

Action Taken Report
In the matter of
Original Application no. 559 of 2019

Sarvesh Dangwal

(Applicant)

Vs.

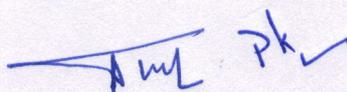
State of Uttrakhand

(Respondent)

In the order passed by the Hon'ble National Green Tribunal's principal bench, New Delhi on dated 08-10-2020, directed that "The State Pollution Control Board may take further effective measures in the matter, in accordance with law. The vacant flat may need to be sealed till the law is complied with. A compliance report may be filled before the next dated by e-mail."

The compliance report is as follows:

- (1) As per the Inspection Report of Uttrakhand Pollution Control Board's Regional Office, Dehradun, dated 27.10.2020, the Arboria Luxury Home, Dehradun was commissioned in year 2013, which is of 96 flats, all are occupied by the residents. For domestic effluent, STP having 60 KLD capacity is installed, which was found operational at the time of inspection. Consent to operate was not taken by Society yet. As per the inspection report, the society is utilizing two borewell of capacity 7.5 HP and 5.0 HP respectively and society has not obtained permission from the Central Ground Water Board. The matter has been referred to CGWB, Dehradun for necessary action. **Annexure-1**
3. The compliant case against the unit M/s Arboria Luxury Home, Tarla Nagla, Kulhan, Dehradun is under trial in the designated court ACJM V, Dehradun.
4. As per order no. UKPCB/HO/Gen-183-440/2021/57, dated 19.01.2021, Uttrakhand Pollution Control Board has imposed a sum of rupees ₹14,66,250/- (Rs. Fourteen Lakh Sixty Six Thousand Two Hundred Fifty only) as Environment Compensation on M/s Arboria Luxury Home, Tarla Nagla, Kulhan, Dehradun on dated 19-01-2020. (**Annexure-2**)



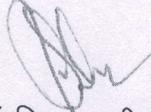
मा0 एन0जी0टी0 द्वारा मूल आवेदन संख्या-559/2019 श्री सर्वेश डंगवाल, अरबोरिया लग्जरी होम्स, तल्ला नागल, कुलान, देहरादून बनाम उत्तराखण्ड राज्य में पारित आदेश दिनांक 08.10.2020 के सम्बन्ध में।

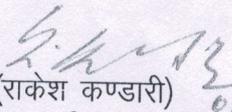
उपरोक्त विषयक के प्रकरण पर मै0 अरबोरिया लग्जरी होम्स रेजिडेंसियल वेलफेयर सोसाइटी अरबोरिया लग्जरी होम्स, तरला नागल, कुल्हान, देहरादून का निरीक्षण दिनांक 27.10.2020 को वेलफेयर सोसाइटी के प्रतिनिधि श्री सुभाष कुमार, सोसाइटी मैनेजर की उपस्थिति में किया गया। सोसाइटी प्रतिनिधि के अनुसार वर्ष 2013 से संचालित है, जिसमें 96-फ्लैट्स बने हैं, जिसमें से लगभग सभी संचालित हैं। घरेलू उत्प्राह के निस्तारण हेतु 60 KLD क्षमता का घरेलू उत्प्राह शुद्धिकरण (STP) स्थापित है, जो कि निरीक्षण के समय संचालन में पाया गया। सोसाइटी में भू-जल की आपूर्ति हेतु 02-नलकूप स्थापित है, जिसकी क्षमता क्रमशः 7.5 HP व 5.0 HP है, के माध्यम से जलापूर्ति कर रही है, जिस हेतु CGWA से अनुमति प्राप्त नहीं है। सोसाइटी में 250 एवं 380 के0वी0ए0 के दो DG Set स्थापित हैं। इसके अतिरिक्त सोसाइटी को वर्तमान तक राज्य बोर्ड से जल/वायु सहमति अप्राप्त है। सोसाइटी का स्वामित्व Sh. Randhir Singh, Director House No. H-43, Green Park Extension, New Delhi, Mail ID-randhir@deltaexports.com एवं Sh. Lalit Jain, House No. 43, Green Park Extension, New Delhi, Mail ID-lalit.jain@conscient.in के पास है।

