

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

OA NO. 68 OF 2022

In the matter of:

Raman Sharma

.....Applicant

Versus

State of Haryana & Ors

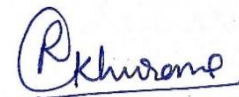
.....Respondent(s)

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Filed By:

Date: 12.11.2024



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State Environment Impact Assessment Authority, Haryana,
Bays No.55-58, Prayatan Bhawan, Sector-2 Panchkula.

Telephone No. 0172-2565232
E-mail ID: seiaa-21.env@hry.gov.in

Memo No: SEIAA/HR/2024/309

Dated: 15/10/2024

To

The Director,
Town & Country Planning Haryana,
Plot No. 3, Sector - 18A, Madhya Marg,
Chandigarh- 160018

Subject: OA. No. 68 of 2022 titled as Raman Sharma versus State of Haryana and Ors.

With reference to Original Application **OA. No. 68 of 2022 titled as Raman Sharma versus State of Haryana and Ors.**

In the captioned original application the Grievances were raised regarding running of 10 DG sets in the green belt of Integrated Residential Colony Gurugram, Haryana, dumping of construction waste in violation of environmental norms and raising of constructions by M/s Malibu Estate Pvt. Ltd. in Malibu Town, Sohna Road, Gurgaon (North), Haryana despite refusal of consent to operate by the Haryana State Pollution Control Board (HSPCB). The Hon'ble National Green Tribunal vide order dated 28.03.2023 passed the following directions:

“23. In view of the facts and circumstances of the case, we consider the presence of SEIAA, Haryana to be essential for just and proper adjudication of the questions involved in the case. Accordingly SEIAA, Haryana is impleaded as respondent No. 9. The Registry is directed to make appropriate amendment in memo of parties.”

24. The SEIAA and Respondent No. 4 are also directed to look into the aspects of present status of the project for which EC is required, measures required to be taken for protection of third party investors for residential units in the project and remedial measures required to be taken by demolition or completion at the cost and expenses to be recovered from respondent No. 8. Reply/response by respondent's No. 4 and 9 may be filed within two 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.”


The matter was taken up on 28.06.2024 and 11.10.2024; wherein M/s Malibu Estate Pvt. Ltd and the Complainant were directed to submit documents evidences.

The authorized representative of Project Proponent appeared on 11.10.2024 and made repeated submissions to emphasize that no violation(s) has been committed by the M/s Malibu Estate Pvt. Ltd (Project Proponent) for the development of an area of 204.796 Acres, for the Residential Plotted Colony alongwith Group Housing Component at Village Fatehpur, Tikri, Adampur&Jharsa, Sector-47 & 50, District Gurgaon. Learned Counsel also submitted that Project Proponent had taken 32 number of Licences since 28.10.1992 and onward i.e. 31.01.2008 from Directorate of Town & Country Planning, Haryana. Learned Counsel submitted that as and when Environment Clearance (EC) was required for the project, same was obtained from the Competent Authorities. Further, a specific mention in this regard was made by referring to the EC dated 08.01.2008 and 04.09.2013 issued in the name of M/s NikiyogBuildwellPvt. Ltd and M/s Endure Realty Pvt. Ltd by the MOEF, GOI and SEIAA, Haryana, respectively.

Sh. Raman Sharma (Complainant), attended the proceeding through VC and argued that gross violations have been made by the Project Proponent by commercially exploiting the Green areas, beside other violations within the scope & meaning of EIA Notification dated 14.09.2006. Further, Sh. Raman Sharma (Complainant) claimed to have clear cut documentary evidences to establish and prove his pleas with regard to violations committed by the Project Proponent.

Upon having heard both the sides and perusing the documentary evidences the Authority feels that there is a requirement to seek clarification from the Director Town and Country Planning Department regarding scope of changes in Zoning Plan/layout plans of 1998 and 2008 as to whether the site plan/layout plan of earlier licenses were modified while approving the site plan/layout plan of the license no. 15 of 2008 in 2008

Keeping in view of above, you are hereby requested to clarify scope of changes in Zoning Plan/layout plans of 1998 and 2008 as to whether the site plan/layout plan of earlier licenses were modified while approving the site plan/layout plan of the license no. 15 of 2008 in 2008.


