

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW
DELHI**

O.A No. 68 OF 2022

IN THE MATTER OF:

Raman Sharma

----- **Petitioner**

v/s

State of Haryana and others

----- **Respondents**

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Place: Gurugram

Date : 03-12-2024



**Raman Sharma
Petitioner**

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----- Petitioner

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----- Respondents

1. That the Complaint Raman Sharma S/o Sh. Narendra Nath Sharma is property owner and resident of CW-58, F.F, Malibu Town, Sector-47, Gurugram of project Malibu Towne, Sector-47 & 50, Gurugram.
2. That the Complainant had submitted that the Objection filed by the Respondent no. 8 is completely silent on the issue of **total built-up area of the project, area of unapproved construction, Open space available, Green area of project, Pollution load as on date, total revised area from License granted till 1997**. The Respondent no. 8 did not place the following facts before the SEIAA neither before the Hon'ble NGT-;
 - I. Date of third party rights created (**page-782**) on all five commercial site (5 nos with area) and Shops 72 nos, and **Group housing** and all **16 Community Buildings**.
 - II. Total built-up area planned in 2008 against 1997 not placed by Respondent No. 8 to counter allegations.
 - III. Details of total Built-up area in 2004 not placed by Respondent No. 8 to counter allegations.
 - IV. Details of total Built-up area in 2008 of all five commercial site (5 nos with area) and Shops 72 nos, and Group housing and all 16 Community Buildings were not placed by Respondent No. 8 to counter the built-up area measuring 6, 64, 412.826 Sqm.
3. It is humbly submitted that the Complaint contains allegations very specific with evidence and categorically placed that Environment Clearance (**page no. 788**) was not obtained by Project Proponent.

4. Point wise reply to Objections Dated – 02-12-2024 of Respondent No. 8 i.e M/s Malibu Estate Pvt Ltd are as under – ;
- I. The point no 1 of Objections are matter of record. The **Annexure-S-1**-Copy of letter no-J-11012/36/2011/IA-III Dated-27-01-2012 issued by Director & CPIO, Government of India, MoEF, to FC & PS, Government of Haryana, Directorate of Environment, Chandigarh regarding action against Malibu Township project Gurgaon for violation of the provisions of EIA Notification 2006 is confirmation of the Date of complaint and same issue was pending before the Hon'ble Lokayukta Haryana till 29-11-2019 and matter was reported to the HSPCB in January, 2020, hence the present complaint is not barred by limitation.
 - II. The point no 2 of Objections are matter of record. M/s Malibu Estate Pvt Ltd was impleaded as Respondent No. 8 after confirmation of allegations.
 - III. The point no 3 of Objections are matter of record and no correct figures with details are provided by the Respondent No. 8. The shifting of site is admitted by the T&CP (see **Annexure – S-6, S-7 & S-8**). The prior approval was necessary to obtain Environmental Clearance for pending part of ongoing construction under the provisions of EIA Amendment Notification dated 07.07.2004.
 - i. After EIA Amendment Notification dated 07-07-2004 prior approval was not obtained for remaining construction of the project. The built-up area of the project was massively increased as more than 74% area of the 204.796 Acres was taken for construction. See **Annexure – S-12 & S-13**.
 - ii. Shifting of Sites and increase in the plot size after EIA Amendment Notification dated 07-07-2004 confirm the MODIFICATION and new construction at project.
 - iii. Total built-up area of the project was further increased by Shifting of Sites and increase in the plot size after EIA Amendment Notification dated 07-07-2004 with addition of additional license land in 2008.
 - iv. Modification was admitted by Respondent No. 8.
 - v. The violation of conditions imposed through Part Completion Certificate by Respondent No. 8 is proved at number of times from the year 2002 to 2024. **Annexure- S-2 , S-3 , S-5, S-7, S-8, S-9, S-11, S-13, S-20** are documentary evidence and they further establish that service roads were not constructed and parks were encroached by Project Proponent M/s Malibu Estate Pvt Ltd.
 - vi. Till 2011 there was no mechanism for SEWAGE DISPOSAL in the Project.

- IV. The point no 4 of Objections are matter of record. The Respondent No. 8 has accepted the details of construction left through the letter written to the DTCP, Haryana (see- **Annexure – S-7**).
- V. The point no 5 of Objections are matter of record. The misleading reply of Respondent No. 8 which was without the details of Modification, details of Expansion, details of built-up area of project etc was duly responded by the Complainant.
- VI. The point no 6 of Objections are matter of record. The project Malibu Town was liable to take environment clearance before the remaining construction out of total built up area 6, 64, 412.826 Sqm. Till date Respondent No. 8 is hiding total built-up of the project. The construction of all five commercial site (5 nos with area) and Shops 72 nos, and Group housing and all 16 Community Buildings were not placed by Respondent No. 8 to counter the built-up area measuring 6, 64, 412.826 Sqm.
- VII. The point no 7 of Objections are matter of record. The request of Respondent No. 8 to regularization of unapproved construction and violations were refused by the property owners and the DTCP, Haryana (see **Annexure – S-13 & S-9**) delayed the Order of SEIAA as neither in principal Layout plan is approved yet nor is the 45% open space found. It is pertinent to note that the project Malibu Towne id **DELAYED by 30 long years**.
- VIII. The point no 8 of Objections are matter of record. The ENVIRONMENT CLEARANCE is required as the letter attached as **Annexure – S-9** is evidence of more violations by Respondent No. 8.
- IX. The point no 9 of Objections are matter of record.
- X. The point no 10 of Objections are matter of record. The misleading statements are highly objectionable placed on **page no. 1578**. The *“the development carried out pursuant to the license dated 31.01.2008 and zoning plan approved on 31.01.2008 (emphasis supplied)”*. How the license and Zoning plan approved on 31-01-2008 can't be imagined as it takes time to get approval for the plans. The letter Dated 29-03-2010 was placed already before the SEIAA with Submission as hard copy along with six drawings and same were supplied to Respondent No. 8 during the hearing before the Learned Chairman, SEIAA and same is submitted before the Hon'ble NGT.
- XI. The point no 11 of Objections are matter of record.
- XII. That content of Objections under point no 12 by Respondent No. 8 are under the authority of the Hon'ble NGT.

- XIII. That content of Objections under point no 13 by Respondent No. 8 is matter of record.
- XIV. That content of Objections under point no 14 by Respondent No. 8. It is important to mention that the DTCP, Haryana was one of the respondent in Complaint case no. 319/2011. The Report of Hon'ble Lokayukta Haryana Dated-29-11-2024 are on record and supersedes the findings and conclusion of DTCP, Haryana Dated-20-02-2014 as the findings of MoEF Dated – 27-01-2012 (**Annexure – S- 1**) were to be decided by the Directorate of Environment. This issue was never decided by the competent authority and same was pending before the SEIAA on the request of Respondent No. 8. There is no gap in raising application before the competent authority. The very first time complete hearing was given to the Complainant.
- XV. That content of Objections under point no 15 by Respondent No. 8 are not legally maintainable as the delay was due to various reasons. The letter dated – 29-03-2010 was issued by Project Proponent mentioned by the M/s Malibu Estate Pvt Ltd. The contents of letter are altogether different from the version presented before the Hon'ble NGT regarding construction and part completion certificate. The letter dated 07-11-2024 issued by the DTP (P), Gurugram to the STP, Gurugram annexed as **Annexure – S-9**. This letter confirms the nature of Project Proponent M/s Malibu Estate Pvt Ltd of doing violations fearlessly.
- XVI. That content of Objections under point no 16 by Respondent No. 8 are out of desperation. The Respondent No. 8 under point no. 14 at page **no. 1579** (line 8 & 9 of point no. 14) was pressing hard to consider the findings of the DTCP, Haryana, whereas under point no 16 terming the letter of the DTCP, Haryana as "GOSPEL TRUTH" which itself is contradiction of statement. Instead of making arguments on evidence and facts, the Respondent No. 8 is shifting the stance. The current built-up area and total sold area are enough reason for Project Proponent M/s Malibu Estate Pvt Ltd to accept the requirement of Environment Clearance.
- XVII. That the content of Objections under point no 17 by Respondent No. 8 are matter of record.
- XVIII. That content of Objections under point no 18 by Respondent No. 8 are matter of record as Respondent No. 8 has been knowingly hiding the fact the Part Completion certificates were violated, Layout plan is still not

approved and 42 violations were found on green area with much more area taken for profit motives and sold.

- XIX. That content of Objections under point no 19 by Respondent No. 8 are matter of record.
- XX. That the content of Objections under point no 20 by Respondent No. 8 are matter of record.
- i. That content of Objections under point no 20.1 by Respondent No. 8 is misleading as total 32 Licenses were obtained. The status of License no. 86 of 2008 (**page 893 & 894**) is not disclosed by Project Proponent M/s Malibu Estate Pvt Ltd. If license no. 15 of 2008 was not obtained by Project Proponent M/s Malibu Estate Pvt Ltd then this license was illegal as in 2008 license for plotted colony was granted only for 100 Acres. Under what circumstances the services of 180 Acres of Malibu Towne were connected with the services placed on license land of license no. 15 of 2008.
 - ii. That content of Objections under point no 20.2 by Respondent No. 8 is misleading as conditions of Part completion certificates were violated and same were challenged and necessary directions were issued. The Annexure – S- 2, S-3, S-5, S-7, S-8, S-9, S-11, S-13, S-20 are few documentary evidence which were accepted by the Project Proponent M/s Malibu Estate Pvt Ltd and the Occupation granted for the various sites were revoked by the Licensing authority. The unapproved 42 structures on green area are enough to revoke the Part Completion Certificates.
 - iii. The content under point no 20.3 of Objections are misleading as documents attached as **Annexure – S-2, S-3, S-5 and S-11** are sufficient evidence that neither service plan estimates were not approved till 2016 and services were not laid.
 - iv. The content under point no 20.4 of Objections are matter of record and **Annexure – S-6, S-7, S-9, S-10 & S-13** are sufficient documentry evidence of plots were created and shifted, which has raised the total builtup area and same was achieved after 2010.
 - v. The content under point no 20.5 of Objections are misleading. A combined Layout plan, Demarcation Plan and Zoning Plan was approved for an area of 204.796 acres in 2008. If the 24.681 Acres land under license no. 15 of 2008 was not obtained by Project Proponent M/s Malibu Estate Pvt Ltd then this license was illegal as in 2008 license for

plotted colony was granted only for 100 Acres. Under what circumstances the services of 180 Acres of Malibu Towne were connected with the services placed on license land of license no. 15 of 2008.

- vi. The content under point no 20.6 of Objections are again misleading. The Environment clearance was required to be obtained before the construction itself. The services were laid by Project Proponent M/s Malibu Estate Pvt Ltd to cater the area of 204.796 acres in 2008, which was the time when Environment clearance was required. But Respondent No. 8 created third party rights to lower down the requirement by illegal means and methods. The **built-up area 6, 64, 412.826 Sqm** was dived between third party rights to escape from the heavy punishment for selling common area falling under open space and breaching the 45% land under open space. If the requirement for Environment Clearance was accepted for third parties by respondent no. 8 then how it is not mandated on the area considered for the services i.e 204.796 Acres. This issue was time and again challenged from 2010 to till date before the MoEF, DTCP, Haryana, HSPCB, Hon'ble Lokayukta, SEIAA and Hon'ble NGT.
- vii. The content under point no 20.7 of Objections is in contradiction to many points as here Project Proponent M/s Malibu Estate Pvt Ltd admit that the issue of Environment Clearance was raised from 2010 to till date before the MoEF, DTCP, Haryana, HSPCB, Hon'ble Lokayukta. The **built-up area 6, 64, 412.826 Sqm** was admitted by Respondent No. 8 on many occasions. Documents annexed as Annexure – S- 2, S-3, S-5, S-7, S-8, S-9, S-11, S-13, S-20 are few documentary evidence to prove the allegations.
- viii. The content under point no 20.8 of Objections is admitted that Project Proponent M/s Malibu Estate Pvt Ltd under wrong legal advice submitted an application dated-16-04-2015 seeking post facto EC under item 8(b) of EIA notification 2006 for a total area measuring 204.796 Acres and accordingly terms of reference was issued by the MoEFCC. One more EC application was filed under wrong legal advice submitted on 07-09-2017 as violation case as per violation notification dated-14-03-2017, for which ToR was uploaded on 18-12-2020. Thereafter HSPCB initiated action against project Malibu Towne. Now Project Proponent M/s Malibu Estate Pvt Ltd has been trying the matter on vague arguments. Whereas Respondent No. 8 was asking for some punishment

or some adverse remarks against Complainant for the wrong legal advice purchased by renowned company.

- ix. The content under point no 20.9 are matter of record.
- x. The content under point no 20.10 is matter of record. Project Proponent M/s Malibu Estate Pvt Ltd has failed to submit the date of third party rights with area, total built-up area of the project and list of unapproved construction. The part completion was obtained for following services-;
 - a. One Overhead water reservoir was placed for the area measuring 107 acres approximately in 1992, but taken into account for all licenses.
 - b. Pumping of sewage at three places found.
 - c. Service road is not constructed and approved size of roads was reduced.
 - d. Water logging is a regular feature due to defective storm water drains.
 - e. Parks are under encroachments and unapproved construction.
- xi. The content under point no 20.11 is matter of record. Not a single approved building plan was submitted by Project Proponent M/s Malibu Estate Pvt Ltd to prove the statement. Not a single permission letter from mining department was submitted. The service plan estimates for license area on 1992 were approved in 2014 and 2016 then how part completion certificates were issued is still an unsolved truth. If construction of buildings were achieved in 2003 then electricity connections were also obtained by the owner in 2003, same were also not submitted to prove the claim. All part completion certificates were challenged. The Annexure – S-2, S-5, S-9, S-11 are documentary evidence on the violation of part completion certificates.
- xii. The content under point no 20.12 are misleading as neither approved building plans were submitted to prove the ownership of built-up area. According Project Proponent M/s Malibu Estate Pvt Ltd has constructed only 1, 29, 676.27 Sqm out of 6, 64, 412.826 Sqm and remaining 5, 34, 736. 556 Sqm was sold to other owners. This statement needs verification with approved building plans and sale deeds. Any additional construction in area measuring 204.796 Acres is responsibility of Respondent No. 8.
- xiii. The content under point no 20.13 proves that Project Proponent M/s Malibu Estate Pvt is not sure about that who was owner of 24.681 Acres land under License no 15 of 2008 and how much area was up to plinth

level in 2004. Respondent No. 8 further claimed that the License no 15 of 2008 was not obtained by M/s Malibu Estate Pvt, hence all approvals, permissions are given erroneously as there is no provision for community buildings and commercial area and both components were placed in 180. 116 Acres. Regarding this arrangement Respondent No. 8 did not place any agreement or contract as there was no such provisions in the HDRU Act, 1975 and HDRU Rules, 1976. For any independent License, minimum 100 Acres of Land was mandatory requirement, hence this argument needs to confirm from the DTCP, Haryana as Licence no 15 of 2008 and 86 of 2008 were issued by the Town and Country Planning Haryana.

- xiv. The contents under point no 20.14 are not in conformity to the statement given through Annexure – S-7 before the DTCP Haryana. Following are -;
 - i. The Annexure – S-5 and S-10 are not responded by Respondent No. 8. The hand over of Group housing to RWA was not with the approval of the DTCP Haryana and completion certificate.
 - ii. The sale deed were executed after 2008 and all sites collectively required EC after 2004 itself.
 - iii. All Commercial buildings were constructed after 2004 as per the documents placed.
 - iv. Matter of record and same is not confirming the construction of all towers, commercial area and community buildings.
 - xv. The contents under point no 21 are contradictory and needs confirmation from the DTCP Haryana as 24.681 Acres land under License no 15 of 2008 not a valid component according to Respondent No. 8.
5. That the Directors of respondent no. 8 i.e M/s Malibu Estate Pvt Ltd are habitual offenders and believes in violation of law. Following are few evidence of offence-;
- I. The Orders Dated – 20-11-2009 issued by the Director, Town & Country Planning Department Haryana in compliance of Hon'ble Court Order in CWP No. 8750 of 2009.
 - II. The FIR No. 628 of 2020 registered at PS Sadar, Gurugram on the complaint of DTP (E), Town & Country Planning Department, Gurugram against M/s Malibu Estate Pvt Ltd & Ors.
 - III. The FIR No. 114-22-02-2021 registered at PS Sadar, Gurugram on complaint of Fire Department, Gurugram against M/s Malibu Estate Pvt Ltd & Ors.

- IV. The FIR No. 229 Dated- 06-04-2023 registered at PS Sadar, Gurugram on complaint of DTP (E), Town & Country Planning Department, Gurugram against M/s Malibu Estate Pvt Ltd & Ors.
 - V. The letter annexed as **Annexure–S- 1**-Copy of letter no-J-11012/36/2011 /IA-III Dated-27-01-2012 issued by the Director & CPIO, Government of India, MoEF, to FC & PS, Govt of Haryana, Directorate of Environment, Chandigarh regarding action against Malibu Township project Gurgaon for violation of the provisions of EIA Notification 2006 by Directors of respondent no. 8 i.e M/s Malibu Estate Pvt Ltd.
 - VI. Criminal Case no. COMA-290-2024 HSPCB Vs Malibu Estate Pvt Ltd.
 - VII. Criminal Case no. CHA-891-2024 State Vs Naveen Chaudhary & Sameer Kohli, Directors of Malibu Estate Pvt Ltd.
 - VIII. Criminal Case no. COMA-246-2024 HSPCB Vs Malibu Estate Pvt Ltd.
 - IX. The letter annexed as **Annexure– S-3** - Copy of letter no. HSPCB/GR/2010/ 9397 Dated-15-02-2011 to Raman Sharma regarding sewage effluent was found being discharged into storm water drain.
 - X. Some friendly cases are also pending before the District Court, Gurugram-;
 - a. CS-3299-2022 titled Malibu Estate Pvt Ltd Vs Malibu Federation
 - b. CS-3566-2022 titled Malibu Estate Pvt Ltd Vs Malibu Federation
 Whereas in OA-68-2022 Malibu Federation is in protection of Malibu Estate Pvt Ltd.
6. That Directors and Representatives of Malibu Estate Pvt Ltd are seasoned in misleading by presenting lies and misleading stories. As mentioned under **point no. 4** of reply dated 24-07-2023 (page no. 742) in regards to Complaint Case no 319 of 2011 decided by Hon’ble Lokayukta, Haryana. This complaint was against officials of Town and Country Planning Department Haryana and allegations were found correct by Hon’ble Lokayukta, Haryana and same was submitted before the Hon’ble NGT. Following are some blatant lies and misleading contents placed in reply dated 24-07-2023 by respondent no. 8 i.e M/s Malibu Estate Pvt Ltd -;
- I. That content placed under **point no. 8** of reply dated 24-07-2023 (page no. 742) just to malign the character of Complainant by Malibu Estate Pvt Ltd. The Police has never appeared in Court after filing criminal case U/s 182, IPC. Whereas the Order annexed as **Annexure – S-18**- Copy of Order Dated-13-07-2021 by the Hon’ble National Green Tribunal in the OA-124-2017 Titled Sarv Jan Kalyan Seva Samiti Vs Union of India & Ors (copy attached) contains three issues similar to allegation leveled in the Complaint and Investigation found false. In other words M/s Malibu Estate Pvt Ltd raising doubts on the Order passed by the Hon’ble NGT.

- II. That content placed under **point no. 9** of reply dated 24-07-2023 (page no. 742) are self-explanatory. Police refused to take any action on the vague complaint lodged by Malibu Estate Pvt Ltd.
- III. That content placed under **point no. 10** of reply dated 24-07-2023 (page no. 742) by Malibu Estate Pvt Ltd are irrelevant because the Joint Committee constituted by the Hon'ble National Green Tribunal, The SEIAA, the HSPCB, the MCG and Town & Country Planning has confirmed the correctness of Complaint and violation and offence by Malibu Estate Pvt Ltd has raised the Pollution levels by placement of 14 DG Sets, violation of SWM Rules 2016 and C & D Waste Management Rules 2016 and **not obtained the Environment Clearance** before the construction and placement of placement of **10 DG Sets** in Green Belt by reducing the green area and found guilty of unapproved construction on green area. The offence by Project Proponent has badly affected the environment which are admitted in writing by the HSPCB.
- IV. The Complainant is proud citizen of the India and property owner of Malibu Towne where Project Proponent has violated the Environmental laws by ignoring the conditions and directions by the DTCP, Haryana through Agreements, Conditions imposing through Layout Plan, Zoning Plan, Part completion certificates & Occupation Certificates.
- V. The half-truth presented under **point no. 12** of reply dated 24-07-2023 (page no. 743). The Hon'ble Delhi High Court disallowed the appeal on Jurisdiction issue, not the merit of the Criminal Complaint.
- VI. That under **point no. 19** of reply dated 24-07-2023 (page no. 746), Respondent no. 8 did not PROVIDE THE **DATE OF THIRD PARTY RIGHT** created till 2004 & 2008. No details regarding **BUILT-UP** area left while creation of THIRD PARTY RIGHT. The **Annexure- S-20** contains the facts about **built-up** area while getting CONSENT TO OPERATE from the HSPCB. The excess area sold above 55% and created third party rights on more than the approved percentage of land is not disclosed yet and the information about the additional built-up area on it has been hidden till now from the Hon'ble Court, SEIAA, HSPCB, HSVP, DTCP, Mining Department, which is an offence as per the law. The size and date of shifting of site and increase in approved site is also hidden by Malibu Estate Pvt Ltd. Following facts are furnished by Respondent no. 2 i.e HSPCB-;

7. That the accused unit/project was inspected by Smt. Neha Saharan, AEE on dated 14.07.2020 and during inspection, it was found that the project had obtained CTO for the period 01.04.2018 to 30.09.2020 vide letter no. HSPCB/Consent/:329962318GUNOCTO5199041 dated 08.05.2018. It is necessary to mention here that the project proponent/accused have obtained consent to operate for built up area 1,28,468 sqm, whereas perusal of the facts submitted by the project proponent before the MoEF, while seeking ToR, makes it clear that total plot area 8,28,780.01 sqm (204.96 acres) and total built up area is 6,64,412.826 sqm. Moreover, it is also necessary to bring into the notice of this Hon'ble Court that part completion certificate has been obtained for 151.315 Acres i.e. 6,12,350.1 sqm rather than 1,28,468 sqm or the area mentioned in the application for seeking ToR as mentioned in the preceding Paras and annexure____. Thus, it is apparently clear that accused have got the CTO by mentioning wrong area in their application and accused have never obtain CTE for the expanded area. Copies of Spot inspection report along with photographs is attached as **Annexure C-13**.

