

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

O.A. No. 775/2019

In the matter of:

Varun Sheokand

....Applicant

Versus

Union of India & Ors.

....Respondent(s)

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 (Mahipal)
 Senior Town Planner
 Municipal Corporation, Faridabad

Place: Faridabad
Dated: 05.07.2021

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 775 of 2019

IN THE MATTER OF:

Varun Sheokand Petitioner

Versus

Union of India & Others Respondents

**REPORT ON BEHALF OF MUNICIPAL CORPORATION OF
FARIDABAD.**

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal has taken cognizance of the original application alleging illegal mining and construction of a five-star banquet hall without requisite 'Consent to Establish' on land as described in para no.4 of the original application by the respondent no.9 to 14. A detailed report dated 25.02.2020 has been filed by the Haryana State PCB. Copy of report dated 25.02.2020 is being annexed herewith as **Annexure-R/1** for ready reference.
2. The report dated 25.02.2020 was considered during course of hearing on 26.02.2020. The relevant portion of the order dated 26.02.2020 is being reproduced below:

"As per the report filed on 24.02.2020, action has been initiated but there is an injunction in operation by the High Court of Punjab and Haryana. Learned counsel for the State states that remedies will now be taken against the order of injunction. The Forest Department of the State may also initiate action in accordance with law."

M. J.

Copy of order dated 26.02.2020 is being annexed herewith as **Annexure-R/2.**

3. That matter was discussed with counsel representing the MCF before Hon'ble High Court of P&H. At the first instance, approach adopted was to get the matter finally heard before the Hon'ble High Court so that writ petition filed by respondent 10 and 11 can be get dismissed because the answering respondent has strong case in its favour.

4. That after Middle of March, 2020 due to Covid-19 pandemic, entire country faced the total/partial lockdown from time to time. After position being normal, court proceedings were commenced through Video Conference limited to matter of urgent nature. Other matters in batches were adjourned from one date to another date. When matter could not be listed/taken up for hearing before the High Court, an application CM No. 11415/2020 was filed in October, 2020 with prayer to prepone the hearing so that action taken report can be filed before Hon'ble NGT. Copy of CM No.11415/2020 is being annexed herewith as **Annexure-R/3.**

5. That OA No.775/2019 was listed before this Hon'ble Tribunal on 04.11.2020. The Hon'ble Tribunal was apprised with the fact that an application of preponement is listed before Hon'ble High Court. Accordingly, matter was simply adjourned.

Mud A

6. On the same day, CM No. 11415/2020 seeking preponement of hearing was listed for hearing before the Hon'ble High Court. The Hon'ble High Court issued notice for 08.12.2020. Copy of order dated 04.11.2020 passed by Hon'ble High Court is being annexed herewith as **Annexure-R/4**.

7. That CWP No.8322 of 2018 was scheduled to be listed on 08.12.2020, however same was adjourned. Thereafter, CWP No.8322/2018 was listed on 23.03.2021 before Hon'ble High Court for hearing, however, as the counsel for respondent No. 10 and 11 herein (petitioners in writ petition) was unavailable on account of some bereavement in his family, matter was adjourned to 04.05.2021. Copy of order dated 23.03.2021 is being annexed herewith as **Annexure-R/5**.

8. That as the matter could not be taken up for final hearing despite filing application CM No. 11415/2020, rather same was adjourned from 23.03.2021 to 04.05.2021 and Counsel representing the MCF before this Hon'ble Tribunal intimated that Hon'ble NGT has orally observed that merely filing application of seeking early hearing before the Hon'ble High Court is not going to achieve any purpose, rather the interim order should be challenged by way of appropriate proceedings. It was therefore decided to file Special Leave Petition against impugned interim order.

Not J

9. That in April, 2021 the matter was assigned to the counsel for filing SLP. After assigning the case, documents filed before the Hon'ble High Court were required to be discussed. However, in the meantime, advocate working on the file tested positive with Covid-19 on 13th April, 2021. During April & May, 2021, it was countrywide lockdown. After recovery from covid-19, meetings were held with officers in June and first draft of the SLP was sent to MCF on 29.06.2021.
10. The draft of SLP was finalised on 02.07.2021. After approval, same is ready for filing. The SLP against the interim order granted in favour of Respondents No.10 &11 herein has been filed on 05.07.2021.
11. That requisite action shall be taken to its logical end as per order to be passed by Hon'ble Supreme Court of India in SLP referred above.