Member Secretary,
SEIAA, Haryana



BEFORE THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
HARYANA,
BAYS NO.55-58, PRAYATAN BHAWAN, SECTOR-2, PANCHKULA.
In the matter of

M/s Malibu Estate Pvt. Ltd.
.....Respondent No. 8

Reference: Original Application (OA) No. 68/2022 titled as Raman Sharma Versus State of Haryana & Ors.

Date of Hearing:

Present:

For the Respondent No. 8 (M/s Malibu Estate Pvt. Ltd.)

1. Mr. Sanjay Upadhyay (Advocate)
2. Sh. Subhash Raghav, (Authorized representative of Project Proponent)
3. Mr. Shubham (Advocate)

For the Applicant:

1. Sh. Raman Sharma (Complainant), through Video Conference

ORDER

1. Learned Counsel, Sh. Sanjay Upadhyay alongwith Sh. Subhash Raghav (authorized representative of Project Proponent) appeared on 11.10.2024 and made repeated submissions to emphasize that no violation(s) has been committed by the M/s Malibu Estate Pvt. Ltd. (Project Proponent) for the development of an area of 204.796 Acres, for the Residential Plotted Colony alongwith Group Housing Component at Village Fatehpur, Tikri, Adampur & Jharsa, Sector-47 & 50, District Gurgaon. Learned Counsel also submitted that Project Proponent had taken 32 number of Licences since 28.10.1992 and onward i.e. 31.01.2008 from Directorate of Town & Country Planning, Haryana. Learned Counsel submitted that as and when Environment Clearance (EC) was required for the project, same was obtained from the Competent Authorities. Further, a specific mention in this regard was made by referring to the EC dated 08.01.2008 and 04.09.2013 issued in the name of M/s Nikiyog Buildwell Pvt. Ltd and M/s Endure Realty Pvt. Ltd by the MOEF, GOI and SEIAA, Haryana, respectively.
2. Sh. Raman Sharma (Complainant), attended the proceeding through VC and argued that gross violations have been made by the Project Proponent by commercially exploiting

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the Green areas, beside other violations within the scope & meaning of EIA Notification dated 14.09.2006. Further, Sh. Raman Sharma (Complainant) claimed to have clear cut documentary evidences to establish and prove his pleas with regard to violations committed by the Project Proponent.

3. Upon having heard both the sides and perusing the documentary evidences it has been observed that M/s Malibu Estate Pvt. Ltd in its documents intimated that they have obtained 32 Number of Licenses since 28.10.1992 and onward i.e. 31.01.2008. Accordingly, they have claimed that they have approved Zoning plan much prior to the inception of EIA Notification dated 14.09.2006. Now, coming to the subsequent License No. 15 of 2008 dated 31.01.2008, the project proponent argued that there was no requirement for prior Environment Clearance as the referred Licence was granted for the development of plotted colony over an area of 24.681 Acres i.e. 9.97 Hectare which is less than 50 Hectare **[under category 8 (b)]**.
4. Therefore, it is appropriate to mention here that earlier M/s Malibu Estate Pvt. Ltd obtained Terms of Reference letter **dated 19.06.2015 (Flag-B)** for the construction of residential plotted colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram ***over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).***
5. Thereafter, the Project Proponent again applied in September 2017 under violation Category in compliance with Notification dated 14.03.2017 and 08.03.2018 for the construction of Residential Plotted Colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram ***over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).***
6. The Authority examined the submission made by the complainant vide email dated 28.08.2024 stating on page No. 10 at point B that while taking zoning plan/layout plan approval the Project Proponent proposed to shift facilities approved for 30 licences from 1992 to 1997 from their original locations as under:
 - i. Dispensary Site
 - ii. Creche
 - iii. Religious Site
 - iv. High Secondary School SiteNursery School Sites
 - v. Primary School Sites
 - vi. Residential Plot Sites.


