

Before the Hon'ble National Green Tribunal
Principal Bench at New Delhi

(In O.A. No. 793 of 2022)

Council of Engineers & ors.

..... Applicants

Vs.

State of Punjab & ors.

..... Respondents

**Affidavit of Er. Kapil Dev (Aged 48 Years) s/o Sh. Jagdish Chander r/o 186-E, BRS Nagar,
Ludhiana**

Respectfully Sheweth

I, the above mentioned deponent do hereby solemnly affirm and declare as under:

1. That the deponent is Petitioner No. 2 in O.A. No. 793 of 2022 filed before the Hon'ble National Green Tribunal.
2. That the contents of paras No. 1 to 6 of the accompanying Rejoinder are true and correct to best of my knowledge.



Place: Ludhiana
Date: 29.09.2024

Certified That affidavit has been readover & explained to the deponent / executant who seemed correctly to understand the same at the time making there of.

Deponent

Verification:

Verified that the contents of Para 1 & Para 2 of this affidavit are true and correct. No part of it is false, and nothing has been kept concealed therefrom.

Place: Ludhiana
Date: 29.09.2024

Attested As Identified

 NOTARY PUBLIC
 LUDHIANA (PUNJAB)
 29/9/2024

Deponent

Self 9.9.
 Adhar Card No
 934187222473

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

AT PRINCIPAL BENCH, NEW DELHI

(In O.A. No. 793 of 2022)

Council of Engineers & ors.

.....Applicants

Vs

State of Punjab & ors.

..... Respondents

Hon'ble sir

Respectfully sheweth

Submission regarding status of impugned greenbelts as per Master Plan of Ludhiana (2031)

The petitioner humbly submits as under:

1. That the Master Plan of Ludhiana was notified under the provisions of Punjab Regional and Town Planning and Development Act 1995 and PRESENT STATUS of the impugned areas are Greenbelts as per the provisions of this Master Plan. The copy of screenshots of relevant areas (Lodhi Club Road, Jagraon Bridge to Dholwal Chowk, Dholewal Chowk to Sherpur Chowk) taken from Master Plan of Ludhiana (2031) depicting the impugned areas as Greenbelt are produced herewith as **Annexure PM-1, Annexure PM-2 & Annexure PM-3** respectively. The copy of complete Master Plan is produced herewith as **Annexure PM-4**.
2. That the District Town Planner has written a letter No. 2647 DTP (L)/M-2 dated 25/11/2022 to the Municipal Corporation Ludhiana informing that the present status of impugned areas at Lodhi Club Road as well as Old G.T. Road, is Greenbelt. The translated copy of letter is produced herewith as **Annexure PM-5. It is further**

submitted that the Change of land use at Lodhi Club Road as well as Old GT Road, both vide resolution passed by MCL from time to time and that too well before notification of Master Plan. Further

lakhs of Rupees have been spent on development of Greenbelts on both the impugned areas and further around One Crore has also been spent on Rehabilitation of Greenbelt into Children park at Lodhi Club Road by MCL. Thus, both the impugned locations along Lodhi Club Road as well as Old GT Road (from Jagraon Bridge to Sherpur Chowk) are Greenbelts.

3. That in [Lal Bahadur v. State of UP & Others](#), (2018)15SCC407, the Hon'ble Supreme Court has held as under thus:

Para 11: Firstly, we take up the issue regarding change of the area from green belt to a residential one. **It is not in dispute that the area had been reserved for green belt in 1995 Master Plan. We find that it was absolutely unwarranted exercise of power on the part of the respondents to change the area from green belt to residential one in Master Plan 2021.** Learned Senior Counsel is right that some invisible hand was behind the change that is why the respondents acted in tandem and the notification under [section 4](#) of the Act had been issued on the same very day on which the Master Plan had been finalised by the State Government. Even before the master plan was notified in the Gazette 09-04-2005, under the Act of 1973, the notification had been issued under [section 4](#) of the Act on 31.03.2005. We wholly agree with the submission of the learned counsel on behalf of the appellant that change of the area from green belt to residential was, in fact, in flagrant violation of the provisions contained in [Articles 21](#) and [48A](#) and also 51A (g) of the Constitution.