The report is submitted accordingly for kind consideration of this Hon'ble Tribunal.

Date: 05.07.2021
Place: Faridabad

M. A. 5/7/2021
Municipal Corporation of Faridabad

Senior Town Planner
Municipal Corporation, Faridabad

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 775 of 2019

IN THE MATTER OF:

Varun Shookand

..... Petitioner

Versus

Union of India & Others

..... Respondents

REPORT ON BEHALF OF HARYANA STATE POLLUTION
CONTROL BOARD IN COMPLIANCE OF ORDER DATED
30.08.2019.

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal has taken cognizance of the original application alleging illegal mining and construction of a five-star banquet hall without requisite 'Consent to Establish' on land as described in para no.4 of the original application by the respondent no.9 to 14.
2. That after receiving of the order passed by this Hon'ble Tribunal and copy of OA at Regional Office-Faridabad, Field Officer of the answering Board sites of the respondents No.9 to 14 were visited on 11.11.2019 and no activity of mining and construction was found. However, as abundant caution and to ensure inspection of exact site as described in para no.4 of the OA, it was decided to get the exact location of the site with the help of official of Revenue Department and to verify the allegations made in OA with assistance of officers

of concerned department. Accordingly, vide letter dated 11.11.2019 and reminder letter dated 20.12.2019, the Deputy Commissioner, Faridabad was requested to constitute the team comprising of concerned officers of MCF, Revenue Dept and Mining Dept. to verify the facts.

3. That the Ld. Deputy Commissioner, Faridabad vide order dated 26.12.2019, constituted the Committee of following officers:

- (a) Senior Town Planner, MCF
- (b) District Mining Officer, Faridabad
- (c) Tehsildar, Badkhal
- (d) Regional Officer, HSPCB, Faridabad

4. That land of respondents No.9, 12, 13 and 14 were visited. No activity of construction, mining as alleged in the OA or any trace thereof was observed.

The spot inspection report dated 31.12.2019 and photographs in respect of Respondent No.9 are being annexed herewith as **Annexure-R/1.**

The spot inspection report dated 31.12.2019 and photographs in respect of Respondent No.12 are being annexed herewith as **Annexure-R/2.**

The spot inspection report dated 31.12.2019 and photographs in respect of Respondent No.13 are being annexed herewith as **Annexure-R/3.**

The spot inspection report dated 31.12.2019 and photographs in respect of Respondent No.14 are being annexed herewith as **Annexure-R/4.**

5. That land of Respondent No.10 and 11 were also visited by the team on 31.12.2019. No 5 star Hotel, borewell or mining activity was found. All the killa Nos. mentioned in OA No.775/2019 pertains to this site. It was found that a temporary shed and two room set has been constructed. Such construction activity is not covered under the consent management of the HSPCB.

However, as per information received from the Municipal Corporation of Faridabad, the respondent No.10 and 11 submitted an application dated 30.06.2014 to MCF for regularization of existing marriage palace/banquet hall as per the Government policy dated 03.04.2012 (Annexure-R/5). The MCF issued Letter of Intent (LoI) dated 11.01.2018 as per policy subject to certain conditions including to get the NOC from the Forest Department. However, the applicants failed to fulfill the conditions of the said LoI. Therefore, the respondent-corporation vide Memo dated 07.03.2018 has cancelled and withdrawn the LoI dated 11.01.2018. The Respondent No.10 and 11 alongwith two other persons being aggrieved with the said withdrawal, filed a writ petition in Hon'ble High Court bearing CWP No. 8322 of 2018 titled as "Kanhya Lal & Ors. Vs. State of Haryana & Ors." which is still pending adjudication before the Hon'ble High Court for the States of Punjab & Haryana, Chandigarh and is fixed for 06.10.2020. In the said writ petition vide order dated 06.04.2018 the Hon'ble High Court has directed the respondents not to proceed further till the next

date of hearing Copy of order dated 06.04.2018 received on 12.02.2020 through counsel from MCF is annexed herewith as Annexure-R/6. Copy of Writ Petition (Civil) 8322/2018 received from MCF vide email dated 17.02.2020 is annexed herewith as Annexure-R/7.

