

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI**

M.A. No. 79/2023
in
O.A. No. 758/2022

IN THE MATTER OF:-

Paldan Phuchang

.....Applicant

Versus

State of Himachal Pradesh & others

.....Respondents

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Date:

Place:

Respondent no. 01 & 03

Dist. Magistrate

Kullu

Through

(DIVYANSHU KUMAR SRIVASTAVA)

48, Lawyer's Chamber, Supreme Court,

Tilak Marg, New Delhi -110001

**BEFORE THE HON'BLE NATIONAL GREEN
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M.A. No. 79/2023
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IN THE MATTER OF:-

Paldan Phuchang

.....Applicant

Versus

1. State of Himachal Pradesh through Chief Secretary, E-201B, E-Ellerslie Building, Himachal Pradesh Government Secretariat, Shimla.171002.
2. Himachal Pradesh State Pollution Control Board through its Member Secretary, Him Parivesh, Phase-III, New Shimla-171009.
3. District Magistrate, Kullu, Office of Deputy Commissioner, Kullu, Himachal Pradesh-. 175101.
4. Executive Officer, Municipal Council, Manali, Himachal Pradesh, Dhalpur, Kullu, Himachal Pradesh-175101.

.....Respondents


Distt. Magistrate,
Kullu

**RESPONSE ON BEHALF OF RESPONDENT No. 01 AND BY
RESPONDENT No. 03.**

Most respectfully submitted:-

1. That the present matter i.e. M.A. No. 79/2023 has been registered based on report dated 12.05.2023 submitted by the


Executive Officer,
Kullu

Joint Inspection Committee constituted by the Hon'ble NGT vide its order dated 04.01.2023 in O.A. No. 758/2022. In the present matter, the Hon'ble NGT after considering the report of the Joint Inspection Committee vide order dated 08.12.2023 issued notices to the above respondents and directed to file their respective response.

2. That in compliance thereto I submit as under:-

In compliance of aforesaid orders of the Hon'ble NGT the inspection of Solid Waste Processing Plant, Rangree was conducted by the undersigned on 15.01.2024 at 12:00 PM alongwith with Assistant Environmental Engineer, HPSPCB, Kullu, Executive Officer, Municipal Council, Manali, Secretary, Gram Panchayat, Shaleen and representative of nearby School, & Manager, Nextgen Chemicals Pvt. Limited (Operator of Solid Waste Processing Plant, Rangree, Manali) and Representative of Rekart Innovation Pvt. Ltd. (Legacy Waste Processing Company).


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Kullu

That, the M/s Nextgen Chemicals Pvt. Ltd. has been hired by the Municipal Council, Manali for processing of the daily waste while M/s Rekart Innovation Pvt. Ltd. has been hired for processing of legacy waste and the M/s Nextgen Chemicals Pvt.Ltd. has sent approx. 15041 Ton of RDF (Refuse Derived Fuel) to the cement plants and M/s Rekart Innovation has processed approx. 13000 Ton of legacy waste.

During the course of inspection of plant, it has been observed that the Solid Waste Processing Plant was in operation during the time of inspection and processing the waste, however the


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compost pits provided at the plant were found filled with the mixed plastic contents and the foul smell was observed in the vicinity, the heap of the fresh mixed waste was found at the site. That, during the previous inspection on 27.01.2023 the Municipal Council, Manali was directed to construct leachate collection pits to avoid overflow of leachate into the Beas river and accordingly, Municipal Council, Manali had constructed the leachate collection pits, however, unfortunately the already constructed collection pits for collection of leachate were washed away due to the unprecedented flood in the month of July, 2023 and untreated leachate was flowing towards the river Beas. Moreover, the retaining walls provided in the periphery of the legacy waste site found damaged towards the Gau Sadan and eroded towards the river Beas due to the massive flooding of Beas river. The waste was found spilled over the retaining wall towards the bank of river Beas.