प्रकरण पर पूर्व में दिनांक 04.09.2020 को M/s Arboria Luxury Homes Residential के विरुद्ध माननीय Designated Court में वाद दायर किया गया। पर्यावरणीय मानकों के उल्लंघन पर Polluter Pays के सिद्धान्त पर उद्योग के विरुद्ध पर्यावरणीय क्षतिपूर्ति आरोपित किये जाने हेतु निम्नानुसार पर्यावरणीय क्षतिपूर्ति घटकों के आधार पर पर्यावरणीय क्षतिपूर्ति का आंकलन किया जाना है-

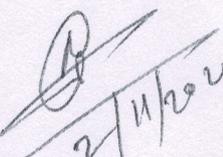
S.No.	Factor	Value
1	PI (Pollution Index of Industrial Sector)	40
2	N- No. of Days of Violation	29/11/2019 20.01.2015 to 27.10.2020 (Showcause Notice निर्गत करने की तिथि से) 334 days
3	R-A Factor in Rupess for E.C.	100
4	S- Factor of Scale of Operation	1.5
5	LF- Location Factor	1.25
6	VF-Violation Factor	0.5

आख्या अग्रिम आवश्यक कार्यवाही हेतु सादर प्रेषित है।


(रविन्द्र पुण्डीर)
वैज्ञा0 सहायक


(राकेश कण्डारी) 02.11.20
सहा0पर्या0अभियन्ता

क्षेत्रीय अधिकारी (प्र0)


2/11/2020



IN THE COURT OF A. C. J. M. V. DEHRADUN

Complaint No. of 2020

Uttarakhand Pollution Control Board (UEPPCB), through Regional Officer Shri Amit Pokhriyal (I/C) S/o Shri J.K. Pokhriyal, E-115, Nehru Colony, Dehradun.

Vs.

1. M/s. Arboria Luxury Homes, Tarla Nangal, Dehradun through Manager
2. ✓ Shri Randhir Singh, Director, House No. H-43, Green Park Extension, New Delhi.
3. ✓ Shri Lalit Jain, House No. H-43, Green Park Extension, New Delhi.
4. Shri Ajay Kumar Gupta, House No. K-1, Green Park Main, New Delhi.

..... Accuseds

Complaint U/s-25, 41 to 44, 47 & 49 of The Water (Prevention and Control of Pollution) Act 1974 read with Section-37, 38, 40 and 43 of the Air (Prevention and Control of Pollution) Act, 1981

P.S. Nehru Colony, Dehradun.

Dehlan
4/9/20
S.K. Gupta
Advocate Sir,

The complainant submits as under:

1. That the complainant Uttarakhand Pollution Control Board, UKPCB in short, is the State Pollution Control Board constituted U/s 4 of the Water (Prevention & Control of Pollution) Act 1974 and had been established under the said Act by the State Govt. for the proper discharge of functions and exercise powers under the Provisions of said Act as well as other relevant Acts, and is a legal corporate entity of the State.
2. That for the protection and improvement of environment and for matters connected therewith, the Central Govt. had made various enactments being Act No. 6 of 1974, the Water (Prevention & Control of Pollution) Act 1974, Act No. 14 of 1981 the Air (Prevention & Control of Pollution)

P. by
क्षेत्रीय अधिकारी (प्रभ)
उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड

Act 1981 & Act No. 29 of 1986, i.e., The Environment (Protection) Act 1986. As per S.O. 39.4 (E), the Central Govt. has authorized the officers and authorities of the complainant U/ss. 49, 43 & 19(a) of the said respective Acts, for the entire State of Uttarakhand, to take cognizance of offence & to initiate a complaint against the person, who fails to comply with or contravenes any of the Provisions of the said Acts and defy the orders of the complainant Board as well as Central Pollution Control Board.

