

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

Original Application no. 747 of 2018

In the matter of:-

Rakesh Kumar

..... Applicant(s)

VERSUS

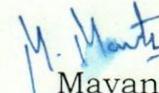
State of Himachal Pradesh

..... Respondent(s)

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1.	Status report in compliance to order dated 28.11.2019 on behalf of Director, Town & Country Planning, Himachal Pradesh cum Chairman, Implementation Committee cum Member-Secretary, Supervisory Committee constituted vide judgment dated 16.11.2017 in O.A. no. 121/ 2014 titled as " Yogendra Mohan Sengupta versus Union of India & others."	
2.	Annexure R-I Copy of the status report by Commissioner, Municipal Corporation, Shimla	

Drawn & e-Filed through:



Mayank Manta,
Assistant District Attorney-cum-Law Officer,
TCP Department, HP

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Status report in compliance to order dated 28.11.2019 on behalf of Director, Town & Country Planning, Himachal Pradesh cum Chairman, Implementation Committee cum Member-Secretary, Supervisory Committee constituted vide judgment dated 16.11.2017 in O.A. no. 121/ 2014 titled as "Yogendra Mohan Sengupta versus Union of India & others."

I, Lalit Jain, S/o Shri Shashi Pal Jain, Aged 36 years, presently working as Director, Town and Country planning Department, Shimla-9 cum Chairman, Implementation Committee cum Member-Secretary, Supervisory Committee constituted vide judgment dated 16.11.2017 in O.A. no. 121/ 2014 titled as "Yogendra Mohan Sengupta versus Union of India & others do hereby solemnly affirm and declare as under:-

1. That the aforesaid Original Application no. 747 of 2018 is pending for adjudication before this Hon'ble National Green Tribunal and was fixed for hearing on 10.02.2020.
2. That this Hon'ble Tribunal vide order dated 28.11.2019 was pleased to pass the directions in the aforesaid matter , the relevant extract of which is hereby summarized as under:-

"The issue for consideration is the remedial action against illegal construction on the Mall Road, Shimla at Bridge View Hotel between the nallah flowing between the said hotel and Indira

ATTESTED
are duly attested by me
OATH COMMISSIONER

Director
Town & Country Planning
Shimla

Gandhi Sports Complex, Shimla in violation of order of this Tribunal in *Yogendra Mohan v. State of H.P.*, 2018 NGTR (1) PB 250.

On 25.07.2019, the matter was dealt with as follows:

“2. The report furnished by the Director, Town and Country Planning Department on 22.04.2019 was that illegal construction could not be demolished on account of stay granted by the Court and that the matter was pending before the Additional District Judge, Shimla. The Tribunal vide order dated 28.05.2019 sought explanation as to why illegal construction was allowed in violation of judgement of this Tribunal, close to the office of the Municipal Corporation itself. The Commissioner, Municipal Corporation, Shimla and the Director, Town and Country Planning Department were required to remain present in person.

3. The Officers present today are unable to furnish any meaningful explanation.

4. In view of above, we direct the Secretary, Town and Country Planning Department, Himachal Pradesh to furnish a status of enforcement of order of this Tribunal in *Yogendra Mohan v. State of H.P. (supra)* before the next date.”

No status report has been filed nor there any representative for the State of Himachal Pradesh.

Before taking coercive measures against the Secretary, Town and Country Planning Department, Himachal Pradesh for the default, we give last opportunity for compliance before the next date.

A copy of this order be sent to Secretary, Town and Country Planning Department, Himachal Pradesh directly as well as through Chief Secretary, Himachal Pradesh by email.