- VII. That under **point no. 19** of reply dated 24-07-2023 (page no. 746), Respondent no. 8 did not place the record of total built-up area of the project and remaining total built-up area as the documents annexed as Annexure - S-5, S-6, **S-7 (Point 2. Group housing last para AND Point no. 3-R-1, R-2, R-3 AND Point no. 4 –f- Sewage & d Storm water AND E, F, G, H are confirming builtup area)**, S-9, S-10, S-11, S-12, S-13 and reply of Respondent no. 2 under point no. 4 & 5, (page no. 695), point no. 6 & 7 (page no. 696) are confirming the allegation on first site.
- VIII. That under **point no. 21** of reply dated 24-07-2023 (page no. 746), Respondent no. 8 did not place the built-up area balance in 2004 and 2008. The **Annexure - S-1** Copy of letter no-J-11012/36/2011/IA-III Dated-27-01-2012 issued by Director & CPIO, Govt of India, MoEF, to the FC & PS, Government of Haryana, Directorate of Environment, Chandigarh regarding action against Malibu Township project Gurgaon for violation of the provisions of EIA Notification 2006 and letter annexed at **page no. 1566** issued by the DTP (HQ) O/o DTCP, Haryana to the SEIAA, Haryana vide Memo No. CC-3056/JD(RA)/2024/32251 Dated- 23-10-2024 read with letter annexed as **Annexure- S-9-** Copy of letter memo no. DTP(G)/2024/10121 Dated-07-11-2024 by DTP(P), Gurugram to STP, Gurugram regarding latest Demarcation confirm the expansion, modification, revision after 2004, 2008 and 2016 by the project proponent of Malibu Towne.

- IX. That under **point no. 22** of reply dated 24-07-2023 (**page no. 747**), Respondent no. 8 did not responded to the status of License no. 86 of 2008 (page 893 & 894). This license increase the total number of licenses to 33.
- X. That under **point no. 23** of reply dated 24-07-2023 (page no. 747), Respondent no. 8 has again missed some important communications annexed as **Annexure – S-13-** Copy of Minutes of hearing of the Objectors regarding approval of revised Layout Plan for setting up residential plotted colony over an area measuring 204.796 acres namely Malibu Towne in Sector-47 & 50, Gurugram held under the Chairmanship of the Sr. Town Planner, Gurugram on 10-01-2023 and **Annexure – S-8-** Copy of letter no. 3313 Dated-29-03-2022 by DFO, Gurugram to DTP, Gurugram regarding Diversion of Forest Land for road access and **Annexure - S-2-** Copy of **letter Dated-39-09-2010** sent by MEPL to Complainant regarding financial assistance for 4 Sewage Treatment Plant after as arranged for water Harvesting system and **Annexure – S-11-** Copy of letter Endst no. 9546 Dated- 22-06-2015 by SE, HUDA Circle-II, Gurgaon to CE-1, HUDA, Panchkula regarding Occupation Certificate for two towers, EWS of Group Housing and **Annexure – S-3 -** Copy of letter no. HSPCB/GR/2010/9397 Dated-15-02-2011 to Raman Sharma regarding sewage effluent was found being discharged into storm water drain and **Annexure - S-5-** Copy of letter memo no. 2251 Dated- 15-02-2016 by SE, HUDA Circle-1, Gurgaon to CE-1, HUDA, Panchkula regarding approval of Service Plan Estimates of Group Housing and **Annexure – S-6-** Copy of letter memo no. 3929 Dated-05-06-2008 by DTP, Gurgaon to STP, Gurgaon regarding approval of Demarcation Plan of Malibu Towne on additional area 24.681 Acres and **Annexure – S-7-** Copy of letter Dated- 29-03-2010 by Malibu Estate Pvt Ltd to DTCP, Haryana regarding **Status of Colony** and **Annexure – S-9-** Copy of letter memo no. DTP(G)/ 2024/10121 Dated-07-11-2024 by DTP(P), Gurugram to STP, Gurugram regarding latest Demarcation and **Annexure– S-10-** Copy of letter memo no.ZP-5-VOL-IV/SD(BS)/2017/4764 Dated-10-03-2017 by DTCP Haryana to MEPL regarding OC for 2 towers, EWS of Group Housing and **Annexure- S-20–** Approval for Prosecution of Malibu Estate Pvt Ltd & Ors by the Chairperson, HSPCB, Panchkula Dated-31-08-2021The false claim of Respondent no. 8 regarding license no. 15 of 2008 was exposed before the SEIAA during hearing as minimum 100 Acres of land was required in 2008 for the license as mandatory condition.
- XI. That Respondent no. 8 Malibu Estate Pvt Ltd did not admit even once before the Hon’ble National Green Tribunal and the SEIAA that Application submitted before the SEIAA, Haryana was never withdrawn till date and **application submitted as new project** hence under **point no. 25** of reply

- dated 24-07-2023 (page no. 748), Respondent no. 8 hide the facts of Application submitted before the SEIAA, Haryana on 15-01-2016 in contradiction to the licenses granted annexed as **Annexure – S-14**. Respondent no. 8 hide all Part Completion Certificates annexed as **Annexure – S-15** from the SEIAA in the Application Dated 15-01-2016. Respondent no. 8 submitted application according to The **section 3 (g) of EIA Notification 1994** provisioned as under, “any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1000 (one thousand) persons or below or with an investment of Rs.50,00,00,000/- (Rupees fifty Crores) or below”.
- XII. That **Annexure- S-21**-Copy of Minutes of 154th meeting of the SEAC, constituted for considering Environment clearance of projects (B category) held on 29th and 30th June, 2017 is a documentary evidence of fraudulent act of Respondent no. 8. This document is written evidence of Respondent no. 8's vicious misdeeds. The project was submitted in the application as a new project, which was revealed during the interview and became a case of project under violation under the provisions of the EIA Notification dated-14-09-2016.
- XIII. That under **point no. 26** of reply dated 24-07-2023 (page no. 748) by Respondent no. 8 again shifted the stance from earlier placed facts placed before the SEIAA as **till 1997 neither construction was started nor third party rights were created in the Construction project Malibu Towne** by respondent no. 8 i.e M/s Malibu Estate Pvt Ltd. All content placed under **point no. 26** of reply dated 24-07-2023 (page no. 748) by Respondent no. 8 are false and misleading. In 1994 till 1997 this project was a raw project. The Sale deeds, all approved Layout plans of 1992, 1993, 1994, 1995 and 1997 with approved zoning plans and copies of each approved service plan estimates and approval to building plans can be checked.
- XIV. That under **point no. 27** of reply dated 24-07-2023 (page no. 749) by Respondent no. 8 is misleading as point no. 2, 2(i), 2(ii), 2(iii), 2(v), 2(vi), 2(vii), 2(x), **2(xiii)** of Part Completion Certificate placed on **page no. 894** are enough to prove the project was not started **till 1997** and the service plan estimates of group housing was approved in 2016 see **Annexure- S- 2** is confirmation of no mechanism was provided for sewage disposal till 2012, **S- 3** is written evidence of non-availability of sewage infrastructure, **S-5** is evidence of redesign of the colony in 2008 hence no service was plan earlier for such properties, **S-11** contains the letter from the office who is appropriate authority who approves the checking and the shortcomings pointed out are sufficient evidence of non-existence of services till 2015

- and point no 1, 2, 3, 5, 7, 8, 11 & 12 of S-13, S-19 are confirming that Part Completion Certificates were issued erroneously. The letter annexed as **Annexure –S- 7** under point no 3 & 4 are written acceptance of respondent no. 8 of non-existence of services.
- XV. That under **point no. 29** of reply dated 24-07-2023 (page no. 749) by Respondent no. 8 can be ascertained from the sale deeds, approval of building plans. The document annexed as Annexure – S-5, S-6, S-7, S-9, S-10, S-13, S-19, S-20 are self explanatory documents on builtup area left after 2004.
- XVI. That written statement of under **point no. 30** of reply dated 24-07-2023 (page no. 750) by Respondent no. 8 Malibu Estate Pvt Ltd has omitted the role & responsibilities of Project Proponent. According to the EIA Notification the environment clearance is the liability of Project Proponent, not of individuals. Respondent no. 8 is trying hard to escape from the liability of Project Proponent but the documents placed on page no. 1538 to 1546 speak about the legal built-up area 6, 64, 412.826 sqm of the project and unapproved area can be measured and add to this. THE SHOW CAUSE NOTICE ISSUED TO PROJECT PROPONENT Malibu Estate Pvt Ltd VIDE LETTER NO. 882 DATED-20-04-2017 BT SEAC and in response to the show cause notice Project Proponent submitted the reply and terms of reference (**page-1542** for reference of letter) was approved by the EAC, MoEF vide letter no. 21-94/2015-IA.III Dated-19-21 May, 2015 See- **Annexure- S-21**. The false written reply of Respondent no. 8 can be verified from SEAC, SEIAA and MoEFCC.
- XVII. That under **point no. 31** of reply dated 24-07-2023 (page no. 750) by Respondent no. 8 admitted the REVISION OF PROJECT. Later same was reported to MoEFCC, HSPCB and DTCP by Complainant. The directions were issued to initiate action against Project Proponent Malibu Estate Pvt Ltd see- **Annexure- S-1**.
- XVIII. That under **point no. 32** of reply dated 24-07-2023 (page no. 751) by Respondent no. 8 admitted the requirement of Environment Clearance for construction project Malibu Towne. It is also admitted by Respondent no. 8, Environmental Clearance was required for project. Due to violation of EIC Notifications by Project Proponent Malibu Estate Pvt Ltd two companies obtained Environmental clearance for built-up area 33540.54 sqm of one commercial site. The other company obtained Environmental clearance for 3.465 Acres of other commercial site. These two Environmental clearance for two commercial components of commercial project of Malibu Towne require Environmental clearance for whole project for area measuring 204.796 Acres as Violation case.

- XIX. That under **point no. 34** of reply dated 24-07-2023 (page no. 752) by Respondent no. 8 again placed a cooked story. The content placed under **point no. 30 & 31** about no notice by any authority. The **point no. 35** is also in contradiction to point no. **30 & 31**.
- XX. That under **point no. 36** of reply dated 24-07-2023 (page no. 752) by Respondent no. 8 has stated that it took 20 years to build two towers and two EWS blocks. After passing of 32 years, Project Proponent Malibu Estate Pvt Ltd has failed to construct all community buildings and services are incomplete and illegal construction is found on 19% area.
- XXI. That under **point no. 37** of reply dated 24-07-2023 (**page no. 753**) by Respondent no. 8 has admitted project Malibu Towne a violation case.
- XXII. That under **point no. 38** of reply dated 24-07-2023 (page no. 753) by Respondent no. 8 again placed contradictory statement to point no. **30 & 31** but admitted the fact placed by Complainant under point no. 2 (XVI) & 2(XVIII). But till date Application for Environment Clearance is not withdrawn by Project Proponent Malibu Estate Pvt Ltd.
- XXIII. That under **point no. 39** of reply dated 24-07-2023 (**page no. 753**) by Respondent no. 8 failed to prove under wrong legal advice Application for Environment Clearance was submitted. But it is still hard to believe that under top class legal advice Project Proponent Malibu Estate Pvt Ltd did not withdraw the Application for Environment Clearance submitted before the SEAC and resulted the violation proceedings by the SEIAA against Project Malibu Towne (**page-1571**).
- XXIV. That under **point no. 40** of reply dated 24-07-2023 (**page no. 753**) by Respondent no. 8 is incorrect as that case is converted in to criminal case no. COMA-316-2023 titled as HSPCB Vs Malibu Estate Pvt Ltd. Now case is pending in the District Court Gurugram.
- XXV. That under **point no. 41** of reply dated 24-07-2023 (**page no. 754**) by Respondent no. 8 is incorrect as that case is converted in to criminal case no. COMA-246-2024 titled as HSPCB Vs Malibu Estate Pvt Ltd. Now case is pending in the District Court Gurugram.
- XXVI. That under **point no. 42** of reply dated 24-07-2023 (**page no. 754**) by Respondent no. 8 has forget to place the **Refusal of Consent to Operate** under water Act, 1947 & Air Act, 1981 issued vide letter no. HSPCB/Consent/:329962320 GUOCTO7846102 Dated – 02-09-2020 issued by the Regional Officer, Gurugram North, Haryana State Pollution Control Board but placed in **point no. 43**. The offence was first reported in 2009. The documents annexed as Annexure- 2 & 3 are more than sufficient to start counting of offence by Project Proponent Malibu Estate Pvt Ltd on regular intervals.

- XXVII. That under **point no. 44** of reply dated 24-07-2023 (**page no. 755**) by Respondent no. 8 admitted the unapproved erection of 16 structures on green area through letter dated 09-12-2011 placed on **page no. 1495** and some more unapproved and illegal construction placed on page no. 1500 and duly FIR was lodged against Project Proponent Malibu Estate Pvt Ltd and Ors.
- XXVIII. That under **point no. 45** of reply dated 24-07-2023 (**page no. 755**) by Respondent no. 8 admitted the REVISION OF PROJECT and same was refused by residents of Malibu Towne. See- **Annexure – S-13**. The REVISION OF LAYOUT PLAN was applied on 28-12-2022 and hearing was given on 10-01-2023. The Minutes contains offence/ violations and irregularities committed by Project Proponent Malibu Estate Pvt Ltd and reduce the open space containing Green area.
- XXIX. That under **point no. 46** of reply dated 24-07-2023 (**page no. 755**) by Respondent no. 8 stated incorrect statement as the letter dated-28-12-2022 issued to residents instead of 04-08-2021 as stated by Project Proponent Malibu Estate Pvt Ltd.
- XXX. That under **point no. 51** of reply dated 24-07-2023 (**page no. 757**) by Respondent no. 8 admitted the fraudulent Handover of Group Housing without getting Completion Certificate and approval to transfer of group housing from the Licensing authority. This act was just to create property owners as third party to avoid Environment compensation by Project Proponent Malibu Estate Pvt Ltd.
- XXXI. That under **point no. 52** of reply dated 24-07-2023 (**page no. 757**) by Respondent no. 8 stated misleading statement. The handover of project Malibu Towne to Municipal Corporation Gurugram just to complete to project and remove irregularities to minimize pollution load and encroachments by Project Proponent Malibu Estate Pvt Ltd and various RWAs.
- XXXII. That under **point no. 53** of reply dated 24-07-2023 (**page no. 757**) by Respondent no. 8 is asking for REVISION hence Environment Clearance is required as same is admitted by Project Proponent Malibu Estate Pvt Ltd.
- XXXIII. That under **point no. 54** of reply dated 24-07-2023 (**page no. 758**) by Respondent no. 8 is wrong and misleading. That 45% of the gross area of the land under the colony is not available. The details may be taken from the Licensing Authority as complete details of land in use with schedule of area was submitted before the DTCP, Haryana. The details of land is as under-;

TOTAL AREA UNDER SALEABLE CATEGORY IN MALIBU TOWNE THROUGH APPROVED LAYOUT PLAN FOR AN AREA OF 204.796 ACREA (Drg. No. DGTCP-5626 Dated-28-09-2016- ;

	Percentage	Acres
1. Area under Commercial	- 03.99 %	07.70
2. Area under Plots	- 54.10 %	96.668
3. Area under Community Buildings	- 07.03 %	15.05
4. Area under Group Housing	- 05.80%	11.89
5. Area under Oversized Plots	- 02.64%	05.42

	73.56%	136.728

6. Area under unapproved construction – (as mentioned in Layout plan)	0.411%	0.843
7. Area under illegal construction	- Demarcation is awaited	
8. Oversized plots between 50 sqm To 840 sqm	- Demarcation is awaited	

XXXIV. That under **point no. 55** of reply dated 24-07-2023 (**page no. 758**) by Respondent no. 8 has admitted that all 14 DG sets were placed on Green Area without any approval of the competent authority. On the date of complaint before the DTCP, Haryana, Hon'ble Lokayukta Haryana, HSPCB, the Deputy Commissioner, Gurugram the Project Proponent Malibu Estate Pvt Ltd did not apply for compounding of offence. Whereas REGULARIZATION OF DG SETS and LAYOUT PLAN was requested by Project Proponent. Offence is accepted in writing, hence DG Sets should be placed on open space instead on Green area.

XXXV. That under **point no. 56** of reply dated 24-07-2023 (**page no. 757**) by Respondent no. 8 wants punishment for complainant when all allegations proved correct. Now Project Proponent Malibu Estate Pvt Ltd must first have to complete 45% land falling under open space category comprising GREEN AREA, only then the purification of this crime can be started.

7. That OA-68-2022 is pending for the Orders before the Hon'ble Bench. The **Letter Petition** was allowed by the Hon'ble National Green Tribunal and constituted a joint Committee comprising the HSPCB, SEIAA, HUDA, DFO-

Gurugram, and the District Magistrate-Gurugram by the Hon'ble Bench of National Green Tribunal on 02-02-2022.

- I. That under **point no. 4** of the Order **Dated-11-10-2022** of the Hon'ble National Green Tribunal directed registry to issue notices to respondents No. 1 to 7 requiring them to file their reply/response to the averments made in the application and observations/recommendations made in the report of the Joint Committee within two months.
- II. That under **point no. 5** of the Order **Dated-11-01-2023** of the Hon'ble National Green Tribunal directed registry to issue Notices to respondent no. 8 and be served on respondent no. 8 i.e M/s Malibu Estate Pvt Ltd through the District Magistrate, Gurugram.
- III. That under **point no. 12** of the Order, "In its report **dated 10.08.2022**, the Joint Committee had mentioned that the DTP (P), Gurugram had accepted that they had not given any permission for placement of any DG sets in the green area but subsequently in its reply filed vide email dated 10.01.2023, Respondent No. 4 has taken contradictory stand that no Objection to placement of DG sets in Green Area was conveyed by the department to DTP(E), Gurugram".
- IV. That under **point no. 13** of the **Order dated-15-03-2023**,"So far as the questions of raising unauthorized construction by the Project Proponent is concerned, the it is evident from the replies and documents produced in the case that **the Project Proponent did not obtain Environment Clearance (EC) and CTE/CTO as required under the EIA Notification 2006** and the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 on which prosecution was filed against the Project Proponent and closure directions have been issued by HSPCB vide order dated 23.12.2012.
- V. That under **point no. 14** of the **Order dated-15-03-2023**,"The case regarding imposition of environmental compensation on the concerned Project Proponent is stated to be under process and the same has not been finalized so far despite serious environmental violations spread over long period of time".
- VI. That under **point no. 16** of the **Order dated-15-03-2023**,"The insensitivity /inaction/negligence on the part of the concerned officers and submission of evasive/vague replies as to the matter being under process without taking the requisite remedial measures immediately raises serious concerns about implementation of environmental laws and discharge of Constitutional/Statutory obligations by the State and its instrumentalities and requires serious consideration for adoption of measures regarding accountability of the concerned officers".

- VII. That under **point no. 18** of the **Order dated-15-03-2023**,”In the facts and circumstances of the case, we consider presence of the Member Secretary, HSPCB, Commissioner, Municipal Corporation Gurugram and the Director, Town and Country Planning before this Tribunal on the date fixed to be essential for production of the relevant record pertaining to the matters under adjudication and assisting this Tribunal in just and proper adjudication of the questions involved in the case and accordingly, they are directed to remain present before this Tribunal on the date fixed”.
- VIII. That under point no. 7 of the **Order dated-28-03-2023**,”So far as the grievance regarding running of 10 DG sets in greenbelt without any approval in violation of environmental norms is concerned, this Tribunal noticed that the Joint Committee had mentioned in its report that the DTP (P) had mentioned in his report dated 10.08.2022 submitted to the Joint Committee that they had not given any permission for placement of any DG sets in the green area but subsequently in its reply filed vide email dated 10.01.2023, Respondent No. 4 has taken contradictory stand that no Objection to placement of DG sets in Green Area was conveyed by the department to DTP(E), Gurugram. In compliance of orders of this Tribunal requiring filing of detailed reply, reply has been filed by respondent No.4 vide e-mail dated 25.03.2023. Relevant part of the reply is reproduced as under:- ”
 Diesel Generators sets
- IX. That under **point no. 9** of the **Order dated-28-03-2023**,” It may be observed that even in the detailed reply filed by respondent No. 4 the details of green area in the colony with boundaries, measurements, location and present status have not been mentioned at all. For justifying grant of ex-post facto permission for running of DG sets in green area reference has been made to rule 4 (1) of the Haryana Development and Regulation of Urban Areas Rules, 1976 (HDRUA Rules 1976) rules which mandates that in the layout plan of a colony other than an industrial colony or low-density eco-friendly colony the land reserved for roads, open spaces, schools, public and community buildings and other common uses shall not be less than 45% of the gross area of the land under the colony and at the same time permits the Director to reduce the same to 35% after recording reasons if in his opinion the planning requirements and the size of the colony so justify. It has been claimed that in the present case such area is more than 35%. The above said rule merely refers to reservation of land for roads, open spaces, schools, public and community buildings and other common uses without prescribing any minimum percentage of land to be reserved as green belts or parks and does not lay down any requirement of maintaining green belts/parks which aspects need to be looked into for proper urbanization/colonization in accordance with the principle of sustainable development. The ex-post facto permission granted and reply filed by respondent No.4 completely ignore

these aspects. The reply refers to but does not mention as to what the minimum per capita green area requirement keeping in view the total number of the residents of the colony and how the same is maintained. In its reply respondent No.7 has referred to audit of green areas conducted and claims that the same is more than 5% but no authenticity can be attached to the same at this stage without proper verification.

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 X. That under point no. 10 of the **Order dated-28-03-2023**,“ In **Bangalore Medical Trust v. B.S. Muddappa, (SC) 1991(4) SCC 54** Hon'ble Supreme Court allowed writ petition filed by the residents of the locality and set aside the diversion of the user and allotment of the site reserved for a public park to private persons for construction of a hospital. The observations made by Hon'ble Supreme Court in that case, which are also relevant to the present case, are reproduced as under:-“

.....
 XI. That under point no. 11 of the **Order dated-28-03-2023**,“In the present case Ex-post facto permission for operation of three DG sets in the green area appears to have been granted without any application of mind, without ascertaining the requisite details regarding green area maintained, without assessing impact on environment and without examining as to whether the DG sets could be relocated at any other place reserved for public/community buildings particularly dedicated transformer area, if any and without taking any steps for compensating the loss of green area by converting some area in the close vicinity as green area. On the other hand permission appears to have been granted by ignoring complaint made by the applicant on the basis of the alleged rivalry of the applicant with the office bearers of the Residents Welfare Association and the residents and alleged hostile activities of the applicant. Violations of law are not determined and dealt with by counting the number of beneficiaries and their adversaries ventilating the grievances to rule by majority or by judging their antecedents to rule by character and the only touchstone for the same is prudent man's standard based on rule of law. The administrator/adjudicator of law has to administer/adjudge rule of law like an umpire who judges even a single cry for foul in the game. Therefore, complaint even by one against thundering majority in the wrong may be sufficient as the valid and solid ground to administer/adjudicate against them.”