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Further, the complainant at Point C stated that the size of sites in earlier licences were increased after the grant of License No. 15 of 2008 and license No. 86 of 2008. Details are as under:

- i. Commercial site
- ii. Public Health Site
- iii. Dispensary Site
- iv. Higher Secondary School Site
- v. Size of 71 Residential Plots (Annexure-4) against the approved category of plots (annexure-5)

7. The Authority examined the submissions made (without documentary evidence) by M/s Malibu Estate Pvt. Ltd vide email dated 14.10.2024 wherein it has been stated that there has been no change in the site allocation of the project and all the sites, as given in the 1998 zonal plan, have been retained in the 2008 plan as well without any substantial change in site.
8. At this juncture, the Authority feels that there is a requirement to seek clarification from the Director Town and Country Planning Department regarding scope of changes in Zoning Plan/layout plans of 1998 and 2008 as to whether the site plan/layout plan of earlier licences were modified while approving the site plan/layout plan of the licence no. 15 of 2008 in 2008.
9. Further, the Authority feels it appropriate to clarify that in the event there any change as alleged, then EIA Notification dated 14.09.2006 shall be applicable and M/s Malibu Estate Pvt Ltd shall be required to obtain Environment Clearance for the whole Project under violation category.


Virender Kumar Dahiya, IAS
Member Secretary,
SEIAA, Haryana

15/10/2024


P. K. Das, IAS (Retd.)
Chairman,
SEIAA, Haryana

15/10/2024

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Directorate of Town & Country Planning, Haryana

Nagar Yojana Bhavan, Plot No. 3, Sector-18/A, Madhya Marg, Chandigarh
Website tcpharyana.gov.in - E-mail: tcpharyana7@gmail.com

To

State Environment Impact Assessment Authority,
Haryana, Bays No.55-58, Prayatan Bhawan,
Sector-2 Panchkula.

Memo No: CC-3056/ JD (RA)/2024/ 32257

Dated: 23/11/24

Subject: - OA No. 68/2022 titled as Raman Sharma Vs State of Haryana & Ors.

Reference: - Your office letter No. SEIAA/HR/2024/309 dated 15.10.2024 received in this office on 18.10.2024.

On the subject and reference cited above, it is informed that the Department has already filed written statement in the Hon'ble NGT on 25.03.2023 in the matter of OA No. 68/2022 titled as Raman Sharma Vs State of Haryana & Ors. Regarding clarification sought by your office i.e. modification/ changes in zoning plan/layout plan issued with license no. 15 of 2008 dated 31.01.2008, I have been directed to inform you the following: -

- i. The alleged colony referred by the applicant in Hon'ble NGT is a residential plotted colony having an area measuring 204.796 acres in sector- 47 & 50 of Gurugram, the details of license pertaining to the colony are as under: -

| Sr. no | License No. | Date | Area (in acres) |
|--------|---------------|------------|-----------------|
| 1 | 71-75 of 1992 | 28.10.1992 | 107.682 |
| 2 | 4-8 of 1993 | 18.03.1993 | 16.18 |
| 3 | 15-19 of 1994 | 08.12.1994 | 14.962 |
| 4 | 4-8 of 1995 | 15.11.1995 | 26.83 |
| 5 | 36-46 of 1997 | 21.07.1997 | 14.461 |
| 6 | 15 of 2008 | 31.01.2008 | 24.681 |
| | Total | - | 204.796 |

- ii. The above licenses were granted as per section 3(2) of the Act no. 8 of 1975 and Rule 3 of Rules of 1976. The additional licence no. 15 of 2008 dated 31.01.2008 of an area measuring 24.681 acres was granted to M/s Malibu Estate Pvt. Ltd. in and around the already licensed residential colony for an area measuring 180.115 acres.
- iii. The composite layout plan of an area measuring 204.796 acres was approved alongwith additional licence no. 15 of 2008. As per office record and approved layout plan issued with licence no. 15 of 2008 dated

31.01.2008, the developer company has made some changes as under and depicted on the copy of said approved layout plan: -

- e) *At point 'A' the applicant has re-planned the said area by converting the 3 nos residential plots into commercial area i.e. the applicant has now proposed the above 3 nos plots alongwith additional applied area as a commercial.*
- f) *At point 'B' earlier only primary school site is approved in the said area now the applicant has re-planned this area alongwith additional applied area and provided one no nursery school, one nos primary school alongwith a park.*
- g) *At point 'C' earlier a commercial pocket, Dispensary and High School has been approved in this area now the applicant has re-planned this area alongwith additional applied are and provided an additional site of Primary School alongwith the same facilities. The location/ shape of High School has been changed.*
- h) *At point no. 'D' earlier a site for Religious Building and a site for Public Health Services has been approved now the applicant has emerge the site of Religious building into the site for Public Health services and the Religiou building has been shifted in the new applied area at point 'E'.*

Except the above the applicant has retained the earlier planning in the layout plan submitted for approval. The applicant has made the above changes for planning point of view which may be considered for approval.

