

2610

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

In Original Application No. 606 of 2022

(I.A. No. 262 of 2022)

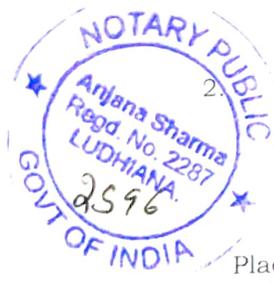
Public Action Committee & ors. Vs State of Punjab & ors.

Affidavit of Kapil Dev (aged 47 years) S/o Shri Jagdish Chander, R/o #186-E, B.R.S. Nagar, Ludhiana, Punjab.

RESPECTFULLY SHOWETH:

I, the above mentioned deponent do hereby solemnly affirm and declare as under:-

1. That the deponent, who is one of the Applicants (in person) has filed the Original Application (O.A. No. 606 of 2022) as well as Intervention Application (IA No. 262 of 2022) with this Hon'ble National Green Tribunal.



2. That the contents of paras no. 1 to 9 of the accompanying the Rejoinder dated 25-09-2023 are true and correct to my knowledge.

Place: Ludhiana
Dated: 25.09.2023

Verified that the affidavit has been read over & explained to the deponent who seemed perfectly understand it at the time making their

[Signature]
DEPONENT

Verification:

Verified that the contents of para 1 and 2 of this affidavit are true and correct. No part of it is false, and nothing material has been kept concealed therefrom.

Verified that the deponent has signed before me, I know him/her personally.

Pam n
AFEPD 2596 n

Place: Ludhiana
Dated: 25.09.2023

ATTESTED AS IDENTIFIED

[Signature]

Notary Public, Ludhiana (Pb)

[Signature]
DEPONENT

25 SEP 2023

2611

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

AT PRINCIPAL BENCH, NEW DELHI

In Original Application No. 606 of 2022

(IA No. 262 of 2022)

Public Action Committee & ors. Vs State of Punjab & ors.

Hon'ble sir,

Respectfully Sheweth,

Rejoinder to counter affidavit filed by Respondent No. 7 (M/s Malbros International Pvt. Ltd.) in O.A. No. 606 of 2022 with this Hon'ble Tribunal

It is humbly submitted as under:

Background:

1. That the Applicants had filed the Original Application No. 606 of 2022 against severe pollution done by Respondent No. 7 and since the committee formulated by this Hon'ble Tribunal vide orders dated 30-08-2022 failed to perform its lawful duty and delayed the matter intentionally and deliberately, the Applicants had filed one Interlocutory Application with this Hon'ble Tribunal.
2. That this Hon'ble Tribunal vide orders dated 08-12-2022 has directed as under:

Para No. 6: In view of the averments made in the original application, facts and circumstances explained in the report of the Joint Committee and prayer made in I.A No. 262/2022, we consider it appropriate to have response of respondent no. 1- State of Punjab through Chief Secretary, Government of Punjab; respondent no. 2-

the Chairman, Punjab Pollution Control Board; and respondent no. 3-the Executive Engineer, Regional Office, Punjab Pollution Control Board as well as the Principal Secretary, Department of Industries, Government of Punjab; the Member Secretary, Central Pollution Control Board; the District Magistrate, Ferozpur and the Project Proponent M/s Malbros International Pvt. Ltd., Mansoorwal Kalan, Tehsil Zira, District Ferozpur, who stand impleaded as respondents No. 4 to 7 . The memo of parties to the application be amended accordingly.

3. That despite the directions of this Hon'ble Tribunal, the Respondent No. 1 State of Punjab through Chief Secretary, Government of Punjab has failed to submit the reply till date. Further, the Punjab Pollution Control Board (Respondent No. 2) has also not produced the real facts before this Hon'ble Tribunal till date.
4. That keeping in view of directions of this Hon'ble Tribunal, the Central Pollution Control Board had conducted survey and taken samples from impugned Polluting Industry as well as surrounding areas and after the submission of report by the Respondent No. 5, it is evidently crystal clear that the impugned factory has damaged the Environment (Water, Soil & Air Pollution) badly resulting into groundwater unfit for drinking purposes in the surroundings.
5. That the Respondent No. 1 had also formulated few committees in last week of December 2022 to conduct survey and take samples within the impugned industry as well as surrounding areas, however the State of Punjab has failed to disclose the reports till date. It is pertinent to submit here that some part of these reports was published in some leading newspapers from which the Applicants came to know that the water samples taken by one of the Committees formulated by State of Punjab had failed. However, despite getting the reports from Committees, the State of Punjab didn't disclose them in Public officially and has also hidden the facts before this Hon'ble Tribunal as well as Punjab &

Haryana High Court till date. In February 2023, the Chief Minister of Punjab announced closure of the Industry but no written orders/notification has been issued till date.