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 XII. That under point no. 12 of the **Order dated-28-03-2023**,“It may be observed here that due to ever escalating prices in real estate, open spaces and green belts are encroached upon by the Land Mafia in active connivance with the concerned Administrative Officers or due to inaction/negligence on their part in taking requisite remedial action. The practices of encroaching upon green belts/parks by constructing /erecting religious structures/parking

spaces/Transformers/DG Sets etc. is widely prevalent. Most convenient method of encroachment on green areas/parks is construction of some religious structures which are also defended by projecting questions of faith and masquerading the procured support of devotees having women and children in the forefront. Despite directions by Hon'ble Supreme Court for preventing/demolishing such unauthorized constructions on public land, the State and its instrumentalities continue to pose ignorance even despite complaints by the residents and coverage even by the print and electronic media.

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XIII. That under point no. 13 of the **Order dated-28-03-2023**, "In view of importance of protection and proper maintenance of open spaces, parks, green belts and having the factual background of the present case as reminder of one of countless such instances of conversion of part or whole of open spaces, parks, green belts in the entire State of Haryana coming up before this Tribunal, we consider it appropriate to widen the scope of the present proceedings and constitute a Joint Committee comprising of representatives of (i) MOEF&CC, (ii)CPCB, (iii) ACS/Principal Secretary, Department of urban Planning Government of Haryana, (iv) ACS/Principal Secretary, Department of Local Bodies, Government of Haryana (v) Director General, Town and Country Planning, Haryana, (vi) Chief Administrator, HSVP and (vii)HSPCB with the directions to (1) compile/catalogue information regarding all green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Haryana with requisite details as to (a) location, revenue number, boundaries, measurements etc.; (b) present status regarding plantation/green vegetation, user, maintenance, and agency deputed for maintenance; and (c)encroachments (including encroachments made by unauthorisedly constructing religious structures) made on the same with requisite details as to who made the encroachments, when and in which manner and what action has been taken/is to be taken for removal of such encroachments specifically mentioning Court cases decided/pending regarding the same; (2) to get entire such information uploaded on the website of the District Administration and Municipal Bodies for seeking public participation for protection of green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Haryana against any encroachment and also for ensuring proper use and maintenance thereof; and (3) to verify factual position of per capita green cover and assess its adequacy in view of the number of residents and give suggestions for remedial measures required to be taken for proper user, development, maintenance, protection, and improvement of such green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Haryana.

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XIV. That under point no.15 of the **Order dated-28-03-2023**,“We are also of the considered view that the matter of protection of green areas/public parks /green belts and trees needs proper statutory framework for reservation, development, maintenance and preservation of green areas/parks/greenbelts and protection of trees. Besides the statutory frame work, appropriate administrative guidelines are also required to be issued for identification, demarcation, development, maintenance and preservation of green areas /parks/green belts and protection of trees in the urban development/colonization Schemes /layouts. As already observed rule 4 of the HDRUA Rules 1976 does not prescribe any minimum percentage of land to be reserved as green areas/parks/green belts. The proviso to **Rule 4 (3) of the HDRUA Rules,1976 prescribes the requirement of 5% open space in respect of low density ecofriendly colony and does not apply to other residential colonies under rule 4 (1) of the HDRUA Rules 1976**. In the context of increasing environmental air and water pollution, we consider it appropriate to make a suggestion to Government of Haryana to consider the desirability of making suitable amendments in the HDRUA Rules 1976 in this regard. We also find that at present there is no legislation in the State of Haryana for protection of green areas/parks/green belts and trees and we also consider it appropriate to suggest to Government of Haryana to consider desirability of enactment of appropriate legislation on the lines of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975 and the Delhi Preservation of Trees Act, 1994/the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976.

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XV. That under point no. 16 of the **Order dated-28-03-2023**,“So far as the green area in question is concerned, Respondent No.4 is directed to look into as to (a) whether the DG Sets can be relocated to dedicated captive transformer location area if any and if it can be so done, then relocate the same and restore the green area and (b) if the same is not possible, then whether any equivalent contiguous open land area can be restored/added to the green area and if so available, convert the same as green area.

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XVI. That under point no. 17 of the **Order dated-28-03-2023**,“ In compliance of order dated 15.03.2023, Mr. T.L. Satya Prakash, Director General, Town and Country Planning has appeared. We have interacted with him. He has assured to look into the above mentioned aspects so far as the green area in question is concerned.

.....

XVII. That under point no. 18 of the **Order dated-28-03-2023**,“ So far as the questions of raising unauthorized construction by the Project Proponent is concerned, it is evident from the replies and documents produced in the case that the Project Proponent did not obtain Environment Clearance (EC) and CTE/CTO as required under the EIA Notification 2006 and the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. In compliance of order dated 15.03.2023 Respondent No.2 has filed detailed reply in this regard relevant part of which reads as under:-

.....

XVIII. That under point no. 19 of the **Order dated-28-03-2023**,“It appears that before passing the closure order the HSPCB has not taken into consideration the third party rights already created by the respondent No.8 in favour of those aspiring to find shelter for good living (which is universally acknowledged as **the basic human need**) who may have made investment of their life time earnings in on going projects. Environmental compensation has also been imposed without giving opportunity of being heard to the Respondent No.8 and such order for imposition of environmental compensation, which may not be legally sustainable on scrutiny for violation of principles of natural justice, which is also not likely to be immediately recovered and which is not part of any action plan based on assessment of actual damage to environment in the area for taking of remedial measures for restoration thereof, serves no meaningful purpose. The HSPCB is directed to revisit the closure order and clearly specify for which project the EC was required and to which the closure order applies and clearly mention the projects to which the closure order does not apply. The HSPCB is also directed to ascertain third party rights already created and take appropriate action for protection of the same. State and its instrumentalities have adequate powers of securing compliance by such builders with the statutory provisions, environmental norms and terms and conditions of the approvals granted and the bona fide third party investors cannot be made to suffer due to inaction/negligence/connivance of the concerned Administrative Officers.

.....

XIX. That under point no. 20 of the **Order dated-28-03-2023**,“It is now well settled that even ex-post facto environmental clearance can be granted in appropriate cases. In its judgment in *Civil Appeal No. 3132 Of 2018* titled as *D. Swamy Versus Karnataka State Pollution Control Board and Ors.* *Hon'ble Supreme Court* observed as under:

.....

XX. That under point no. 24 of the **Order dated-28-03-2023**,“The SEIAA and Respondent No.4 are also directed to look into the aspects of present status of the project for which EC is required, measures required to be taken for protection of third party investors for residential units in the project and remedial measures required to be taken by demolition or completion at the cost and expenses to be recovered from respondent No.8. Reply/response by respondents no. 4 and 9 may be filed **within two months** by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

.....

XXI. That under point no. 25 of the **Order dated-28-03-2023**,“ So far as the grievance regarding dumping of C&D waste is concerned, in its reply filed vide email dated 14.03.2023 is concerned, the Respondent No. 3, has mentioned that permission was granted to M/s Goyal Iron Steels for disposal of C&D waste vide memo dated 29.09.2020 but M/s Goyal Iron Steels did not dispose of the C&D waste. Fine of **₹50,000/-** was imposed on the owner Jagdish Chand Chaudhary on 28.10.2021 which was deposited on 30.10.2021. Subsequently, Respondent No. 3 withdrew permission of self-disposal of C&D waste and recovered the amount of **₹33,43,568/-** from Jagdish Chand Chaudhary and took over the process of removal of the C&D Waste. The C&D Waste was removed after more than six months even after filing of the present case and remained lying for almost two years within the knowledge of the Municipal Corporation, Gurugram which was bound to get the same removed and processed immediately in discharge of its statutory obligations and Municipal Corporation, Gurugram is itself liable to pay environmental compensation but no proceedings for imposition of environmental compensation on Municipal Corporation, Gurugram have been initiated by the HSPCB. In compliance of order dated 15.03.2023 reply has been filed by respondent No.2 vide email dated 27.03.2023 relevant part of which reads as under:-

.....

XXII. That under point no. 5 of the **Order dated- 25.07.2023**,“ Contention for the Learned Counsel for the Respondent of is to the effect that the matter is pending before the SEIAA and before proceeding further a report is required to be furnished by SEIAA with regard to applicability of the EIA Notification, Consent Conditions, violation of the Noise Pollution (Regulation and Control) Rules, 2000 by operating a number of DG Sets, noncompliance of C & D Waste Management Rules, 2016

and not maintaining minimum green belt area as provided in the environmental clearance conditions.

XXIII. That under point no. 6 of the **Order dated-** 25.07.2023,“ We direct the SEIAA and State PCB to submit a report on the above points and compliances of conditions and to ensure in case of non-compliances necessary action must be initiated against the Project Proponent according to the rules.

XXIV. That under point no. 7 of the **Order dated-** 25.07.2023,“ It is to be noted that Section 3 of the Environment (Protection) Act, 1986 empowers the Central Government to take all such measures for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. One of the measures provided in Section 3 (2) (v) is restriction of areas in which any industries, operations or processes or class of industries shall not be carried out or shall be carried out subject to certain safeguards. The Environment (Protection) Rules, 1986 were made in exercise of power conferred by Sections 6 and 25 of the Environment (Protection) Act, 1986. According to Rule 5, the Central Government may prohibit or restrict the location of industries and the carrying on of processes and operations in different areas. In exercise of the power conferred on the Central Government by Sub-Clause (i) and Clause (v) of Sub-Section (2) of Section 3 of the Environment (Protection) Act, 1986 read with Clause (b) of Sub rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, the Ministry of Environment and Forests, Government of India issued a Notification on 14.09.2006 directing construction of new projects or activities or the expansion or modernization of existing projects or activities listed under the Schedule to the Notification shall be undertaken only after prior environmental clearance from the Central Government or the State Level Environment Impact Assessment Authority.

XXV. That under point no. 8 of the **Order dated-** 25.07.2023,“A statutory rule or Notification is to be treated as a part of the statute. [1982]2scc 205. Rules made under a statute must be treated for all purposes of construction or obligation exactly as if they were in the Act, are to be of the same effect as if they are contained in the Act, and are to be

judicially noticed for all purposes of construction or obligation [1961] SCC (2) 679. The principles of interpretation of subordinate legislation are applicable to the interpretation of statutory Notifications. [2011]6 SCC 545 If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the law-giver.”

.....

XXVI. That under point no. 9 of the **Order dated-** 25.07.2023,“ It has been repeatedly held by the Court that where there is no ambiguity in the words, literal meaning has to be applied, which is the golden rule of interpretation. The words of a statute must prima facie be given their ordinary meaning. [2002] 3 SCC 722.”

.....

XXVII. That under point no. 10 of the **Order dated-**25.07.2023,“While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian council for enviro-legal action v union of India [1996]5scc 281]. The traditional concept that development and ecology are opposed to each other is no longer acceptable [Vellore citizens welfare forum v. union of India [1996]5scc 647].”

.....

XXVIII. That under point no.14 of the **Order dated-** 25.07.2023,“ In Lal Bahadur vs State of Uttar Pradesh [2018]15 SCC 407, the Court underscored the principles that are the cornerstone of our environmental jurisprudence, as emerging from a settled line of precedent: the precautionary principle, the polluter pays principle and sustainable development. This Court further noted the importance of judicial intervention for ensuring environmental protection. In a recent decision in State of Meghalaya & others vs All Dimasa Students Union, [2019] 8 SCC177 this Court reiterated the key principles of environmental jurisprudence in India, while awarding costs of Rs. 100 crores on the State of Meghalaya for engaging in illegal coal mining.”

.....

XXIX. That under point no. 16 of the **Order dated-** 25.07.2023,“ Vide order dated 15.03.2023, this tribunal in paragraph – 13 has observed that the project proponent has not obtained environmental compensation (EC)/CTO/CTE as required under the EIA notification, 2006 and the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and in view of the above law laid down by the Supreme Court of India in (2018) 18 SCC 257, a parameter has been laid down for assessment and realization of environmental compensation at the rate 10 % of the project cost which has not been calculated or assessed by the Pollution Control Board. The Pollution Control Board being statutory body is under obligation and duty bound to enforce the environmental rules and in case of its violation to proceed with in accordance with law, but the perusal of report reveals that the State Pollution Control Board has failed to perform its duties sincerely and fairly. The matter of C&D waste and its disposal was within the knowledge of the authorities concerned but they further failed to assess and realized the environmental compensation. Realization of cost of disposal is one thing and the realization of environmental compensation is another thing. While considering the calculation of violations, the past violations and days must be considered according to rules.”

.....

XXX. That under point no. 17 of the **Order dated-**25.07.2023,“State Environment Impact Assessment Authority, Haryana vide its letter dated 14.06.2023 had issued notice with the facts that project proponent is required to obtain environmental clearance and the project was constructed without any Environmental Clearance and State Pollution Control Board with SEIAA failed to perform their duty sincerely and fairly and failed to act in accordance with law.”

8. That following violations were raised before the Hon’ble National Green Tribunal through the Letter Petition annexed as **Annexure -1** -;
- The placement of 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram has 6 Towers, 4 Commercial centres and Shopping malls in 8 Acres — each with 5-14 floors, Five story Dispensary Building, 8 multi-story school buildings and many more unapproved construction. The chimneys of all the DG sets,

however, do not extend above the roof heights of the residential towers but end right above the DG sets. They, therefore, release all exhaust emissions at the ground level.

FACT – 14 DG Set found. All of them were found under violation. Out of four DG sets placed in Public health area, three DG sets are working for Commercial Building and one is working for Airtel Ltd. As claimed by **Respondent No- 8** i.e. **Malibu Estate Pvt Ltd** that three DG Sets are running for water supply of the township then why these three DG Sets were not handed over to the Municipal Corporation Gurugram during handover of Public Health Site. Corrective action is still pending. Allegation is admitted by Respondents. That **under point no. 7** of the **Order dated-28-03-2023** contains complete detail and confirm correctness of the complaint.

1. The Consent to Operate under the Water Act, 1974 and Air Act 1981 was refused by the Haryana State Pollution Control Board (HSPCB) but all 14 DG Sets in Green Belt without any approval on Integrated Residential Plotted Colony namely Malibu Town, Gurugram are still running with silent approval of responsible officers.

FACT – The misleading statement was given by Respondent No. 4 & 7 as 40% open space is available to place these DG Sets and protect the size of green area to reduce further. The diesel generator sets with a capacity ranging from 19kW to 125kW will be required to operate in dual fuel mode, which is not in the case of 14 DG sets in question. However, these devices can only be utilized for a maximum of two hours a day when the Graded Response Action Plan (GRAP) restrictions are in effect but all 14 DG Sets are in use on diesel. **Diesel generator sets are known to be highly polluting devices.** An analysis conducted by the Centre for Science and Environment (CSE) found that, on average, a 250kVA DG set emits 3kg of nitrogen oxides (NOx), 1.5kg of carbon monoxide (CO), and 0.183kg of PM10 pollutants if it operates for three hours a day. Allegation is admitted by Respondents no. 2, 4 & 7.

2. That in the area of 204.796 Acres, there is not a single composting plant to follow the provisions of the SWM Rules 2016 and no agency is ready to grant permission to place the Composting Plant (copy of application is attached).

FACT – Allegation is admitted by Respondents. The point no. 15 of the Order dated-15-03-2023

3. That the builders are flouting the directions and the provision of C & D Waste Management Rules 2016 and putting the construction waste in green areas. (copy of letter attached). **Allegation is admitted by Respondents.**

FACT – Allegation is admitted by Respondents.

9. That last para of the **LETTER PETITION** contains, "It is requested to accept the Complaint as one Application is under process in the matter where the Licensee Company has **not obtained the Environment Clearance** before the construction and placement of placement of **10 DG Sets** in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram has **6 Towers, 4 Commercial centres** and **Shopping malls** in 8 Acres — each with 5-14 floors, **Five story Dispensary Building**, 8 multi-story **school buildings** and many more unapproved construction.

FACT – Allegation is admitted by the SEIAA Haryana and MoEFCC.

10. That terms of reference was approved by the EAC, MoEF vide letter no. 21-94/2015-IA.III dated-19-21-05-2015 in the matter of Malibu Towne. The **Respondent No- 8** i.e. **Malibu Estate Pvt Ltd** Project Proponent of construction project Malibu Towne applied for Environment Clearance before SEIAA Haryana on 15-01-2016. The Show Cause Notice was issued to Project Proponent vide letter no. 882 dated-20-04-2017.

11. That misleading statement about ownership on **Area of the Colony** in question is mentioned on Page no – 822 by the Licensing authority, DTCP, Haryana i.e Respondent no.4 was found Contradictory with the statement of Project Proponent i.e Respondent no. 8 Malibu Estate Pvt Ltd.

12. That **Built-up area** not disclosed by any of the Respondents. But on **Page no. 1538 to 1546** documents placed confirms the built up area declared by Respondent no. 8 Malibu Estate Pvt Ltd before the EAC, MoEF and SEIAA. But Respondent No. 4, Sh. T. L Satyaparkesh, I.A.S, the then Director General, Town & Country Planning Department Haryana has different views placed on Page no – 822 ignoring built-up area and increase in pollution load. The shifting of sites is admitted by the office the DTCP, Haryana.

13. The misleading & false written statement on **Green Area** of Integrated Residential Plotted Colony namely Malibu Town, Gurugram by Respondents no. 4 and 7 was already counter by documentary evidence placed on **page no. 930 to 935**. That details on Green area and DG Sets under point no. 8 of the Order dated-28-03-2023 are important on the Green area. The Respondent No. 4, Sh. T. L Satyaparkesh, I.A.S, the then Director General, Town & Country Planning Department Haryana placed misleading statement as 6 DG Sets

placed in Group housing area on green area since 2000 according to Respondent no. 8.

14. That Environment Clearance was obtained by third party for two different commercial buildings according to the Respondent no. 8 under point no 32 on page no. 750 & 751. This alone statement is sufficient for the necessity of Environment Clearance for project called Malibu Towne.
15. That it is not revealed by any of the Respondent no. 8 and Respondent no. 4, at what stage **third party rights** were created on plots for construction. The point no. 19 of reply dated-24-07-2023 (page no. 746). Respondent no. 8 did not reply to Hon'ble Bench as mentioned under point no. 4 (page no. 741)-;
 - I. Answering Respondent no. 8 twice applied for environment clearance. In this regard details were placed above under point no. 4 and at page no. 1538 to 1546.
 - II. No discloser on the date of Third Party rights created after the sale of more than 74% land in violation to the project called Malibu Towne.
16. That Respondent no. 8 has mentioned under **point no. 20** (page no. 746) regarding **earnings of Rs. 490. 33 Crore** through sales, but details of expenditure is not provided. Such details are important to ascertain the **built-up area** after 2004 to ensure the need of Environment clearance as violation case under the provision of EIA Notification.
17. That rebuttal on the contents, facts & figures submitted in Objections on Dated-12-2024 by **Respondent No- 8** i.e. **Malibu Estate Pvt Ltd** through Counsel. Following are facts with substantial documentary evidence for consideration before the Hon'ble Bench.
18. That contents under point no.1, 2 & 3 of reply by Respondent no. 5 are matter of record.
19. That the SEIAA, Haryana accordingly filed their Reply on 12.11.2024. This Hon'ble Tribunal vide Order dated 14.11.2024 permitted the Respondent No. 8 to file objections to the Office Order dated 15.10.2024 filed by SEIAA, Haryana in furtherance of the Speaking Order dated 24.10.2024, SEIAA, Haryana.
20. That in view of the abovementioned submissions, the Complainant most respectfully submits that this Hon'ble Tribunal may be pleased to pass Orders

as prayed and the objections filed on -12-2024 be rejected, in the interest of justice and Environmental rule of Law.

PRAYER –

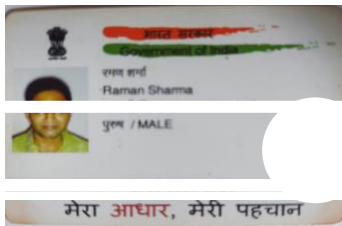
The Objections submitted on 02-11-2024 by the Respondent No. 8 be discarded and rejected as contents are misleading.

With Regards

Date – 03-12-2024



Raman Sharma,
CW - 58, F.F, Malibu Town,
Sector-47, Gurugram-122018
+91 9818303690
Email - shramansharmaji@gmail.com



To

Date - 03-12-2021

The Registrar General
National Green Tribunal (Principal Bench)
New Delhi.

Sub - Complaint against the responsible Officials of the Town & Country Planning Department Haryana, Chandigarh, Municipal Corporation Gurugram and Haryana State Pollution Control Board, Panchkula for not providing necessary Approvals/Permissions to adopt the provisions of SWM Rules 2016 and C & D Waste Management Rules 2016 and violation under the provisions of Air Act 1981 despite the Directions of the National Green Tribunal (Principal Bench) in the matter of Application No. 519 Of 2016 with other Applications (copy attached)

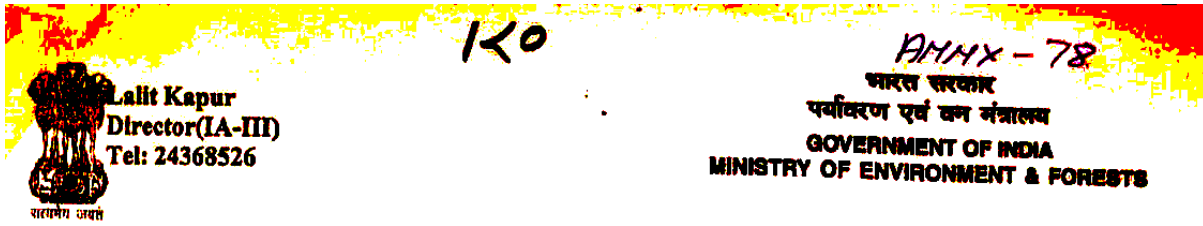
1. The placement of 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 has 6 Towers, 4 Commercial centres and Shopping malls in 8 Acres — each with 5-14 floors, Five story Dispensary Building, 8 multi story school buildings and many more unapproved construction. The chimneys of all the DG sets, however, do not extend above the roof heights of the residential towers but end right above the DG sets. They, therefore, release all exhaust emissions at the ground level.
2. The Consent to Operate under the Water Act, 1974 and Air Act 1981 was refused by the Haryana State Pollution Control Board (HSPCB) but all the 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 are still running with the silent approval of the responsible officers.
3. That in the area of 204.796 Acres, there is not a single composting plant to follow the provisions of the SWM Rules 2016 and no agency is ready to grant permission to place the Composting Plant (copy of application is attached).
4. That the builders are flouting the directions and the provision of C & D Waste Management Rules 2016 and putting the construction waste in green areas. (Copy of letter attached)

It is requested to accept the Complaint as one Application is under process in the matter where the Licensee Company has not obtained the Environment Clearance before the construction and placement of placement of 10 DG Sets in Green Belt without any approval in the Integrated Residential Plotted Colony namely Malibu Town, Gurugram-122018 has 6 Towers, 4 Commercial centres and Shopping malls in 8 Acres — each with 5-14 floors, Five story Dispensary Building, 8 multi-story school buildings and many more unapproved construction.

