfare Assn. the above named..... do hereby appoint:--**Ms. Ekta Mehta & Ms. Akanksha Agrawal, Advocates** (herein after called the advocate/s) to be my/our Advocate in the above noted case authorize them:-

1. To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/us.
2. To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.
3. To file and take back documents, to admit and/or deny the documents c
4. To withdraw or compromise the said case or submit to arbitration any d that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. To deposit, draw and receive monthly cheques, cash and grant receipts other acts and things which may be necessary to be done for the progress the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner authorising him to and authority hereby conferred upon the Advocate whenever he may think sign the power of attorney on our behalf.
8. And I/We the undersigned do hereby agree to rectify and confirm a Advocate or his substitute in the matter as my/our own acts, as if done by and proposes.
9. And I/We undertake that I/We or my/our duly authorised agent would a hearings and will inform the Advocate for appearance when the case is called
10. And I/We the undersigned do hereby agree not to hold the advoca responsible for the result of the said case.
11. The adjournment costs whenever ordered by the Court shall be of th shall receive and retain for himself.
12. And I/We the undersigned to hereby agree that in the event of the whc agreed by me/us to be paid to the advocate remaining unpaid he shall be wared to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I//we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 27.1 January day of 2023.....

Accepted subject to the terms of the fees.

Ekta Mehta
(Ekta Mehta)
D/1397A of 2009
+91 9971443037
ektadmehta@gmail.com



Client

Pr. Indro
President
Vasant Vihar Welfare Association

Client

Akan Agrawal

Akanksha Agrawal
D/1828/2019
9511257216

Akan Agrawal

I Identified Signature





VASANT VIHAR WELFARE ASSOCIATION (Regd.)

Kalyan Kendra, 9 Paschimi Marg, Vasant Vihar, New Delhi 110 057
Tel: 2614 7409, 2614 8645, Email : hellovvwa@gmail.com

RESOLUTION PASSED AT THE MEETING OF THE OFFICE BEARERS OF 'VASANT VIHAR WELFARE ASSOCIATION' HELD ON WEDNESDAY, 28TH DECEMBER 2022 AT 12.00 NOON IN NEW DELHI.

Authorization for carrying out all acts, deeds etc that may be necessary to successfully defend the interest of Vasant Vihar Welfare Association in matter titled as "Mr. Sanjeev Bagai & Ors V/s. Dept. of Environment, GNCTD & Ors. in the Court NATIONAL GREEN TRIBUNAL at Patiala House Courts, New Delhi.

Resolved that in exercise of the power conferred upon the Office Bearers under Clause 31 of the Memorandum of Association, it so appoints Mr. Gurpreet Singh Bindra, President of the Vasant Vihar Welfare Association and authorizes him to :

- i. Represent the Association, institute, commence, file, prosecute, defend all actions in relation to the captioned Petition and for this purpose sign, verify, declare, affirm, make, present, submit and file all necessary notices, Petitions, Rejoinders, Affidavits, Undertakings, Declarations, Appeals, Revisions, Applications, Statements, Papers and Documents in all proceedings and matters in connection with captioned Petition filed before the NATIONAL GREEN TRIBUNAL, at Patiala House Courts, New Delhi.
- ii. Nominate, appoint, engage and remove Advocates, Solicitors, Counsel or other professional retainers; and to sign Vakalatnama or any other documents for such appointment as may be necessary for prosecuting or defending, the captioned Petition as stated above; and
- iii. Do all such acts, things, deeds as may be necessary or proper to carry out the purposes mentioned hereinabove.

For Office Bearers

Vasant Vihar Welfare Association.


(GURPREET SINGH BINDRA)
President


(MRIDULA MURGAI)
Secretary

NEW DELHI
28.12.2022