12. Law is well settled in this regard. In [Bangalore Medical Trust v. B.S. Muddappa & Ors.](#) (1991) 4 SCC 54, this Court had considered the question whether area reserved for a public park can be converted for other purposes. The State Government by the subsequent order had allotted the area reserved for public parks to a Medical Trust, for the purposes of constructing a hospital. This Court has laid down the importance of open spaces and public parks in the said case and held that said spaces are a “gift from people to themselves”

13. This Court had clearly laid down that such spaces could not be changed from green belt to residential or commercial one. **It is not permissible to the State Government to change the parks and playgrounds contrary to legislative intent having constitutional mandate, as that would be an abuse of statutory powers vested in the authorities.** No doubt, in the instant case, the legislative process had been undertaken. **The Master Plan had been prepared under the Act of 1973. Ultimately, the respondents have realized the importance of such spaces. It was, therefore, their bounden duty not to change its very purpose** when they knew very well that this is a low-lying area and this area is otherwise thickly populated and provides an outlet for water to prevent flood like situation. In fact, the flood-like situation occurred in the area in question. This Court has permitted the protection by raising Bandh.

4. That keeping in view of directions of Hon’ble Supreme Court (supra) regarding importance of Master Plan, this Hon’ble Tribunal has passed many orders. One such order dated 27-01-2022 in case of titled “Sanjay Gupta vs. Ghaziabad Nagar Nigam” are produced herewith as **Annexure PM-6.**

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5. That as already submitted in objections dated 12-09-2024, as per the Clause 17 of Notification No. CTP(LG)/2018/1177 dated 13- 04-2018 issued by Department of Local Government (Town Planning Wing) regarding Public Parking Policy for Municipal Corporation Town of Punjab **“the Area Parking plans need to maintain judicious mix of green spaces for healthy neighbourhoods to reduce health risk among residents and children. All green areas and neighbourhood parks need to be protected from parking”.**
6. That as prayed in the Original Application as well as submitted before this Hon’ble Tribunal vide objections dated 12-09-2024 that **massive concretization has been done in greenbelts (Photographs from Page no. 668-685) at Old GT Road as well as Lodhi Club Road,** which is required to be demolished for restitution of greenbelts too.

Keeping in view of the directions of Hon’ble Supreme Court, this Hon’ble Tribunal as well as status of Master Plan as notified under the provisions of Punjab Regional and Town Planning and Development Act 1995, Environment Laws as well as as per the Clause 17 of Notification No. CTP(LG)/2018/1177 dated 13- 04-2018, it is humbly requested that the Prayer as submitted before this Hon’ble Tribunal may kindly be allowed and greenbelts at Old GT Road as well as Lodhi Club Road may please be directed for their restitution.