With Regards

Raman Sharma

Annexure – S- 1



J-11012/36/2011-IA-III

Dated the 27th January, 2012

To

Financial Commissioner & Principal Secretary
to Government of Haryana,
Directorate of Environment,
R.No. 622, 6th Floor, Sectt. Sec. 17, Chandigarh
(Fax No. 0172-2701803)

no EIA, violation
present - adv
by Directorate
Environment

Sub: Action against M/s Malibu Township Project, Gurgaon for violation of the provisions of EIA Notification, 2006

Sir,

You are aware that Building construction projects are covered under item 8(a) and 8(b) of the schedule to the EIA Notification, 2006. These projects are required to be appraised by the SEIAA as category 'B' projects for prior environmental clearance.

2. It has been given to understand that M/s Malibu Estate Private Limited is building Malibu Township project at Gurgaon without valid environmental clearance. State Government is, therefore, requested to initiate action as per the provision of the circular of MoEF dated 16th November, 2011, at this stage against M/s Malibu Township project, Gurgaon after verifying the violation case, as SEIAA is not operational at this moment in Haryana.

3. SEIAA, Haryana on reconstitution may be asked to list out the approved cases under building construction sector along with violation cases and initiate action against the violators under the provisions of EIA Notification, 2006.

4. Action taken may be intimated to this Ministry.

Yours faithfully,

(Lalit Kapur)
Director & CPIO

Copy to: Shri Raman Sharma, President, Progressive Gurgaon Forum, C W-58, Malibu Town, Sohna Road, Gurgaon-122018.

जहाँ है हरियाली ।
वहाँ है खुशहाली ॥

राष्ट्रीय नदी संरक्षण निदेशालय National River Conservation Directorate
पर्यावरण भवन, सी.जी.ओ. कॉम्प्लेक्स, लोदी रोड, नई दिल्ली-110 003
PARYAVARAN BHAWAN, C.G.O. COMPLEX, LODHI ROAD, NEW DELHI-110 003

Annexure – S-2



C-40
ANNEXURE ~~S-2~~ P-

By: Handwritten

To,

Mr. Raman Sharma
Vice President
Malibu Towne Residents Welfare Association
CW-58 1st Floor, Malibu Towne
Sohna Road
Gurgaon

30th September. 2010

Dear Sir,

Kindly refer to our earlier letter dated 12.06.2010 sent to you by special messenger. As you are aware that we are going to put up 4 Sewerage Treatment Plants at our township which including the civil work is going to cost us to the tune of appox. one Crores. Your Association can help us in the setup of Sewerage Treatment Plant by arranging financial support to the tune of Rs 45 Lacs through Patrons as you did for the Rain Harvesting Project. The copy of the purchase order for S.T.P. is already handed over to you.

With Warm Regards

Yours truly,

N.Mitra
C.O.O.

Enclosed: The Copy of the Letter 12.06.2010

Annexure – S-3



1111 - 121

Regional Office
Haryana State Pollution Control Board

Vikas Sadan, Opposite- New Court, Gurgaon

Tel: 0124-2332775, 2220523

Website: www.hspcb.org

Email: hspcbggn@yahoo.co.in

No. HSPCB/GR/2010/ 9397

Dated 15/02/2011

To **Raman Sharma (Vice-president)**
The Resident Welfare Association
CW-58, FF, Malibu Town, Sohna Road,
Gurgaon - 122018

Sub: Complaint under Section 15 of the Environment Protection Act and Registering a FIR against the Builder of Malibu Town for the neinous crime of pumping sewage in the water harvesting system to kill the residents.

Ref. No.: Your complaint was received in this office through the Deputy Commissioner, Gurgaon on dated 22-01-2011.

In this connection, it is intimated that your complaint was received in this office on dated 22-01-2011 regarding complaint under section 15 of the Environment Protection Act and Registering a FIR against the Builder of Malibu Town for the neinous crime of pumping sewage in the water harvesting system to kill the resident.

The site in question was visited by a team of officers of Haryana State Pollution Control Board, Gurgaon consisting Sh. Ranbir Singh, Scientist – 'B', Sh. Naveen Gulia, AEE & Sh. Dinesh Kumar, AEE on dated 22-01-2011 & 24-01-2011. During inspection, the pit of the rain water harvesting system was checked in the presence of Members of RWA and Representatives of the township and it was found that no sewage effluent was being discharge into rain water harvesting system of the township and instead of that sewage effluent was found being discharge into storm water drain which ultimately reaches for percolation in low lying area of the township. Samples were also collected from the discharge point and from Tubewell and as per results of samples vide analysis report No. 849 dated 31-01-2011, no contamination was observed in Tubewell water. Show Cause Notice has already been issued to M/s Malibu Estate Pvt. Ltd. under the provisions of Water (Prevention & Control of Pollution) Act, 1974. Action will be taken against the responsible after reply of the show cause notice as per Board's policy under Environmental laws/ rules/ acts as applicable.


Regional Officer
Gurgaon Region

Endst. NO.: HSPCB/GR/2010/

Dated:

A copy of above is forwarded to the Deputy Commissioner, Gurgaon for information w.r.t. his directions regarding above mention complaint.

Annexure – S-4

782

ANNEUXRE R/5

MALIBU ESTATE PVT. LTD.

S.No.	Particular	Total	Allotted	In Hand- (if any)
Group Housing				
1	Apartment	376	376	0
2	EWS Flats	57	57	0
3	Affordable Flats	15	0	15
Plots				
4	General Plots	596	592	4
5	NPNL Plots	360	360	0
6	EWS Plots	227	227	0
7	EWS Plots	49	Offered to HUDA	0
Floors				
8	Personal and Value Floor	444	444	0
9	Shop	72	72	0
10	Commercial Site	5	5	0
Total		2201	2133	19

TRUE COPY-

Annexure – S-5

Monday, February 15, 2016

OFFICE OF THE SUPERINTENDING ENGINEER, HUDA, CIRCLE-II, GURGAONTo
The Chief Engineer-I,
HUDA, Panchkula

Memo No. 2251

Dated: 15/2/16

Sub: **Approval of service plan / estimate for Group Housing Colony on the land measuring 11.89 acres situated in sec-47 & 50 Malibu Towne, Sohna Road Gurgaon being developed by M/s Malibu Estate Pvt. Ltd.**

Ref: Kindly refer to your office email dated 11.02.2016 at 2.32 PM on the above noted subject.

The report pertaining to said point as observed by your office through email referred above was just for an information in the process of case and it is immaterial conceive in case of executed / being executed works. The matter relating to re-validation/ revised approval of plan required if any relates to the Town & Country Planning Department as such the service plan estimate as per this point of view can be processed for examination & taking further necessary action by Town & Country Planning Department.

This is for information and taking further necessary action.

(A.K. Maken)
Superintending Engineer,
HUDA, Circle-II, Gurgaon

Annexure – S- 6

Office of Senior Town Planner
Gurgaon

The Dist. Town Planner,
Gurgaon.

The Senior Town Planner,
Gurgaon.

Memo No. 5928

Dated: 5-6-08

3623
9/6/08

A/P
S/P
9.1.08
9/6/08

Subject:

Approval of demarcation plan of residential plotted colony on additional area measuring 24.681 acres (licence No. 15 of 2008 dated 31.1.2008) in sector-47 & 50, Gurgaon being developed by M/s Malibu Estate Pvt. Ltd.

DTCP office endst. No. 2469 dated 9.5.2008 , copy of which is also endorsed to your office.

The demarcation plan of residential plotted colony on additional area measuring 24.681 acres in sector-47 Gurgaon being developed by M/s Malibu Estate Pvt. Ltd. approved vide letter under reference has been got verified at site and report is submitted below:-

The dimensions/ area marked in the demarcation plan submitted by the applicant have been checked at site and have been got corrected as exist at site. Total area of the site works to be 24.681 acres as granted in licence. The additional licenced area has been shown in colour on layout/ demarcation plan, revised area in old licenced area has been shown in colour on the copy of demarcation plan. The site has been demarcated by fencing with stone pillars. There is no construction at site. The land of additional licenced area is in seven pockets i.e. A to G marked on demarcation plan. The pocket wise difference between approved layout plan and demarcation plan is as under :-

Plot A

One No. of plot of type 'E' in block 4G to 4N has been added in the demarcation. No. of open space/ Blocks are as per approved layout plan.

Plot B

No. of plots are as per approved layout plan. An additional green belt has been provided adjoining plot No. 47 F & 20F, 19 F & 10F and behind plot No. 20 G to 20L and in side of plot No. 20 L. ✓

Plot C

One number of plot type 'H' has been added in block plot No. 98 to 118 and an additional green belt has been provided behind these plots and plot No. 85 to 97 and in the

9/6/08
S/P

53

of plot No. 1-20, 27-28, 44-45, 35-54, 55-74, 75, 97, 64-65, 118 in the demarcation plan. Area of RB is 0.216 instead of 0.215 acres as in layout plan.

cket D
 There are 4 No. of plots (type-E-2) has been provided less than approved layout plan. Area of commercial site in approved layout plan is 2.52 acres and the same commercial site is 2.3 acres in demarcation. The size of park near plot No. 18 has been increase and relocated.

cket E
 Area of Nursing Home and Primary School site in approved layout plan are 0.25 acres & 1.14 acres. in the demarcation plan are 0.258 acre & 1.146 acres respectively.

cket F
 Area of commercial site in approved layout plan is 1.00 acres and in demarcation plan is 0.808 acres .

cket G

Total No. of plots according to approved layout plan	=	3 plots (B type)
Total No. of plots in demarcation plan	=	3 plots (B type=1) (Atype =2)

Community Building:-

Community building are as per approved layout plan.

Total plot in approved layout plan	=	1396 plots
Total plot in demarcation plan	=	1380 plots.

Two copies of demarcation plan duly signed are enclosed herewith for information and for necessary action please.

As above.

[Signature]
 Distt. Town Planner,
 Gurgaon.

Dated:

A copy is forwarded to the Director, Town & Country Planning, Haryana, Chandigarh for necessary action please. The letter mentioned under reference for information and necessary action please.

1
 Distt. Town Planner,
 Gurgaon.

Annexure - S-7

Copy handed over by Sr. Asst. Secy. of Malibu.

MHDA Commercial Complex
Kailash Colony Extn., (Zamrudpur)
Plot: Datta 11133H
Phone: 41635422, Fax: 29247961
E-mail: malibu@vsnl.com or malibu@mhda.com

37

To
Director
Town & Country Planning, Haryana,
HIS-18, Madhya Marg
Chandigarh

Date: 29.3.2010

ANNEXURE - R-17

Subject: Status of our colony.

We are submitting herbelow present the status of our colony (Total admeasuring to 204.796 Acres Layout Plan enclosed as Annexure - I), namely Malibu Towne at Solna Road, Sector, 47 & 50, Gurgaon.

Out of total licensed are of 204.796 Acres as mentioned above, we have already received Part Completion Certificate for an area of 180.115 Acres as per ANNEXURES - II page 1 to 16.

Information of Our Licences upto 1997 admeasuring to an area of 180.115 Acres is as given below:-

Sl. No	License Nos	Area
1	71 to 75 of 1992	107.682
2	4 to 8 of 1993	16.180
3	15 to 19 of 1994	14.962
4	4 to 8 of 1995	26.830
5	36 to 46 of 1997	14.461
	Total	180.115 Acres

LICENSE NO 15 of 2008 of 24.67 ACRES

I. Plots

Schedule of Plots:-

Sl.No	Category	No of Plots
1	Main	897 Nos
2	EWS	226 Nos
	Total	1123 Nos

S?



ISSUED UNDER RTI ACT

Malibu Estate Pvt. Ltd., Shopping Arcade, 2nd Floor, Malibu Towne, Solna Road
Gurgaon-122 018 Phone: 95124-4322500, 4295184

MALIBU ESTATE PRIVATE LIMITED

38 DDA Commercial Complex,
Kailash Colony East (Convent area)
New Delhi-110048

379

(A) Main Plots

Phone: 41634271 Fax: 27247864
E-mail: malibu@rediffmail.in

Out of 897 Nos of Main Plot falling under the above Licenses 148 Nos has been sold as built-up houses, Comprising 3 Floors on each Plot i.e 444 nos. of such floors possession had been given of 442 Floor out of 442 floor out of these 444 floors

Out of the balance 749 Plots all of the, 748 Plots have been booked. Possession of 498 Plots have already been given to the Plot owners, where construction on 142 Plots had taken place by the individual Plot owners.

(B) EWS Plots.

Out of 226 Nos of EWS Plots, 183 Nos has already been allotted to the individual, through Draw of Lot(s), as per Norms laid down by Director Town & Country Planning, Haryana, Chandigarh, out of which 70 Nos have been constructed by the respective Plot owners

For Balance 43 Plots we are already in touch with the appropriate authorities for clarifications on Rate, eligibility criteria, Terms of Drawn etc through different correspondence annexured as Annexure - (II) Page 1 to 10.

2. GROUP HOUSING.

In total licensed area as above of 180.115 Acres, 11.89 Acres has been earmarked for Group Housing Scheme, Comprising 6 Towers, 2 Nos of EWS Blocks & 2 Nos of shops.

- Out of 6 Towers - (comprising - 372 Flats).
- Occupation Certificate for 4 Towers have been received Annexure - IV Page - 1 to 6.
- Occupation for one Tower and two shops is being applied for
- One Tower and EWS Block (s) are yet to be constructed for which renewal of Building Plans(s) has already been submitted to appropriate authorities. Copy of correspondence is being attached as Annexure -V - Page - 1 to 2.


BY: [Signature]
[Signature]

Malibu Estate Private Limited, Sector 15, Gurgaon

MALIBU ESTATE PRIVATE LIMITED

38, DDA Commercial Complex,
Kailash Colony Extn. (Zamrudpur)
New Delhi-110048

Phone : 41635429, Fax : 29247864
E-mail : malibu@airtelmail.in
malibutowne@hotmail.com

:3:

"In total Scheme 316 Flats have been booked, out of which possession for 240 Flats in A1, B1, B2 & C1 given to the individual owner of the flats."

3. Community Building.

SCHEDULE OF COMMUNITY BUILDINGS.

Sl No	Site	Site No	Area of the Site (In Acres).	Remarks
1	Nursery School	1	0.20	R-1
2	Nursery School	2	0.20	R-1
3	Nursery School	3	0.345	R-2
4	Nursery School	4	0.517	R-3
5	Nursery School	5	0.440	R-2
6	Nursery School	6	0.791	R-3
7	Nursery School	7	0.247	R-1
8	Primary School	1	1.00	ZONING APPROVED
9	Primary School	2	1.117	R-3
10	Primary School	3	1.09	R-1
11	Higher Secondary School	-	5.77	R-3
12	Club	-	2.488	Part Occupation Received.
13	Crèche	-	0.20	R-2
14	Dispensary	-	1.49	R-3
15	Religious Building	-	0.215	R-3

R-1. Applied for approval of Building Plan on 30.8.07, further copy of STP Gurgaon, Memo No. 3924 dated 27.09.07 attached as Annexure - VI
Page No. 1-6.

R-2. Zoning Plans applied for approval on 29.8.2008 Annexure -VII.

ISSUED IN
REACT

Malibu Estate Pvt. Ltd., Shopping Arcade, 2nd Floor, Malibu Towne, Sohna Road
Gurgaon-122 018 Phone: 95124-4322500, 4295184

MALIBU ESTATE PRIVATE LIMITED

38, DDA Commercial Complex,
Kailash Colony Extn., (Zamrudpur)
New Delhi 110048

Phone : 41635429, Fax 29247864
E mail : malibu@airtelmail.in
malibu@rediffmail.com

411

:4:

R-3. Revised Zoning Plan applied on 29.8.08 due to change in Site Area in approved layout plan of 204.796 Acres.

As soon as we receive approvals of Building Plans of Site Nursery School, Site 1 & 2, 7 and Primary School Site No.3, we assure you we will Construct these Sites within 3 Years. Balance Sites approval on Account of Zoning Plan is awaited to enable us to apply for Building Plans approval (s) On receipt of such approval. We assure you that we will construct the same within the 3 years from the approvals received.
Demand letter of DTCP Memo No. 4106 Dt. 4.4.2001 - Annexure - VIII.

4. Status of Road & Services.

d) Roads.

All the roads falling under this licence have been duly laid, metalled and are in good condition.

e) Water Supply.

The present water supply requirement to the residents are met from 6 Nos borewells provided in the colony. One No OHT of Cap 600 KL & One No. UGT of Cap 1250 LK have already been constructed and are operational.

f) Sewerage.

Internal sewerage works are totally complete and has been duly inspected by HUDA at the time of giving part completion. We will connect this to HUDA mains after the external services are laid. In the meantime, we are making our arrangements for disposal of sewerage.

ISSUED BY
PROJECT

MALIBU ESTATE PRIVATE LIMITED

38, DDA Commercial Complex,
Kulash Colony East, (Zamrudpur)
New Delhi 110048

Phone 41635429, Fax 29247864
E mail malibu@aninet.net in
malbutowne@btctmail.com

d). **Storm Water,**

The internal storm water system has been fully laid and outfall shall be connected to HUDA mains once they are laid. In the meantime, we have provided - 8 Nos. recharge pits inside the colony and there is no water logging problem even during the rains.

e). **Electrification Work:** - We have laid all the electric lines (Underground) and Constructed 6 Nos of Sub-station and they are fully operational.

f). **Horticulture:-** We have completed all the Horticulture works including ample No of tree Plantation and Parks.

Further latest Grant of License No.15 of 2008 has been received on 31.1.2008.

We have already applied for the following for approvals:-

- (E) Service Plans for Services against License No. 15 of 2008 Dated 31.01.2008 for 24.681 Acres.
- (F) Zoning of Community Buildings on 29.08.2008.
- (G) Zoning of Commercial Site on 19.02.2010.
- (H) Renewal of all Licenses as per requisite Norms with applicable fees.

Sir, we hope you find our above submission in order. We request your goodself to grant the renewal of licence(s) so that we may carryout the balance works expeditiously.

Thanking you and assuring our best services always,

Yours truly,
For Malibu Estate Private Limited


Authorized Signatory

Encl: as above


ISSUED OWNER
RTI ACT

Malibu Estate Pvt. Ltd., Shopping Arcade, 2nd Floor, Malibu Towne, Sohna Road
Gurgaon 122 018 Phone: 95124-4322500, 4295184

Scanned with CamScanner

Annexure – S-8

वन विभाग, हरियाणा सरकार
कार्यालय उप वन संरक्षक, गुरुग्राम
वन परिसर, सोहना रोड, नजदीक व्यामालय परिसर, गुरुग्राम, हरियाणा-0124-2322057

कमांक: 3314-C
प्रेषित:

जिला नगर योजनावत,
गुरुग्राम।

दिनांक: 29/03/22

विषय: Diversion of 0.0288 ha. of forest land for road access to the residential plotted colony applied by Malibu Estate Pvt. Ltd. along Gurgaon-Alwar road Km 4-5 U/side at Village Tikri, under Forest Division & Distt. Gurugram. (Proposal No. FP/HR/Approach/142692/2021)


उपरोक्त विषय के सम्बन्ध में आपको अवगत करवाया जाता है कि M/s Malibu Estate Pvt. Ltd. (MEPL) द्वारा विधायकित करे झड़सा बन्ध के उपर से अपने प्रस्तावित स्थल तक आने-जाने के रास्ते के लिए ड्राईवर्शन हेतु लगाया गया था। इसी सन्दर्भ में अन्य पार्टी Malibu Twin Towers Residents Welfare Association (MTTRWA) द्वारा इस कार्यालय को अभ्यावेदन दिया गया है। MEPL को बन्ध के उपर रास्ता दिये जाने हेतु वन संरक्षण अधिनियम, 1980 के तहत दिये गये प्रस्ताव के बारे में MTTRWA द्वारा अपने अभ्यावेदन में निम्नांकित ड्राईग/लेआउट की ओर ध्यान आकर्षित किया है:-

- Layout plan-to be read with license no. 15 of 2008 dated 31/Jan/2008 layout plan for an area of 204.796 acre.
- Zoning Plan number DTCP 1638 dated 14 July 2008
- Demarcation Plan CA No. 2000/26990

MTTRWA द्वारा कहा गया है कि उपरोक्त सभी ड्राईग/ले-आउट प्लान Director General Town & Country Planning (DGTCP) द्वारा अनुमोदित एवं सत्यापित है और इनमें से किसी में भी MEPL द्वारा आवेदन किये हुये झड़सा बन्ध के उपर से रास्ता को नहीं दिखलाया गया है।

MEPL द्वारा भी अपने वन संरक्षण अधिनियम, 1980 के तहत लगाये गये प्रस्ताव में एक ले-आउट प्लान संलग्न की गई है। यह ड्राईग भी DTCP द्वारा अधिकृत प्रतीत होती है। इस ले-आउट प्लान में झड़सा बन्ध के उपर से प्रयोक्ता ऐजेंसी द्वारा मांगे गये रास्ते को दिखलाया गया है।

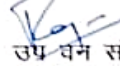
अतः आपको MTTRWA से प्राप्त अभ्यावेदन की प्रति भेजते हुये निवेदन किया जाता है कि वस्तुस्थिति से इस कार्यालय को अवगत करवायें और मालिबू टाउन का प्रमाणित/स्वीकृत ले-आउट प्लान इस कार्यालय को उपलब्ध करवायें ताकि प्रयोक्ता ऐजेंसी द्वारा दिये गये आवेदन पर उचित निर्णय किया जा सके।


उप वन संरक्षक, गुरुग्राम।
29/03/22

पू0 कमांक/ 3314-C

दिनांक/ 29/03/22

एक प्रति मुख्य वन संरक्षक, दक्षिणी परिमण्डल, गुरुग्राम को सूचनार्थ प्रेषित है।


उप वन संरक्षक, गुरुग्राम।
29/03/22

Annexure – S-9

District Town Planner, Gurugram (Planning)
DEPARTMENT OF TOWN AND COUNTRY PLANNING
 HUDA Office Complex, Sector-14, Gurugram,
 Tel No.: 0124-2320573,
 E-mail: dtp6.gurugram.tcp@gmail.com

Memo No: DTP(G)/2024/ 10121

Dated: 7/11/2024

To

Senior Town Planner,
 Gurugram Circle, Gurugram.