List for further consideration on 10.02.2020. ”

3. That the Deponent with utmost reverence to this Hon'ble Tribunal craves to make following submissions before this Hon'ble Tribunal:-

a) It is most respectfully submitted before this Hon'ble Tribunal that the Deponent had already e-filed the status report in compliance to the aforesaid directions of this Hon'ble Tribunal, which stands placed on record and finds mention in the order supra as **The report furnished by the Director, Town and Country Planning**

ATTESTED Department on 22.04.2019 was that illegal construction could not be demolished on account of stay granted by the

OATH COMMISSIONER

Director
Town and Country Planning
Himachal Pradesh, SHIMLA

Court and that the matter was pending before the Additional District Judge, Shimla.

b) That in compliance of the order dated 28.11.2019, a detailed report was sought from the Commissioner, Municipal Corporation, Shimla and as per the report, **"the site was visited by the officials of M.C. Shimla and it is reported that Sh. Rakesh Malhotra has removed the violation by dismantling the Iron frame structure as alleged in the notice no. 08 dated 29.09.2018 issued to Sh. Rakesh Malhotra under Section 254 (6) read with 253 and 242 of the Himachal Pradesh Municipal Corporation Act, 1994 and therefore the order dated 11.01.2019 passed has been complied. It is also intimated that Sh. Rakesh Malhotra has withdrawn the Civil Suit on 13.11.2019 filed before the Ld. Additional District Judge Shimla in the case no. 5/ 2019 against the orders dated 11.01.2019 passed by the Commissioner M.C. Shimla."**

The report of the Commissioner, Municipal Corporation Shimla in this regard is hereby annexed as **Annexure R-I** for kind perusal of this Hon'ble Tribunal.

In view of the above submissions, it is, respectfully and humbly prayed that the status report on behalf of the deponent may kindly be taken on record in the interest of justice, equity & fair play.

Verification:-

I, the above named deponent, do hereby further solemnly affirm that the contents of para 1 to 3 are true and correct to the best of my knowledge and nothing has been concealed there from.

Certified that the above/overleaf was declared before me on solemn affirmation on this day of 29th January 2020 in the District of Shimla by Sh. Rakesh Malhotra who was identified by Sh. Rakesh Malhotra who is personally known to me and the contents of the above affidavit have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.

Oath Commissioner
HP High Court, Shimla

All Cuttings and Corrections
are duly attested by me.

Oath Commissioner

Director
Town & Country Planning Deptt.
Himachal Pradesh, SHIMLA-1

Director
Town & Country Planning Deptt.
Himachal Pradesh, SHIMLA-1

Dy. No - 54904512
07-12-2019

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MUNICIPAL CORPORATION SHIMLA

No. MCS/AP/2238/AP/19-64

Dated 29/11/19

From
Commissioner,
Municipal Corporation,
Shimla

To
✓ The Secretary (T&CP) to the
Govt. of Himachal Pradesh.

Subject: - OA No. 747/18 titled as Rakesh Kumar versus State of HP & othrs.

In continuation to the office letter no. MCS/AP/797/AC(L)/19 - 4770 dated 09.10.2019, it is intimated that a application was received from Sh. Rakesh Malhotra regarding compliance of the orders dated 11.01.2019 passed by Commissioner, MC Shimla in the case titled as Architect Planner versus Rakesh Malhotra c/o Bridge View Regency, The Mall Road Shimla. Accordingly the site was visited by the officials of M.C. Shimla and it is reported that Sh. Rakesh Malhotra has removed the violation by dismantling the Iron frame structure as alleged in the notice no. 08 dated 29.09.2018 issued to Sh. Rakesh Malhotra under section 254(6) read with 253 and 242 of HPMC Act, 1994 and therefore the order dated 11.01.2019 passed by the undersigned has been complied.

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2/12
- PL put up already
on file
L 02/12
SO(T&CP)
NKS
3-12-19
Sh. Haeraj

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It is also intimated that Sh. Rakesh Malhotra has withdrawn the Civil Suit on 13.11.2019 filed before the Ld. Addl. District Judge Shimla in the case no. 5/2019 against the orders dated 11.01.2019 passed by the Commissioner M.C. Shimla.

Yours Faithfully


(Pankaj Rai)
Commissioner
M.C. Shimla

Copy to:-

1. Chairman, Implementation Committee-cum-Director, T&CP Deptt. Shimla for information with respect to proceedings of the 14th Meeting of Implementation Committee held on 24.09.2019 please.


Commissioner
M.C. Shimla