6. That answering respondent vide letter dated 19.02.2020 has requested the District Forest Officer, Faridabad to look into the nature of construction by respondent no.10 and 11 and take appropriate action in accordance with law. Copy of letter dated 19.02.2020 sent to District Forest Officer, Faridabad is annexed herewith as Annexure-R/8.

7. That it is bring into kind notice of this Hon'ble Tribunal that one OA No.192/2019 was filed by the applicant raising issue of construction of Farm Houses and mining activity. The report dated 12.11.2019 filed by answering Board is annexed herewith as Annexure-R/9 and copy of order dated 13.11.2019 is annexed herewith as Annexure-R/10.

The report is submitted accordingly for kind consideration of this Hon'ble Tribunal.

Mansuri
Regional Officer,
Haryana State Pollution Control Board
Regional Office Faridabad
Haryana State Pollution Control Board,
Faridabad Region, Faridabad

Dated: 25.02.2020
Place: Faridabad

Item No. 08

Court No. 1

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

Original Application No. 775/2019

(With report dated 25.02.2020)

Varun Sheokand

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 26.02.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Respondent(s): Mr. Rahul Khurana, Advocate

ORDER

A report was sought from the Haryana State PCB with reference to the allegation of illegal construction activities of M/s Glen Apple Bulcon Pvt. Ltd., Kamaljeet, Kanhaiyalal, Pardeep Baja, Rakesh Mohan Aggarwal and Narender Gupta at Faridabad.

As per the report filed on 24.02.2020, action has been initiated but there is an injunction in operation by the High Court of Punjab and Haryana. Learned counsel for the State states that remedies will now be taken against the order of injunction. The Forest Department of the State may also initiate action in accordance with law.

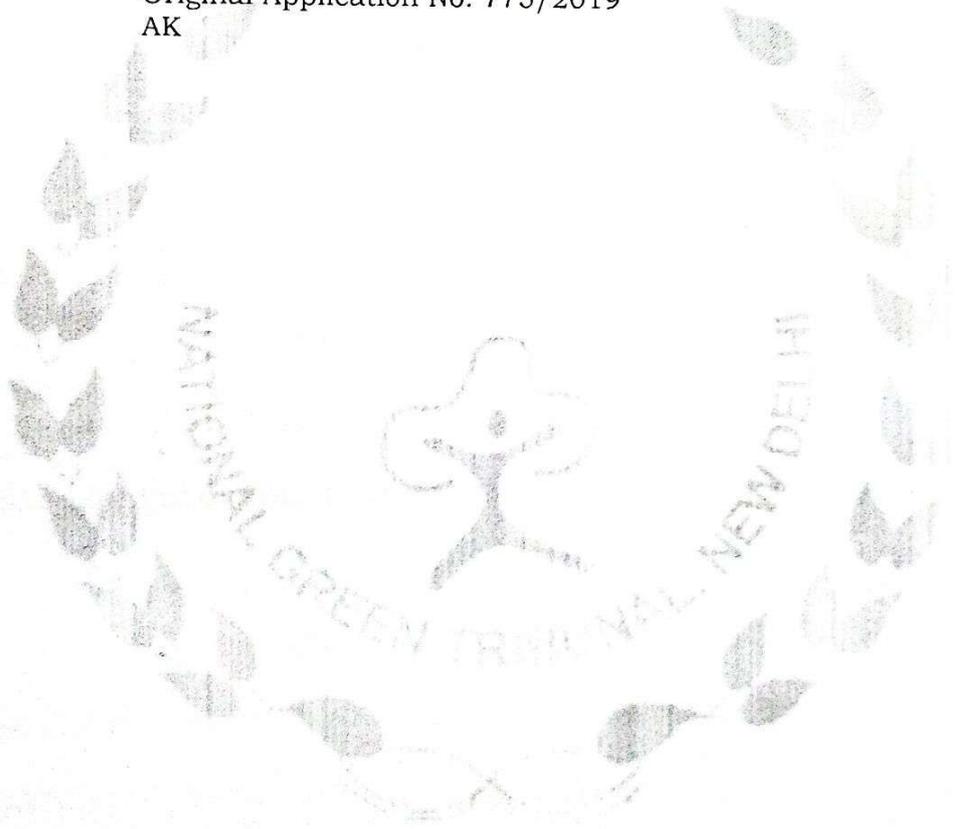
List for further consideration on 08.05.2020.