Subject:-

Notice u/s 80 of Civil Procedure Code-1906 of losses and harassment caused to Raman Sharma S/o Sh. Narender Nath Sharma, R/o CW-58, Malibu Towne, Sector-47, Gurugram.

OA No. 68 of 2022 titled as Raman Sharma V/s State of Haryana & Ors.

Reference:-

District Town Planner (Enforcement), Gurugram office Memo No. 16375 dated 23.08.2024, Memo No. 19290 dated 24.10.2024 and e-mail dated 23.08.2024 and Directorate Memo No. ZP-5-Vol-IV/AD(RA)/2021/16699-701 dated 13.07.2021.


On the subject cited above, it is informed that with reference to Notice u/s 80 of Civil Procedure Code-1906 of losses and harassment caused to Raman Sharma S/o Sh. Narender Nath Sharma, R/o CW-58, Malibu Towne, Sector-47, Gurugram, DTP (Enforcement), Gurugram vide their letter under reference has requested this office to provide the latest Demarcation Plan of Malibu Towne, Sector-47, Gurugram. In this regard, it is informed that work order for conducting topographical survey of licensed Residential Plotted Colony namely 'Malibu Towne' Sector-47 & 50, Gurugram had been issued to Globe Surveyors & Engineers vide this office Memo No. 9392 dated 16.09.2021. As per said work order, the consultant has now submitted the topographical survey of Malibu Town, Sector-47, Gurugram vide his letter 07.10.2024. Accordingly, Demarcation Plan provided by the consultant has been examined vis-à-vis in-principally approved Layout Plan of the colony bearing Drawing No. DTCP-5626 dated 28.09.2016 and the comments of this office is as under:-

1. Green area has been encroached by unauthorized construction (photographs enclosed - Annexure-1).
2. Some part of green area has been encroached by unauthorized temporary structure (photographs enclosed - Annexure-2).
3. Some part of Nursery School has been used as road and unauthorized shop (photographs enclosed - Annexure-3).
4. Proposed green area has been used as road (photograph enclosed - Annexure-4).

5. Proposed 18.0 Mtr. road is reduced to approx. 14.0 Mtr. (photographs enclosed - Annexure-5).
6. Green belt is used as entry road for the licensed colony (photographs enclosed - Annexure-6).
7. Green Belt is used as entry to the Commercial site (photographs enclosed - Annexure-7).
8. Some part of the road is encroached by temple (photographs enclosed - Annexure-8).
9. The open area earmarked in the in-principally approved Layout Plan has been illegally used by the abutting Nursery School (photographs enclosed - Annexure-9).

In addition to above, it is submitted that a meeting was held under the then STP, Gurugram on 16.03.2021 wherein, various issues of the colony were deliberated and directions were issued to DTP(E) & DTP(P), Gurugram for taking necessary action. A copy of minutes of the said meeting are enclosed herewith for ready reference.

Accordingly, the encroachment/violation(s) made at site have been marked on the copy of aforesaid in-principally approved Layout Plan as well as topographical survey and location-wise photographs are attached for information and necessary action, please.
DA/As above.

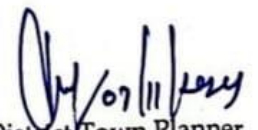
o/c 
District Town Planner,
Gurugram.

Endst. No. 10122 - 10123

Dated: 7/12/2024

A copy of the above is forwarded to the following for information and further necessary action, please.

1. Director, Town & Country Planning, Haryana, Chandigarh.
2. District Town Planner (Enforcement), Gurugram.

o/c 
District Town Planner,
Gurugram.

Annexure – S-10

REGD.

S. 11/10 - 14
Annexure - IX

(28)

FORM BR-VII
(See Code 4.11(2), (4) and (5))
Form of Occupation Certificate

From

Director,
Town & Country Planning Department,
Haryana, SCO-71-75, Sector-17-C, Chandigarh.
Tele-Fax: 0172-2548475; Tel.: 0172-2549851,
E-mail: tcpharyana3@gmail.com
Website www.tcpharyana.gov.in

To

Malibu Estate Pvt. Ltd.,
Malibu Towne, Sohna Road,
Gurugram-122101.

Memo No. ZP-5-Vol-IV/SD(BS)/2017/ 4724.

Dated:- 10-03-2017

Whereas Malibu Estate Pvt. Ltd. has applied for the issue of an occupation certificate in respect of the buildings described below:-

DESCRIPTION OF BUILDING

City: Gurugram:-


- Licence No. 71 to 75 of 1992 dated 28.10.1992, Licence No. 4 to 8 of 1993 dated 18.03.1993 & Licence No. 15 to 19 of 1994 dated 08.12.1994.
- Total area of the Group Housing Colony measuring 11.89 acres.
- Sector-47 & 50 Gurugram Manesar Urban Complex.
- Indicating description of building, covered area, towers, nature of building etc.

Tower/ Block No.	No. of Dwelling Units	No. of Floors	FAR Sanctioned		FAR Achieved		
			%	Area in Sqm.	%	Area in Sqm.	
Building No. 4 (Type-C) Wing-II	76	Ground Floor, 1 st to 13 th Floor	25.042	12049.28	25.342	12193.85	
Building No. 2 (Type-A)	60	Ground Floor, 1 st to 15 th Floor	34.144	16429.111	35.132	16904.716	
EWS block (Building-5)	40	Ground Floor, 1 st to 3 rd Floor	2.214	1065.104	2.260	1087.296	
EWS block (Building-6)	32	Ground Floor, 1 st to 3 rd Floor	1.803	867.64	1.820	875.76	
						31061.622	

I hereby grant permission for the occupation of the said buildings, after considering NOC from fire safety issued by Commissioner, Municipal Corporation, Gurugram, Structure Stability Certificate given by Sh. Rangari Raj Kumar Dhanraj, ME (Civil), Public Health Functional reports received from Superintending Engineer (HQ), HUDA, Panchkula & Chief Engineer, HUDA, Panchkula & Certificate of Registration of lift issued by Inspector of Lifts-cum-Executive Engineer, Electrical Inspectorate, Haryana and after charging the composition charges amount of ₹ 50,46,428/- for the variations vis-à-vis approved building plans with following conditions:-

1. The building shall be used for the purposes for which the occupation certificate is being granted and in accordance with the uses defined in the approved Zoning Regulations/Zoning Plan and terms and conditions of the licence.
2. That you shall abide by the provisions of Haryana Apartment Ownership Act, 1983 and Rules framed thereunder. All the flats for which occupation certificate is being granted shall have to be compulsorily registered and a deed of declaration will have to be filed by you within the time schedule as prescribed under the Haryana Apartment Ownership Act 1983. Failure to do so shall invite legal proceedings under the statute.
3. That you shall apply for the connection for disposal of sewerage, drainage & water supply from HUDA as and when the services are made available, within 15 days from its availability. You shall also maintain the internal services to the satisfaction of the Director till the colony is handed over after granting final completion.
4. That you shall be fully responsible for supply of water, disposal of sewerage and storm water of your colony till these services are made available by HUDA/State Government as per their scheme.
5. That in case some additional structures are required to be constructed as decided by HUDA at later stage, the same will be binding upon you.
6. That you shall maintain roof top rain water harvesting system properly and keep it operational all the

3. That the outer facade of the buildings shall not be used for the purposes of advertisement and placement of hoardings.
- 9 That you shall neither erect nor allow the erection of any Communication and Transmission Tower on top of the building blocks.
10. That you shall comply with all conditions laid down in the Memo. No. MCG/FS/SFSO/2016/2472 dated 09.08.2016, FS/2017/4780/129 dated 20.01.2017 & MCG/FS/SFSO/2017/04 dated 02.01.2017 of the Commissioner, Municipal Corporation, Gurugram with regard to fire safety measures.
11. You shall comply with all the conditions laid down in Form-D issued by Inspector of Lifts-cum-Executive Engineer, Electrical Inspectorate, Haryana, HUDA Primary School Building, Block-C-2, Sushant Lok-I, Gurugram.
12. The day & night marking shall be maintained and operated as per provision of International Civil Aviation Organization (ICAO) standard.
13. That you shall use Light-Emitting Diode lamps (LED) in the building as well as street lighting.
14. That you shall impose a condition in the allotment/possession letter that the allottee shall use Light-Emitting Diode lamps (LED) for internal lighting, so as to conserve energy.
15. That you shall apply for connection of Electricity within 15 days from the date of issuance of occupation certificate and shall submit the proof of submission thereof to this office. In case the electricity is supplied through Generators then the tariff charges should not exceed the tariff being charged by DHBVN.
16. That provision of parking shall be made within the area earmarked/ designated for parking in the colony and no vehicle shall be allowed to park outside the premises.
17. Any violation of the above said conditions shall render this occupation certificate null and void.

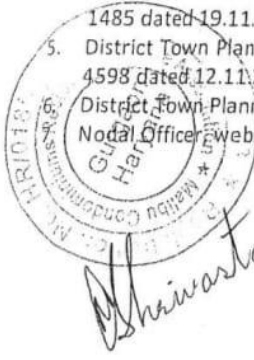

 (T.L. Satyaprakash, IAS)
 Director, Town and Country Planning,
 Haryana, Chandigarh.

Endst. No. ZP-5-Vol-IV/SD(BS)/2017/_____

Dated:-_____

A copy is forwarded to the following for information and necessary action:-

1. The Commissioner, Municipal Corporation, Gurugram with reference to his office Memo. No. MCG/FS/SFSO/2016/2472 dated 09.08.2016, FS/2017/4780/129 dated 20.01.2017 & MCG/FS/SFSO/2017/04 dated 02.01.2017 vide which no objection certificate for occupation of the above-referred buildings have been granted. It is requested to ensure compliance of the conditions imposed by your letter under reference. Further in case of any lapse by the owner, necessary action as per rules should be ensured. In addition to the above, you are requested to ensure that adequate fire fighting infrastructure is created at Gurugram for the high-rise buildings and concerned Fire Officer will be personally responsible for any lapse/violation.
2. Chief Engineer, HUDA, Panchkula with reference to his office memo no. 130130 dated 13.12.2016.
3. Superintending Engineer (HQ), HUDA, Panchkula with reference to his office memo no. 172 dated 04.07.2011, memo no. 30 dated 13.01.2015 & memo no. 280/14500 dated 01.06.2016.
4. Senior Town Planner, Gurugram with reference to his office memo. No. 1968 dated 18.08.2011, Memo No. 1485 dated 19.11.2014 & Memo No. 593 dated 10.05.2016.
5. District Town Planner, Gurugram with reference to his office Endst. No. 3348 dated 26.07.2011, Endst. No. 4598 dated 12.11.2014 & Endst. No. 1548 dated 28.03.2016.
6. District Town Planner (Enf.), Gurugram.
7. Nodal Officer website updation.



(Vijay Kumar)
 District Town Planner (HQ),
 For Director, Town and Country Planning,
 Haryana, Chandigarh.

Annexure – S-11

Monday, June 22, 2015

OFFICE OF THE SUPERINTENDING ENGINEER, HUDA, CIRCLE-II, GURGAONThe Chief Engineer-I,
HUDA, Panchkula

Memo No.

Dated:

Sub: Estimate for Providing Water Supply, Sewerage, Storm Water Drainage, Roads, Street Lights & Horticulture in respect of revised Group Housing Scheme for an area measuring 11.89 acres situated in Sec-47&50, Malibu Towne, Sohna Road, Gurgaon being developed by M/s. Malibu Estate Pvt. Ltd.

Kindly refer to your office Endst. No. 4854 dated 30.04.2015 on the subject noted above.

The service plan / estimate for various services in respect of revised, Group Housing Scheme for an area measuring 11.89 acres situated in Sec-47&50, Malibu Towne, Sohna Road, Gurgaon being developed by M/s. Malibu Estate Pvt. Ltd. submitted by the firm was received from your office vide letter referred above to examine the service plan estimate and send the comments in the case.

In persuasion of above reference, the service plan estimate was sent to Executive Engineer, HUDA, Division No. VI, Gurgaon to examine the estimate and send the comments. The Executive Engineer, HUDA, Division No. VI, Gurgaon has examined the service plan estimate and the following comments are conceived in respect of this service plan estimate.

1. The Service Plan Estimate is required to be got approved from the competent authority timely as per terms & conditions, prior to taking place of construction at site, in order to that there may not create any ambiguity during the construction and as well as position of linking the services with the external services of the town.


In this case, the service plan estimate has been submitted by the firm after passing of the period of about 15 years over the approval of Building Plan, by the competent authority. While the colony has been fully developed with no

3245
23/6/15
Monday, June 22, 2015
abide into the terms & conditions of License/approval of building plan.

2. The building Plan of the subject noted Group Housing Colony was approved by the DGTCP, Haryana Chandigarh vide memo No. 5172 dated 24.04.1997 subject to validity of approval for a period of 5 years only. The validity period of approval has since been elapsed. Therefore, the revalidation of the approval of building plan is needed from the DGTCP.
3. The firm has provided Sewage Treatment Plant in the Malibu Towne Colony, whereas the provision for the same is not considered in this estimate.
4. The provision for internal pumping has been made at site near Club House for disposal of sewage in the Master Sewer situated on Sohna Road whereas in the main estimate of Plotted Colony, there is no provision for pumping of internal sewer.
5. As per the terms & conditions of License, the clearance from the environment needs to be taken but the copy of the same has not been supplied along with the estimate. Since, the colony had already been developed.
6. The service plan estimate should be prepared in two parts i.e. part one for existing work on actual basis and part two for any additional /fresh work (if any) followed by revalidated /revised approval of plan.

It is therefore, the service plan estimate as forwarded to this office vide your office letter under reference is returned herewith with the comments /remarks mentioned above.

DA/- Service Plan Estimate in triplicate.


(A. K. Maken)
Superintending Engineer,
HUDA, Circle-II, Gurgaon

CC to:

9546 ctt 22-6-15

The Executive Engineer, HUDA, Division No. VI, Gurgaon
information and necessary action w.r.t. his office letter dated 18.06.2015.



Annexure – S-12

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ANNEXURE R/13

OFFICE OF SENIOR TOWN PLANNER, GURUGRAM
 DEPARTMENT OF TOWN & COUNTRY PLANNING, HARYANA
 SECTOR-14, HSVP COMPLEX, 3RD FLOOR, GURUGRAM.
 Telephone -0124-4014776;
 E-mail: stp4.gurugram.tcp@gmail.com

Memo No. STP (G)/2022
 Dated:

To District Town Planner(P),
 Gurugram.

Sub: Approval of revised building plan of residential plotted colony namely Malibu
 Towne measuring 204.796 acres in sector-47 and 50, Gurugram.

Ref: M/s Malibu Estate Pvt. Ltd. letter dated 27.05.2022, received in this office on
 30.05.2022 and Directorate memo no. ZP-5-Vol-IV/SIXDKY/2019/6680 dated
 07.03.2019 & 2130 dated 27.01.2022.

In compliance of the conditions imposed in the in-principal approval granted vide Directorate letter under reference, licensee had invited objections from existing allottees through public notice published in 3 Newspapers and through registered post. In response of the same, 39 Objections/Suggestions have been received from the allottees which were sent to colonizer for their reply. The colonizer vide their letter under reference has submitted the reply on each objection in tabulated format. While sending the copy of the same, you are requested to examine the objections and sent your comments to this office after giving an opportunity of hearing, to the objectors and colonizer in compliance of conditions of in principal approval.

Senior Town Planner,
 Gurugram Circle, Gurugram

Endst No. STP(G)/2022/ 3658 Dated: 1-6-22
 A copy is forwarded to the following for information and further necessary action please.

1. Director, Town & Country Planning Department, Madhya Marg, Sector-18A,
 Chandigarh.

✓ 2. M/s Malibu Estate Pvt. Ltd., 38, DDA Commercial Complex, Kailash Colony
 Extension, New Delhi-110048.

Senior Town Planner,
 Gurugram Circle, Gurugram

-TRUE COPY-

Annexure – S-13

MINUTES OF HEARING OF THE OBJECTORS REGARDING APPROVAL OF REVISED LAYOUT PLAN FOR SETTING UP OF RESIDENTIAL PLOTTED COLONY OVER AN AREA MEASURING 204.796 ACRES NAMELY” MALIBU TOWNE” IN SECTOR-47 & 50, GURUGRAM, HELD UNDER THE CHAIRMANSHIP OF SH. SANJEEV MANN, SENIOR TOWN PLANNER, GURUGRAM ON 10.01.2023 AT 11:00 AM , AT SECTOR-14,HSVP COMPLEX, GURUGRAM.

.....
The following attended the meeting:-

1. Sh. Rajesh Kaushik, District Town Planner (P), Gurugram
2. Smt. Divya Dahiya, ATP O/o Senior Town Planner, Gurugram
3. Sh. Vimal Singh, JE O/o Senior Town Planner, Gurugram
4. Sh. Subhash Raghav, representative of Colonizer
5. Sh. Farhan Jafri, representative of Colonizer
6. Sh. Madhu Tewatia, representative of Colonizer
7. Sh. Raman Sharma, resident of Malibu Towne
8. Sh. Raj Kumar, representative of Malibu Towne Green Street Welfare Association
9. Sh. Devendra, representative of Malibu Condominium, RWA
10. Sh. Vikky Jaiswal, representative of Malibu Condominium, RWA
11. Sh. Vijay Shiv Nath, President, Malibu Towne, RWA
12. Sh. Nirvair Singh, Malibu Towne residents group
13. Sr. Rakesh Singh, resident of Malibu Towne
14. Sh. Shubhashis Dey, resident of Malibu Towne
15. Sh. Ravi Dutt Sharma, resident of Malibu Towne
16. Sh. Satyendra Prasad Singh, Secretary, Malibu Towne, RWA
17. Smt. Parvesh Jain, resident of Malibu Towne
18. Sh. S.K. Jain, resident of Malibu Towne
19. Sh. Ashok Kumar, resident of Malibu Towne

At the outset, the chairman welcomed all the participants.

In compliance of clause no. A (I) (vii) of departmental policy dated 25.01.2021, a hearing for the objections/suggestions filed by the existing allottees regarding subjected matters was conducted with the objectors and the representative of the colonizer in presence of DTP (P), Gurugram. The objectors were also facilitated to attend the hearing through Video Conferencing but, no one joined through Video Conferencing. The objectors raised following issues: -

Sr. No.	Issues raised by the objectors.	Reply of Colonizer.	Comments of this office.
1.	Sh. Vijaynath, President of Malibu Towne RWA requested that the	The representative of developer has given assurance that they are ready to construct UGT as per approved service estimate	The circle office agrees that UGT & ESS are basic requirement of the colony and the same

	<p>proposal of UGT and ESS shall be approved on priority in view of basic need of water and electricity for the residents. The allottees further emphasized that no charge shall be levied upon the original allottees of colony and suggested that the expenditure shall be borne either by the colonizer or through infrastructure augmentation charges being collected by the Department on account of purchasable FAR.</p>	<p>plan and ESS shall also be constructed as and when Department will grant the permission. He further informed that the proposed site of ESS has already been approved by DHBVNL.</p>	<p>shall be approved after ascertaining the requirement and feasibility by the concerned department. Further, the decision regarding the expenditure may kindly be taken at HQ level.</p>
2.	<p>Sh. Raman Sharma informed that the UGT (its capacity and number) shall be constructed as per the requirement of the colony (1+1). He suggested that one UGT can be provided over an area earmarked as "Public Health Area" and one at area already approved for UGT tank in Group Housing Area near Tower-1. He highlighted that the Service Plan Estimate earlier approved by HSVP was flawed, as confirmed by HSVP itself. He assured to submit the copy of letter issued by HSVP confirming that the Service Plan Estimate earlier approved by HSVP had calculation errors, which needs to be rectified.</p>		
3.	<p>The residents informed that 2 no's community centers are required as per population in the</p>	<p>The representative of the colonizer informed that there was no mandatory requirement for provision of community</p>	<p>Except one club site, no provision of community center was made in earlier approved layout</p>

	existing residential colony whereas, no community center has been earmarked in the layout plan under consideration. They proposed that if no space is available for community center, then the space earmarked for other community facilities such as school may be converted to the community center, as per its feasibility.	center in the colony at the time of grant of license; hence, the same was not earmarked in earlier approved layout plan as well.	plan as well the Layout Plan under consideration. Although the suggestion of the citizen may be sympathetically considered and UD or unplanned vacant land in the colony may be proposed as community center site, if available.
4.	Sh. Ashok Kumar Kansal, Flat No. 201, Tower-07, mentioned that the Group Housing has been handed over to RWA illegally. Accordingly, department should take action against the developer and approval of layout plan should not be the priority. Mrs. Jain also raised the objection on illegal transfer of Group Housing component by Malibu Estate Pvt. Ltd. To Malibu Condominium Resident Welfare Associations without any approval from DTCP and completion of services.	The representative of the colonizer informed that the Tower no. 07 is part of Group Housing component of subject cited colony and in compliance of Haryana Apartment Ownership Act 1983, the non mandatory services have been handover to RWA.	The objection does not pertain to revision of layout plan.
5.	Sh. Rakesh Singh and Sh. Raman Sharma informed that the sizes of plots mentioned in the in-principle approved plan does not match with site. They requested to provide the list of plots with variations of site.	The representative of the colonizer informed that the plots have been carved out as per approved layout plan and in-principally approved layout plan.	DTP(P), Gurugram was directed to get the demarcation of the colony done, as already directed by the Directorate, so that the actual sizes of plots can be ascertained before approval of revised layout plan.
6.	Sh. Raman Sharma has informed that :- i) 33KVA electric	The representative of the developer informed that the feasibility of site of ESS has	The suggestion of Sh. Raman Sharma is acceptable but, some of

