

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

ORIGINAL APPLICATION No 710 OF 2023

IN THE MATTER OF:-

SUSGHIL RAGHAV

.... APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS

.... RESPONDENTS

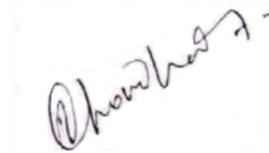
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Through



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Place:- New Delhi

Dated:- 16.04.2024

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**REJOINER TO THE REPLY FILED BY CENTRAL POLLUTION
CONTROL BOARD (CPCB) RESPONDENT NO: 8 ON 02.02.2024**

MOST RESPECTFULLY SHOWETH:

1. That the above Original Application has been filed under sections 14, 15, 18(1) and 20 of the National Green Tribunal Act, 2010 raising substantial questions related to Environment about the illegal encroachment and construction activities undertaken on the land marked as 'Park' in the layout map of Rajendra Nagar industrial Colony on G.T Road Mile 8/7, Sahibabad, Ghaziabad by Ghaziabad Municipal Corporation, Uttar Pradesh by Undertaking following activities:
 - a. Construction of Road/ Pathway by the Ghaziabad Municipal Corporation on the Land marked as park in the layout map.
 - b. Construction of an Industrial Drain
 - c. Shifting of the boundary of the park and reducing the area of the park by the Ghaziabad Municipal Corporation.
 - d. Some other Structures on the Park
2. That the land marked as 'Park' in the layout map with an area of 14,400 square yards falls right adjacent to the plot shown as 'Factory and Bungalow' in the layout map annexed herewith as ANNEXURE A-1 on page 31 of the O.A.
3. That the instant rejoinder is being filed in response to the reply filed by the Central Pollution Control Board (CPCB) i.e. Respondent No. 8 on 02.02.2024. At the outset, the Applicant denies the contention which

have been made and nothing should be assumed to be admitted unless specifically admitted or is part of the record. The Applicant reiterates all the facts and submissions made in the Application to be true and correct and the same may be read as part of instant rejoinder and are not being repeated for the sake of brevity

RESPONSE TO THE CONTENTION THAT THE INITIATIVES TAKEN BY CPCB DO NOT INCLUDE THE PRESERVATION OF GREEN AREAS OR ANY CLEARANCE, CONSENT, PERMISSION ETC.

The Air Act under S. 16(2)(b) provides the Central Boards to undertake Nationwide programme for the improvement of the quality of air and prevention, control or abatement of air pollution.

4. That S.16 of the Air(Prevention and Control of Pollution) Act, 1981 states the functions of Central Board as follows:

16. (1) Subject to the provisions of this Act, and without prejudice to the performance, of its functions under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the main functions of the Central Board shall be to improve the quality of air and to prevent, control or abate air pollution in the country

(2) In particular and without prejudice to the generality of the foregoing functions, the Central Board may—

(a) advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution;

(b) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of air pollution;

(c) co-ordinate the activities of the State and resolve disputes among them;

(d) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of air pollution and prevention, control or abatement of air pollution;

[(dd) perform such of the functions of any State Board as may be specified in and order made under sub-section (2) of section 18;]

(e) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the Central Board may specify;

(f) organise through mass media a comprehensive programme regarding the prevention, control or abatement of air pollution;
(g) collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution;

(h) lay down standards for the quality of air;

(i) collect and disseminate information in respect of matters relating to air pollution;

(j) perform such other functions as may be prescribed.

(3) The Central Board may establish or recognise a laboratory or laboratories to enable the Central Board to perform its functions under this section efficiently.

(4) The Central Board may—

(a) delegate any of its functions under this Act generally or specially to any of the committees appointed by it;

(b) do such other things and perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

5. That the Central Pollution Control Boards, under the statutory mandate, implemented the National Clean Air Programme, which is a comprehensive nationwide ***programme for the prevention, control, or abatement of air pollution*** within a stipulated time frame. The Para 6.6 of the NCAP states as follows:

"..6.6 IMPLEMENTATION OF NCAP (1)The CPCB shall, in consonance with, the Air (Prevention and Control of Pollution) Act, 1981 , and in particular with the provision of Section 16(2)(b) of the Act, execute the nationwide program for the prevention, control, and abatement of air pollution within the framework of the NCAP....."

6. That the para 7.2 of the NCAP also mandates for extensive plantation drives and states as follows:

7.2 Extensive Plantation Drive

*Trees mitigate air pollution primarily by absorbing pollutants via leaf stomata (pores on the outer "skin" layers of the leaf). Some gaseous pollutants are also removed via the plant surface. **As has been reported, one of the efficient and effective options for preventing air pollution hazards and as well as for enhancing the environmental quality, including***

enrichment of human microbiome that reduces health risks and public health burden is the development of native vegetation filter strips and biodiversity Parks. The Vegetation filter strips along roads and highways and at intersecting road junctions clean the air originating from the point source pollution, while biodiversity parks serve as filters for nonpoint source air pollution.....