Date: 29-09-2024

Place: Ludhiana

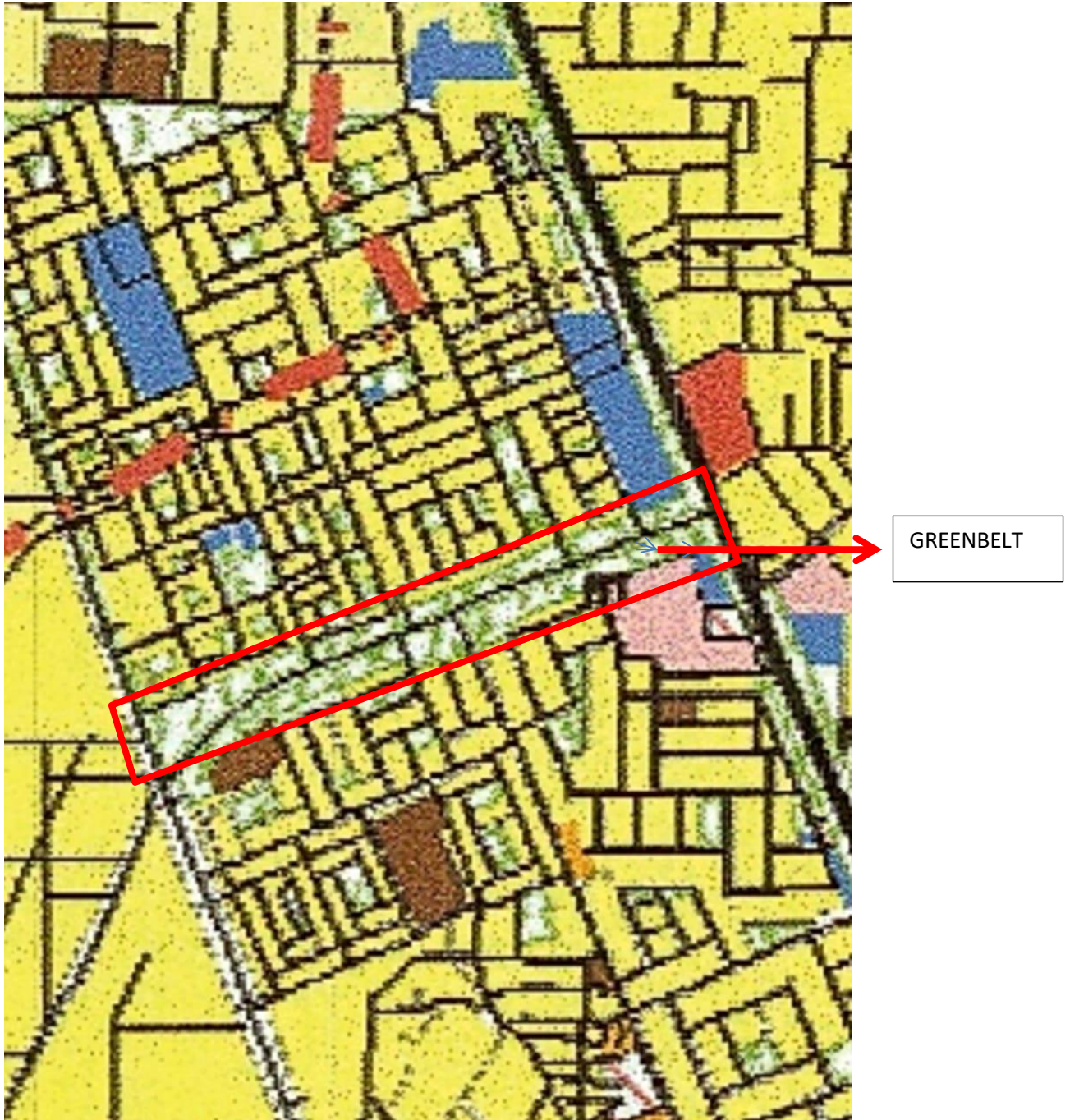


Er. Kapil Dev

(Petitioner No. 2)