<p>sub-station is required on the urgent basis but, no location of the same has been designated in the in-principle approval of layout plan. He suggested that the same shall be installed in the Group Housing component, at the back side of Tower-1 or at the outer green part at the main gate of the colony on Sohna Road side. Mrs. Parvesh Jain, Sh. Subhashish Deh and other residents of Group Housing component disagreed with the proposal of ESS sub-station suggested near Group housing component.</p> <p>ii) The detail of NPPL plots and EWS plots has not been provided by the developer. accordingly, the location of NPPL & EWS plots may be ascertained in the layout plan.</p> <p>iii) The width of road network laid at site does not match with the approved layout plan or in-principally approved layout plan.</p> <p>iv) The designated green areas approved near club site has been encroached and is being commercially</p>	<p>already been obtained from the DHVPNL.</p> <p>ii) The representative of the developer failed to provide the information regarding NPPL plots and EWS plots.</p> <p>iii) The representative of the developer informed that the road network has been laid down as per approved layout plan.</p> <p>iv) The representative of the colonizer informed that the green area has been developed as per approved layout plan.</p>	<p>the allottees objected to the suggestion of Sh. Raman Sharma. The colonizer was directed to provide the copy of approval granted by DHBVNL for ESS site, so that the same can be shared with the allottees and allottees can submit their objections on the site selected/approved by DHBVNL, if any.</p> <p>ii) In view of this office the detail of NPPL & EWS plots may be obtained from the colonizer before approval of layout plan.</p> <p>iii) DTP(P), Gurugram was directed to get the demarcation of the colony done, as already directed by the Directorate, so that the actual sizes of plots/ width of road network can be ascertained before approval of revised layout plan.</p> <p>iv) The site has been got visited by the official of DTP(E), Gurugram and DTP(E), Gurugram confirmed the allegation</p>
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<p>exploited by making the part of the club.</p> <p>v)The service road along sector road is not available at site.</p> <p>vi) Sh. Raman Sharma asked for the copy of revised layout plan of 2016 with changes marked and details of procedure adopted for the revision of layout plan of 2016 with the details of objections invited. He also requested to provide the copy of Demarcation Plan and Zoning Plan approved after revision of layout plan of 2016. He further informed that application under RTI has already submitted in the O/o DTP(P), Gurugram, but, no reply on the same is received yet.</p> <p>vii) Sh. Raman Sharma informed that the green belt of the colony has been encroached by the colonizer and requested for the copy of action taken report by DTP(E), Gurugram regarding illegal/unapproved construction on green belt since 2010. He</p>	<p>v) The representative of the developer informed that the road network has been laid down at site as per approved layout plan.</p>	<p>of the allottee regarding encroachment of green area by club. Accordingly, a show cause notice has been issued by DTP(E) Gurugram the colonizer under the provision of 10 of HDR Act of 1975.</p> <p>v) DTP(P), Gurugram was directed to get the demarcation of the colony done, as already directed by the Directorate.</p> <p>vi) DTP(P), Gurugram informed that the drawing no. DTCP/5626 dated 28.09.2016 was in-principally approved on 07.03.2019, so he was directed to provided the documents/information sought by the objector under RTI Act.</p> <p>(vii) It was decided that DTP (E), Gurugram shall be directed to provide the action taken report sought by the objector.</p>
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	further informed that approved site for DG sets are already available of Malibu Towne.		
7	Sh. Rakesh Singh informed that 45% of open space (including 15% green area) is not available at site.	The representative of the colonizer informed that the green area and open area has been developed as per approved layout plan and is more than 45%.	DTP(P), Gurugram was directed to get the demarcation of the colony done, as already directed by the Directorate.
8	The objectors informed that the underground water tank site has already been approved near Tower 1 of Group Housing component, but the same has not been constructed by the colonizer yet.	The colonizer was not aware of factual site situation.	The objection does not pertain to revision of layout plan. However, the colonizer was directed to ascertain the site situation and provide the facilities approved in the layout plan to the allottees.
9.	Encroachment in the form of Jhuggis have been made near GS Block	The representative of colonizer has informed that there is no encroachment in licensed area and jhuggis have come up outside the licensed area.	The objection does not pertain to revision of layout plan. However, the allottees were advised to approach Commissioner, MCG for taking necessary action against such encroachments as the same falls under the jurisdiction of MCG.
10	Sh. Nirvair Singh requested for the copy of layout plan earlier approved in year 2016.	The representative of colonizer was not aware of any approval of layout plan in year 2016.	DTP(P), Gurugram has informed that the revised Layout Plan bearing diary no. DTCP/5626 dated 28.09.2016 has been approved in-principally on 07.03.2019 copy of the same was provided to the resident.
11	Sh. Raman Sharma informed that four nos. Sewerage Treatment Plants have been constructed in the park area, post facto approval of which is not acceptable. He suggested that the same can be	The representative of the colonizer informed that the provision of STP in the proposed site of Public Health Services is not technically feasible due to underground water tank existing at site.	The representative of colonizer was directed to obtained the technical feasibility of the suggestion of the objector from HSVP

	constructed in the area earmarked as “public health or corner area of the colony shall be used for this purpose.		
12	Sh. Raman Sharma raised the demand of copy of proceedings of the hearing of objectors and colonizers, Chaired by Assistant Town Planner O/o DTP (P), Gurugram on behalf of DTP (P), Gurugram on 25.08.2022. He further emphasized that the matter was transferred to the office of Senior Town Planner, Gurugram without any supporting documents/proceeding or observations conveyed to the objectors.		DTP (P), Gurugram was directed to send the outcome of the hearing held in their office on 25.08.2022, so that the same can be shared with the residents & DTCP.

In addition to above, Sh. Raman Sharma informed that case no. 1 of 2023 has been registered against the colonizer in special Environment Court, Faridabad for not obtaining Environmental Clearance, 1 no. FIR has been got registered against the developer by DTP(E), Gurugram, 2 no’s by MCG, 3 nos. by HSPCB & a closure order has also been issued by HSPCB. Furthermore, various civil suits are also under consideration before District Court. Accordingly, Sh. Raman Sharma was requested to provide the detail of said cases so that the legal opinion regarding impact of these cases on approval of layout plan may be obtained at directorate level, before taking final decision on the revised layout plan.

The meeting ended with the vote of thanks.

Annexure – S-14

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ANNEXURE R/6

Annexure- I

Company/Person	License/date	Area
Malibu Estate Pvt. Ltd.	-71/1992 (28.10.1992)	-21.644 acres
	-04/1993 (18.03.1993)	-8.93750acres
	-15/1994 (08.12.1994)	-3.523 acres
	-06/1995 (15.11.1995)	-7.931 acres
	-36/1997 (21.07.1997)	-3.175 acres
Dinero Estate Pvt. Ltd.	-72/1992 (28.10.1992)	-20.806 acres
	-06/1993 (18.03.1993)	-1.34375 acres
	-18/1994 (08.12.1994)	-0.739 acres
	-07/1995 (15.11.1995)	-4.919 acres
	-37/1997 (21.07.1997)	-2.493 acres
Casa Estate Pvt. Ltd.	-73/1992 (28.10.1992)	-22.113 acres
	-07/1993 (18.03.1993)	-3.85000 acres
	-16/1994 (08.12.1994)	-0.803 acres
	-08/1995 (15.11.1995)	-5.162 acres
	-38/1997 (21.07.1997)	-2.169 acres
Santaluna Estate Pvt. Ltd.	-74/1992 (28.10.1992)	-18.225 acres
	-08/1993 (18.03.1993)	-0.72 acres
	-19/1994 (08.12.1994)	-9.158 acres
	-05/1995 (15.11.1995)	-4.49 acres
	-39/1997 (21.07.1997)	-2.381 acres
Sanpendro Estate Pvt. Ltd.	-75/1992 (28.10.1992)	-24.894 acres
	-05/1993 (18.03.1993)	-1.32500 acres
	-17/1994 (08.12.1994)	-0.739 acres
	-04/1995 (15.11.1995)	-4.328 acres
	-40/1997 (21.07.1997)	-1.993 acres
Citiland Properties Pvt. Ltd.	-41/1997 (21.07.1997)	-0.375 acres
Detour Estate	-42/1997 (21.07.1997)	-0.375 acres
Geoid Estate Pvt. Ltd.	-43/1997 (21.07.1997)	-0.375 acres
Spred Estate Pvt. Ltd.	-44/1997 (21.07.1997)	-0.375 acres
Mr. KS Dhingra	-45/1997 (21.07.1997)	-0.375 acres
Mr. SK Kohli	-46/1997 (21.07.1997)	-0.375 acres
	Total	180.116 Acres

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License No. 15 of 2008

Company/Person	Date	Area
M/s Bloom Properties and Holding Pvt. Ltd. and others	31.01.2008	24.681 Acres

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ANNEXURE R/7

Annexure- II**Part Completion Certificate**

License No.	Part Completion (PC) Certificate dated	Area
71-75 of 1992	23.02.1996	Total Area- 107.682 Acres PC- 97.282 Acres Group Housing (GH)-10.40 Acres
04-08 of 1993	03.05.1996	Total Area- 16.18 Acres PC- 16.08 Acres Group Housing (GH)- 0.10 Acres
15-19 of 1994	03.05.1996	Total Area- 14.962 Acres PC- 10.332 Acres
	06.06.2003	Total Area- 14.962 Acres PC- 2.94 Acres Group Housing (GH)-1.69 Acres
04-08 of 1995	05.02.2003	Total Area-26.83 Acres PC- 26.83 Acres
36-46 of 1997	05.02.2003	Total Area- 14.461 Acres PC- 14.461 Acres
	Total till 2003	PC- 167.925 Acres Group Housing (GH)- approx. 12 Acres

Part Completion Certificate

15 of 2008	27.09.2016	Total Area- 24.681 Acres (approx. 9.97 hectare) PC- 24.681 Acres
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-TRUE COPY-

Annexure – S-16



**Office of the Additional Deputy Commissioner-CUM-Chairman,
Vikas sadan, Gurugram**

Vikas Sadan Building Opposite Mini sect. Building, New Courts
Phone: 0124-2332363, 2322211; E-mail: adcgrg@hry.nic.in

प्रेषित,

1. सम्पदा अधिकारी, एच0एस0वी0पी0- I व II, गुरुग्राम।
2. वरिष्ठ नगर योजनाकार, गुरुग्राम।
3. जिला नगर योजनाकार (प्लानिंग), गुरुग्राम।
4. जिला नगर योजनाकार (ई0), गुरुग्राम। (सदस्य)
5. क्षेत्रीय अधिकारी, प्रदुषण विभाग उत्तर, गुरुग्राम। (सदस्य)
6. उप मण्डल अधिकारी (सर्वे), सम्पदा अधिकारी,
एच0एस0वी0पी0- II, कार्यालय गुरुग्राम।
7. निदेशक, मैर्सस डी0एल0एफ लि0, गुरुग्राम। (मार्फत तहसीलदार, वजीराबाद)

क्रमांक / 2024 / ईन्वार्ज 2155-61 दिनांक 29/8/24


**विषय:— Intimation and Complained regarding valuable public land in
sector-24 & 25A, Gurugram.**

उपरोक्त विषय के सम्दर्भ मे।

विषयाधीन मामले मे आपको भेजकर लिखा जाता है कि श्री रमन शर्मा, निवासी सी.डब्ल्यू – 58, प्रथम तल, मालबियू टाउन, सैक्टर-47, गुरुग्राम ने उपायुक्त महोदय, गुरुग्राम को शिकायत की है कि सैक्टर-24 व 25ए की बेस किमती जमीन को हुड्डा विभाग के अधिकारी व कर्मचारीयो द्वारा मैर्सस डी0एल0एफ लि0, गुरुग्राम के साथ मिली भगत करके सरकार को 1500 करोड का आर्थिक नुकसान किया है। जिसकी जांच अधोहस्ताक्षरी/कमेटी के सदस्य जिला नगर योजनाकार (ई0), गुरुग्राम व क्षेत्रीय अधिकारी, प्रदुषण विभाग उत्तर, गुरुग्राम द्वारा की जा रही है अतः आप दिनांक 04.09.2024 को शाय 03:00 बजे विकास सदन, अतिरिक्त उपायुक्त कार्यालय, गुरुग्राम में पूर्ण तथ्यो एवं रिपोर्ट सहित उपस्थित होना सुनिश्चित करे।

सलग्न शिकायत की प्रति

CC – श्री रमन शर्मा, निवासी सी.डब्ल्यू – 58,
प्रथम तल, मालबियू टाउन, सैक्टर-47, गुरुग्राम


अतिरिक्त उपायुक्त
गुरुग्राम।



**Office of the Additional Deputy Commissioner-CUM-Chairman,
Vikas sadan, Gurugram**

Vikas Sadan Building Opposite Mini sect. Building, New Courts
Phone: 0124-2332363, 2322211; E-mail: adcgrg@hry.nic.in

प्रेषित,

1. सम्पदा अधिकारी, एच0एस0वी0पी0- I व II, गुरुग्राम।
2. वरिष्ठ नगर योजनाकार, गुरुग्राम।
3. जिला नगर योजनाकार (प्लानिंग), गुरुग्राम।
4. जिला नगर योजनाकार (ई0), गुरुग्राम। (सदस्य)
5. क्षेत्रीय अधिकारी, प्रदुषण विभाग उत्तर, गुरुग्राम। (सदस्य)
6. उप मण्डल अधिकारी (सर्वे), सम्पदा अधिकारी,
एच0एस0वी0पी0- II, कार्यालय गुरुग्राम।
7. निदेशक, मैसर्स डी0एल0एफ लि0, गुरुग्राम। (मार्फत तहसीलदार, वजीराबाद)

क्रमांक / 2024 / ईन्चार्ज 2469-75 दिनांक 5/9/24

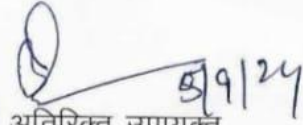
**विषय:- Intimation and Complained regarding valuable public land in
sector-24 & 25A, Gurugram.**

उपरोक्त विषय पर इस कार्यालय के पत्र क्रमांक 5125-61 दिनांक 29.08.2024 के सम्दर्भ में।

विषयाधीन मामले में आपको भेजकर लिखा जाता है कि श्री रमन शर्मा, निवासी सी.डब्ल्यू - 58, प्रथम तल, मालबियू टाउन, सैक्टर-47, गुरुग्राम ने उपायुक्त महोदय, गुरुग्राम को शिकायत की है कि सेक्टर-24 व 25ए की बेस किमती जमीन को हुडडा विभाग के अधिकारी व कर्मचारीयो द्वारा मैसर्स डी0एल0एफ लि0, गुरुग्राम के साथ मिली भगत करके सरकार को 1500 करोड का आर्थिक नुकसान किया है। जिसकी जांच अतिरिक्त उपायुक्त महोदय द्वारा की जा रही है। उक्त जांच के सम्बन्ध में आपको दिनांक 04.09.2024 को सांय 03:00 बजे विकास सदन, अतिरिक्त उपायुक्त कार्यालय, गुरुग्राम में बुलाया गया था। लेकिन आप उक्त तिथि व समय पर डी.टी.पी. (ई) व क्षेत्रिय प्रदुषण अधिकारी उत्तर सिवाए कोई भी अधिकारी उक्त जांच में उपस्थित नहीं आया। इसलिए आपको पुनः लिखा जाता है कि आप दिनांक 09.09.2024 को साय 5 बजे पूर्ण तथ्यो एवं रिपोर्ट सहित विकास सदन, अतिरिक्त उपायुक्त कार्यालय, गुरुग्राम में उपस्थित होना सुनिश्चित करे।

सलग्न शिकायत की प्रति

CC - श्री रमन शर्मा, निवासी सी.डब्ल्यू - 58,
प्रथम तल, मालबियू टाउन, सैक्टर-47, गुरुग्राम


अतिरिक्त उपायुक्त
गुरुग्राम।

Annexure – S-18

Item No. 02

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 124/2017

Sarv Jan Kalyan Sewa Samiti

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 13.07.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Siddharth S. Yadav, Advocate

Respondent: Mr. K.K. Singh, Advocate for MoEF&CC
Mr. Anil Grover, Senior AAG with Mr. Rahul Khurana, Advocate
for R-2,3,5 to 7
Mr. Pinaki Misra, Senior Advocate with Ms. Shyel Trehan,
Advocate for Medanta Hospital (R-4)

ORDER

1. Question for consideration is the remedial action for established violation of Forest (Conservation) Act, 1980 in use of protected forest land for non-forest purposes by respondent No.4 Medanta Hospital (Medanta) in Sector 38, Gurgaon with the permission of Haryana Shehari Vikas Parishad (HSVP), who allotted the said land in public auction, after illegal acquisition in the year 2004, which illegality came to light in proceedings before this tribunal in the year 2017.

2. In terms of inspection report of the Regional Officer MoEF dated 11.9.2018, area of reserved forest in question is 5530 sq yards. Medanta has surrendered 3200 sq yards, as confirmed during the hearing by learned Counsel for (HSVP) which will now be used as reserved forest. In

lieu of remaining 2330 sq yards, Medanta has offered to give alternative land, at its cost, to be used as reserved forest. Forest Clearance has been duly granted by the MoEF for diversion of the said area for non-forest purposes. Even though it is regretful to note serious violation of Forest Act is transfer of protected forest for non-forest purposes by State authorities which should ideally be reversed and status quo ante reserved, without condoning the illegality, we propose not to interfere with the arrangement suggested by the Medanta and supported by the Forest Department of Haryana and the MoEF&CC in view of irreversible situation created long back but with the hope that such instances are not repeated in future as such arrangement can never result in satisfactory solution and irretrievably result in failure of law. The arrangement will be subject to further conditions as per later part of this order. Peculiar facts of the present case inter-alia are that

- the HSVP itself committed illegality in acquiring the land for non-forest purposes and put the same to auction in the year 2004 which remained unchallenged till 2017,
- due approval, though ex post facto, has now been given on 31.10.2019 by the MoEF and
- requiring restoring original 2330 sq yards original protected forest land will lead to closure of the Hospital as electricity stations have been set up thereon without clear knowledge of the illegality involved

3. As will be noticed in detail later, stand of Medanta is that the said land was allotted to it in a public auction in 2004, after acquisition and without objection of the forest department. The Medanta surrendered part of land after demolishing the wall and for remaining it has offered alternative land which proposal is supported by the Forest Department of Haryana and is approved by the MoEF&CC. In the peculiar circumstances, though the action of diversion of protected forest is being held to be illegal, the said course of action is not proposed to be interfered subject to liability

of the Medanta and HSVP, as indicated in the later part of the order. Details follow.

4. According to the applicant, vide notification dated 06.10.1972 under section 29 of the Indian Forest Act, 1927, Jharsa Bund was notified as protected forest land in Village Jharsa, District Gurgaon. The land was adjacent to Medanta Hospital in Sector 38, Gurgaon which encroached upon the forest land and constructed a concrete wall. The hospital also started dumping garbage and hazardous material causing pollution. The statutory authorities – MoEF&CC, Haryana Government including Forest and Revenue Departments failed to perform their statutory obligations. The applicant annexed a copy of Notification dated 06.10.1972 declaring land mentioned therein as forest land and photographs and maps and a copy of complaint dated 26.08.2016 addressed to the statutory authorities alleging illegal encroachment by the Medanta.

5. The application was filed on 17.02.2017 and came up for hearing on 21.02.2017 when notice was issued. By a subsequent order, HUDA and Municipal Corporation, Gurgaon were also added as parties. The matter has been considered by this Tribunal in the last four years by several orders but it will suffice to refer to some of the orders and the pleadings filed by the parties which are relevant for purposes of this order. The appellant preferred appeals against earlier orders of this Tribunal which are subject matter of two orders of the Hon'ble Supreme Court – order dated 08.02.2019 in *Civil Appeal No. 852 of 2019, Sarv Jan Kalyan Sewa Samiti v. Union of India & Ors.* and order dated 16.04.2019 in *Civil Appeal No. 3571/2019, Sarv Jan Kalyan Sewa Samiti v. Union of India & Ors.* By the first order, appeal against orders of this Tribunal dated 30.10.2018 and 05.12.2018 was considered. The Tribunal by the said orders permitted consideration of remedial measures suggested by the respondents – the

Medanta and the State of Haryana of seeking regularization by the MoEF. The Hon'ble Supreme Court observed that any decision by the MoEF&CC and Forest Department of Haryana must be in accordance with law. By second order dated 16.04.2019, appeal was considered against order of this Tribunal dated 11.02.2019 disposing of the matter with the observation that MoEF&CC may take a decision on the proposal of the State of Haryana as per law. The Hon'ble Supreme Court set aside the said order and observed that the appellant should be permitted to address this Tribunal with reference to the order which may be passed by MoEF&CC. The MoEF&CC thereafter passed order dated 31.10.2019 against which the appellant has filed objections which we propose to consider in the light of rival stands of the parties – Medanta, Forest Department of Haryana and MoEF&CC.

6. We may refer to the proceedings before this Tribunal from time to time. Vide order dated 21.11.2017, the Tribunal recorded the statement on behalf of the State that an inspection of the site has been conducted and report is to be filed. The said report is dated 14.11.2017 to the effect that Khasra No. 152-153 were found to be part of the bund in Village Jharsa at the time of inspection on 13.11.2017 at 11:00 am. Vide order dated 12.12.2017, the Tribunal noted the stand of the respondents that solution to the issue will be found by providing more green area. Vide order dated 27.08.2018, the Tribunal noted that there was no precise measurement of the land in question particularly the land said to have been encroached upon. This required a visit by the Regional Officer of MoEF&CC to the site in the presence of representatives of applicant, hospital and Municipal Corporation. As already noted, on 30.10.2018, the Tribunal noted a proposal from the Medanta for exchange of their private land with the land which was found to be land of the protected forest. Thereafter, vide order

dated 05.12.2018, the Tribunal observed that the proposal of the State of Haryana may be considered by the MoEF&CC. The objection of the applicant to such consideration was rejected. Thereafter, on 11.02.2019, the Tribunal noticed the order of the Hon'ble Supreme Court dated 08.02.2019 and disposed of the application after noting that MoEF&CC may take a decision on the proposal. As already noted, the said order was set aside by the Hon'ble Supreme Court with the observation that the applicant may be heard about the legality of the order of the MoEF&CC. On 13.05.2019, the Tribunal noticed the order of the Hon'ble Supreme Court dated 16.04.2019. The Tribunal also noted that the applicant was not appearing repeatedly and approach of the applicant was casual. On 19.08.2019, the Tribunal noted that the proposal of the Medanta was received by the State of Haryana which was needed to be looked into. On 18.09.2019, the Tribunal noted that the area covered by encroachment was less than 1 hectare and directed the State of Haryana to take a decision on the proposal. On 20.11.2019, the Tribunal noted that none appeared for the applicant. As already noted, the MoEF vide order dated 31.10.2019 approved the proposal to allow diversion of a part of the forest land for non-forest purposes subject to conditions mentioned therein. On 20.11.2019, the applicant sought time to raise objections to the order of the MoEF. On 11.12.2019, this Tribunal made it clear that on the next date the matter will be finally disposed of and Counsel should be ready. On 12.02.2020, the matter was adjourned on request of Counsel for the applicant. On 04.03.2020, it was noted that the applicant had filed written objections which were articulated by the Counsel for the applicant as follows:-

"1. There is no provision of law under which respondent no. 4 could be given liberty to exchange its private land with Forest Land, which falls under the category of Protected Forests, vide Government Notification dated 06.10.1972.

