

IN THE HON'BLE NATIONAL GREEN TRIBUNAL, NEW DELHI

OA No. 68 of 2022

IN THE MATTER OF :

Raman Sharma and Other

...Petitioner

Vs

State of Haryana and Others

...Respondents

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Place: Panchkula

Dated: 26.09.2023


Member Secretary
Haryana State Pollution Control Board

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IN THE MATTER OF:

Raman Sharma and Other

...Petitioner

Vs

State of Haryana and Others

...Respondents

Status report by Sh. Pardeep Kumar, IAS, Member Secretary, Haryana State Pollution Control Board.

Respectfully showeth

1. That 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 Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981. Hon'ble NGT issued order dated 28.03.2023 and relevant portion is reproduced as under:-

"13. 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 unauthorizedly 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.

14. xxxxxxxx The Member Secretary, HSPCB shall be the Nodal Officer for coordination and compliance and all necessary expenses including travel, boarding, lodging expenses shall be borne by HSPCB. Report may be submitted by the Joint Committee within three 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.

19. xxxxxxxx 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.

25. xxxxxxxx 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 HSPCBxxxxxxx.

26. In compliance of order dated 15.03.2023 Mr. Pradeep Kumar, Member Secretary, HSPCB and Mr. P.C. Meena, Commissioner, Municipal Corporation Gurugram have appeared and we have interacted with them. Mr. Pradeep Kumar, Member Secretary, HSPCB has assured to look into the relevant aspects of imposition of environmental compensation on Mr. Jagdish Chand Chaudhary and Municipal Corporation Gurugram and Mr. P.C. Meena, Commissioner, Municipal Corporation Gurugram has assured to take appropriate action against concerned defaulting officials.

27. Action Taken Reports be filed by respondent No.2 HSPCB and respondent No.3 MCG within two months by email at

judicialngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF."

Hon'ble NGT has issued order dated 25.07.2023 and relevant portion is reproduce as under:-

"3. Respondent No. 8 has filed the reply and submitted that an application has been filed before SEIAA and he should be provided opportunity of hearing before SEIAA.

4. We have gone through the notice dated 14.06.2023 issued by SEIAA to the Project Proponent with the fact that: i. As per EIA Notification 14.09.2006 and within the scope and meaning of the said Notification under Category 8 (a)/8 (b) Project Proponents are required to obtain Environmental Clearance. ii. A notice was issued on 14.06.2023 providing an opportunity for hearing to the Project Proponent by filing the objection and putting appearance before the Authority on 22.06.2023.

5. 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.

6. 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.

17. 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. 18. Accordingly, we direct the State Pollution Control Board and the SEIAA to dispose of the matter and take a decision according to rules after giving an opportunity of hearing to the person concerned within a reasonable time".

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

2. That a meeting of Joint Committee constituted by Hon'ble NGT vide order dated 28.03.2023 was held on 20.07.2023 and detailed report regarding all Green Areas/Parks/Green Belts reserved in the respective areas of all the Municipal Bodies in the State of Haryana has been asked from stakeholders. The Joint Committee also decided for constitution of sub-committees for each district to assist the Joint Committee for compliance of the orders of Hon'ble NGT. The survey work is in progress by Sub- Committees at District

level and the status is being checked at ground. The information in this matter shall be submitted before Hon'ble NGT after completing the survey and compilation of the same for the whole State of Haryana within next 3 months.

