

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

**ORIGINAL APPLICATION No 710 OF 2023**

**IN THE MATTER OF:-**

SUSGHIL RAGHAV

.... APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS

.... RESPONDENTS

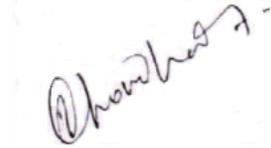
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**Through**



**RITWICK DUTTA**



**RAHUL CHOUDHARY  
ADVOCATE**

Counsel for the Applicant

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New Delhi -110048

Email:- [dclaw160@gmail.com](mailto:dclaw160@gmail.com)

Place:- New Delhi

Dated:- 16.04.2024

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH NEW DELHI  
ORIGINAL APPLICATION NO. 710 of 2023**

**IN THE MATTER OF:**

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**RESPONSE TO SITE VISIT REPORT OF THE JOINT  
COMMITTEE DATED 02.02.2024**

**MOST RESPECTFULLY SHOWETH:-**

1. That the above titled Application was filed under sections 14, 15, 18(1) and 20 of the National Green Tribunal Act, 2010 raising substantial questions related to Environment because of the illegal construction Activities undertaken on the land marked as 'Park' in the layout map of Rajendra Nagar industrial Colony on G.T Road Mile 8/7, Sahibabad, Ghaziabad by Ghaziabad Municipal Corporation, Uttar Pradesh by Undertaking following activities:
  - a. Construction of Road/ Pathway by the Ghaziabad Municipal Corporation on the Land marked as park in the layout map.
  - b. Construction of an Industrial Drain
  - c. Shifting of the boundary of the park and reducing the area of the park by the Ghaziabad Municipal Corporation.
  - d. Some other Structures on the Park
2. That the Original Application is with regardS to the illegal encroachment and construction activities undertaken on the land marked as 'Park' with an area of 14,400 square yards

falls right adjacent to the plot shown as 'Factory and Bungalow' in the layout map annexed herewith as ANNEXURE A-1 at page 31 of the O.A.

3. That vide order dated 30.11.2023, the Hon'ble Tribunal constituted a Joint Committee to conduct a site visit and submit a Report to the Hon'ble Tribunal. The relevant portion of the order is reproduced below:

*"5. We also form a committee comprising of the Member Secretary, Uttar Pradesh Pollution Control Board, concerned Divisional Forest officer and District Magistrate, Ghaziabad who will carry out the spot inspection, ascertain the correct position on the spot and file action taken report before the Tribunal within Six weeks Tribunal by email at Judicialngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The District Magistrate will be the nodal officer in the committee...."*

4. That a Joint Committee conducted a site visit on 20.01.2024 and the Applicant herein is filing a response to the committee report as it fails to furnish full and clear details of the park. The joint committee report is silent about the construction of roads/pathways by the Ghaziabad Municipal Corporation and the construction of industrial drains which are the two important concerns raised by the Applicant in the O.A.

**The Joint committee report is silent about the construction of road/pathway and the industrial drain**

Construction of road/pathway

5. That an area of 14,400 is marked as 'Park' in the layout map of Rajendra Nagar Industrial Colony on G.T Road Mile 8/7, Sahibabad, Ghaziabad, Uttar Pradesh. This park is adjacent to the plot marked as 'Factory and Bungalow'. This plot is subdivided and cut out into several industrial plots. The Ghaziabad Municipal Corporation has illegally shifted the

boundary of the park and constructed a road between the park and the plot marked as 'Factory and Bungalow'.

6. That the Joint Committee report dated 02.02.2024 is silent about the constructions of road/pathway and is thereby misleading the Hon'ble Tribunal about the on ground reality. As per the layout map, there is no designated route for the construction of road/pathway. However, the photographs attached in the joint committee report clearly show completed road/pathways next to the boundary wall of the park.

Construction of Industrial drain

7. That the Applicant submits that as per the photographs annexed by the Applicant in **Annexure A-2**, there are illegal industrial drains made outside the temporary fences which carried effluents from the units nearby. However, it can be seen in the photographs attached in the joint committee report that the industrial drains have been unscientifically filled up with the construction debris.
8. That concealment in the joint committee report about the primary contentions raised by the Applicant in the Original Application is misleading and wrong. Any illegal encroachment and constructions undertaken in the land marked as 'Park' violated this Hon'ble Tribunal order in ***Residents Welfare Association v. State of Haryana, 2019 SCC OnLine NGT 2797*** in its order dated **14.08.2019** which states that

*"4. Green belts and parks developed based on approved Master Plan cannot be diverted for use of other purposes"*

9. That further, the Hon'ble Supreme Court in ***Bangalore Medical Trust v. B.S Muddappa (1991) 4 SCC 54*** held that *public interest in the reservation and preservation of spaces for parks cannot be converted to some other use. It states as follows:*

***'Protection of the environment, open spaces for recreation and fresh air, playgrounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme. It is that public interest which is sought to be promoted by the Act by establishing the BDA. The public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other user. Any such act would be contrary to the legislative intent and inconsistent with the statutory requirements. Furthermore, it would be in direct conflict with the constitutional mandate to ensure that any State action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all the citizens.'***

10. That furthermore, reducing the area of the park is also against the mandate of the NCAP, which is a statutorily mandated nationwide programme formulated under S. 16(2)(b) of the Air (Prevention and Control of Pollution) Act, 1981.
11. That therefore in the interest of justice, in the above facts and circumstances of the case the prayer made in the Original Application may be granted.

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

  
APPLICANT

THROUGH



**RITWICK DUTTA**



**RAHUL CHOUNDHARY**

ADVOCATES  
COUNSEL FOR THE APPLICANT  
N-73, LOWER GROUND FLOOR,  
GREATER KAILASH-I,  
NEW DELHI-110048  
MOBILE NO: 9312407881  
Email:dclaw160@gmail.com

Place: New Delhi

Date: 16.04.2024

**VERIFICATION**

Verified by Sushil Raghav S/o Sh, Ratan Singh, R/o 226, Karkar Model Post Sahibabad, Site- 4, Ghaziabad, aged about 39years, presently at New Delhi do, hereby verify that the contents of Paragraph 1 to 12 are true to my personal knowledge and nothing material has been concealed therefrom.



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

  
APPLICANT

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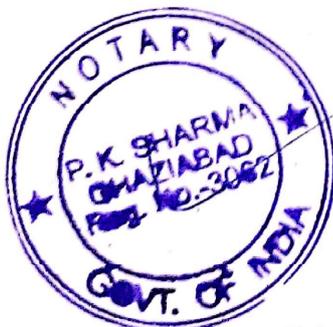
STATE OF UTTAR PRADESH & ORS

....RESPONDENTS

AFFIDAVIT

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

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



*Raghu*  
DEPONENT

VERIFICATION

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

ATTESTED  
No. 10  
15/11/24  
Sushil Raghav

*Raghu*