2. Respondents cannot allow diversion of forest land falling in Kharsa no. 152, 153 and 161 of Jharsa Bund, in favour of the respondent no. 4 as it will set a wrong precedent, which will lead to multiplicity of encroachment of forest land.
3. Assuming that the land has been allotted to respondent no. 4, no ex-post facto approval can be granted under Section 2 of the Forest (Conservation) Act, 1980.
4. Khasra no. 161 has been allotted to respondent no. 4 for non-forest use, the same is illegal as respondent no. 6 has allotted the same without seeking prior approval from Central Government required as per Section 2 of the Forest (Conservation) Act, 1980.
5. The inspection report dated 27.08.2018 is incorrect, false and manipulated by the respondents.”

7. We may now note the stand of the respondents in the pleadings. The stand of the Medanta Hospital in reply filed on 01.05.2017 is that the construction in question was not on bund land but on the land allotted by HUDA on 29.10.2004. Possession certificate was dated 06.01.2005 as per Demarcation and Zoning Plan. Occupation Certificate was dated 04.11.2009. Boundary wall was constructed to secure the premises. Vide inspection report dated 24.11.2014 by Committee constituted by HUDA, it was found that the land occupied by Hospital was on the land allotted and there was no encroachment. In 2016, the wall was constructed within the demarcated area allotted to the Hospital. Part of bund area was acquired by HUDA in 1989 and allotted to the hospital in 2004

8. The matter was examined by HUDA as per letter dated 04.10.2016 and it was declared that the Medanta had not done any encroachment. The letter is as follows:-

*“On the above cited subject your complaint has been examined and patwari of this office alongwith Kanungo has verified the site and it has been found that the **land of subjected bandh is acquired by HUDA vide award no. 11 dated 16.03.1989 and possession was handed over to HUDA vide rapat rojnamcha No. 291 dated 16.03.1989. This land has been allottee M/s Medanta, The Medicity and possession of above land was given to Medanta on dated 06.01.2005. As per approved demarcation plan the road size in front of plot no. 102, Sector-138, Gurgaon is shown as***

10 mtr. whereas as per site the road is 10 mtr and no gap is shown in demarcation plan between boundary of Medicity and road. Hence medicity is constructing its boundary wall/fencing at right location. Hence it is clear that Medanta is not making any encroachment."

9. HUDA vide order dated 10.01.2017, further verified that the wall was within the allotted area as follows:-

*"With respect to abovementioned subject, it is stated that Patwari from this office has done measuring. According to his report, when **on site measuring of the outer boundary wall of Medicity Hospital was done, it was found that the boundary wall of the Hospital is correctly made. The land adjacent to the 18 mts road at the backside is acquired and demarcation is according to plan, which land according to record has been allotted to Medanta Hospital.**"*

10. Medanta has further stated that there was no illegal dumping of garbage and hazardous waste. There is compliance of Bio-medical Waste Management Rules, 2016 as well as Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2016.

11. The stand of the Forest Department, Haryana in reply filed on 30.08.2017 is that the part of the allotted land is part of Jharsa bund and is protected forest and therefore, construction of wall in the said area is liable to be removed. The stand of HUDA in its reply dated 08.09.2017 is that land measuring 0.27 acres out of 43 acres of land allotted by HUDA falls under Jharsa bund. The stand of the Municipal Corporation in its reply dated 30.08.2017 is that area measuring 0.43 acre shown in purple cross lines forms part of Jharsa bund and presently falls under the possession of respondent no. 4 and that the wall around the area is required to be removed.

12. The Medanta Hospital has filed additional reply on 23.10.2017 in pursuance of order of this Tribunal dated 31.08.2017 to the effect that out

of 43 acres of land allotted to it, it was in possession of 42.82 acres. It opposed the stand of HUDA and the Municipal Corporation claiming ownership over 0.43 acres of land. The stand of MCG that the hospital had unauthorisedly encroached 2736.4 sq. yards of land is erroneous. The applicant filed objections to the inspection report dated 14.11.2017 on 05.05.2018 and sought fresh inspection. The applicant also filed rejoinder to the same effect. The Medanta Hospital filed further reply dated 10.05.2018 to the demarcation report dated 14.11.2017, relying upon a fresh inspection report filed on 14.03.2018 by HUDA to the effect that encroachment was in Kharsa No. 153 to the extent of 2072 sq. yards. It is further stated that apart from 2072 sq. yards of land owned by HUDA which is said to have been encroached by the Medanta Hospital, MCG claimed that 1938.28 sq. yards of land of the MCG was encroached and thus, total 4010 sq. yards is said to have been encroached which was against the earlier demarcations. However, in view of suggestions during the hearing, Medanta Hospital was willing to resolve the matter as follows:-

1. *The area demarcated as 'Jharsa Bund' and allegedly falling within the land allotted to Respondent No. 4 by HUDA, shall not be constructed upon (save and except the existing boundary wall;*
2. *The said area shall be maintained under green cover and approximately 150 trees, plant and shrubs of different varieties will be planted in the area."*

13. We may now reproduce the demarcation report dated 14.11.2017 as follows:-

"As per the DGPS generated computerized map, the following land bearing Khasra No. 152 was founded to be encroached.

1. *103.35 Sq. Yards*
2. *330.35 Sq. Yards*
3. *282 Sq. Yards*

4. 682.97 Sq. Yards
5. 434.80 Sq. Yards
6. 51.08 Sq. Yards
7. 53.73 Sq. Yards

Total measuring 1938.28 Sq. Yards

The following land measuring 2072 Sq. Yards in land bearing Khasra No. 153 was founded to be encroached.

The entire aforesaid land was found to be encroached at the spot by the Medanta Hospital, Gurugram.”

14. Further, site inspection report dated 11.09.2018 conducted by the Regional Office, MoEF&CC with the assistance of other officers of State of Haryana and in presence of the applicant and representative of the Medanta Hospital, the demarcation is as follows:-

Khasra No.	Land category	Area in Sq Feet	Area in Sq yards	Area in Sq metres	Form of Encroachment	Name of encroacher
152	Gair Mumkin Bund	31137.11	3459	2892.73	Boundary wall and road	Medanta Hospital
153	Gair Mumkin Bund	18651.00	2071	1732.73	Boundary wall	Medanta Hospital
Total		49788.11	5530	4625.46		

The alleged encroachment detected, after proper legal demarcation, is **55.30 sq yards or 4625.46 sq metres or 1.1429 acres or 0.4625 ha**. The applicant, Representative of Respondent No. 4 and Representative of Commissioner MC, Gurugram were completely satisfied with the demarcation/measurements.”

15. The Medanta has filed its response to the above on 29.10.2018 to the effect that there is no encroachment as the land is allotted to the hospital in a public auction. The different maps of the Government have

shown the position differently. The solution proposed by the Medanta Hospital is as follows:-

“1. Khasra No. 153:

*The area demarcated as ‘Jharsa Bund’ in map dated 11.09.2018 shall be maintained as a green cover. The boundary wall shall be dismantled and shifted to the inside of the area marked with number ‘8’ on the map. This addresses the issue raised with respect to Khasra No. 153 in totality. This is also depicted by a purple line in area marked under ‘8’ on Annexure –A and Annexure –B. The map/report incorrectly records the ownership of Khasra No. 153 to be with HUDA, however this is contrary to HUDA’s own stand that the land is allotted to Respondent No. 4. (See pg. 158). Hence, **while the boundary wall would move away from the alleged “Jharsa Bundh”, the area would be maintained as a green cover and ownership would remain with Respondent No. 4.***

2. Khasra No. 152:

MCG and MoEF claim that 3459 sq. yards allegedly belongs to MCG, and has been “encroached” by Respondent No. 4. This is contrary to various documents issued by HUDA at the time of allotment and inspection reports, which show that the 18 meter road abuts the land allotted to Respondent No. 4 by HUDA. There is no gap between the road and the land of Respondent No. 4. It is also interesting to note that the MCG has issued a show cause notice to HUDA, claiming “encroachment” on its land for various sector roads (see pg 276). It therefore appears that there is confusion relating to the ownership of Kharsa No. 153 between HUDA and MCG.

*However, **we propose to move the dismantle the boundary wall on number ‘6’ ‘7’ & a part of number ‘5’ as marked by the purple line on Annexure –A and Annexure –B in order to maintain the alleged ‘bundh’ land.***

*However, it would not be possible to move the boundary wall from number ‘1’, ‘2’, ‘3’, ‘4’ and a part of ‘5’ on the alleged ‘bundh’ land as the power charging station is positioned in part 5, which could not be dismantled and moved. Secondly, the Respondent No. 4 has a 9 meter road circling the Hospital Building, with a 12 meter the National Building Code mandates under S. 4.6.1.4(a) (2) turning radius, for purpose of fire safety. As seen in Annexure –B, the road coincides with approximately 2330 sq. yards of the alleged “Jharsa Bundh”. Hence, the Respondent No. 4 proposes that the boundary at points ‘4’, ‘3’ and ‘2’, and the marked part of 5 remain as is. **It is additionally proposed that the area marked in purple stripes at number ‘1’ be handed over to the appropriate agency and be maintained as alleged ‘bundh’ land.***

As per the said proposal, it is submitted that a total area of 5479 sq. yards will be maintained as 'bundh' land."

16. The applicant has filed objections to the stand of the Medanta to the effect that forest land cannot be diverted for non-forest purposes, except as per laid down procedure. Reference has been made to the order of the Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India*, 1997 (2) SCC 267. The applicant has also challenged the correctness of the inspection reports.

17. MoEF&CC has filed a copy of the letter dated 31.10.2019 on 22.01.2020 granting Stage-I clearance for "Diversion of 0.1929 ha (Jharsa Bandh) of forest land in favour of Global Health Private Limited falling in Khasra No. 152 in revenue estate of village Jharsa, Tehsil and District Gurugram for regularization under law, on being erroneously transferred by HUDA, under the direction of all competent authorities given in meeting dated 17.05.2019, under forest division and District Gurugram, Haryana (Online Proposal No. FP/HR/Approach/41638/2019)." The Medanta has filed its reply dated 11.02.2020 to the objections of the applicant by stating that in different maps, different positions have been depicted. It has been wrongly stated that Khasra No. 161 is also part of the Jharsa Bund. HUDA itself has constructed a road abetting the land of the hospital and MCG has issued notice to HUDA also. Having allotted the land, HUDA cannot take the plea that the land allotted was part of forest. If there was a mistake by HUDA as stated in Minutes of the Meeting dated 17.05.2019 between HUDA and MoEF&CC, Medanta cannot be blamed at this distance of time. The statutory authorities have been certifying upto 2014 that the Medanta had not encroached any land and the stand now taken is based on alleged mistake of HUDA itself. The Medanta has given a reasonable proposal

under the circumstances and has dismantled and shifted the boundary wall reducing its possession by 2071 sq. yards. With regard to 3459 sq. yards belonging to MCG, 1129 sq. yards land has already been released and the authority is in the process of taking over possession thereof. The boundary wall cannot be moved from Khasra No. 152 as power station is located therein. Thus, a proposal has been moved for diversion of 2330 sq. yards of forest land for non-forest purpose by exchanging equivalent amount of private land in accordance with the Forest (Conservation) Act, 1980 and the Forest (Conservation) Rules, 2003. The proposal was discussed in the meeting dated 17.05.2019 between MoEF&CC, Government of Haryana, Gurgaon Metropolitan Development Authority (GMDA) and the MCG. MCG gave its 'No Objection'. The Government of Haryana has accepted its proposal but inspite of error of the HUDA, Medanta has been required to pay penalty of Rs. 71,71,290/- in its letter dated 31.10.2019 which is not justified. Details of the penalty are as follows:-

S. No.	Particulars	Amounts (Rs.)
1.	<i>Compensatory Afforestation</i>	3,81,55.70
2.	<i>Additional Compensatory Afforestation</i>	Nil
3.	<i>Penal Compensatory Afforestation</i>	38,11,557
4.	<i>Catchment Area Treatment</i>	Nil
5.	<i>Safety Zone</i>	Nil
6.	<i>Additional Charges for protected area</i>	Nil
7.	<i>Net Present Value (NPV)</i>	17,11,02.30
8.	<i>Any other charge (if any) Barbed wire and supervisory charges</i>	13,40,799.57
9.	<i>Felling charges</i>	Nil

10.	<i>Other charges 1 (if any) Plants damage charges</i>	<i>Nil</i>
11.	<i>Other Charges 2 (if any) Exigency Charges</i>	<i>2,08,872.52</i>
12.	<i>Soil and Moisture conservation charges</i>	<i>22,57,813.81</i>
	Total	71,71,290

”

18. It is further stated that the hospital did not uproot any tree and only trimmed certain trees because of High Tension Line. As regards ex-post facto approval, under Rule 6 of the Forest Rules, the error is on the part of the HUDA for which Medanta cannot be blamed.

19. The Forest Department, Haryana has filed its further reply dated 20.12.2019 reiterating the stand in the inspection report dated 11.09.2018, in presence of the parties. **It is further stated that since the hospital has voluntarily withdrawn its possession from 3200 sq. yards and on remaining 2330 sq. yards, there are constructions which cannot be removed, proposal is pending for diversion for non-forest purposes consistent with Section 2 of the Forest (Conservation) Act, 1980. Central Government has already granted Stage-I Clearance on 31.10.2019 since the land was erroneously transferred by HUDA to the Hospital and construction was raised when there was no dispute, approval for non-forest purposes is justified.**

20. We have given due consideration to the entirety of the matter particularly the order of the Hon'ble Supreme Court dated 16.04.2019, whereby the applicant was required to be given due opportunity with reference to the decision of the MoEF&CC. It is clear from the record and the stand of the Forest Department in the last affidavit filed on 17.09.2020 that the constructions by Medanta are in the land allotted by HUDA in 2004. No doubt part of the said land was forest land and HUDA acted

illegally in putting such land to auction without permission for diverting the forest land for non-forest purposes.

21. Question which survives for consideration is the remedial action for such illegality. It is a matter of regret that a statutory authority should have overlooked the illegality of protected forest land being acquired and put to auction for non-forest purposes without following the procedure prescribed under the law, in violation of orders of the Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India, 1997 (2) SCC 267*. On principle, in such cases original position has to be restored and protected forest has to be maintained as such. However, irreversible situation has been created to which the State authorities are party. Under the circumstances, we are considering proposal for remedial action under which the Medanta has surrendered from its possession area measuring 3200 sq. yards which is confirmed by learned Counsel appearing for HUDA (now HSVP). Medanta has also offered substitute land for the remaining thus equal land being restored as protected forest. It is stated that the HSVP will be strictly use the said 3200 sq. yard of land for forest purposes. We cannot allow HSVP cannot retain the protected forest as its original acquisition itself is prohibited under the law. The area has to be restored to forest department as protected forest is to be managed by the forest department as per Forest Act, 1927. This has to be ensured by the Chief Administrator, HSVP, Gurgaon forthwith but not later than one month.

Further for the illegality committed by the HSVP in auctioning forest land for non-forest purposes, we hold the HSVP, Gurgaon liable to pay compensation equal to 5 times of the NPV and also deposit the Compensatory Afforestation charges, as per applicable procedure.

22. With regard to the balance 2330 sq. yards, the decision of the MoEF&CC granting approval for diversion of forest land for non-forest

purposes does not call for any interference except that **the said conditions for regularization must be strictly followed. The Medanta will be responsible for compliance of the said conditions, including payment of NPV and Compensatory Afforestation charges, as per applicable procedure. Further condition for such diversion will be as that Medanta will give alternative equal land, at its cost, for forest purposes in lieu of the land allowed to be diverted within one month which will be used exclusively for forest purposes by the forest department. The alternative land offered should be suitable for the purpose and such suitability may be finally decided by the forest department, as per law. While Medanta may be justified in pleading that it took land in public auction, illegality having come to light, stand of Medanta in continuing to defend the matter is not appreciable. In any case, it is no charity that Medanta has offered alternative land as it is in any case liable to restore the protected forest. Forest Department of Haryana is equally to blame for the situation as it failed to raise the issue.** The HSVP, Forest Department and the Medanta may now ensure compliance with these directions within one month from today failing which the concerned statutory authorities may take coercive measures for compliance, including prosecution under the Forest Act. It is made clear that the arrangement is not for condoning the illegality but in view of compulsion of the situation and the peculiar facts making it clear that it cannot be cited as precedent for future, violation of Forest Act being criminal offence which is not condonable especially when much required forest is depleting. Land will have to be restored to the forest department. Transfer of protected forest without due procedure being an offence, this order may not be treated as condoning the illegal action but remedying the situation in peculiar fact situation. The land in question may be handed over to the Forest Department. The said

department may do proper fencing/guarding, afforestation and maintain the same as protected forest.

The application is disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Dr. Nagin Nanda, EM

July 13, 2021
Original Application No. 124/2017
SN

Annexure – S-19

TO BE SUBSTITUTED FOR THE LETTER/ORDER BEARING SAME NUMBER AND DATERegd.

From

The Director,
Town & Country Planning,
Haryana, Chandigarh.

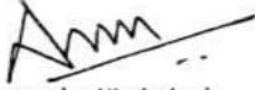
To

1. Mr. Baldev Raj Wadhen s/o Mr. Sardari Lal,
residents of House No.67, WW-83 FF
Malibu Towne Sohna Road, Gurgaon-122001.
2. Mr. Rattan Singh s/o Late Mr. Thakkar Singh,
residents of House No.70, WW-85 GF,
Malibu Towne Sohna Road, Gurgaon-122001.
3. Col. P.C. Padhi s/o Sh. Gopi Nath,
residents of House No.70, WW-14 GF,
Malibu Towne Sohna Road, Gurgaon-122001.
4. Mr. Naveen Jain s/o Sh. Ashok Jain,
residents of House No.70, WW-64 FF,
Malibu Towne Sohna Road, Gurgaon-122001.
5. Mrs. Nidhi Sakhuja w/o Mr. Amit Sakhuja,
residents of House No.32, WW-64 GF,
Malibu Towne Sohna Road, Gurgaon-122001.
6. M/s Malibu Estate Pvt Ltd,
38, DDA Commercial Complex,
Kailash Colony Extension (Zamrudpur)
New Delhi-11004.

Memo No.CC-532/2009/11814-19
Dated: 20-11-09

Subject:- Compliance of Hon'ble Court order in CWP No.8750 of 2009- Mr. Baldev Raj Wadhen & Others Vs. State of Haryana & Others-Deciding of representation dated 11.04.2009 filed by the petitioner.

In compliance to the Hon'ble High Court of Punjab & Haryana orders dated 29.05.2009, find enclosed the orders passed by Sh. T.C. Gupta, IAS, Director, Town & Country Planning Haryana Chandigarh for your information and necessary action.


(Devendra Nimbokar),
District Town Planner (HQ),
for Director Town & Country Planning,
Haryana, Chandigarh.

Endst. No.CC-532/2009/11820

Dated:20-11-09

A copy is forwarded to Senior Town Planner, Gurgaon for information and necessary action.

(Devendra Nimbokar),
District Town Planner (HQ),
for Director Town & Country Planning,
Haryana, Chandigarh.

ORDER

The Hon'ble High Court of Punjab and Haryana while disposing of CWP No. 8750 of 2009- Mr. Baldev Raj Wadhen & others (Residents of Malibu Town, Sohna Road Distt. Gurgaon) vide order dated 29-05-2009 has passed the following order:

"The petitioners have some grievance against the 4th respondent- a Builder in Gurgaon, who, according to the petitioners, has been claiming exorbitant maintenance charges contrary to what the Hon'ble Supreme Court has permitted in the case of D.L.F.

In this regards, petitioners are stated to have represented to the Director, Town and Country Planning, Haryana Chandigarh on 11-04-2009 [Annexure P-11].

Having heard learned counsel for the petitioner and without expressing any views on the allegations that the 4th respondent is charging maintenance charges contrary to what is permissible in law, this writ petition is disposed of with a direction to the Director, Town and Country Planning, Haryana Chandigarh to take cognizance of the petitioner's representation dated 11-04-2009, hear both the parties and then resolve the controversy by passing a speaking order within some reasonable period, preferably within six months".

After receipt of the above said orders from the Hon'ble High Court, the petitioners were directed vide this office letter dated 11.09.2009 to appear before the undersigned on 12.10.2009 in my office chamber for personal hearing. The petitioners were heard in person on that date. However, before taking a final decision in the matter, it was also felt necessary to hear the colonizer. Accordingly, the colonizer i.e. M/s Malibu Estates Private Limited were also called for hearing on 19.10.2009. Sh. V.K. Mahesawari, authorized signatory of the licensee appeared on this date and explained that they are not charging for the maintenance of common areas as per the direction issued by the Director Town & Country Planning, Haryana, which were issued vide public notice dated 15.05.2009. He also sought time to clarify these issues in writing and also to submit copy of the Audit Report regarding accounts of the maintenance charges being recovered from the allottees.

I have gone through the representation dated 11.04.2009 filed by the petitioners and also the submissions made by the Maintenance Issue Resolution Forum made vide letter dated 21.10.2009. The documents submitted by the licensee i.e., M/s Malibu Estates Private Limited have also been examined.

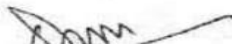
Brief facts of the case are as under:-

1. That Licences have been granted to M/s Malibu Estate Pvt. Ltd. Part completion certificate in respect of licences were granted by this office. However, final completion certificate has not been obtained so far by the colonizer.
2. That the above said petitioners have purchased the plot/flats from the colonizer on the terms and conditions mutually settled between the parties.
3. That grievance of the petitioners is that the colonizer is demanding maintenance charges from them in contravention of the provisions of the Act of 1975 and the rules made therein as well as against the provisions of the LC-IV and the Bilateral agreement executed by the colonizer with the Department. A representation dated 11-04-2009 was sent to this office by the maintenance Issue Resolution Forum (Regd.) - a society of the residents of the Malibu Towne on this issue. However, before a decision could be taken on the representation, the petitioners filed the above petition, which has now been disposed off with the directions to the undersigned for deciding the same after hearing both the parties.
4. That Section 3(3)(a)(iii) of the Act of 1975 provides that the Director shall grant licence after the applicant has undertaken:-

"The responsibility for the maintenance and upkeep of all roads, open spaces, public parks and public health services for a period of 5 years from the date of issue of completion certificate unless earlier relieved of this responsibility and thereupon to transfer all such roads, open spaces, public parks and public health services free of cost to the government or the local authority as the case may be"

Similar provisions have also been incorporated in the LC-IV agreement.