6. That the report submitted by CPCB clearly depicts that the groundwater in the locality is not fit for drinking purposes but despite knowing the facts, **the State of Punjab (R-1) has failed to provide the potable water as well as failed to provide healthy Environment to the Citizens.** Thus such an act of State of Punjab is against Article 21 of Constitution of India. It is pertinent to submit here that **many citizens residing in the nearby locality have died because of deadly diseases like Cancer, Hepatitis-B, Kidney failure etc. and large number of citizens are facing major problems of Skin diseases & other health issues** but despite knowing the facts that the major reason behind such problems is pollution caused by the impugned industry, **the State of Punjab has failed to register FIR (under Environment laws) against the owners as well as other concerned persons of Impugned Industry till date.** Further, when it is crystal clear that the impugned Industry (R-7), the State of Punjab has failed to compensate the affected families of deceased persons as well as citizens facing health issues.

OBJECTIONS TO COUNTER AFFIDAVIT/REPLY FILED BY R-7:

7. That the Petitioner has gone through the contents of Counter Affidavit filed by the Respondents and, at the outset, denies all the averments made in the same, save and except those specifically admitted hereinafter. Any facts or averment in the Counter Affidavit, which is not specifically traversed hereinafter, may be treated as specifically denied.
8. That the Respondent has not approached this Hon'ble Court with clean hands and has made blatant misrepresentations & concealments. The

allegation made against Applicants by the Respondent in the entire Counter Affidavit/Reply are false & baseless and hence denied. Further, from the report of CPCB, it is evidently clear that the Respondent No. 7 has caused severe damage to the Environment.

9. The the role of Respondent No. 3 has always been shabby and to protect the polluting Industry from legal punishment. The PPCB has failed to perform its lawful duty in identifying the pollution caused by R-7 since many years. Further despite brown colored water coming out of borewells, PPCB took colorless samples to save the accused factory from legal punishment and now when the entire matter is evidently clear, it has failed to register FIR against the owners of impugned Industry as well as other concerned persons. **Thus for larger Public Interest and to save the Environment of Punjab, the probe into the role & malafide intension of officials of PPCB (in saving the impugned Industry) is must.**

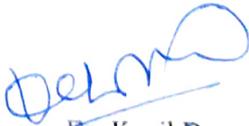
PRAYER:

Keeping in view of above facts & gravity of situation as produced above, the Petitioners humbly pray that this Hon'ble Tribunal may be pleased to pass the orders:

- i. Plea to set aside the Counter affidavit/rejoinder.
- ii. Plea for directions **of permanent closure of Industry in the name of "M/s Malbros International Pvt. Ltd.,** situated at Zira (Punjab) for their illegal act against Environment Protection Act, 1986 as well as Water (Prevention and Control of Pollution) Act 1974 by contaminating soil as well as Ground Water Table in the locality and surrounding areas by dumping the Effluent after excavating the top earth surface of its adjoining plot as well as by discharging into Earth by method of deep Reverse Boring.

- iii. Plea for imposing fine of Rs 100 Crores (or as deemed fit by this Hon'ble Tribunal) on the said Polluting Industry (Polluter to pay principle) which may be used for remedial measures to Pump out and treat the effluent discharged by the Polluting Industry.
- iv. Plea for directions to Respondent No. 2 & 3 to register FIR (under Environmental Laws) against the owners and other concerned persons of Impugned Polluting Industry.
- v. Plea for imposing fine of Rs 100 Crores (or as deemed fit by this Hon'ble Tribunal to be used for potable water supply in affected areas) on Respondent No. 1 as well as for treatment of affected citizens & their domestic animals as the State of Punjab (through Respondent No. 2 & 3) has failed to prevent water pollution & thus failed to provide safe & healthy Environment for residents of Punjab.
- vi. Plea for directions to the State of Punjab through Chief Secretary to immediately provide potable water and medical help in all the affected areas free of cost.
- vii. Keeping in view of directions of Hon'ble Supreme Court as well as this Hon'ble Tribunal in many decided matters, directions may please be issued to the State of Punjab to release compensation of Rs 20 Lakhs (or as deemed to be fit by this Hon'ble Tribunal) to legal heirs of the deceased persons (who have died due to health problems caused by pollution of Impuned Industry) and fair compensation to citizens suffering from skin diseases and other health issued due to pollution done by impugned Industry.
- viii. And any other order as deemed to be fit by this Hon'ble Tribunal.

Dated: 25-09-2023
Place: Ludhiana


Er. Kapil Dev
(Petitioner No. 2)
(Applicant in person)