3. That as per direction of Hon'ble NGT to revisit the closure order, closure order/directions has again been issued by HSPCB vide order dated 21.04.2023, in which it has been now clarified that the directions issued vide closure order dated 23.12.2022 (copy enclosed as **Annexure-R-1**) are applicable only to the property of project proponents and do not apply to the property of bonafide third party investors as well as to other persons to whom the rights in the properties have been/ to be transferred by third party investors.
4. That the hearing was given to Federation of residents of Malibu Township by HSPCB. It has come out that they are ready to take up the environmental issues and apply for Environmental Clearance from State Environment Impact Assessment Authority (SEIAA). They are also ready to take CTE/CTO from HSPCB. HSPCB proposes to come up with a policy, wherein for the projects where the builder is not coming forward to ensure the compliance of Environmental norms and run away/died/in jail/not available, the residents can be granted CTE/CTO. But without grant of Environmental Clearance, the HSPCB can not grant CTE/CTO to such projects. In this regard, MoEF&CC was requested to provide necessary guidance to HSPCB or arrange to make some provisions in norms for grant of Environmental Clearance for such cases, so that compliance of Environmental norms be ensured. Copy of communication sent to MoEF&CC is enclosed as **Annexure-R-2**. MoEF&CC vide their letter dated 04.08.2023 (**copy enclosed as Annexure-R-3**) has submitted that the proposal involves substantial policy changes at the end of MoEF&CC. As the matter is still under judicial consideration, and Hon'ble NGT has passed directions for compliance to HSPCB and SEIAA Haryana, it would be appropriate that the proposal may first be placed before the Hon'ble NGT for consideration, examination and assessment. If required, the MoEF&CC shall provide its view before the Hon'ble NGT.
5. That as per direction of Hon'ble NGT, opportunity of hearing was given to the project proponent, M/s Malibu Town Pvt. Ltd., on dated 19.09.2023. The representatives of M/s Malibu Town Pvt. Ltd. had requested that they will submit a detailed reply in reference of this hearing. The request of the representative of M/s Malibu Town Pvt. Ltd. regarding submission of detailed

reply was allowed in the hearing and next opportunity of hearing has been given to project proponent on 29.09.2023 by the Board.

6. Hon'ble Tribunal may take this report on record please.

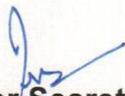
Place: Panchkula

Dated: 26.09.2023


Member Secretary
Haryana State Pollution Control Board

Verification:

Verified that contents of the above reply are true and correct as per information and legal submissions are being made as per legal advice.


Member Secretary
Haryana State Pollution Control Board



HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
 Website – www.hspcb.gov.in E-Mail: hspcbwatercell@gmail.com
 Ph: 0172-2577870-873

Closure Order/ Directions

Whereas, M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurgaon has established and operating a Residential Plotted Colony along with Group Housing Component, which is polluting in nature and is covered under Red Category;

Whereas, the above said unit was visited by the Field Officer of the Board on 08.09.2020 and complaint received from Sh. Raman Sharma, CW - 58, F.F, Malibu Town, Sector47, Gurugram-122018 through e-mail dt. 08.07.2020 and reported that following deficiencies were found during inspection:-

1. Not obtained Consent to Establish/ Consent to operate from the Board.
2. Not obtained Environmental Clearance under the provision of EIA Notification.
3. Legal Samples were collected from 3 Nos. of Sewage Treatment Plant (STP), 01 No. Rain Water Harvesting, Sewage line going directly HUDA/GMDA sewer, underground water tank in presence of representative of M/s Malibu Estate Pvt Ltd i.e. Sh. Ajitesh Jha, Civil Engineer and Sh. Onkar Singh, Manager Purchase and as per analysis report No. W-3/2020-21/03 dated 05.10.2020, W-4/2020-21/04 dated 05.10.2020, W-5/2020-21/05 dated 05.10.2020, W-6/2020-21/06 dated 05.10.2020 & W-8/2020-21/08 dated 05.10.2020 released by Government Analyst, Department of Environment & Climate Change, Haryana, the results are exceeding the prescribed limits.
4. A FIR No. 628 dated 16.10.2020 was lodged against licenses (including licenses No. 71-75 of 1992 in which said site of dispensary is also a part) by DTP (E) Town and Country Planning Gurugram in Police Station Sadar Gurugram which comprises irregularities of community sites, which is under investigation and pending for challans before District Court, Gurugram.
5. COMA-02 of 2020 titled as Raman Sharma Vs MEPL and others and CS-934 of 2020 titled as Raman Sharma V/s State of Haryana and Ors is pending before Session Court, Gurugram and District Court, Gurugram respectively for various issues including issue of illegal sale, creating third party right without any prior permission from DTCP, commercial use of community land/sites/buildings and construction without prior Environmental Clearance.
6. Special Investigation Team (SIT) constituted by Commissioner of Police, Gurugram vide letter dated 02.02.2021 with regard to FIR No. 628 dated 16.10.2020, COMA-02 of 2020 titled as Raman Sharma Vs MEPL and others and complaints filed by Sh. Raman Sharma against the MEPL and Ors. and matter is under investigation.