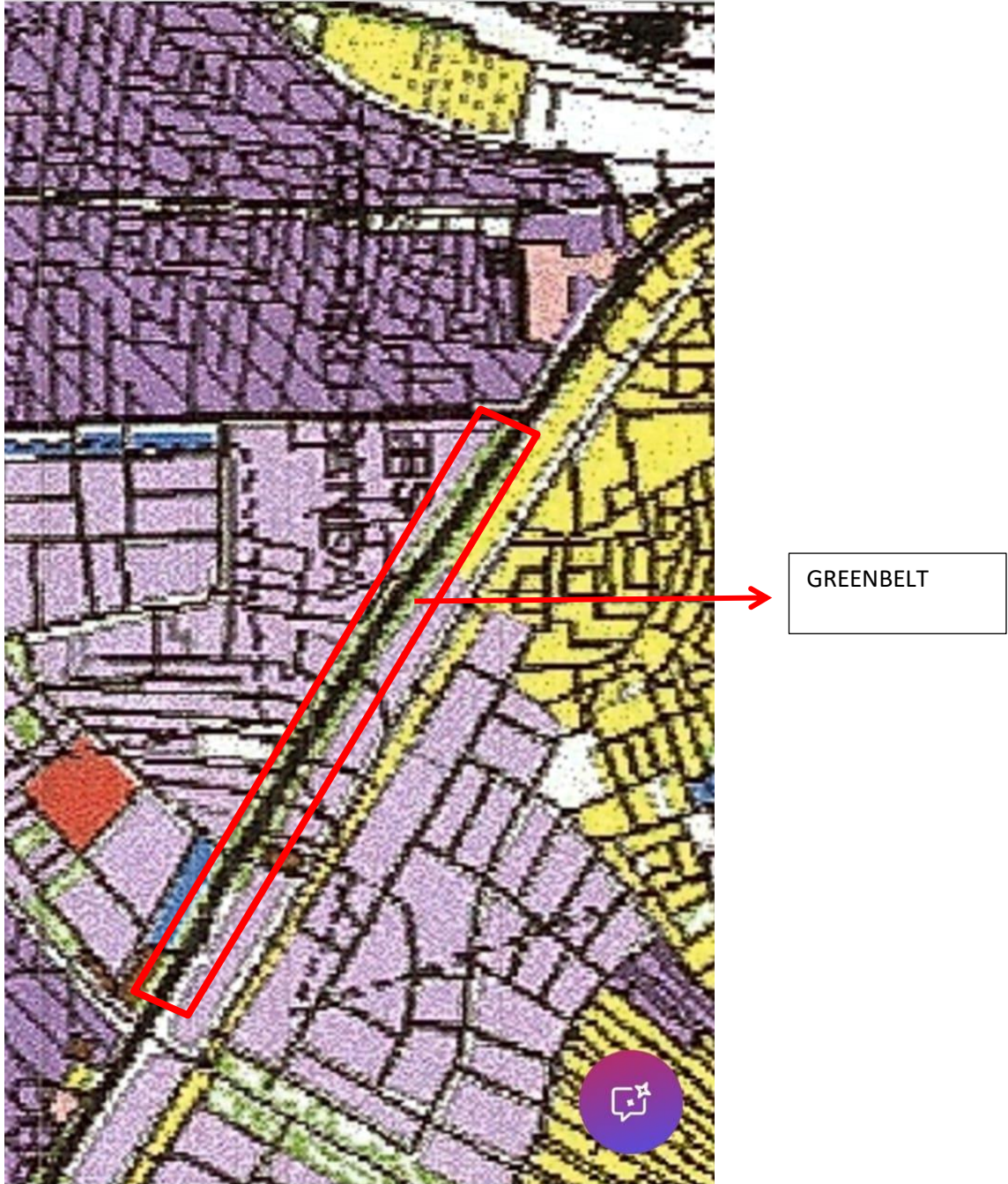
ANNEXURE PM-1

SCREENSHOT OF MASTER PLAN DEPICTING IMPUGNED AREA (IN RED BOX) AT LODHI CLUB ROAD AS GREENBELT



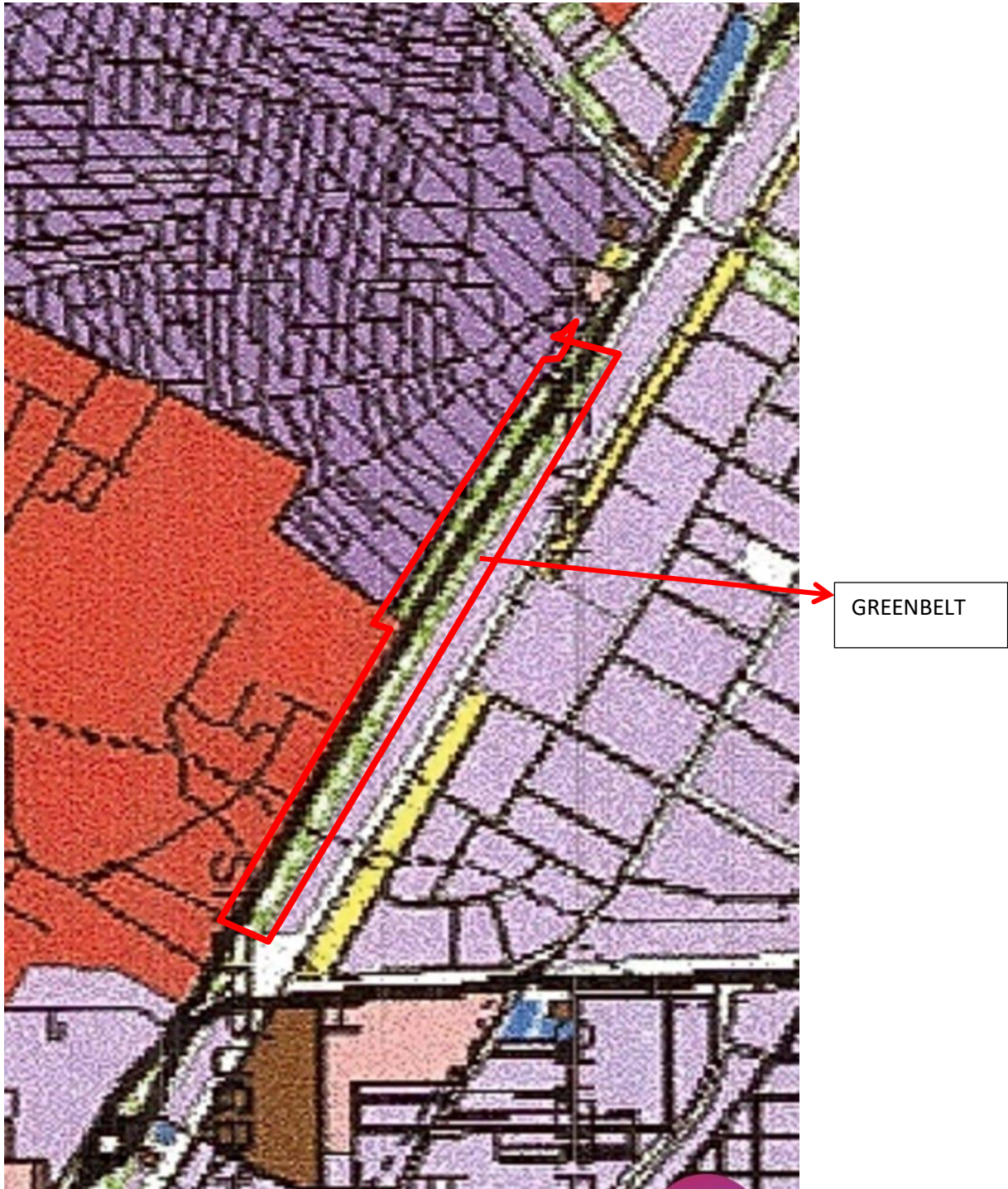