That, the processing of legacy waste lying at the site was started by M/s Rekart Innovation Pvt. Ltd. The Executive Officer, Municipal council, Manali apprised that the company M/s Rekart Innovation Pvt. Ltd. has processed approx. 13000 Tons of legacy waste out of 40,000 Tons and sent approx. 430 Tons RDF (Refused Derive Fuel) to the Delhi MSW solutions Limited Pragati Power Plant Pocket-N1, Sector-5, Bawana, Indu-Area New Delhi-110039. He further apprised that Municipal Council, Manali is in process of procurement of the Organic Waste Composter of capacity 02 tons. The Manager of Nextgen Chemicals Pvt. Limited (operator of plant) apprised the company is spraying the Hydrogen Peroxide in the plant on


Distt. Magistrate,
Kullu

ATTESTED

Executive Magistrate
Kullu

daily basis to control the smell and maintained the logbook for same and also apprised that they have sent approx. 15041 ton of RDF to the cement plants for further processing till date. The Regional Officer, HPSPCB, Kullu apprised that the State Board is conducting regular inspection & monitoring of the plant and already issued various notices for non-compliances from time to time and already imposed Environmental Compensation amounting to Rs.5 Lacs on Municipal Council, Manali for improper handling of solid waste and Rs. 15,30,000/- for discharge of untreated leachate into river Beas.

In view of the above observations, the undersigned has issued directions through the proceeding of the spot inspection to the Executive Officer, Municipal Council, Manali, M/s Nextgen Chemicals Pvt. Ltd. & M/s Rekart Innovation Pvt. Ltd. to undertake remedial measures indicated in the proceedings immediately within 15 days **(The copy of the Proceedings of the Spot Inspection conducted on dated 15.01.2024 is attached herewith and marked as Annexure-R/1.)**


Distt. Magistrate,
Kullu

3. That it is, further, submitted that undersigned has always tried to comply with the orders passed by the Hon'ble Court in letter & spirit and every necessary step will be taken to ensure the same in the future as well.

ATTESTED

Deputy Magistrate
Kullu

Prayer:-

In view of submissions made above, it is humbly submitted that the application may kindly be disposed of qua the replying

respondent. Any other order deemed fit by the Hon'ble Tribunal may kindly be passed in the interest of justice.


Respondent No. 1 & 3.

Kullu

Place: Kullu

Date: 24-01-2024

is documents was presented before me for Attestation today Sh. Selva who was identified by Sh. Ashutosh Gang who is personally known to me, the contents of the documents was read over and explained to the dependent who admit and accepts them to be true & correct. Hence returned


Executive Magistrate

.. 25/11/2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI**

M.A. No. 79/2023

in

O.A. No. 758/2022

IN THE MATTER OF:-

Paldan Phuchang

.....Applicant

Versus

State of Himachal Pradesh & others

AFFIDAVIT

I, Ashutosh Garg, S/o Sh. aged about 32 years, R/O Village Salasi, P.O. Jhaniary, Tehsil & District Hamirpur, H.P., presently posted as District Magistrate Kullu, District Kullu, Himachal Pradesh, do hereby solemnly declare and affirm on oath as under:-

1. That I am well conversant with the facts of the case and the present reply/response has been drafted at my stance and under my instructions.
2. That the submissions made in paras 1 to 3 of the reply are true and correct to the best of my knowledge, derived from official record, no part of it is false and nothing material has been concealed therefrom.
3. I further affirm that the contents of this affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at KULLU on 24 of Jan, 2024.


DEPONENT
Distt. Magistrate,
Kullu

Proceedings of the inspection of Waste Processing Facility, Rangree held under the Chairmanship of the District Magistrate, Kullu dated 15.01.2024 at 12:00 PM in compliance to the order passed by the Hon'ble National Green Tribunal on dated 08.12.2023 in O.A. No. 758 of 2022 titled " Paldan Phunchog V/s State of H.P."

The Hon'ble NGT in the O.A. No. 758 of 2022 dated 08.12.2023 titled as "Paldan Phunchog V/s State of H.P." has passed the following orders:

....." 6. Since the proceedings were initiated on a letter petition, we find it appropriate to implead, formally, following as respondents in the matter:

i. State of Himachal Pradesh through Chief Secretary, E-201B, E-Elferslie Building, Himachal Pradesh Government Secretariat, Shimla - 171002

ii. Himachal Pradesh State Pollution Control Board through its Member Secretary, Him Parivesh, Phase-III, New Shimla-171009.

iii. District Magistrate, Kullu, Himachal Pradesh, Office of Deputy Commissioner, Kullu, Himachal Pradesh-175101.

iv. Executive Officer, Municipal Council, Manali, Himachal Pradesh, Dhalpur, Kullu, Himachal Pradesh-175101.