Whereas, the samples of effluent were collected by the field officer of the Board during the inspection of the above said unit on 08.09.2020 and legal sample were collected from 3 Nos. of Sewerage Treatment Plants released by Govt. Analyst, Department of Environment & Climate Change, Haryana and as per analysis reports of the said samples, the following parameters were found exceeding the prescribed limits as per detail given below:-

Sr. No.	A/R No. and Date	Parameters	Results	Limits
1	03 dt. 05.10.2020	Oil & Grease mg/l	15	10
2	03 dt. 05.10.2020	Biological Oxygen Demand mg/l	48	30
3	03 dt. 05.10.2020	Sulphide mg/l	3.20	2.0
4	04 dt. 05.10.2020	Total Suspended Solids mg/l	200	100
5	04 dt. 05.10.2020	Oil & Grease mg/l	20	10
6	04 dt. 05.10.2020	Chemical Oxygen Demand mg/l	260	250
7	04 dt. 05.10.2020	Biological Oxygen Demand mg/l	63	30
8	05 dt. 05.10.2020	Total Suspended Solids mg/l	550	100
9	05 dt. 05.10.2020	Oil & Grease mg/l	23	10
10	05 dt. 05.10.2020	Chemical Oxygen Demand mg/l	1100	250
11	05 dt. 05.10.2020	Biological Oxygen Demand mg/l	200	30
12	05 dt. 05.10.2020	Sulphide mg/l	24	2.0
13	06 dt. 05.10.2020	Total Suspended Solids mg/l	650	100
14	06 dt. 05.10.2020	Oil & Grease mg/l	28.57	10
15	06 dt. 05.10.2020	Chemical Oxygen Demand mg/l	900	250
16	06 dt. 05.10.2020	Biological Oxygen Demand mg/l	320	30
17	06 dt. 05.10.2020	Sulphide mg/l	12.80	2.0

Whereas, Show Cause Notice for closure was issued to the above said unit by Regional Officer, Gurgaon North vide his letter HSPCB/GRN/2020/1948 dated 16.10.2020 and the Regional Officer has reported that the unit has submitted reply vide letter dated 02.11.2020 but it is not satisfactory because unit has not complied with the above observations;

Whereas, the Regional Officer, Gurgaon North vide his letter no. HSPCB/ GUR/ 2022/ RO/ INS/ 31601738CONCR001 dated 14.12.2022 has recommended taking closure action to stop the construction activity against the unit under section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention & Control of Pollution) Act, 1981;

Therefore, in exercise of the powers conferred under section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention & Control of Pollution) Act, 1981, the following directions are issued:-

- (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.

In addition to above, it is also intimated that non- compliance of the directions issued under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 is an offence.

**Dated Panchkula, the
22nd December, 2022**

Chairman

Endst. No. HSPCB/GUR/2022/INS/31601738CONCO001-004

Dated:23-Dec-2022

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

1. The Deputy Commissioner, Gurugram.
2. Executive Engineer (Operation Division), DHBVN, Gurugram. He is directed to not to issue electric connection to any new occupant of this project and submit acknowledgement in this regard within 03 days.
3. The District Revenue Officer, Gurugram for information and compliance of the above directions and ensure that any sale deed related to any plot/flat/house/shop/any other components of this project is not registered.
4. DTP, Gurugram. He is directed to ensure that the construction activities are stopped by the project proponent.
5. Executive Engineer, GMDA, Gurugram. He is directed not to issue any new water connection in this project.
6. The Regional Officer, Gurugram. He is directed to ensure compliance of this order and to submit compliance report in this regard within 03 days. He will also intimate legal action against the unit for filing prosecution case for the above said violations and will submit the proper and complete case with reasoned recommendation and submit case for Environment Compensation.
7. M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurgaon.

**Sr. Env. Engineer (WC)
For Chairman**



HSPCB

Closure Order/ Directions

Whereas, M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurugram is a company engaged in the business of Real Estate and developing/ building townships and other building projects and has established and operating a Residential Plotted Colony along with Group Housing Component situated at Sohna Road, Gurugram which is polluting in nature and is covered under Red Category according to the policy of the Board;

Whereas, directions were issued vide letter No. **HSPCB/GUR/2022/INS/ 31601738CONCO001- 004 dated 23.12.2022** in exercise of powers conferred under section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention & Control of Pollution) Act, 1981;

Whereas, after issuance of the directions, same were produced before Hon'ble NGT in OA No. 68 of 2022 titled as Raman Sharma Vs State of Haryana for consideration in addition to other issues pending before the Hon'ble NGT raised by the applicant therein;

Whereas, an order dt. 28.03.2023 was passed by Hon'ble NGT, wherein, Hon'ble NGT was pleased to issue directions to the HSPCB to revisit the closure order in terms of that the bonafide third party investor may not be made to suffer due to inaction / negligence / connivance of the concerned Administrative Officer. Before proceedings further, it is appropriate to reproduce the relevant paras of the order dt. 28.03.2023.