ANNEXURE PM-2

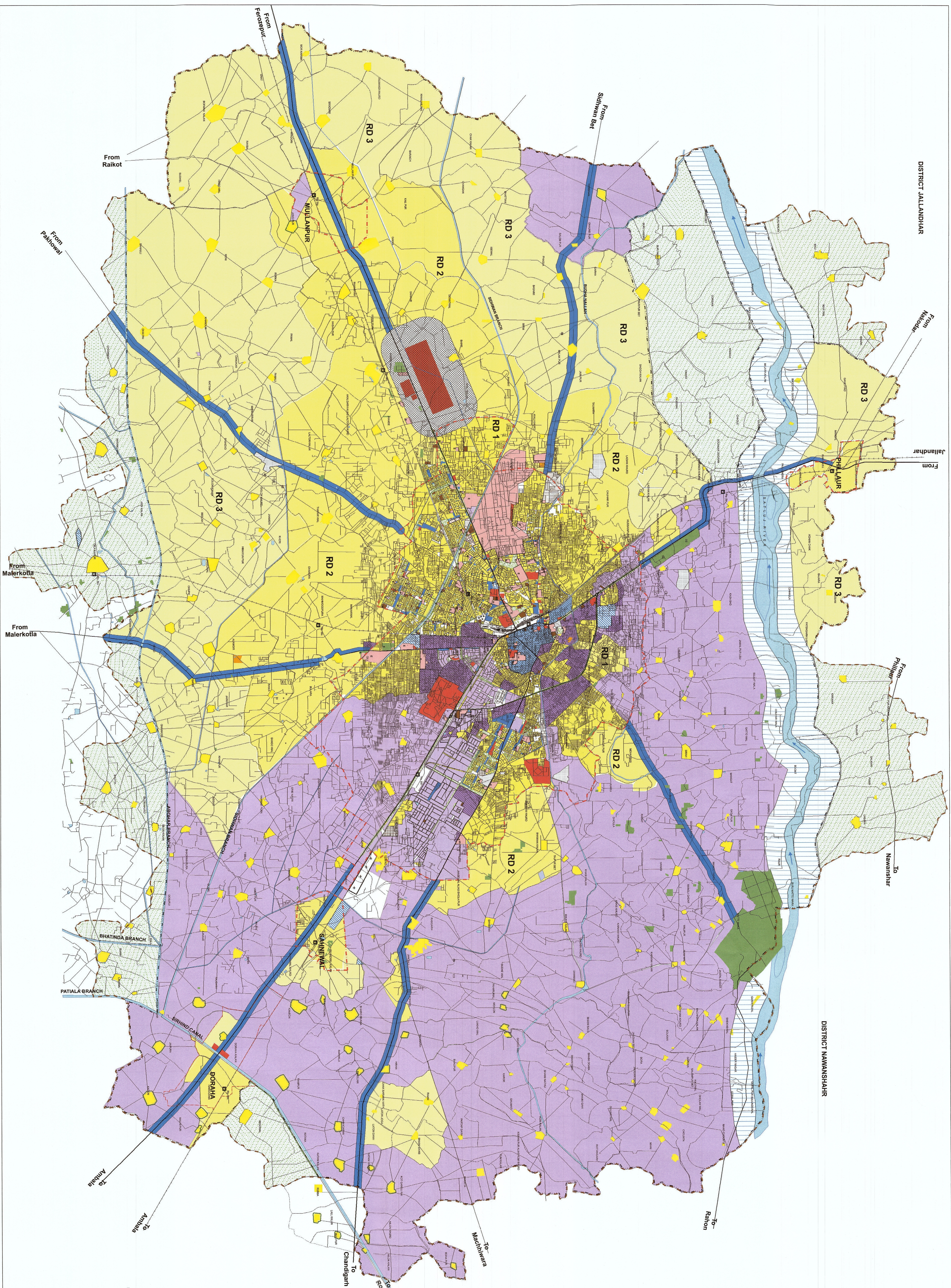
SCREENSHOT OF MASTER PLAN DEPICTING IMPUGNED AREA (IN RED BOX) AT OLD GT ROAD (FROM JAGRAON BRIDGE TO DHOLEWAL CHOWK) AS GREENBELT