Adarsh Kumar Goel, CP

Dr.Nagin Nanda, EM

Siddhanta Das, EM

February 26, 2020
Original Application No. 775/2019
AK



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.M. NO. 11415 OF 2020

IN

C.W.P.NO.8322 OF 2018

Kanhaiya Lal & Ors.

---Petitioners

Versus

State of Haryana & Ors.

---Respondents

Application under Section 151 CPC for pre-ponement of hearing.

RESPECTFULLY SHOWETH:-

1. That the above said writ petition is pending in this Hon'ble Court and is now fixed for 04.11.2020.

2. That the petitioner in the present writ petition has challenged the order dated 20.03.2018 (Annexure P-9) whereby LOI dated 11.01.2018 granted to the petitioner for regularization of Banquet has been withdrawn inter-alia on the ground that no NOC has been taken from the Forest department and other permissions from concerned departments or authorities so required. The case of the petitioner in the writ petition is that no NOC from Forest department is required as land in dispute is not recorded as 'Forest' in any Govt.

record. According to the petitioner though land has been notified under Punjab Land Preservation Act, 1900 (for short PLPA), the same cannot be said to be forest land. The petitioner has relied upon a judgment of the Hon'ble Supreme Court in B.S. Sandhu V/s Govt. of India & others reported as (2014)12 SCC 172, in support of his contention.

3. That in this regard, it is submitted that admittedly the land in dispute has been notified under Section 3 of PLPA vide notification dated 10.04.92 followed by notification under section 4 dated 18.08.1992. The said notification dated 18.08.1992 has been considered by the Hon'ble Supreme Court in M.C.Mehta V/s Union of India & Ors. (In Re: Kant Enclave matters) reported as (2018) 18 SCC 397 wherein it was held that whole land subject matter of notification dated 18.08.92 would be forest land. So far as judgment in B.S.Sandhu's case (supra) is concerned, it was held that the same was distinguishable both on facts and law. Relevant paragraphs 66, 67, 107 & 108 are reproduced below for ready reference of this Hon'ble Court:-

"66. The decision of this Court rendered on 14th May, 2008 has attained finality and all the submissions advanced by the applicant were duly

considered and rejected by a Bench of three learned Judges of this Court. The issue whether the applicant could make any construction whatsoever on the notified land that is Khasra Nos. 9 to 16 in village Anangpur in violation of the notification issued under the provisions of the PLP Act was not open to discussion earlier and in any event is no longer res integra or open to any further discussion or examination.

67. The issue of the status of areas closed under the provisions of the PLP Act came up for consideration in **B.S.Sandhu v. Government of India and others, (2014) 12 SCC 172**. In this case, about 3,700 acres of land in village Karoran in District Ropar in Punjab was notified under the provisions of the PLP Act. Despite this, the Forest Hill Golf and Country Club was established on closed land and was being developed allegedly in blatant violation of the environment and forest laws as well as orders passed by this Court on 12th December, 1996.

X x x x x x x x x x

X x x x x x x x x x

X x x x x x x x x x

107. The review petition was taken up for consideration on 17th March, 1997 when it was made

clear that plans for construction of houses could be filed before the Competente Authority who could examine them in accordance with the applicable rules and if the plans were in order, they could be "kept ready until further orders." Since the full facts were not placed before this Court, an order was passed to the effect that for the purposes of examination, there should be no insistence by the concerned authorities on the production of No Objection Certificate from the Central or State Pollution Control Board. It was also observed thte 2 ½ storey buildings could be constructed.

108. On 13th May, 1998 the Court modified the order passed on 17th March, 1997 to the effect that in certain private areas where construction is proposed, only single storey hutments could be permitted to be constructed and not tall buildings as originally conceived. Therefore, it is quite clear from the orders passed by this Court that construction was not permitted until further orders but that plans could be prepared and examined."