" Para No. 19-

*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 ongoing 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."

Whereas, perusal of the observations of the Hon'ble NGT reflect that there is need to pass an order in continuation to the earlier order **HSPCB/GUR/2022/ INS/ 31601738CONCO001- 004 dt. 23.12.2022**, hence, the present order;

Whereas, at this juncture, it is appropriate to recapitulate the relevant facts, which go to the roots of the present matter, the above said unit was visited by the Field Officer of the Board on 08.09.2020 on the basis of the complaint received from Sh. Raman Sharma, CW - 58, F.F, Malibu Town, Sector-47, Gurugram-122018 through e-mail dt. 08.07.2020 and Field Officer reported the following deficiencies:-

1. Not obtained Consent to Establish/ Consent to operate from the Board.
2. Not obtained Environmental Clearance under the provision of EIA Notification.
3. Legal Samples were collected from 3 Nos. of Sewage Treatment Plant (STP), 01 No. Rain Water Harvesting, Sewage line going directly HUDA/GMDA sewer, underground water tank in presence of representative of M/s Malibu Estate Pvt Ltd i.e. Sh. Ajitesh Jha, Civil Engineer and Sh. Onkar Singh, Manager Purchase and as per analysis report No. W-3/2020-21/03 dated 05.10.2020, W-4/2020-21/04 dated 05.10.2020, W-5/2020-21/05 dated 05.10.2020, W-6/2020-21/06 dated 05.10.2020 & W-8/2020-21/08 dated 05.10.2020 released by Government Analyst, Department of Environment & Climate Change, Haryana, the results are exceeding the prescribed limits.

4. A FIR No. 628 dated 16.10.2020 was lodged against licenses (including licenses No. 71-75 of 1992 in which said site of dispensary is also a part) by DTP (E) Town and Country Planning Gurugram in Police Station Sadar Gurugram which comprises irregularities of community sites, which is under investigation and pending for challans before District Court, Gurugram.
5. COMA-02 of 2020 titled as Raman Sharma Vs MEPL and others and CS-934 of 2020 titled as Raman Sharma Vs State of Haryana and Ors is pending before Session Court, Gurugram and District Court, Gurugram respectively for various issues including issue of illegal sale, creating third party right without any prior permission from DTCP, commercial use of community land/sites/buildings and construction without prior Environmental Clearance.
6. Special Investigation Team (SIT) constituted by Commissioner of Police, Gurugram vide letter dated 02.02.2021 with regard to FIR No. 628 dated 16.10.2020, COMA-02 of 2020 titled as Raman Sharma Vs MEPL and others and complaints filed by Sh. Raman Sharma against the MEPL and Ors. and matter is under investigation.

Whereas, during inspection, samples of effluent were also collected by the Field Officer of the Board from 3 Nos. of Sewerage Treatment Plants by following due process as mentioned in the Water (Prevention and Control of Pollution) Act, 1974. After examination of the sample by Govt. Analyst, Department of Environment & Climate Change, Haryana, the report was prepared and as per analysis reports of the said samples, the following parameters were found exceeding the prescribed limits as per detail given below:-

Sr. No.	A/R No. and Date	Parameters	Results	Limits
1	03 dt. 05.10.2020	Oil & Grease mg/l	15	10
2	03 dt. 05.10.2020	Biological Oxygen Demand mg/l	48	30
3	03 dt. 05.10.2020	Sulphide mg/l	3.20	2.0
4	04 dt. 05.10.2020	Total Suspended Solids mg/l	200	100
5	04 dt. 05.10.2020	Oil & Grease mg/l	20	10
6	04 dt. 05.10.2020	Chemical Oxygen Demand mg/l	260	250
7	04 dt. 05.10.2020	Biological Oxygen Demand mg/l	63	30
8	05 dt. 05.10.2020	Total Suspended Solids mg/l	550	100
9	05 dt. 05.10.2020	Oil & Grease mg/l	23	10
10	05 dt. 05.10.2020	Chemical Oxygen Demand mg/l	1100	250
11	05 dt. 05.10.2020	Biological Oxygen Demand mg/l	200	30
12	05 dt. 05.10.2020	Sulphide mg/l	24	2.0
13	06 dt. 05.10.2020	Total Suspended Solids mg/l	650	100
14	06 dt. 05.10.2020	Oil & Grease mg/l	28.57	10
15	06 dt. 05.10.2020	Chemical Oxygen Demand mg/l	900	250
16	06 dt. 05.10.2020	Biological Oxygen Demand mg/l	320	30
17	06 dt. 05.10.2020	Sulphide mg/l	12.80	2.0