ANNEXURE PM-3

SCREENSHOT OF MASTER PLAN DEPICTING IMPUGNED AREA (IN RED BOX) AT OLD GT ROAD (FROM DHOLEWAL CHOWK TO SHERPUR CHOWK) AS GREENBELT





L U D H I A N A

MASTER PLAN LUDHIANA -2031

PLANNING ZONES

LEGEND

- RESIDENTIAL**
 - [Yellow Box] OLD BUILT UP CITY (HIGH DENSITY)
 - [Yellow Box] RESIDENTIAL AREA (LOW DENSITY)
 - [Yellow Box] RESIDENTIAL AREA (MEDIUM DENSITY)
 - [Yellow Box] INCLUDING VILLAGE ABADES
- COMMERCIAL**
 - [Purple Box] LOCAL /RETAIL SHOPPING
 - [Purple Box] MIXED USE ALONG ROAD FRONT
 - [Purple Box] MIXED LAND USE
 - [Purple Box] INDUSTRIAL MIX
 - [Purple Box] COMMERCIAL MIX
- INDUSTRIAL**
 - [Blue Box] INDUSTRIAL MIX
 - [Blue Box] INDUSTRIAL ZONE
- RECREATIONAL**
 - [Green Box] CITY PARK /MAJOR OPEN SPACES
 - [Green Box] REGIONAL PARK
 - [Green Box] CITY GROUND/GREEN BELT/STADIUM & SPORTS COMPLEX
 - [Green Box] HISTORICAL /ARCHAEOLOGICAL MONUMENTS
- TRAFFIC AND TRANSPORTATION**
 - [Red Box] AIR PORT
 - [Red Box] RAIL TERMINAL /YARD
 - [Red Box] RAIL CIRCULATION
 - [Red Box] BUS TERMINAL AND DEPOT
 - [Red Box] TRUCK TERMINAL
 - [Red Box] MAJOR ROADS /OTHER ROADS
- UTILITIES**
 - [Blue Box] SEWERAGE TREATMENT PLANT/ WATER TREATMENT PLANT
 - [Blue Box] POWER HOUSE SUB STATION ETC
 - [Blue Box] SOLID WASTE SANITARY /LAND FILL ETC
- GOVERNMENT**
 - [Red Box] GOVERNMENT /PUBLIC OFFICES /CONTONMENT
- PUBLIC AND SEMI PUBLIC FACILITIES**
 - [Red Box] HOSPITAL AND HEALTH INSTITUTIONS
 - [Red Box] EDUCATIONAL AND RESEARCH CENTRE INCLUDING UNIVERSITY AND SPECIALISED EDUCATIONAL INSTITUTES
 - [Red Box] SOCIAL AND CULTURAL
 - [Red Box] POST AND TELEGRAPH/ TELEPHONE EXCHANGE
 - [Red Box] CREMATION AND BURIAL GROUND
 - [Red Box] RELIGIOUS
- AGRICULTURE AND WATER BODIES**
 - [Green Box] GREEN BUFFER
 - [Green Box] VILLAGE ROAD
 - [Green Box] HORTICULTURE /AGRICULTURAL LAND
 - [Green Box] FOREST ZONE
 - [Green Box] RIVERS, CANALS, LAKE AND WATER BODIES /PONDS
 - [Green Box] DAMS, PONDRIES, PIGERIES AND BEE KEEPING
 - [Green Box] BRICK/KILN
- MISCELLANEOUS**
 - [Red Box] VILLAGE BOUNDARY
 - [Red Box] LOCAL PLANNING AREA BOUNDARY
 - [Red Box] MUNICIPAL CORPORATION BOUNDARY / MUNICIPAL COUNCIL /MANSAB PANCHAYAT BOUNDARY
 - [Red Box] PROPOSED URBANISABLE BOUNDARY
 - [Red Box] ZONE BOUNDARY
 - [Red Box] NO CONSTRUCTION ZONE
 - [Red Box] NO MANUFACTURING ZONE