3. That as per Sl. No. 7 of the said S.O. the Officers of the State Board/Complainant who have been delegated powers under the aforesaid Acts have been authorized to initiate the complaint and accordingly Regional Officer of the Board is authorized to initiate action under the aforesaid sections i.e. 49 & 43 respectively of the said Acts and thus empowered to initiate the present complaint and do all acts with respect to the present complaint.
4. That the o.p's have established their building apartment at the address i.e. Tarla Nangal, Dehradun, without any NOC from the complainant and vide inspection dated 13-11-2014 it was found that the accused have raised apartment of 96 flats and had installed sewage treatment plant but without obtaining consent to establish/consent to operate from the complainant board prior to such construction under the water Act 1974. That not only the violation of the provision of Water Act has been done but also the provisions of the Air Act have been violated, since even the air stack was not established.
5. That the unit was again inspected by the inspection team of the Board on 16-12-2016 but the accused and persons under them have denied the inspection of the project of respondent No.-1 and thus had committed violation of the aforesaid provisions, despite service of a previous show cause notice u/s-33-A of the Water Act and section-31-A of the Air Act as on 20-01-2015.
6. That the accused No.-1 was again sent a direction for closure of the said project of process vide letter dated 21-03-2017 and the help of the District Magistrate Dehradun was also taken but since about 40 flats were inhabited, accordingly, the process could not be closed.
7. That the project of the accused No.-1 was again got inspected on 03-04-2017 vide inspection Memo and the inspection report revealed that there

were 96 flats in the said project wherein 40 flats were occupied by the people. Sewage treatment plant was installed for discharge of the sewage, which was operative and the sample was collected for examination in the laboratory. The inspection team had also reported that since the closure/sealing of the operation of STP/the project was not possible because of the inhabitants of the flats, accordingly, other legal action was recommended.

8. That on such recommendation of the Regional Officer as per his letter dated 06-04-2017, the Board has considered it proper to initiate the instant legal proceedings for which a modified direction vide letter dated 30-05-2017 was also served to the accused No.-1 thereby clearly informing the project proponents i.e. accused No.-2 to 4 that the instant legal proceedings would be initiated against them on their failure to comply. However, the accuseds have failed to amend themselves and obtain the required NOC i.e. consent to establish and consent to operate, from the complainant Board. Hence, the instant legal proceedings are being initiated against the accused persons.
9. That to the utter surprise and dismay of the officers of the Board, the accused had neither replied to the aforesaid show cause direction nor had obtained consent as per the provisions of the said Act.
10. That since the power to take action regarding environmental matters under the Provisions of, The Water Act-1974, The Air Act-1981 and The Environment (Protection) Act 1986, exists with the Complainant Authority, accordingly the matter has been referred to the Member Secretary of the Complainant Board and thereafter the matter was finally considered by the Regional Office of the region, where the offence has been committed by the o.p's and after due approvals, the legal action, as stipulated for, is being taken.
11. That in furtherance to the Provisions of Section-37, 38, 40 and 43 of the Air Act, 1981 read with section-25, 41, 42, 43, 44 & 47 of the Water Act, (to which the accused had shown total disregard and neglect) the complainant Authority is duty bound to get the wrong doers punished through the intervention of this Ld Court, so that in future, such wrongs and neglects towards the statutory provisions could be checked and the


अधीकार (अ.प.)
उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड

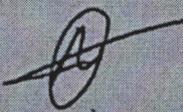
environment could be protected, apart from imposing punishment, as per Law.

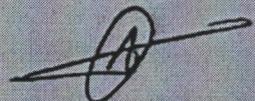
12. That the accused have willfully and deliberately contravened and grossly failed to honour the aforesaid provisions of the said Acts and the Rules framed thereunder. The accused had not only willfully failed to comply with the provisions of the said Act, but also in defiance of the Authority of the Board had not replied the showcause/compliance directions. Accordingly due to violation of the said provisions, accused, are liable to be prosecuted and punished by this Ld Court.
13. That this Ld Court has been empowered and authorized vide Hon'ble High Court of Uttarakhand notification no. 282/Admn. A. Section dated 15th Dec. 2000 read with subsequent notifications dated 10-07-2014 and others, to exercise jurisdiction in respect of areas of all Districts of Uttarakhand, to try and enquire all such cases arising out of the said Act, which are offences punishable under The Environment (Protection) Act 1986 along-with various Rules.
14. That accordingly this Hon'ble Court has power to take cognizance of the offences committed by the accused and prosecute and punish them as per law.

