

2461

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

Original Application No. 68 of 2022

In the matter of:

Raman Sharma

...Applicant

Versus

State of Haryana & Ors.

...Respondent(s)

With

Appeal No. 05 of 2024

Haryana State Pollution Control Board

...Appellant

Versus

Malibu Estate Pvt Limited & Ors.

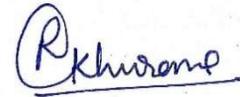
...Respondents

INDEX

S. No.	Particulars	Page No.
1.	Written Arguments on behalf of Haryana State Pollution Control Board	1-5

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**Written arguments on behalf of Haryana State Pollution
Control Board**

1. That the appeal No. 5 of 2024 (hereinafter referred to as said Appeal) has been filed by the Appellant Board against the impugned order dated 21.09.2023 passed by the Learned Appellate Authority, whereby the Learned Authority illegally, arbitrarily, and without jurisdiction set aside the closure order dated 22.12.2022 and subsequent clarification orders dated 02.03.2023 and 19.04.2023 issued by the Appellant Board, without properly appreciating the statutory provisions, material facts, and grave environmental violations committed by Respondent No. 1.
2. That as per Section 33-B(c) of the Water (Prevention and Control of Pollution) Act, 1974, any appeal against directions issued under Section 33-A lies exclusively before the Hon'ble National Green Tribunal.

Therefore, the Learned State Appellate Authority had no jurisdiction to entertain or adjudicate the appeal filed by Respondent No. 1. Accordingly, the impugned order dated 21.09.2023 is without jurisdiction, illegal, and liable to be set aside being coram non iudice.

3. That Respondent No. 1 has undertaken construction and development of a township project spread over approximately 204.796 acres (more than 50 hectares), including residential plotted colony and group housing components, without obtaining prior mandatory Environmental Clearance, in clear violation of the EIA Notification dated 14.09.2006 issued under the Environment (Protection) Act, 1986.
4. That as per the EIA Notification dated 14.09.2006, township and area development projects covering an area of 50 hectares or more, or having built-up area exceeding 1,50,000 sq. meters, mandatorily require prior Environmental Clearance before commencement of construction activities. Respondent No. 1 admittedly continued construction and development activities after 14.09.2006 without obtaining such mandatory clearance, thereby committing violations of the Environment (Protection) Act, 1986.
5. That Respondent No. 1 obtained License No. 15 of 2008 covering 24.681 acres after the cut-off date of 14.09.2006, and subsequently revised layout plans and continued development activities, which clearly establish that substantial construction and development were undertaken after the EIA Notification came into force, without obtaining Environmental Clearance.
6. That various Occupation Certificates were also obtained by Respondent No. 1 after 14.09.2006 for group housing and community buildings,

which further confirms that construction and operational activities were carried out in violation of statutory environmental requirements.

7. That the Ministry of Environment & Forest, Government of India, vide letter dated 27.01.2012, had already intimated the State Government authorities that Respondent No. 1 was undertaking township development without obtaining mandatory Environmental Clearance and requested initiation of action against the violator as per applicable law.
8. That the officials of the Appellant Board conducted inspection of the project site on 14.07.2020, wherein it was observed that Respondent No. 1 had established and operated the project without obtaining mandatory Consent to Establish and Consent to Operate under Section 25 of the Water Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.
9. That during the said inspection, effluent samples were collected from outlet of Sewage Treatment Plants and analysis reports issued by the Government Analyst confirmed that the effluent parameters exceeded the prescribed standards, thereby establishing violation of environmental norms and statutory provisions.
10. That in view of the above violations, the Appellant Board issued Show Cause Notice dated 16.10.2020 to Respondent No. 1, calling upon it to explain why action should not be taken under applicable environmental laws.
11. That Respondent No. 1 submitted reply dated 02.11.2020, which was duly examined by the Appellant Board and found to be unsatisfactory,

evasive, and devoid of merit, as Respondent No. 1 failed to produce valid Environmental Clearance or statutory consents.

12. That after due consideration of inspection reports, analysis reports, statutory violations, show cause notice, and reply of Respondent No. 1, the Appellant Board, in exercise of its statutory powers under the Water Act, Air Act, and Environment (Protection) Act, passed closure order dated 22.12.2022 against Respondent No. 1.
13. That subsequent clarification orders dated 02.03.2023 and 19.04.2023 were issued by the Appellant Board in compliance with the directions of this Hon'ble Tribunal, clarifying that closure directions were applicable to the project proponent and not to bona fide third-party residents or investors, thereby demonstrating fairness, transparency, and reasonableness of the Board's actions.
14. That the Learned Appellate Authority failed to appreciate the statutory scheme and ignored binding provisions of environmental laws while setting aside the closure order, thereby passing an illegal and unsustainable order.
15. That the closure order was passed strictly in accordance with law, based on scientific evidence, inspection findings, laboratory reports, and admitted violations committed by Respondent No. 1.
16. That answering respondent craves liberty to read submissions filed and order passed by SEIAA, Haryana relying upon judgment dated 04.07.2022 passed by this Hon'ble Tribunal in OA No.661/2018 (Praveen Kakar & Ors. Vs MoEF&CC) and to file additional submissions, as and when required, with the permission of this Hon'ble Tribunal.

Prayer

In view of the facts and circumstances stated above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a. Set aside the impugned order dated 21.09.2023 passed by the Learned Appellate Authority;
- b. Uphold the closure order dated 22.12.2022, as modified vide clarification order dated 19.04.2023, passed by the Appellant Board;
- c. Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice and protection of the environment.



Akansha Tanwar,
Regional Officer, Gurugram (North) Region
Haryana State Pollution Control Board

Through Counsel

Rahul Khurana, Advocate

Place: Gurugram
Date: 25.02.2026