

IN THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW DELHI

OA No. 68 of 2022

IN THE MATTER OF:

Raman Sharma and Other

...Applicant

Vs

State of Haryana and Others

...Respondent(s)

**Response on behalf respondent No. 6 i.e. District Magistrate,
Gurugram**

1. The grievance in the complaint is regarding running of 10 DG sets in the green belt of integrated residential colony of Malibu Town, Gurugram by M/s Malibu Estate Pvt. Ltd., Gurugram and regarding flouting the directions and provisions of C&D Waste Management Rules, 2016 and also carrying out the construction in violations of the Air and Water Pollution Act. Hon'ble NGT vide order dated 02.02.2022 constituted a joint committee of HSPCB, SEIAA, HSVP, DFO Gurugram and District Magistrate Gurugram for submission of factual action taken report in the matter. The joint committee submitted interim action taken report before Hon'ble NGT on 05.09.2022 and final action taken report on 10.10.2022. Thereafter, Hon'ble NGT vide order dated 11.10.2022 directed that:-

"In view of the averments in the application and observations/recommendations in the report of the joint committee, we consider it appropriate to have response of (1) State of Haryana through Chief Secretary, Government of Haryana, (2) State PCB, (3) Municipal Corporation, Gurugram, (4) Director, Department of Town and Country Planning, Government of Haryana (5) Estate Officer, Haryana Shahari Vikas Pradhikaran, (6) District Magistrate, Gurugram and (7) Project proponent -Malibu Federation through Mr. Niranjana Yadav, Chairman, RWA, Office Opposite PKD 12, Malibu Town, Gurugram, who stand impleaded as respondents No. 1 to 7. The Registry is directed to prepare and attach memo of parties to the application and 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”.

Based on latest status of various activities the response is given in the coming paras.

2. Running of 10 DG sets in the green belt of the project.

The issue of installation of the DG sets raised in the present O.A pertains to the Residential Plotted Colony of Malibu Towne being developed over an area measuring 204.796 acres in Sector-47 & 50, Gurugram. The issue of installation of such DG sets also brought to the notice of the Town & Country Planning Department earlier. Accordingly, the then DTP(E), Gurugram while exercising the powers conferred under Section 10 of the Act of 1975 had sealed 3 DG sets alongwith action against other illegal establishments being in violation of the approved layout plan of the colony.

The Malibu Town Residents Welfare Association also mentioned in their representation dated 26.11.2021 that Sh. Raman Sharma, who has filed the present O.A, are working against the interest and safety of 2000 families of this township by filing frivolous repeated complaints with ulterior motive. The said association requested to de-seal the DG sets and not to take coercive action on other additional establishments.

After considering the request of Malibu Town Residents Welfare Association, the Town and Country Planning Department conveyed no objection for the provision of services mentioned below vide memo dated 31.12.2021 to District Town Planner (E), Gurugram and Senior Town Planner, Gurugram.

- a) Generator sets put up at central park.
- b) RFID, Barriers and Guard Shelter.
- c) Bus queue shelter.
- d) Temporary gate at Star Wood next to Good Earth Mall maintained by their security.

The above facts were not brought into the notice of the committee. The same was not reflected in the conclusions and recommendation of the committee as well as in the report of District Town Planner (P), Gurugram

dated 10.08.2022 as the no objection by the Department was conveyed to DTP(E), Gurugram and not to DTP(P), Gurugram.

The fresh report with regard to the DG sets mentioned in observations of the committee, the present O.A has been obtained from District Town Planner(P), Gurugram. The said DG sets have been shown on the copy of the approved layout plan of the colony. According to the said report, total 13 no. of DG sets found to be installed in the licensed colony. Out of these 13 DG sets which are working at site, 6 are at Group Housing, 4 at water boosting site and balance 3 are at the central park.

The services in a colony come up as per the local requirement which is dynamic in nature. The Town & Country Planning Department has been receiving grievances with regard to deficit electric infrastructure from time to time in various parts of the Gurugram. The Department should not have any objection to the facilities in the larger interest of the residents of the colony, however, the same should not be violative of Environmental Laws. Such, DG sets may not be required once the power utility Departments i.e. DHBVN/HVPL are able to provide the requisite electrical infrastructure to mitigate the requirement of DG sets.

Further, it is pertinent to mention here that the Town & Country Planning Department imposes a condition with regard to 100% back-up for lifts installed in the project, which is not possible without the provision of generators. Further, as regards the DG sets installed in sites earmarked for water boosting station, the same being a public utility deserves to be considered.

3. Non compliance of C & D Waste Management Rules, 2016.

The concerned agency i.e. Municipal Corporation of Gurugram (MCG) has taken cognizance of issue regarding Construction and Demolition Waste Management Rules, 2016 and it has filed its respective reply separately. The Construction and Demolition Waste created from the demolition of dispensary site (having two basements in old building), has been lifted and processed at the designated site by the MCG. The cost of lifting & processing of the waste has been deposited by the owner of the

pre-existing dispensary in addition to amount of challan issued against the owner.

4. Carrying out the construction in violation of the Water and Air Acts.

The project proponents have developed a colony in 204 acres and have not obtained Environmental Clearance/Consent to Establish/Consent to Operate. Haryana State Pollution Control Board has filed 02 prosecution cases in Environment Court, Faridabad, one under Environment (Protection) Act, 1986 and another under Water (prevention and control of pollution) Act, 1974 & Air (prevention and control of pollution) Act, 1981 against the project proponent and its Directors. Case for imposition of Environmental Compensation against the project proponent is under process.

The closure order has also been issued to the project proponent on dated 23.12.2022 with the following directions: -

- “(a) The project proponent shall stop all construction activities related to the project with immediate effect till it obtains environment clearance under EIA Notification dated 14.09.2006 and Consent to Establish (NOC)/Consent to Operate from the Board under Water Act, 1974 and the Air Act, 1981.*
- (b) The project proponent shall not allow any new occupancy and shall not allow any new possession in the premises of the project with immediate effect.*
- (c) Town & Country Planning Department/concerned authorities that have issued the license/ LOI and approved the building/layout plans for the development of the project shall take necessary action to stop further construction activities relates to the project till the project proponent obtains Environment Clearance under EIA Notification dated 14.09.2006 and Consent to Operate from the Board under the Water Act, 1974 and the Air Act, 1981.*
- (d) The Revenue Authorities shall not register any sale deed relates to any plot/flat/house/shop/any other component of this project with immediate effect.*
- (e) The DHBVN authorities shall not release any new electric connection for this project or to any of its components with immediate effect.”*

These directions of Haryana State Pollution Control Board shall continue till the project proponent obtains Environmental Clearance as per EIA

Notification and Consent to Operate under Water/ Air Acts. All the concerned departments have been advised to take required steps to ensure necessary compliances.

In view of above, Hon'ble Tribunal may take this report on record.

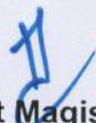
Place: Gurugram

Dated: 10.01.2023


District Magistrate
Gurugram

Verification:

Verified at Gurugram on 10th day of January, 2023 that contents of the above reply are true and correct as per information derived from the stakeholder Departments and legal submissions are being made as per legal advice.


District Magistrate
Gurugram