It is respectfully prayed that the accused persons be summoned, prosecuted and punished as per law, especially under the aforesaid provisions. **It is also prayed that since the complainant is a public servant, his personal appearance be kindly exempted.**

Date 4/9/20
Presented by,


(S.K. Gupta)
Advocate


..... Complainant
संयुक्त न्यायालय, देहरादून
ई-115, हरमोहन रोड, देहरादून


..... Complainant



HEAD OFFICE

Uttarakhand Pollution Control Board

"Gaura Devi Paryavaran Bhawan"

46B, IT Park, Sahastradhara Road, Dehra Dun (Uttarakhand)

Web : www.ueppcb.uk.gov.in. E-mail : msukpcb@yahoo.com

Annex-2

UKPCB/HO/Gen-183-440/2021/57

Date: 19.01.2021

By Speed Post

To,

**M/s Arboria Luxury Homes,
Talla Nagal, Kulan,
Dehradun.**

Directions under Section-33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and Section-31(A) of the Air (Prevention and Control of Pollution) Act, 1981.

WHEREAS, the Central Government has made the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981; and vide provisions of these Acts every water/air polluting industry/unit/operation/processes is required to obtain consent to establish and consent to operate from the State Pollution Control Board; and

WHEREAS, for the purposes of protecting and improving the quality of environment and preventing and abating environmental pollution, the standards for discharge of environmental pollutants from the industries, operations or processes, have been specified under the Environment (Protection) Rules, 1986; and it is mandatory to every industries, operations or processes to keep their effluent quality within the specified norms; and

WHEREAS, the unit was inspected by the officials of Regional Office, Dehradun of this Board on dated 13.11.2014 and made following observations :-

1. Unit has constructed 96 flats without obtaining environmental clearance from SEIAA and Consent to establish/Consent to operate from the Board.

WHEREAS, a show cause notice was issued to the Unit under Section 33 (A) of Water (Prevention and Control of Pollution), Act-1974 and Section 31(A) of the Air (Prevention and Control of Pollution), Act-1981 vide this office letter no. UEPPCB/HO/Con/A-232/2014/1555 dated 20.01.2015; and

WHEREAS, the reply in compliance of the show cause notice was submitted by the Regional Office, Dehradun of the Board vide letter no. UEPPCB/ROD/Gen-32/2014-15/2944-1373 dated 18.03.2015. The observation in the reply is as follows :-

1. Unit has not obtained any consent from the Board.
2. Unit has not submitted reply of show cause notice issued by the Board on dated 20.01.2015.

WHEREAS, a closure notice was issued to the Unit under Section 33 (A) of Water (Prevention and Control of Pollution), Act-1974 and Section 31(A) of the Air (Prevention and Control of Pollution), Act-1981 vide this office letter no. UEPPCB/HO/Con/A-232/2017/5013 dated 21.03.2017; and

WHEREAS, in compliance of the Hon'ble NGT order dated 08.10.2020 "Accordingly the State PCB may take further effective measures in the matter in accordance with law. The vacant flats may need to be sealed till the law is complied with", inspection of the Unit was carried out by the officials of Regional office, Dehradun of this Board in presence of Unit's representative, Shri Subhash Kumar on dated 27.10.2020 and made following observations :-

1. According to Unit's representative society is in operation from year 2013 which has 96 flats, amongst which almost all are occupied.

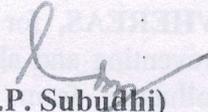
2. Unit has established 02 tube well without consent of the Central Ground Water Authority (CGWA).
3. Unit has not obtained Air/Water consent from the Board.

AS SUCH, it is evident from the above observations that the unit has violated the provisions of **Section-25** of the **Water (Prevention and Control of Pollution) Act, 1974** and **Section-21** of the **Air (Prevention and Control of Pollution) Act, 1981**, as amended thereafter.

Also, Regional Office, Dehradun has filed case against M/s Arboria Luxury Homes, in designated court;

AND NOW THEREFORE, in view of above observations; and in exercise of the power conferred under **Section-33(A)** of the **Water (Prevention and Control of Pollution) Act, 1974** and **Section-31(A)** of the **Air (Prevention and Control of Pollution) Act, 1981** as amended thereafter, with approval of the Competent Authority of the Board, Unit is directed to submit **₹14,66,250/- (Fourteen lakh sixty six thousand and two hundred fifty rupees only)** as **Environment compensation in favour of Uttarakhand Pollution Control Board.**

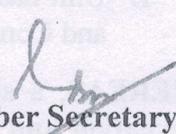
This issues with the approval of competent authority of the Board.


(S.P. Subudhi)

Member Secretary

Copy to:

1. District Magistrate, Dehradun for information.
2. **Regional Officer, UKPCB, Regional Office, Dehradun** for information and compliance of above directions.
3. Guard file.


Member Secretary

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