7. Executive Officer, Municipal Council, Manali, Himachal Pradesh was already issued notice by order dated 14.09.2023 and Registry has placed on record details of e-mail sent to the said respondent but it has not responded. We direct Executive Officer, Municipal Council, Manali, Himachal Pradesh to appear in person before the Tribunal on the next date of hearing and also file current status report in quantifiable terms as already directed by order dated 14.09.2023.

8. Let notices be issued to other respondents. They may file their response within three weeks"

Distt. Magistrate
Kullu

ATTESTED
Deputy Magistrate
Kullu

In compliance of aforesaid orders of the Hon'ble NGT the inspection of Solid Waste Processing Plant, Rangree was conducted by the District Magistrate, Kullu on 15-01-2024 at 12:00 PM alongwith with Assistant Environmental Engineer, HPSPCB, Kullu, Executive Officer, Municipal Council, Manali, Secretary, Gram Panchayat, Shaleen and representative of nearby School, & Manager, Nextgen Chemicals Pvt. Limited (Operator of Solid Waste Processing Plant, Rangree, Manali) and Representative of Rekart Innovation Pvt. Ltd. (Legacy Waste Processing Company).

During the course of inspection of plant, it has been observed that the Solid Waste Processing Plant was in operation during the time of inspection and processing the waste and the compost pits provided at the plant were found filled with the mixed plastic contents and the foul smell was observed in the vicinity, the heap of the fresh mixed waste was found at the site. It is also observed that the already constructed collection pits for collection of leachate were washed away due to the flash flood in the month of July, 2023 and untreated leachate was flowing towards the river Beas and the retaining walls provided in the periphery of the legacy waste site found damaged towards the Gau Sadan and eroded towards the river Beas. The waste was found spilled over the retaining wall towards the bank of river Beas. The processing of legacy waste lying at the site was started by M/s Rekart Innovation Pvt. Ltd. The Executive Officer, Municipal council, Manali apprised that the company M/s Rekart Innovation Pvt. Ltd. has processed approx. 13000 Tons of legacy waste out of 40,000 Tons and sent approx. 430 Tons RDF (Refused Derive Fuel) to the Delhi MSW solutions Limited Pragati Power Plant Pocket-N1, Sector-5, Bawana, Indu-Area New Delhi-110039. He further apprised that Municipal Council, Manali is in process of procurement of the Organic Waste Composter of capacity 02 tons. The Manager of Nextgen Chemicals Pvt. Limited (operator of plant) apprised the company is spraying the Hydrogen Peroxide in the plant on daily basis to control the smell and maintained the logbook for same and also apprised that they have sent approx. 15041 ton of RDF to the cement plants for further processing till date. The Regional Officer, HPSPCB, Kullu apprised that the State Board is conducting regular inspection & monitoring of the plant and already issued various notices for non-compliances from time to time and already imposed Environmental Compensation amounting to Rs.5 Lacs on Municipal Council, Manali for

ATTESTED
 District Magistrate
 Kullu

improper handling of solid waste and Rs 15,30,000/- for discharge of untreated leachate into river Beas.