SCALE - 1:35,000
 DEPT. OF TOWN AND COUNTRY PLANNING PUNJAB
 REVISED DRAWING NO. D.T.P./LUDH/2015 DATED 31-12-2015

APPROVED BY: [Signature]
 DIRECTOR
 DEPT. OF TOWN AND COUNTRY PLANNING, GOVT. OF PUNJAB
 PREPARED BY: [Signature]
 CHIEF ENGINEER
 DEPT. OF TOWN AND COUNTRY PLANNING, GOVT. OF PUNJAB

TRANSLATED COPY**Department of District and Town Planning, Punjab**

From:

District Town Planner

Ludhiana

To,

Municipal Town Planner

Municipal corporation Ludhiana

Memo Letter No. 2647 DTP (L)/M-2 Dated 25-11-2022

Subject: Council of Engineers and ors. versus State of Punjab and ors. (Application No. 793/2022)

Reference: Your letter to this office vide letter No. 170/MTP-D, dated 21-11-2022 regarding

To above cited subject, it is informed that on both sides the Lodhi Club and Sacred Heart Convent School, situated at BRS Nagar, Jagraon Road to Sherpur Chowk, near Manju Cinema, the Greenbelts have been marked as per provisions of Master Plan 2007-31). It is also informed that as per Unified Zoning Regulation and Development Control vide u/s 70(5) of the Punjab Regional & town Planning and Development Act-1995 are notified (Notification No. 6515-41 CTP(PB)/S.P.-135 dated 18-10-2018, the relevant portion is reproduced.

“The site on which various projects have been approved or whose change of Land Use has already been permitted by the competent Authority/Government informed the final notification of the Master Plan such site shall be deemed to be adjusted as sanctioned/permitted. “

Report is produced for further action before you.

Annexed/x

-sd-

(Naval Kishore Sharma)
District Town Planner
Ludhiana.

Sanjay Gupta vs Ghaziabad Nagar Nigam on 27 January, 2022

Item No. 02

(Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH

(By Video Conferencing)

Original Application No. 10/2022

Sanjay Gupta & Ors.

Applicant(s)

Versus

Ghaziabad Nagar Nigam

Respondent

Date of hearing: 27.01.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Applicant: Mr. Ravi Prakash Mehrotra, Senior Advocate with Mr. Mukesh Verma and
Mr. Apoorv Srivastava, Advocates

ORDER

1. This application has been filed under Section 14, 15 and 20 of National Green Tribunal Act, 2010 (hereinafter referred to as 'NGT Act, 2010') making a complaint that the Resident's Welfare Association of a multi-storey developed residential colony namely; Olive County proposed to place the bust of a martyr who happened to be son of the President of a society of the aforesaid RWA in a park which is part of green belt and on the said request, Municipal Corporation, Ghaziabad has also passed a resolution and recommended the competent authority of Corporation to take further action in the matter. It is contended that a green belt cannot be allowed to be converted for a purpose unconnected with maintenance of green belt and particularly, installation of a statue in a public place is against the order passed by the Supreme Court in Petition(s) for Special Leave to Appeal (C) No(s) 8519/2006, Union of India & Anr. v. State of Gujarat & Ors. Relevant extracts of the order of Supreme Court dated 18.01.2013 is as follows:

4. Until further orders, we direct that the status quo, as obtaining today, shall be maintained in all respects by all concerned with regard to the Triangle Island where statue of late Shri N. Sundaran Nadar has been permitted to be sanctioned. We

further direct that henceforth, State Government shall not grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places. Obviously, this order shall not apply to installation of high mast lights, street lights or construction relating to electrification, traffic, toll or for development and beautification of the streets, highways, roads etc. and relating to public utility and facilities.

5. The above order shall also apply to all other states and union territories. The concerned Chief Secretary/Administrator shall ensure compliance of the above order."

2. However, learned counsel appearing for the applicant could not dispute that though such resolution was passed in February, 2021 but till date Corporation has not taken any further action in the matter and therefore, in our view, no cause of action has arisen to file this application and it is premature. Be that as it may, we also intent to place on record that a green belt cannot be used or converted for any purpose unconnected with maintenance of green belt.

3. In this regard, in *Lal Bahadur v. State of UP & Others*, (2018)15SCC407, change of master plan and converting green area into residential one was considered. The issue was, whether such conversion is conducive to protection of environment or not. In the master plan of 1995 of Lucknow, area in dispute was reserved as green belt. In master plan 2021, the same area, shown earlier as green belt, was converted as residential. This part of master plan 2021 was challenged before Lucknow bench of Allahabad High Court. Writ petition was dismissed. The matter came in appeal before Supreme Court. Court held in para 12 of judgment that change of area from green belt to residential is in violation of Article 21, 48A and 51A (g) of the Constitution. Reliance was placed on *Bangalore Medical Trust v B.S. Muddappa & Others*, (1991)4SCC54, wherein Court had said that protection of environment, open spaces for recreation and fresh air, playground for children, promenade for the residents and other conveniences or amenities are matters of great public concern and a vital interest to be taken care of in a development scheme. 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 use. Court also relied on an American Supreme Court Judgment *Agins vs. City of Tiburon*, [447 us 255 (1980)], wherein Court said: '... it is in the public interest to avoid unnecessary conversion of open space land to strictly urban uses, thereby protecting against the resultant adverse impacts, such as pollution, destruction of scenic beauty, disturbance of the ecology and the environment, hazards related geology, fire and flood, and other demonstrated consequences of urban sprawl'.

4. In para 15, Court said that, "This Court had clearly laid down that such spaces could not be changed from green belt to residential or commercial one. It is not

permissible to the State Government to change the parks and playgrounds contrary to legislative intent having constitutional mandate, as that would be an abuse of statutory powers vested in the authorities. Court also observed, when master plan was prepared earlier and authorities found importance of such space, it was their bounden duty not to change its very purpose when they knew very well the importance of this place to be kept as open space. Court said, "The importance of park is of universal recognition. It was against public interest, protection of the environment and such spaces reduce the ill effects of urbanisation, it was not permissible to change this area into urban area as the garden/ Greenbelt is essential for fresh air, thereby protecting against the resultant impacts of urbanization, such as pollution etc. The provision of the Act of 1973 and other enactments relating to environment could not be permitted to become statutory mockery by changing the purpose in the master plan from green belts to residential one. Authorities are enjoined with duty maintain them as such as per doctrine of public trust."

5. Further, Supreme Court on the issue of installation of a statue in a public place has also passed a restraint order and made it clear that the said order shall apply to all the States. Therefore, all the Authorities in the country are bound by the aforesaid order of Supreme Court and neither expected nor even otherwise can act in the teeth of such order of Supreme Court.

6. We therefore, hope and trust that Municipal Corporation, Ghaziabad would also not do something which is not permissible in law and contrary to law laid down by Supreme Court as referred to hereinabove.

With the aforesaid observations, we dispose of the Application.

Sudhir Agarwal, JM Dr. Nagin Nanda, EM Dr. Afroz Ahmad, EM January 27, 2022 Original Application No. 10/2022 AB