

प्रेषक,

जिलाधिकारी,
देहरादून।

सेवा में,

श्री दीपक बोरा,
पैनल अधिवक्ता,
मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली।

संख्या:- 241 / एल0बी0सी0 / 2024

दिनांक 05 अगस्त 2024

विषय:- मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या-463/2022 विपिन नैय्यर बनाम यूनियन ऑफ इंडिया में पारित आदेश दिनांक 18.07.2024 के सम्बन्ध में।

महोदय,

उपरोक्त विषयक मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या-463/2022 विपिन नैय्यर बनाम यूनियन ऑफ इंडिया में पारित आदेश दिनांक 18.07.2024 के अनुपालन में Status Report हस्ताक्षरित कर आपको इस आशय के साथ प्रेषित की जा रही है, कि उक्त आख्या को समयान्तर्गत मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में दाखिल करने का कष्ट करें।
संलग्न-यथोपरि।

भवदीया,



(सोनिका)
जिलाधिकारी,
देहरादून।

प्रतिलिपि:-

तहसीलदार ऋषिकेश को इस निर्देश के साथ प्रेषित कि उक्त Status Report को नोटरी करवाते हुए आज ही श्री दीपक बोरा, पैनल अधिवक्ता, मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली मो0न0-9971578987 को उपलब्ध कराना सुनिश्चित करें।



जिलाधिकारी,
देहरादून।

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

Original Application No 463/2022

In the Matter Of :

Vipin Nayyar

-Applicant

vs.

Union of India

-Respondent

NDOH: 07.08.2024

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3	Annexure B: Order by the Hon'ble High Court, Nainital regarding Hideout Café.	
4	Annexure C: Order by the Hon'ble High Court, Nainital regarding Ganga Forest View.	


Sonika

District Magistrate

Filed By

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

Original Application No 463 / 2022

In the Matter of:-

Vipin Nayyar

--- Applicant

Vs.

Union of India

--- Respondents

**Status Report on behalf Of District Magistrate, Dehradun to
order dated 18.07.2024**

1. This Hon'ble Tribunal took up the aforementioned matter on 18.07.2024, and the next hearing is scheduled for 07.08.2024.
2. In compliance with the order dated 18.07.2024 by the Hon'ble National Green Tribunal, New Delhi, the District Magistrate vide the office letter no. 233/LBC-2024 dated 31 July 2024 directed to submit the status report regarding the demolition of Hotel Ganga Forest View and Hide Out Cafe.
3. That in compliance with the above, it has been submitted by the Sub-Divisional Magistrate, Rishikesh vide office letter no.



203/SPA/2024 dated 02.08.2024 (**Annexure A**) that Respondent 6 and 7 i.e. Hide Out Café and Hotel Ganga Forest View moved a writ petition in the Hon'ble High Court regarding the impugned demolition order dated 08.07.2024 which is already on record.

4. That the Hon'ble High Court in Hide Out Cafe in vide its order dated 20.07.2024, ordered as follow: -

"The petitioner is aggrieved by the order dated 16.5.2024, whereby the property in question was sealed by the orders of S.D.M/ presiding officer, MDDA, Rishikesh, as well as the order dated 08.07.2024, whereby the property was directed to be demolished.

Learned counsel for the respondents prays for and is granted six weeks' time to file a counter affidavit(s). List on 14.10.2024. In the meantime, the petitioner shall implead the caveator as party-respondent in the matter.

Till then, status quo shall be maintained over the property in question." The Copy of the order of the Hon'ble High Court is annex herewith and marked as **Annexure B**.

5. That regarding Hotel Ganga Forest View 86, 86/1 Street No. 06 Virbhadr Marg Rishikesh District Dehradun, The Hon'ble High Court of Uttarakhand vide its order dated 24.07.2024, mentioned as follows: -



“Order of demolition has evil and civil consequences to petitioners. Therefore, it was incumbent upon them. the competent authority to consider the stand taken by petitioners in there reply.

However, the impugned demolition order is silent regarding the reply, and the stand taken by petitioners therein has not been considered, which is not in consonance with the principles of natural justice on this short point alone, the impugned demolition order is liable to be quashed and is hereby quashed.

Accordingly, the writ petition is allowed. The matter is remitted back to the Vice Chairman, Mussoorie Dehradun development authority, to pass an order afresh only after considering the reply submitted by petitioners within eight weeks from the date of production of a certified copy of this order. Petitioners shall be at liberty to produce the sanctioned plan, if available with them before the vice chairman.” The Copy of said order is annex herewith and marked as **Annexure C**. In compliance with the above mentioned order, The project proponent has been directed to appear before the Vice Chairman, MDDA on 06.08.2024 at 11 am.