X x x x x x x x

X x x x x x x

4. That during the pendency of the present writ petition, issue with regard to illegal construction in the forest area was also raised before the NGT in

- 15

Original Application No.775 of 2019 titled Varun Sheokand V/s Union of India & others. When the said O.A. was listed before NGT on 30.08.2019 the Hon'ble N.G.T. directed Haryana State Pollution Control Board (for short HSPCB) to furnish report in this regard. A true copy of order dated 30.09.2019 is annexed herewith as **ANNEXURE R-3/1.**

5. HPSCB submitted its report dated 24.02.2020 which was considered by the NGT during the course of hearing on 26.02.2020. HSPCB in its report submitted that since there is injunction granted by the Hon'ble High Court, action could not be taken in certain cases. The learned counsel appearing for the State of Haryana, therefore, assured the NGT that appropriate remedy shall be taken so far as order of injunction by the Hon'ble High Court is concerned. The order dated 26.02.2020 passed by NGT is also annexed herewith as **ANNEXURE R-3/2.**

6. That the petitioner is enjoying the interim order dated 06.04.2018 even though whole case set up by it that land notified under PLPA is not 'forest land' in view of the Apex Court judgment in B.S.Sandhu's case (supra) stands vitiated as Hon'ble Supreme Court in a later judgment in Kant Enclave matters (supra) has held that land notified under PLPA in the present case is

nothing but forest land after distinguishing the earlier judgment in B.S. Sandhu's case.

7. That the issue with regard to illegal construction of Banquet Hall by the petitioner has already been taken up by the NGT where NGT has directed the HSPCB to submit its report. HSPCB in its report has referred to injunction order passed by this Hon'ble Court.

8. In view of above, it is in the interest of justice that the hearing of the present writ petition is pre-poned to an early date convenient to this Hon'ble Court so that action taken report can be filed before the Hon'ble NGT.

In view of submissions made above, it is most respectfully prayed that the present application may kindly be allowed and hearing of the present writ petition be pre-poned to an early date convenient to this Hon'ble Court.

It is further prayed that the applicant may be exempted from filing certified as well true typed copies of annexures.

Place:
Dated:05.10.2020

(LOKESH SINHAL)
P/69/1993
Advocate
Counsel for the respondent

111

CM-11416-CWP-2020 in
CWP-8319 of 2018

CM-11418-CWP-2020 in
CWP-8320 of 2018

CM-11417-CWP-2020 in
CWP-8321 of 2018

CM-11415-CWP-2020 in
CWP-8322 of 2018

CM-11409-CWP-2020 in
CWP-8323 of 2018

Kanwaljeet Singh and another
Vs
State of Haryana and others

Present : Mr. Lokesh Sinhal, Advocate,
for the applicant-petitioner(s).

Ms. Mamta Talwar, DAG, Haryana.

(Presence marked through video conference).

Notice of the application(s) to the counsel opposite.

Ms. Mamta Talwar, DAG, Haryana, who has joined proceedings on service of advance copies of the applications, appears and accepts notice on behalf of State of Haryana and seeks time to file reply.

Adjourned to 08.12.2020.

Photocopy of this order be placed on the files of other connected cases.

NOVEMBER 04, 2020
shalini

(ARUN MONGA)
JUDGE

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CWP No. 8319 of 2018 (O & M)
CWP No. 8320 of 2018 (O & M)
CWP No. 8321 of 2018 (O & M)
CWP No. 8322 of 2018 (O & M)
CWP No. 8323 of 2018 (O & M)

**Kanwaljeet Singh and another
Vs
Ram Lal @ Ramu and others**

Present : Mr. Shivam Sharma, Advocate for
Mr. Vibhav Jain, Advocate,
for the petitioner(s).

Ms. Mamta Talwar, DAG, Haryana.

Mr. Lokesh Sinhal, Advocate,
for the respondents No.3 and 4.

(Presence marked through video conference).

Learned counsel for the petitioner (s) is unavailable on account of
some bereavement in his family.

Adjourned to 04.05.2021.

Photocopy of this order be placed on the files of other connected
cases.

MARCH 23, 2021
Shalini

(ARUN MONGA)
JUDGE