

## 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

## INDEX

Sr. No.	Particulars	Page No.
1	Status report by Sh. Pardeep Kumar, IAS, Member Secretary, Haryana State Pollution Control Board.	1-4
2	Annexure R-1	5-6
3	Annexure R-2	7-8

Place: Panchkula

Dated: 24.7.23

  
Member Secretary  
Haryana State Pollution Control Board

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

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](mailto: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](mailto:judicialngt@gov.in) preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF."

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 has started and the information shall be compiled within one month besides action will also be taken simultaneously if due at any place.

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 an Environment Compensation shall be imposed on Municipal Corporation, Gurugram for non compliance of C&D Waste Rules as and when policy in this regard is finalized by the Board. Presently CPCB has not forwarded any policy regarding assessing and imposing Environmental Compensation for violations of C & D Waste Rules and HSPCB is in the process of finalizing its own policy.
5. 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 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 not grant CTE/CTO to such projects. In this regard, MoEF&CC has been 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**.
6. Hon'ble Tribunal may take this report on record please.

Place: Panchkula

Dated: 24.7.23

  
**Member Secretary**  
**Haryana State Pollution Control Board**



**HARYANA STATE POLLUTION CONTROL BOARD**  
**C-11, SECTOR-6, PANCHKULA**  
 Website – [www.hspcb.gov.in](http://www.hspcb.gov.in) E-Mail: [hspcbwatercell@gmail.com](mailto: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 related 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  
22<sup>nd</sup> 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**



HARYANA STATE POLLUTION CONTROL BOARD  
 C-11, SECTOR-6, PANCHKULA  
 Website – [www.hspcb.org.in](http://www.hspcb.org.in) E-Mail: [hspcbwatercell@gmail.com](mailto: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/ 3<sup>rd</sup> 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**