In view of the above observations, the following direction has been issued to ensure the compliance:

1. The Executive Officer, Municipal Council, Manali shall immediately stop the flow of leachate towards the river Beas and re-construct adequate leachate collection channel & pits after consulting Executive Engineer, Jal Shatki Vibhag to make leak proof & flood resilient channel and collection pits at safe zone and treat/re-use the leachate in scientific manner to meet the prescribed norms.
2. The Executive Officer, Municipal Council, Manali shall procure the Organic Waste Composter of adequate capacity immediately.
3. The Executive Officer, Municipal Council, Manali shall take necessary steps to increase the height of the retaining wall towards the river Beas and repair the wall towards the Gau Sadan immediately and lift the legacy waste overflowed towards the bank of river Beas.
4. The Executive Officer, Municipal Council, Manali shall enforce door to door segregation of waste and he shall personally ensure that no mix waste is sent/received at the Plant and also ensure that the plant shall function strictly as per MSW, Rules, 2016 and take all necessary remedial measures in this regards.
5. The Nextgen Chemicals shall process the heap of the existing fresh waste immediately and ensure to process the 100% incoming waste on daily basis so that no heap of fresh waste is accumulated at site.
6. The Nextgen Chemical Pvt. Limited ensure the daily spray of the adequate chemicals three times in a day and carryout spray of suitable insecticide for control of flies and mosquitoes in and around the plant.
7. The Rekart Innovation Pvt. Ltd. shall expedite the process of removal of legacy waste and sent the processed legacy waste to the cement plant immediately.

Distt. Magistrate,
Kullu

Further, the District Magistrate, Kullu directed the Executive Officer, Municipal Council, Kullu, Nextgen Chemical Pvt Limited & Rekart Innovation Pvt. Ltd. to undertake aforesaid works/ remedial measures immediately and

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Executive Magistrate
Kullu

submit their report to the within 15 days without fail so that compliance report could to be submitted to the Hon'ble NGT well within time prescribed.

"This may be treated as most urgent"

- S.V. -

Ashutosh Garg (IAS)
District Magistrate, Kullu

Endst. No RO/Kullu/ (2351) OA No. 758/2022 - 4428-32 Dated- 20-01-2024

✓ Copy forwarded to the following:

1. The Member Secretary, HPSPCB, Shimla-09, for kind information, please.
2. The Executive Officer, M.C., Manali for necessary compliance and submit his report within 15 days positively please.
3. M/s Nextgen Chemicals Pvt. Ltd., 169/b Kamala Niwas, 1st floor flat no-05, Dr. B.A. Road, Dadar, T.T. Mumbai-400014, Plant at Rangree, Manali for necessary compliance and submit his report within 15 days positively please.
4. M/s Rekart Innovation Pvt. Ltd., Rangree, Tehsil Manali, Distt. Kullu (H.P.) for necessary compliance and submit his report within 15 days positively please.
5. Case file.


Ashutosh Garg (IAS)
District Magistrate, Kullu
Distt. Magistrate,
Kullu

ATTESTED


District Magistrate
Kullu

**BEFORE THE NATIONAL GREEN TRIBUNAL
(PRINCIPAL BENCH), NEW DELHI
M.A. NO. 79/ 2023
IN
ORIGINAL APPLICATION NO.758/2022**

IN THE MATTER OF:

Paldan PhuchangApplicant
Versus
State of HP & OrsRespondents

VAKALTNAMA

KNOW ALL to whom these presents shall come that I/we Ashutosh Garg working as District Magistrate Kullu in the State of Himachal Pradesh, do hereby appoint **SHRI DIVYANSHU SRIVASTAVA (D/1383/2015)**, hereinafter called the Advocate to be My/our Advocates in the above noted case and authorize them/him:

- a) To act, appear and plead in the above noted case in this court in any other court in which the same may be tried or heard and also in the appellate courts.
- b) To sign, file, verify and present pleading, applications, appeals, cross-objections or petitions for execution, review, revision, withdrawal, compromise or other petition, replies, objections affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
- c) To file and take back documents.
- d) To withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
- e) To take out execution proceedings.
- f) To deposit, draw and receive moneys, cheques and grant receipts therefor and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- g) To appoint and instruct any other Legal Practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I/we the undersigned do hereby agree to ratify and confirm acts done by the Advocate or his substitute in the matter my/our own acts as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/our authorised agent would appear in the court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents of which have been understood by me/us this ____ day of January, 2024.

ACCEPTED:

(DIVYANSHU KUMAR SRIVASTAVA)
48, Lawyer's Chamber, Supreme Court,
Tilak Marg, New Delhi -110001
Dksrivastava0511@gmail.com
9711872319


CLIENT
District Magistrate
Kullu