6. In view of the above, the present status report may kindly be taken on record.


Sorika
District Magistrate
District Magistrate
Dehradun
Through

DEEPAK BORA
Counsel for State of Uttarakhand
17, New Lawyers Chambers,
Setalvad Block, Supreme Court of India
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IN THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IN THE MATTER OF:

VIPIN NAYYAR

--- Applicant

Vs.

UNION OF INDIA & ORS

--- Respondent

AFFIDAVIT

I, Sonika, w/o Shri Dhananjay Upadhyay, aged about 43 years, presently posted as District Magistrate, Dehradun, Uttarakhand, do hereby solemnly affirm on oath and state as under;

1. In my above-mentioned official capacity, I am acquainted with the facts and circumstances of the present matter, and I am fully competent and duly authorised to file a present Affidavit.
2. That I have gone through the status report in the above-mentioned matter and state that the contents are best of my knowledge on record.
3. That the annexures are true copies of their respective originals.


DEPONENT

VERIFICATION

I, the deponent above named, do hereby verify and say that the contents by way of the affidavit are true and correct to my knowledge based on the record, no part of it is false, and nothing material has been concealed therefrom. Verified by me at Dehradun, Uttarakhand on this 05 day of August 2024.

Identified by

5/8/24
Nitin Vashistha
Adv.



affidavit is sworn before me by

DEPONENT
is identified by
Sonika w/o Shri Vashistha
Dehradun on 05/08/24

KM. URMILA BHATIA
Advocate & NOTARY, Dehradun

प्रेषक,

उप जिलाधिकारी,
ऋषिकेश।

सेवा में,

जिलाधिकारी,
देहरादून।

पत्र संख्या - 203 एस0पी0ए0/2024

दिनांक- 02 अगस्त 2024

विषय- माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या-463/2022 विपिन नैयर बनाम यूनियन ऑफ इण्डिया में पारित आदेश दिनांक 18.07.2024 के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक अपने कार्यालय पत्रांक 233/एल0बी0सी0-2024 दिनांक 31 जुलाई 2024 व पत्रांक 216/एल0बी0सी0-2024 दिनांक 23 जुलाई 2024 का सन्दर्भ ग्रहण करने का कष्ट करे। जिसके द्वारा मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली के पारित आदेश दिनांक 18.07.2024 के क्रम में होटल गंगा फॉरेस्ट व्यू व हाईड आउट कैफे के ध्वस्तीकरण सम्बन्धी आख्या/वस्तुस्थिति के निर्देश दिए गये हैं।

उक्त के अनुपालन में सादर अवगत कराना है कि होटल गंगा फॉरेस्ट व्यू एवं हाईड आउट कैफे के ध्वस्तीकरण के विषय में माननीय हाईकोर्ट के आदेश दिनांक 20.07.2024 के क्रम में हाईड आउट कैफे के सम्बन्ध में वर्तमान में आदेश-

The petitioner is aggrieved by the order date 16.5.2024, whereby property in- question was sealed by the orders of S.D.M/ presiding officer, MDDA, Rishikesh as well as the order dated 08.07.2024, whereby the property was directed to be demolished.

Learned counsel for the respondents prays for and is granted six weeks' time to file counter affidavit(s). List on 14.10.2024.

In the meantime, petitioner shall implead the caveator as party-respondent in the matter.

Till then , status quo shall be maintained over the property in- question. के अनुपालन में मसूरी-देहरादून विकास प्राधिकरण द्वारा पीठसीन अधिकारी/उप जिलाधिकारी के आदेश दिनांक 08.07.2024 के क्रम में ध्वस्तीकरण नहीं किया गया है।

होटल गंगा फॉरेस्ट व्यू 86, 86/1 गली न0-06 वीरभद्र मार्ग ऋषिकेश जिला देहरादून के विषयम में मा0 हाईकोर्ट उत्तराखण्ड के आदेश संख्या 24.07.2024 में उल्लिखित कि Order of demolition has evil and civil consequences to petitioners, therefore , it was incumbent upon the competent authority to consider the stand taken by

petitioners in their reply. However the impugned demolition order is silent regarding the reply and the stand taken by petitioners therein, has not been considered which is not in consonance with the principles of natural justice on this short point alone, the impugned demolition order is liable to be quashed and is hereby quashed.