*Thus extensive plantation drive in urban areas more specific in reference to **pollution hotspots as traffic junctions, industrial zones, footpaths, dust prone areas, etc., by identification and use of specialized plant species having high pollutants absorbing capacity is expected not only to purify air but also will help in improvement of health.***

7. That the NCAP promotes extensive plantation drives in urban spaces more specifically to pollution hotspots to improve the quality of air. The cities with poor air quality is termed as 'non-attainment cities'.

NCAP mandates for city-specific Air quality management plans for non-attainment cities

8. That Para 7.6 also mandates for city-specific air quality Management Plan for Non-attainment cities

7.6 CITY SPECIFIC AIR QUALITY MANAGEMENT PLAN FOR 102 NON-ATTAINMENT CITIES The city action plans need to be guided by a comprehensive science-based approach, involving source apportionment studies. Source apportionment study is resource intensive and highly specialized technical work, considering that such studies are required in about 102 non-attainment cities/towns; capacity building and networking of domestic institutes will be extremely important

9. That the NCAP mandates city-specific air quality management plan for the non-attainment cities. It is pertinent to note that the park in question is situated in Ghaziabad, which is a critically polluted Area (CPA). Ghaziabad, being a non-attainment city came up with an action plan for *Control of Air Pollution in Ghaziabad City*

10. That the CPCB regularly monitors the ambient air quality and keeps track of the emission sources. The primary function of CPCB is to improve the quality of air and prevent, control and abate air pollution in the country. In the city action plan, CPCB derives the power under S.31A of the Air Act and directs various departments to ensure compliance with the long-term and the Short Term Plans. One of the short-term action plans was *v)Greening of open areas, gardens, community places, schools and housing societies* and the responsible department was the Forest Department with a stipulated time frame of 90 days. It is submitted that though the responsible department is stated to be the forest department, the overall implementation and mitigation function is vested with the Central Pollution Control Board. If the authorities fail, howsoever it is the duty and function of the CPCB to send show-cause notices to the violating industries and direct closure of the same.
11. That it is further submitted that Parks provide intrinsic environmental, aesthetic and recreational benefits for urban cities. They are also considered effective microclimate improvement tools to mitigate air and noise pollution in highly polluted areas. Further, the role of green parks in shaping city policies pays way to the health and well-being of urban cities with poor air quality. Urban green spaces decrease the temperature, reduce urban heat island effects, and enhance air quality and humidity. That any attempt undertaken by the CPCB to preserve green areas and spaces is therefore a function to improve the air quality. Therefore, the contention of the Respondent No.8, is a mere statement of evading the responsibility of undertaking the measures to prevent, control and mitigate air pollution.
12. That therefore, in the interest of justice, in the above facts and circumstances of the case the prayer made in the Original Application may be granted.

13)pass any orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case


APPLICANT

THROUGH



RITWICK DUTTA



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Email:dclaw160@gmail.com

Place: New Delhi

Date: 16.04.2024

VERIFICATION

Verified by Sushil Raghav S/o Sh, Ratan Singh, R/o 226, Karkar Model Post Sahibabad, Site- 4, Ghaziabad, aged about 39years, presently at New Delhi do, hereby verify that the contents of Paragraph 1 to 13 are true to my personal knowledge and nothing material has been concealed therefrom.

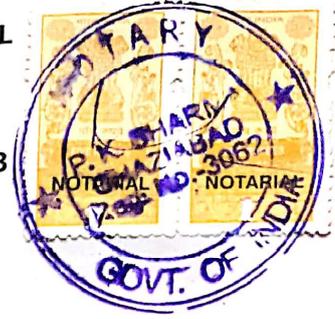


ATTESTED

P.K. SHARMA
Notary Ghaziabad
(GOVT. OF INDIA) 15/4/24


APPLICANT

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....RESPONDENTS

AFFIDAVIT

I, Sushil Raghav S/o Sh, Ratan Singh, R/o 226, Karkar Model Post Sahibabad, Site- 4, Ghaziabad, aged about 39years, presently at New Delhi do, hereby solemnly affirm and State as under:

1. That I am the Applicant in the above titled Original application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.



Ragha
DEPONENT

VERIFICATION

Verified on this ____ day of ____ 2024 that the contents of the above-mentioned Affidavit are true and correct and nothing material has been concealed therefrom.

11 **ATTESTED** 15/4/24
 Verified the Document and its contents
 Identified by: *Sushil Raghav*
 DEPONENT
Ragha
 DEPONENT
 10/4/24
 GOVT. OF INDIA