Whereas, keeping in view of the violations, show cause notice for closure was issued by Regional Officer, Gurugram North vide his letter No. HSPCB/GRN/2020/1948 dated 16.10.2020 and in response to the SCN reply vide letter dated 02.11.2020 was received, but after analysis of all the facts and circumstances Regional Offices reached at the conclusion that reply is not satisfactory as concerned failed to comply with the observation;

Whereas, the Regional Officer, Gurgaon North vide his letter no. HSPCB/ GUR/ 2022/ RO/ INS/ 31601738CONCR001 dated 14.12.2022 had recommended taking closure action to stop the construction activity against the unit under section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention & Control of Pollution) Act, 1981 and after considering all the facts, circumstances, inspection reports, analysis reports and reply received in response to show cause notice, an order dt. 23.12.2022, containing directions in following terms was passed;

“(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."

Whereas, now in view of the order dt. 28.03.2023 passed by Hon'ble NGT, it is hereby ordered that the above directions from (a) to (e) mentioned in the order dt. 23.12.2022 are applicable only to the property of project proponents and do not apply to the property of bonafide third party investors as well as to other persons to whom the rights in the properties have been/ to be transferred by third party investors, as mentioned in the order of Hon'ble NGT.

In addition to above, it is also intimated that non-compliance of the directions issued under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention & Control of Pollution) Act, 1981 is an offence.

**Dated Panchkula, the
19th April, 2023**

Chairman

Endst. No. HSPCB/GUR/2022/INS/31601738CONCO005-08

Dated:21.04.2023

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

1. The Deputy Commissioner, Gurugram.
2. Executive Engineer (Operation Division), DHBVN, Gurugam. He is directed to not to issue/ increase load of electric connection to project proponent of this project and submit acknowledgement in this regard within 03 days.
3. The District Revenue Officer, Gurugram for information and compliance of the above directions and ensure that any sale deed related to any plot/flat/house/shop/any other components of this project is not registered as per above orders.
4. DTP, Gurugram. He is directed to ensure that the construction activities are stopped by the project proponents.
5. Executive Engineer, GMDA, Gurugram. He is directed not to issue any new water connection in this project as per above orders.
6. The Regional Officer, Gurugram. He is directed to ensure compliance of this order and to submit compliance report in this regard within 03 days. He will also intimate legal action against the unit for filing prosecution case for the above said violations and will submit the proper and complete case with reasoned recommendation and submit case for Environment Compensation.
7. M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurgaon.

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**Sr. Env. Engineer (WC)
For Chairman**



HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Website – www.hspcb.org.in E-Mail: hspcbwatercell@gmail.com
Ph: 0172-2577870-873

HSPCB/WC/8081

Dated: 21.07.2023

To

The Secretary,
Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhawan, Jorbag Road, New Delhi- 110003

Sub:- Regarding compliance of Environmental norms by M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurugram in matter of OA No. 68 of 2022- titled as Raman Sharma Vs State of Haryana & Others.

Kindly refer to the subject noted above.

M/s Malibu Estate Pvt. Ltd, Malibu Town, Sohna Road, Gurugram is a housing/township project of 204 acres having individual plots and Group Housing. The project proponent has not obtained Environmental Clearance and consent from the HSPCB.

There are violations of EP Act, Water Act and Air Act by the above said project. HSPCB has already filed prosecution case in Environment Court under EP Act, Water Act and Air Act against the project proponents. The HSPCB had also issued closure directions (**copy enclosed**) under provisions of Water Act / Air Act and the directions are reproduced as under:-

- (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/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."