A copy of the approved layout plan bearing drawing no. DTCP. 227 dated 09.07.1997 showing the changes in existing layout plan with green colour and a copy of the layout plan approved with licence no. 15 of 2008 dated 31.01.2008 bearing drawing no. DTCP/1458 depicting the pockets/changes made in already approved layout plan in green colour are attached herewith for necessary action.

DA/as above.



(Sunena)

District Town Planner (HQ)

For: Director, Town & Country Planning
Haryana, Chandigarh

STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, HARYANA,
BAYS NO.55-58, PRAYATAN BHAWAN, SECTOR-2, PANCHKULA.

Telephone No. 0172-2565232
E-mail ID: seiaa-21.env@hry.gov.in

Memo No. SEIAA/HR/2024/314-315

Dated: 25/10/2024

To

1. M/s Malibu Estate Pvt. Ltd,
Malibu Town, Sohna Road,
Gurugram, Haryana
Email: twintowermalibu@gmail.com

2. Sh. Raman Sharma,
CW-58, F.F,
Malibu Town, Sohna Road,
Gurgaon-122018.

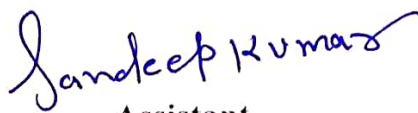
Subject: SPEAKING ORDER

Reference : Original Application (OA) No. 68/2022 titled as Raman Sharma Versus State of Haryana & Ors.

With reference to the subject cited above.

I have been directed to forward herewith a copy of Speaking Order dated 24.10.2024 passed by the State Environment Impact Assessment Authority (SEIAA), Haryana for your information, further necessary action at your end.

DA: As above.


Assistant
for Member Secretary,
SEIAA, Haryana
o/c



BEFORE THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
HARYANA,
BAYS NO. 55-58, PRAYATAN BHAWAN, SECTOR-2, PANCHKULA.

Reference: Original Application (OA) No. 68/2022 titled as Raman Sharma Versus State of Haryana & Ors.

SPEAKING ORDER

1. This order is in continuation of the Authority's order dated 15.10.2024 in the matter, and may be read in conjunction with that.
2. It is observed that M/s Malibu Estate Pvt. Ltd in its documents intimated that they have obtained 32 Number of Licences since 28.10.1992 and onward i.e. 31.01.2008. Accordingly, they have claimed that they had got the Zoning plan approved much prior to the inception of EIA Notification dated 14.09.2006. Now, coming to the subsequent Licence No. 15 of 2008 dated 31.01.2008, the project proponent intimated that there is no requirement for Prior Environment Clearance as the referred Licence was granted for the development of plotted colony over an area of 24.681 Acres i.e. 9.97 Hectare which is less than 50 Hectare **under category 8 (b)**.
3. It is appropriate to note that earlier M/s Malibu Estate Pvt. Ltd obtained Terms of Reference letter **dated 19.06.2015** for the construction of Residential Plotted Colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram *over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).*
4. Thereafter, the project proponent again applied in September 2017 under violation Category in compliance with Notification dated 14.03.2017 and 08.03.2018 for the construction of Residential Plotted Colony along with Group Housing component at village Fatepur, Tikri, Adampur & Jharsa, Sector 47 & 50, Gurugram *over an area of 8,28,780.01 m² (204.796 Acres) and built up area will be 6,64,412.826 m². Total site area for group housing*

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is 48117.13 m² (11.89 Acres) and total site area for plotted colony 7,80,662.88 m² (192.906 Acres).

5. The Authority had considered the matter on 11.10.2024; wherein the documents submitted by M/s Malibu Estate Pvt. Ltd and the complainant on various occasions/dates were examined, the project proponent claimed that it was not required to obtain Environment Clearance.
6. The Authority examined the submission made by the complainant vide email dated 28.08.2024 stating on page No. 10 at point B that while taking zoning plan/layout plan approval the Project Proponent proposed to shift facilities approved for 30 licences from 1992 to 1997 from their original locations as under:

- i. Dispensary Site
- ii. Creche
- iii. Religious Site
- iv. High Secondary School Site/Nursery School Sites
- v. Primary School Sites
- vi. Residential Plot Sites.

Further, the complainant at Point C in page No. 11 stated that the size of sites in earlier licences was increased after the grant of License No. 15 of 2008 and license No. 86 of 2008. Details are as under:

- i. Commercial site
- ii. Public Health Site
- iii. Dispensary Site
- iv. Higher Secondary School Site
- v. Size of 71 Residential Plots (Annexure-4) against the approved category of plots (annexure-5).

7. The Authority also examined the documents submitted by the complainant vide email dated 14.10.2024 vide which the complainant provided a communication 29.03.2010 made between M/s Malibu Town Estate Pvt. Ltd and Director, Town and Country Planning Haryana, Chandigarh, wherein the followings are clearly mentioned in Sr. No. 03 (**Community Building**) :

R-1: Applied for approval of Building Plan on 30.08.2007, further copy of STP Gurugram, Memo No. 3924 dated 27.09.2007.

R-2: Zoning plans applied for approval on 29.08.2008.

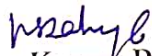
R-3: Revised Zoning Plan applied on 29.08.2008 due to change in Site Area in Approved layout Plan of 204.796 Acres.


8. The Authority also examined the submissions made (without documentary evidence) by M/s Malibu Estate Pvt. Ltd vide email dated 14.10.2024 wherein it has been stated that there has been no change in the site allocation of the project and all the sites, as given in the 1998 zonal plan, have been retained in the 2008 plan as well without any substantial change in site.

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9. In view of the contradictory claims by both sides, the Authority sought a clarification from the Director, Town and Country Planning, Haryana regarding the scope of changes in the Zoning Plan/layout plans of 1998 and 2008 as to whether the site plan/layout plan of earlier licences were modified while approving the site plan/layout plan of the licence no. 15 of 2008 in 2008.
10. The representative of Director Town and Country Planning Department Appeared before the Authority on 20.10.2024 and intimated to the Authority that M/s Malibu Estate Pvt. Ltd had actually proposed modification to the site plan/layout plan of earlier licences while approving the site plan/layout plan of the licence no. 15 of 2008 in 2008 and if such proposed modification was approved.
11. After careful examination of the documentary evidences submitted by the complainant, the clarification provided by the Director, Town and Country Planning Department, Haryana vide letter no. CC-3056/JD(RA)2024/32251 dated 23.10.2024 and keeping in view the Judgment dated 04.07.2022 passed by the Hon`ble National Green Tribunal in O.A. No. 661 of 2018 titled as Praveen Kakar & Ors versus MoEF and others, the Authority concludes that the approved zoning plan dated 31.01.2008 shows that area under the subsequent license No. 15 of 2008 was part and parcel of the project and that a composite layout plan and zoning plan was sanctioned by DTCP Haryana including modification in the area or earlier zoning plan. *In view thereof, provisions of EIA Notification dated 14.09.2006, applied to the development carried out pursuant to the license dated 31.01.2008 and zoning plan approved on 31.01.2008 but M/s Malibu Estate Pvt. Ltd executed development activities without obtaining Prior Environment Clearance and thus violated the Norms of EIA Notification dated 14.09.2006.*
12. Further, the Authority also decided to initiate violations proceedings separately within the scope and meaning of Environment (Protection) Act, 1986 and notifications made their under.


Virender Kumar Dahiya, IAS
Member Secretary,
SEIAA, Haryana
24/10/2024


P. K. Das, IAS (Retd.)
Chairman,
SEIAA, Haryana
24/10/2024



Rahul Khurana <rkhuranalegal@gmail.com>

OA No.68/2022 Raman Sharma Vs State of Haryana & Ors.

1 message

Rahul Khurana <rkhuranalegal@gmail.com>

12 November 2024 at 23:56

To: eldflegal@gmail.com, noopur4@gmail.com, Raman Sharma <cw58ffmalibutown@gmail.com>, Radhika Gautam <gautamradhika.r@gmail.com>

Respected Sir/Madam,

Please find attached herewith advance service of documents to be filed on behalf of SEIAA, Haryana in the above subjected matter.

Thanking you,

Regards,
Rahul Khurana,
Advocate-on-Record
Supreme Court on India
Mobile No. 9811894060

**Document SEIAA with pagination OA 68 Raman Sharma.pdf**

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