Accordingly, the writ petition is allowed. The matter is remitted back to the Vice Chairman, Mussoorie dehradun development Authority to pass order, afresh, only after considering the reply submitted by petitioners, within eight weeks from the date of production of certified copy of this order. Petitioners shall be at liberty to produce the sanctioned plan, if available with them before the vice chairman. के अनुपालन में उपाध्यक्ष महोदय मसूरी देहरादून विकास प्राधिकरण के कार्यालय में दिनांक 06.08.2024 को प्रातः 11 बजे उपस्थित होने हेतु निर्देशित किया गया है।

अतः उक्तानुसार आख्या महोदय की सेवा में सादर प्रेषित।

भवदीय,


(कुमकुम जोशी)
उप जिलाधिकारी,
ऋषिकेश।



SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>WPMS No. 1953 of 2024</p> <p><u>Hon'ble Manoj Kumar Tiwari, J.</u></p> <p>Mr. Neeraj Garg, Advocate for the petitioners.</p> <p>2. Mr. Rahul Consul, Advocate for respondent nos. 1 to 4.</p> <p>3. Mr. K.K. Sah, Addl. CSC and Mr. Suyash Pant, Standing Counsel for the State of Uttarakhand/respondent no. 5.</p> <p>4. Mr. Vipin Nayyar, Caveator, in person.</p> <p>5. Petitioners own a building at Veerbhadra Road, Rishikesh, which according to them was purchased in the year 2018 from M/s Express Towers Ltd. It is further their case that the entire property comprised of land and building, originally belonged to Mr. Dayal Singh Rawat, who sold it to M/s M/s Express Towers Ltd., by a registered sale deed in the year 2006.</p> <p>6. A demolition order has been passed in respect of the said building by Mussoorie Dehradun Development Authority vide order dated 08.07.2024. Petitioners have challenged the said order in this writ petition.</p> <p>7. The sole ground of challenge is that in earlier writ petition filed by petitioners against a show cause notice, this Court granted liberty to petitioners to submit reply to the competent authority and the competent authority was asked to consider petitioners' reply and pass appropriate order, but the reply submitted by petitioners has not been considered at all.</p> <p>8. Learned counsel for petitioners contends that the demolition order has been passed in a mechanical manner, without considering reply to the show cause notice. He referred to the</p>



demolition order, which in fact, do not advert to the reply given by petitioners. He further submits that demolition has been ordered against the building of petitioners, only on the ground that interim order was refused to petitioners in their earlier writ petition.

9. Per contra, Mr. Rahul Consul, learned counsel appearing for Mussoorie Dehradun Development Authority submits that petitioners were repeatedly asked to produce the sanctioned house plan, however, petitioners could not produce the same, which indicates that the building was constructed without sanctioned house plan. He thus submits that the competent authority was justified in passing order of demolition against the building in question.

10. Order of demolition has evil and civil consequences to petitioners; therefore, it was incumbent upon the competent authority to consider the stand taken by petitioners in their reply. However, the impugned demolition order is silent regarding the reply and the stand taken by petitioners therein, has not been considered which is not in consonance with the principles of natural justice. On this short point alone, the impugned demolition order is liable to be quashed and is hereby quashed.

11. Accordingly, the writ petition is allowed. The matter is remitted back to the Vice Chairman, Mussoorie Dehradun Development Authority to pass order, afresh, only after considering the reply submitted by petitioners, within eight weeks from the date of production of certified copy of this order. Petitioners shall be at liberty to produce the sanctioned plan, if available with them before the Vice Chairman.

(Manoj Kumar Tiwari, J.)

24.07.2024

Navin



SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>WPMS No.1961 of 2024 <u>Hon'ble Pankaj Purohit, J.</u> Mr. Dushyant Mainali, learned counsel for the petitioner.</p> <p>2. Mr. Anil Dabral, learned Additional C.S.C. along with Mr. Devendra Pant, learned Standing Counsel for the State/respondent nos.1, 3, 4 & 5.</p> <p>3. Mr. Rahul Consul, learned counsel for the respondent no.2-MDDA.</p> <p>4. Mr. Vipin Nayyar, Caveator-in-person.</p> <p>5. Heard learned counsel for the parties.</p> <p>6. The petitioner is aggrieved by the order dated 16.05.2024, whereby the property in-question was sealed by the orders of S.D.M./Presiding Officer, MDDA, Rishikesh as well as the order dated 08.07.2024, whereby the property was directed to be demolished.</p> <p>7. Learned counsel for the respondent(s) prays for and is granted six weeks' time to file counter affidavit(s).</p> <p>8. List on 14.10.2024.</p> <p>9. In the meantime, petitioner shall implead the caveator as party-respondent in the matter.</p> <p>10. Till then, status quo shall be maintained over the property in-question.</p> <p style="text-align: right;">  (Pankaj Purohit, J.) 20.07.2024 </p> <p>AK</p>