5. That it had come to the notice of the Department in the year 1999 that some colonizers who had been granted licences under the Act of 1975 were collecting maintenance charges and extension fee (for non construction within the stipulated period) from plot holders, and also allowing transfer of plots without getting the sale



deeds registered in favour of the allottees resulting in evasion of the registration fee and thus causing financial loss to the State exchequer. Accordingly, notices were issued to the colonizers i.e. M/s D.L.F. Universal Ltd., M/s. Unitech Ltd. and some other colonizers on 05-05-1999 to stop this practice and not to charge extension fee and maintenance fee from the plot/flat holders and also delete relevant clauses, if any, from the agreement executed by them with the plot/flat holders.

6. A public notice dated 15-05-99 was also got issued in the news papers wherein all the allottees in the private licenced colonies were informed that no such extension fee and maintenance charges are payable to the colonizers and any collection made by them in the past is unauthorized. A clarification to this notice was also got issued in the news papers on 20-07-1999 that in case of group housing, the liability of the colonizers for maintenance of services within the group housing complex is confined to underground public health services for which no charges are payable by the allottees. However, for the upkeep and maintenance of common areas and provisions of other services/facilities in the group housing complex, the charges are payable by the residents to the agency who is carrying out such maintenance.

7. M/s D.L.F. Universal Ltd. and some other colonizers filed CWP No. 6704 of 1999 & 8233 of 1999 before the Hon'ble High Court challenging the notices dated 05-05-99 and 15-05-99 on the ground that this Department has no jurisdiction to issue such direction. It was also pleaded by them that they are charging extension fees/maintenance fee on the basis of the agreement executed by the plot/flat holders with them. On behalf of the Department, it was stated in the written statement that the cost of maintenance charges for five years for maintaining the services as provided in Section 3(3)(a)(iii) is included while preparing the estimates for execution of internal development works to be executed by the colonizer in the colony area and this cost is included while fixing the price of the plot/flat by the colonizer. Similarly, the colonizer could not transfer the plots by nomination as it was an attempt to save the registration charges. Therefore, no maintenance/extensions fee could be charged by the colonizers. Some Resident Welfare Associations of these colonies also became parties in the above said petitions. After hearing the concerned parties, the Hon'ble Court was pleased to dismiss the petitions and the validity of the notices dated 05-05-99, 15-05-99 and 20-07-99 were upheld.

8. M/s DLF Universal Ltd., M/s Ansal Properties and Industries Ltd. and M/s Ajay Enterprises Ltd. filed SLPs before the Hon'ble Supreme Court and in CA. No. 550, 551 and 1611 of 2003, the Hon'ble Supreme Court vide interim order dated 05-05-2003, ordered that:-

"During the pendency of these appeals, the appellants shall be entitled to recover from the plot owners/flat buyers fifty per cent of the demand on account of maintenance charges and upkeep expenses for services referred to in Section 3 (3) (a) (iii) of the Haryana Urban Development and Regulation of Urban Areas Act, 1975 and maintenance charges and upkeep expenses for additional services.

The appellants shall deliver bills to the persons against whom demand is raised. The collection shall be only by cheques. The amount shall be kept in a separate bank account, the details whereof shall be furnished to this Court every three months. In the event of the appeals being dismissed, the appellants shall remain liable to refund the amount and on such terms as this Court may deem just and proper to appoint. The appellants are also directed to file statement of accounts showing the maintenance charges and upkeep expenses for services and additional services recovered by them from the plot owners/flat buyers since 1991 upto date and also showing the amount of expenses incurred there against."

9. That later on, some associations of plot/flat holders entered into an agreement with the colonizers for payment of Rs.1 per sq. yard per month which will comprise of Rs.0.10 per sq. yard being 50% of the cost of such services as permitted to be recovered by order of the Hon'ble Supreme Court dated 05-05-2003 and Rs.0.90 per sq. yard per month towards the additional services agreed to be provided by the colonizers such as round the clock security, electricity consumption of street lights, repairing and strengthening of boundary walls and fencing, up gradation of roads/parks and administrative charges for providing such services. An application for clarification/modification of the earlier order dated 05-05-2003 was also filed by the concerned parties before the Hon'ble Supreme Court. Accordingly, the Hon'ble Supreme Court clarified/modified the earlier order dated 05-05-2003 vide its new order dated 12-03-2004 and the new arrangement was allowed to be continued subject to the final decision of the SLPs. The SLPs are still pending.

10. The representation dated 11-04-2009, which as per directions of the Hon'ble High Court vide order dated 29-05-2009 is to be decided has been filed by the Maintenance Issue Resolution Forum (Regd.) of the residents of the Malibu Town Gurgaon whereas petition was filed by Sh. Baldev Raj and four other residents of the colony. In the representation, the applicants have alleged that management of M/s Malibu Estate Pvt. Ltd., are recovering maintenance charges in excess of the amount allowed by the Hon'ble Supreme Court vide interim order dated 05-05-2003. According to them, they have requested the management to enter into a similar agreement that has been executed by M/s DLF Universal Ltd. with the plot/flat holders. However, the management is not agreeing to this proposal. It has also been stated in the representation that since no stay has been obtained by M/s Malibu Estate Pvt. Ltd. from the Hon'ble Supreme Court against the judgment dated 31-05-2001 passed by the Hon'ble High Court, therefore, the management cannot even recover the amount of maintenance charges as ordered to be recovered by the Hon'ble Supreme Court vide interim order dated 05-05-2003.

A perusal of the record reveals that M/s Malibu Estate Pvt. Ltd., or allottees of the colony developed by this colonizer were not the petitioners either before the Hon'ble High Court or before the Hon'ble Supreme Court. Therefore, the interim order dated 05.05.2003 or the order dated 12.03.2004 is not "*ipso-facto*" applicable to the present petitioners. Copy of the agreement executed between the licensee and M/s MEPL Maintenance Pvt. Ltd., who are providing the maintenance services to the residents of the colony developed by M/s Malibu Estates Pvt. Ltd., reveals that it does not distinguish between the maintenance charges of the common areas which are exempted as per public notice and the additional services for which they are authorized to levy maintenance charges. The licensee has also tried to clarify that as per the terms of Section 3(3)(a)(iii), of the Act of 1975, as well as the terms of the agreement executed by them with the department, the responsibility for the maintenance and upkeep of the services to be provided free of cost for five years is only for all roads, open spaces, public parks and public health services. However, for other additional services like round the clock security, electricity consumption of street lights which includes replacement of bulbs, tubes, maintenance of electrical system and its upgradation, repairing and strengthening of boundary walls and fencing, collection of door to door garbage and its disposal, clearing of unwanted growth of plants in vacant plots etc, and establishment/ administrative charges for rendering the

aforesaid services, they are entitled to recover proportionate maintenance charges for the above said services. According to them, cost of these services for the period from 2001 to 2007 has been Rs. 7,850/- pa for the independent floors and Rs.6400/- pa on the second floor, which comes to 85.00 paisa per sq.yards in regard to the independent floors. This figure is even less than the amount being charged from the allottees of Flats developed by M/s DLF Pvt. Ltd., as stated by them before the Hon'ble Supreme Court. The licensee has justified their demand for recovery of such maintenance charges. According to them, most of the members of the Malibu Town Residents Welfare Association are paying these charges.

// However, the Maintenance Issue Resolution Forum has contested levy of the maintenance charges. It has been contented by them that the Registrar of Societies, Gurgaon, is the only competent body which can legally deal with the issue of maintenance charges. But, I am not inclined to accept this contention. The provisions regarding maintenance charges are contained in the Act of 1975 for which the Department of Town & Country Planning, Haryana is the implementing agency. Similar provisions have also been incorporated in the agreement executed by the colonizer with the Department. Hence, this issue concerns only this Department and the Registrar Cooperative Societies has no jurisdiction to deal with such matters.

It is not disputed by the licensee that they are responsible for maintenance of roads, open spaces, public parks and public health services and therefore, no recovery for maintaining these services can be made by them. Of course, for the additional services if provided by the colonizer or any other maintenance agency, proportionate services charges can be recovered from the allottees. As already pointed out, the audited statements submitted by the colonizers do not differentiate between the services provided for common areas and the additional services being provided by the maintenance agency. Though, the present petitioner are not parties in the SLP pending before the Hon'ble Supreme Court on this issue but it remains a fact that the issue involved in the present case is also pending before the Hon'ble Supreme Court.

Therefore, till a final decision is delivered by the Hon'ble Supreme Court on this issue, the licensee is directed to only recover the proportionate amount for the additional services (other than those mentioned in the Act) from the allottees of independent or flat owners. Accounts Officer of this Department or any other authorized person like a Chartered Accountant will audit the statement of income and expenditure after every six months to verify and to ensure that no recovery is being made by the colonizer


from the allottees on account of maintenance of the services which the colonizer is bound to provide free of cost as per the provisions of the Act of 1975.

During course of hearing, it has also come to the notice of the Department that the licensee has sold the plots/houses floor wise, whereas, licence was granted only for the development of a plotted colony. This was in violation of the terms of the grant of licence for which action may be initiated against the colonizer by STP, Gurgaon. However, since Government has already allowed sale of area floor wise, therefore, colonizer is free to get this irregularity regularized by following the new provisions of law. However, this regularization shall not grant him any immunity from action which will be taken against him for violation of licence conditions in the past.

Date: 19.11.2009
Place: Chandigarh.

-Sd/-
(T. C. Gupta, IAS)
Director Town & Country Planning,
Haryana Chandigarh

Attested


District Town Planner (IQ)
GO Director, Town & Country Planning
Haryana, Chandigarh

Annexure- S-20

File No.HSPCB-060001/78/2020-SOLID WASTE MANAGEMENT CELL-HSPCB
I/61798/2021

1638



HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph-0172-577870-73, Fax No. 2581201

Approval for Prosecution.

Whereas, M/s Malibu Estate Pvt. Ltd, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 is a company (hereinafter referred to as 'unit') and is engaged in the business of constructions of building and dealing, selling, purchasing, acquiring, providing consultancy in civil construction of any land or immovable property etc.

Whereas, Regional Officer, Gurugram (North) vide letter No. 817 dated 14.08.2020 and subsequent clarification vide letter no. 2173 dated 19.11.2020 No. I/44721/2021 dated 15.06.2021, & No I/51055, dated 14.07.2021 has intimated that the site (Malibu Town, Sohna Road, Gurugram) of the unit was inspected on 14.07.2020 by Smt. Neha Saharan AEE, HSPCB, Regional Office, Gurugram (North) and found that the project had obtained CTO for the period 01.04.2018 to 30.09.2020 vide letter No. HSPCB/Consent/:329962318GUNOCTO5199041 dated 08.05.2018. It is necessary to mention here that the project proponent/accused have obtained consent to operate for built up area 1,28,468 sqm, whereas perusal of the facts submitted by the project proponent before the MoEF, while seeking ToR, makes it clear that total plot area 8,28,780.01 sqm (204.96 acres) and total built up area is 6,64,412.826 sqm. Moreover, it is also necessary to mention here that part completion certificate has been obtained for 151.315 Acres i.e. 6,12,350.1 sqm rather than 1,28,468 sqm.

Whereas, Regional Officer, Gurugram (North) of the Board has recommended vide letter 817 dated 14.08.2020 and subsequent clarification vide letter no. 2173 dated 19.11.2020 No. I/44721/2021 dated 15.06.2021, & No I/51055, dated 14.07.2021 to accord the approval for filing the prosecution case in the Hon'ble Special Environment Court, Faridabad under Section under Section 43, 44 & 45A read with Section 47 for violation of Section 24 & 25 of Water (Prevention & Control of Pollution) Act, 1974 and under Section 37 & 39 read with Section 40 for violation of Section 21 of Air (Prevention & Control of Pollution) Act, 1981 through Smt. Akansha Tanwar, AEE against the above said unit and its Directors/Partners/Proprietor and other persons responsible for it's day to day activities, for the above said violations committed by the unit.

Whereas, the Board vide resolution No. 150.11(S) has authorized Concerned Regional Officers/Area In-charge of the Regional Offices of the Board to file prosecution cases against such units and their responsible persons which violates the provisions of Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 subject to the approval of the Chairman of the Board;

Whereas, facts of the case and recommendation of Regional Officer, Gurugram (North) has been examined and it has been found that the unit has committed the offense under Section 43, 44 & 45A read with Section 47 for violation of Section 24 & 25 of Water (Prevention & Control of Pollution) Act, 1974 and under Section 37 & 39 read with Section 40 for violation of Section 21 of Air (Prevention &

I/61798/2021

Control of Pollution) Act, 1981 as mentioned above.

Therefore, in view of above and in exercise of the powers delegated by the Board vide Board's resolution No. 150.11 (S), I, Dr. Sumita Misra, Chairperson, Haryana State Pollution Control Board being Competent Authority, hereby accord the approval to file prosecution case through Smt. Akansha Tanwar, AEE, concerned area in-charge of Regional Office, HSPCB, Gurugram (North) on behalf of the Board before Hon'ble Special Environment Court, Faridabad under Section 43, 44 & 45A read with Section 47 for violation of Section 24 & 25 of Water (Prevention & Control of Pollution) Act, 1974 and under Section 37 & 39 read with Section 40 for violation of Section 21 of Air (Prevention & Control of Pollution) Act, 1981, against (1) M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 for the project Malibu Town, Sohna Road, Gurugram (2) Sh. Gurbachan Singh Dhingra, Director, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (3) Sh. Sameer Kohli, Director, M/s Malibu Estate Private Limited 38 DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 & M/s Bloom Field Properties & Holding Private Limited, 3 Shivji Marg, Westend Greens Rangpuri, New Delhi – 110037 (4) Sh. Sudershan Kumar Kohli, Director, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 & M/s Bloom Field Properties & Holding Private Limited, 3 Shivji Marg, Westend Greens Rangpuri, New Delhi – 110037 (5) Ms. KumKum Kohli, Director, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 & M/s Bloom Field Properties & Holding Private Limited, 3 Shivji Marg, Westend Greens Rangpuri, New Delhi – 110037 (6) Sh. Naveen Choudhary, Director, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (7) Sh. K Sriram, Director, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (8) Sh. Sanjay Kumar Bhargav, Vice President, M/s Malibu Estate Private Limited 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (9) M/s Bloom Field Properties & Holding Private Limited, 3 Shivji Marg, Westend Greens Rangpuri, New Delhi – 110037 (10) Sh. Sumit Garg, Director, M/s Bloom Field Properties & Holding Private Limited, 3 Shivji Marg, Westend Greens Rangpuri, New Delhi – 110037 (11) Sh. Subhash Chand, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (12) Sh. Ram Chand S/o Sh. NandLal C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (13) Sh. Gyani S/o Sh. Juglal, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (14) Sh. Naresh, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (15) Sh. Satpal S/o Sh. ChotteLal, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (16) Sh. Lakhi, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (17) Sh. Rohtash C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (18) Sh. Bhim Singh S/o Sh. Jhabbu C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (19) Smt. Sada Kaur Wd/o Om Parkash C/o M/s Malibu Estate Private Limited, 38, DDA Commercial

I/61798/2021

Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (20) Sh. Vijay Kumar C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (21) Sh. Dharmbir S/o Sh. Om Parkash C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (22) Smt. Phoolwati C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (23) Smt. Mukesh Ds/o Sh. Om Parkash C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (24) Sh. Balwan S/o Sh. Deep Chand C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (25) Sh. Subh Ram C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (26) Sh. Hari Singh S/o Sh. Chandgi Ram C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (27) Sh. Jage Ram C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (28) Sh. Uday Chand C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (29) Sh. Daya Chand S/o Sh. Ram Mehar C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (30) Sh. Risal Singh, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (31) Sh. Surte, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (32) Sh. Meer Singh S/o Sh. Shri Chand C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (33) Smt. Chandro Wd/O Sh. Jile Singh C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (34) Sh. Raghu Jeet C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (35) Sh. Bajinder S/o Sh. Jile Singh C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (36) Smt. Shakuntala D/o Sh. Jile Singh C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (37) Sh. Balkishan, C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (38) Sh. Jai Kishan S/o Sh. Ram Kumar C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (39) Sh. Dharama S/o Sh. Govind Ram C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (40) Sh. Rajeshwar S/o Sh. Bharat Singh C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (41) Sh. Balwant Somagi S/o Sh. Chandan Singh C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 (42) Sh. Ram Avtar S/o Sh. Jeeta C/o M/s Malibu Estate Private Limited, 38, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi – 110048 and any other person of the unit responsible for the above said violation.

**Dated: Panchkula
31/08/2021**

**Dr. Sumita Misra, IAS
Chairperson**

Endst to the following for information and necessary action:-

1. The Regional Officer, Haryana State Pollution Control Board, Gurugram (North) for information and further necessary action w.r.t. his letter No. 817 dated 14.08.2020 and subsequent clarification vide letter no. 2173 dated 19.11.2020 No. I/44721/2021 dated 15.06.2021, & No I/51055, dated 14.07.2021. He is directed to ensure the compliance of comprehensive policy/procedure issued vide Head Office letter dated 03.01.2019 for filing prosecution cases and will further ensure that the concerned officer shall file prosecution case against the above said unit & its responsible persons in the Special Environment Court, Faridabad after getting the same vetted and approved from Head Office.
2. Smt. Akansha Tanwar, AEE the concerned Regional Officer, Gurugram (North), HSPCB.
3. The District Attorney, Haryana State Pollution Control Board, Panchkula.

Signed by Satinder Pal

Date: 31-08-2021 15:55:40

Reason: Approved

Sr. Environmental Engineer (HQ).
For Chairperson

Annexure- S-21

Page 1 of 30

Minutes of the 154th Meeting of the State Expert Appraisal Committee, constituted for considering Environmental Clearance of Projects (B category) under Government of India Notification dated 14.09.2006, held on 29th and 30th June, 2017 under the Chairmanship of Sh. G.R. Goyat, Chairman, SEAC at Panchkula

List of participants is annexed as *Annexure-A*.

At the outset the Chairman, SEAC welcomed the Members of the SEAC and advised the Secretary to give brief background of this meeting. The minutes of the 153rd Meeting were discussed and approved without any further modification.

It was further informed that in this meeting 13 number projects are to be taken up for scoping, appraisal and grading as per the agenda/minutes circulated.

After preliminary discussion, the following projects were taken up on case-to-case basis:-

154.01 Environment Clearance for Proposed Construction of Residential Plotted Colony with Group Housing Colony at Village Fatehpur, Admapur, Tikri & Jharsa at Sector-47 & 50, District Gurgaon, Haryana by M/s Malibu Estate Pvt. Ltd.

The project was submitted to the SEIAA, Haryana on 15.01.2016. The project proponent submitted the case to the SEIAA as per check list approved by the SEIAA/SEAC. Thereafter the case was taken up for appraisal in the 131st meeting of the SEAC held on 06.04.2016. The Project Proponent requested for adjournment and the same was discussed in the meeting. The Committee agreed to consider the request of the Project Proponent by issuing notice of 30 days.

Show Cause Notice was issued to the project proponent vide letter No. 882 dated 20.04.2017. In response to the show cause notice project proponent submitted the reply wherein PP stated that Terms of Reference was approved by the EAC, MoEF vide letter No. 21-94/2015-IA.III dated 19-21 May, 2015.

During discussion, it was revealed that project proponent has already started the construction without obtaining prior environmental clearance which amounts to violation of EIA Notification dated 14.09.2006. The fact apparently was brought before the Committee on reference to the project proposal.

The Committee again went through the latest Notification dated 14.03.2017 relating to Consideration of proposals for ToRs/Environment Clearance involving violation of the Environment (Protection) Act, 1986/Environment Impact Assessment(EIA) Notification, 2006 which clearly states that in case the project or activities required prior Environmental Clearance under Environmental Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for Environmental Clearance after starting the construction work, or have undertaking expansion, modernization and change in product mix without prior Environmental Clearance, these projects shall be treated as cases of violation and in such cases, even Category B projects which are granted environmental clearance by the State Environment Impact Assessment Authority constituted under sub-section(3) of section 3 of the Environment (Protection) Act, 1986 shall be apprised for grant of environmental clearance only by the Expert Appraisal Committee and the Environmental Clearance will be granted at the Central level.

In view of above, the Committee is of the unanimous view that this case may be referred to SEIAA for sending it to the concerned authority for deciding the Environment Clearance case as per latest notification dated 14.03.2017. SEIAA may take a final view in the matter.

Annexure-'A'**List of Participants**

- | | | |
|----|--|------------------|
| 1. | Shri Raj Kumar Sapra, IFS (Retd.)
House No. 601, Angel Apartment
Society No. 12, Sector-24, Panchkula | Member |
| 2. | Shri S.C. Mann,
House No. 544, Sector-12-A,
Panchkula Haryana | Member |
| 3. | Shri A.K. Bhatia,
House No. 679,
Sector-8, Panchkula, Haryana | Member |
| 4. | Shri Hitender Singh, Architect,
Department of Architecture, Haryana | Member |
| 5. | Dr. S.N. Mishra,
House No. 220, First Floor,
Sector-14, Rohtak, Haryana | Member |
| 6. | Sh. S. Narayanan, IFS
Member Secretary,
Haryana State Pollution Control Board,
Panchkula | Secretary |

**IN THE HON'BLE COURT OF NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

APPLICATION NO. OA- 68 of 2022

In the matter of :

Raman Sharma

..... APPLICANT

Verse

SATE OF HARYANA & ORS

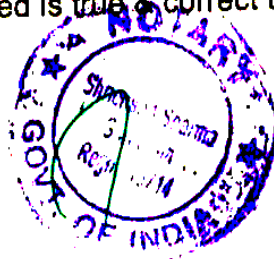
..... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF APPLICANT FOR FILING OBJECTIONS

Affidavit of Sh. Raman Sharma aged about 57 years, S/o Sh. Narendar
Nath Sharma, R/o CW-58-FF, Malibu Towne Gurgaon.

We, the above-named deponents do hereby solemnly affirm and declare as
under:

1. That the deponent is an applicant and is well conversant with the facts and circumstances of the case and hence competent to swear this affidavit.
2. That the deponents affirm the present application for objection has been filed by the Deponent in accordance to actual factual matrix and all the facts mentioned in the application for objection are true and to best of our knowledge.
3. That the Deponents affirm that the content of application for objection are drafted in accordance with documents/ evidence mentioned herein alongwith the laws mentioned in the application for objection. The contents of the IA filed is true & correct to our knowledge.




Deponents

Verification: Verified at Gurugram on this Date of _____ 2024 that the contents of the above affidavit are true and correct to the best of our knowledge and belief and nothing material fact has been concealed therefrom.

Date:


Deponents



ATTESTED

SHRI CHAND SHARMA
ADVOCATE & NOTARY
GURGAON

05 JAN 2024