HSPCB had submitted the above compliance before Hon'ble NGT in matter of OA No. 68 of 2022 titled as Raman Sharma Vs State of Haryana & Ors. It is submitted that vide order dated 28.03.2023 (**copy enclosed**), the Hon'ble NGT had directed to modify the closure order and accordingly, the order was modified on dated 21.04.2023 (**copy enclosed**) and residents/ 3rd party were given relief as per NGT directions.

The hearing was also given to Federation of residents of Malibu Township by HSPCB. It has come out that they are ready to take up the environmental issues and apply for Environmental Clearance from State Environment Impact Assessment Authority (SEIAA). They are also ready to take CTE/CTO from HSPCB. By this way, the compliance of Environmental norms can be ensured.

But as per norms of SEIAA, the Environmental Clearance cannot be granted without payment of Environmental Compensation and any modification in the norms is required at level of MoEF&CC.

It is worth to mention that without Environmental Clearance, HSPCB can't grant CTE/CTO to any project.

So, HSPCB proposes to come up with a policy, wherein for the projects where the builder is not coming forward to ensure the compliance of Environmental norms and run away/died/in jail/not available, the residents can be granted CTE/CTO without taking punitive actions against them for past violations, though they shall be responsible for future violations. But without grant of Environmental Clearance, the HSPCB can't grant CTE/CTO.

Therefore, I have been directed to request that necessary guidance in this regard may be provided to this office or arrange to make similar provisions in norms for grant of Environmental Clearance, so that compliance of Environmental norms be ensured.

DA/As above.

Env. Engineer (HQ)
For Member Secretary

Endst. HSPCB/WC/8082-8083

Dated: 21.07.2023

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

1. Additional Chief Secretary to Govt. of Haryana, Environment Department, Chandigarh
2. Chairman, SEIAA, Haryana, Panchkula.

DA/As above.

Env. Engineer (HQ)
For Member Secretary

2951812/2023/WC

HSM/29/2023-HSM
Government of India
Ministry of Environment, Forest and Climate Change
(HSM Division)

Indira Paryavaran Bhawan
Jorbagh Road, Aliganj
New Delhi-110003

Dated- 04.08.2023

To,
The Member Secretary
Haryana State Pollution Control Board
C-11, Sector-6,
Panchkula, Pin code- 134109

Sub: Hon'ble NGT Matter related to O.A. No. 68 of 2022 in the matter Raman Sharma vs. State of Haryana & Ors. On compliance of environmental norms by M/s Malibu Estate Pvt. Ltd. Sohna Road, Gurugram - reg.

Sir,

This has reference to the case O.A. No. 68 of 2022 titled as Raman Sharma vs State of Haryana & Ors. regarding compliance of environmental norms w.r.t. running of 10 DG sets in the green belt of integrated residential Colony at Gurugram, Haryana; dumping of construction waste in violation of environmental norms, and raising construction by M/s Malibu Estate Pvt. Ltd.

2. In this regard, the MoEFCC is in receipt of a communication from the HSPCB dated 21.07.2023 wherein a request has been made to provide guidance on grant of EC to interested parties, other than Occupier, in cases where the occupier has run away/ died/ in jail/ not available. The communication further mentions that HSPCB intends to come up with a policy to grant CTE/ CTO to 'interested parties' in above-stated cases, however, it cannot grant the same until EC is issued in the name of 'interested parties' by SEIAA/ MoEFCC. However, the communication also mentions that SEIAA Haryana cannot grant EC without payment of environmental compensation for past violation as the existing provisions mandate so.

3. The matter has been examined in MoEFCC, it is observed that the proposal involves substantial policy changes at the end of MoEFCC (by Impact Assessment Division - IA Policy and IA Infrastructure). As the matter is still under judicial consideration, and Hon'ble NGT has passed directions for compliance to the HSPCB and SEIAA Haryana, it would be appropriate that the proposal may first be placed before the Hon'ble NGT for their consideration, examination and assessment. If required, the MoEFCC shall provide its view before the Hon'ble NGT.

4. This issues with the approval of Competent authority

Encl: As Above



(Ved Prakash Mishra)
Director (HSMD)
mishra.vp@gov.in

Copy for information to:

1. The Additional Secretary (IA Division), MoEFCC
2. Sh. Jatinder Pal, Sr. Env. Engineer (WC), HSPCB

(वेद प्रकाश मिश्रा)
(VED PRAKASH MISHRA)
निदेशक/Director
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
M/o Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi