

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 485 of 2015
(M.A. No. 801 of 2014 & M.A. No. 04 of 2015)**

IN THE MATTER OF :

Girdhari Lal Vs. State & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant: .
Respondent No. 1: Mr. Suryanarayan Singh, Sr. Addl. Advocate
General, State of H.P.
Respondent No. 6: Mr. D.K. Thakur, Adv. for H.P. PCB

	Date and Remarks	Orders of the Tribunal
	<p style="text-align: center;">Item No. 21</p> <p style="text-align: center;">August 26, 2016</p> <p style="text-align: center;">ss</p>	<p>The Learned Counsel appearing for the State has filed Status Report in terms of our order dated 17th August, 2016.</p> <p>The Learned Counsel further submits that the total land which is owned by Mr. Vijay Sen is two biswas as per the record, but he is unauthorisedly occupying and has taken possession of nearly 14½ beghas for which proceedings have been initiated. It is further stated that he is putting forward one person or the other and matters have been pending before the Hon'ble High Court as well as before the Tribunal.</p> <p>The Learned Counsel appearing for the State submits that Mr. Vijay Sen proprietor of M/s. Devdham Café has no consent from Himachal Pradesh Pollution Control Board. It is further stated that this restaurant is in the river bed and in any case is covering the flood plain, which by any reasonable assumptions has to be taken to be one in 25 years flood plain.</p> <p>The Learned Counsel appearing for Himachal</p>

	<p>Item No. 21</p> <p>August 26, 2016</p> <p>ss</p>	<p>Pradesh Pollution Control Board submits that this restaurant does not have permission from the Board even, and situated on lands that have been encroached upon for which State is taking appropriate proceedings. In the revenue record it has been described as <i>germumkin</i> hotel.</p> <p>The Learned Counsel appearing for Himachal Pradesh Pollution Control Board prays for time to seek further instructions. The Learned Counsel appearing for the Restaurant submits that no permission is required under either of the Acts i.e. Water Act and Air Act. However, according to him, he has applied for consent from the Board.</p> <p>We find the contention raised on behalf of the Noticee without any substance and law. The Air Act and Water Act do not contemplate any exemption to any unit which is discharging its trade effluents and emitting smoke. Both these are being done by this unit. There is no question of exempting the unit from obtaining consent of the State Pollution Control Board. We think it is a polluting unit as it is discharging sewage, trade effluent, kitchen waste as well as emissions. The photographs have been placed on record to show that there are a large number of vehicles parked near the river bed which are buses and cars which have been parked just adjacent to the river bed and the hotel itself appears to be in the flood plain. The hotel is operating without consent of the Pollution Control Board. Another document has been placed on record by the noticee himself, Mr. Vijay Sen. It is stated to be the Registration Certificate of the Restaurant. This certificate on the face of it appears to be</p>
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	<p>Item No. 21</p> <p>August 26, 2016</p> <p>ss</p>	<p>a fabricated document. It is stated to have been issued on 30th October, 2013. However at the bottom of the same certificate the date shown is 30th October, 2016.</p> <p>As per this there are 25 tables on which Devdham restaurant is running its business. In the circumstances afore-stated we direct that the Pollution Control Board and the State Government shall forthwith close and shut down the Devdham restaurant of Mr. Vijay Sen. This unit will not be permitted to operate till the time it obtains consent of the Pollution Control Board and clarifies all the doubts that have been brought to the notice of the Tribunal. This restaurant is continuously causing pollution in river as well as water and air by the activity that he has been carrying on.</p> <p>List this matter for further hearing on 06th October, 2016.</p> <p>.....,CP (Swantanter Kumar)</p> <p>.....,JM (M.S. Nambiar)</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Bikram Singh Sajwan)</p>
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