

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

Principal Bench, New Delhi

Original Application No. 661/2018

Praveen Kakar & Ors.

Applicant(s)

Vs.

Ministry of Environment & Forests & Ors

Respondent(s)

With

Original Application No. 764/2018

Kissan Udey Samiti

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

With

Original Application No. 155/2020

Dr. (Mrs.) Manorama Sharma & Anr.

Applicant(s)

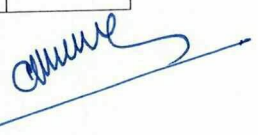
Versus

TDI infrastructure Limited & Ors.

Respondent(s)

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1.	Revised Directions in compliance to the Hon'ble NGT orders dated 28.09.2021 & 01.04.2022 in O.A. No. 661/2018, Praveen Kakar & Ors. Vs. Ministry of Environment & Forests & Ors With Original Application No. 764/2018, Kissan Udey Samiti Vs. State of Haryana & Ors. With Original Application No. 155/2020, Dr. (Mrs.) Manorama Sharma & Anr. Vs. TDI infrastructure Limited & Ors.	
2.	Annexure I: - A copy of Hon'ble NGT orders dated 28.09.2021 & 01.04.2022.	


(N. K. Gupta)
Scientist 'E'

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi-110032.

Place: Delhi

Date: 13.06.2022

Central Pollution Control Board
Head Office, Delhi

Sub : Compliance of Hon'ble NGT (PB) order dated 28.09.2021 in Original Application No. 661/2018 titled as Praveen Kakar & Ors. Vs. Ministry of Environment & Forests & Ors..

Hon'ble NGT vide Order dated 28.09.2021 has directed as follows (para 9 , page no. 20 of the said Order) :

"We have given due consideration to the report of the Chief Secretary, Haryana and find that the effectiveness of mechanism needs to be studied in the light of success in preventing and remedying violations. The Chief Secretary, while experimenting the mechanism evolved, may undertake study of extent of its success to consider what further changes are required in the mechanism after some time. Violations have been reported in the last several years and it is yet to be seen whether the compliance level has improved. We have separately considered violations in different cases mentioned in the report by separate orders in the said matters today. Violations found in the present case include absence of EC, Consent to Establish, Consent to Operate and consent for extraction of groundwater . The compensation assessed is only on account of untreated sewage water discharge and illegal extraction of groundwater. No compensation has been assessed for establishing the project without prior EC. In view of law laid down in Goel Ganga Developers India Pvt. Ltd. v UOI, the scale of compensation has to be related to the cost of the project so as to operate as deterrent against the law violators. The scale of compensation, thus, needs to be revised."

In compliance of Hon'ble NGT Order dated 28.09.2021, revised directions are issued by CPCB on 07.06.2022. Copy of the revised directions is attached at Annexure.



E-mail / Speed Post

No. CM-13011/136/2021-LAW-HO-CPCB-HO

Date: June, 07, 2022

To

The Chairman
Ansal Properties & Infrastructure Ltd,
115 Ansal Bhawan,
16, K.G. Marg,
New Delhi-110001

Direction under Section 5 of the Environment (Protection) Act, 1986 in compliance with Hon'ble NGT order dated 28.09.2021 in the matter of OA No. 661/2018 titled as Praveen Kakar & Ors. Vs MoEF&CC & Ors.

WHEREAS, Section 16 (2) of the Water (Prevention & Control of Pollution) Act, 1974 mandates the Central Pollution Control Board to execute nation-wide program for prevention, control and abatement of air pollution and organize a comprehensive program and perform such other functions as may be prescribed; and

WHEREAS, various licenses/permissions were granted to Ansal Properties & Infrastructure Ltd. by Town and Country Planning Dept., Haryana from year 1985 to 2011 under the Haryana Development & Regulation of Urban Areas Act, 1975 and the Rules, 1976 for setting up a residential colony spread over 604.194 Acres at Shushant Lok, Phase-1, Sector 27, 28, 43 & 52, Gurugram; and

WHEREAS, as per the provisions of the Haryana Development & Regulation of Urban Areas Act, 1975 and the Urban Areas Rules, 1976, development works to be provided in colony is the responsibility of the Project Proponent. These development works to be undertaken by the Project Proponent inter alia include maintenance and upkeep of all roads, open spaces, public park and public health services for a period of five years from the date of issue of the completion certificate unless earlier relieved of this responsibility and thereupon to transfer all such roads, open spaces, public parks and public health services free of cost to the Government or the local authority, as the case may be. External development works shall include any or all infrastructure development works like water supply, sewerage, drains, provisions of treatment and disposal of sewage, sullage and storm water, roads, electrical works, solid waste management and disposal, slaughter houses, colleges, hospitals, stadium/sports complex, fire stations, grid sub-stations etc. and/or any other work which the Director of the Company may specify to be executed in the periphery of or outside colony/area for the benefit of the colony/area; and

WHEREAS, Ansal Properties & Infrastructure Ltd. is fully responsible to make the arrangement of disposal of sewage and storm water till such time these are made available by HUDA and all link connections with the external system will be done by the colonizer at his own cost. The colonizer will have to ensure that sewer/storm water drainage to be laid by them will be connected by gravity with the master services to be laid by HUDA/Haryana Govt. in this area; and

WHEREAS, the leveling of the ground in the colony is sole responsibility of the colonizer for integrating the internal sewer/storm water drainage of colony with the master services under the conditions of the memo no. 5 DP-96/10698 dated 12.07.1996 with subject – Approval of service plan issued by Director, Town & Country planning, Haryana; and

WHEREAS, as per condition (15) of license no. 32 of 2011, granted by Town and Country Planning Dept., Haryana, licensee shall provide rain water harvesting system at site as per Central Ground Water Authority/Haryana Govt. notification, as applicable; and

WHEREAS, an application (OA No. 661/2018 in the matter of Praveen Kakar & Ors Vs MoEF&CC, etc)) was filed before Hon`ble NGT on 4th September, 2018 with allegations, inter-alia, that

1. There is encroachment of parks in green area in Block C of Sushant Lok, Phase I, Gurgaon.
2. Illegal extraction and supply of ground water which is contaminated, are taking place.
3. There is absence of sewerage treatment plant. The sewerage of the area connects the storm water drain.
4. There is requirement to leave 45% of land for roads, open spaces, schools, public common uses as per norms.

WHEREAS, in this matter, Hon`ble NGT vide order dated 19th September, 2018 constituted a Committee comprising representatives of:

- i. Central Pollution Control Board, (Coordinator)
- ii. Town & Country Planning Dept., Haryana
- iii. Delhi school of Planning and Architecture
- iv. Central Ground Water Authority
- v. State Environment Impact Assessment Authority

to meet, visit the site to examine the matter and submit a report within one month ; and

WHEREAS, pursuant to the Hon`ble NGT order dated 19th September, 2018, the meeting of the constituted Committee was convened and the site under reference was inspected to investigate the matter and accordingly, the report was submitted; and

WHEREAS, concluding remarks of report were as follows:

1. Encroachment like hutment for security/labors, DG sets, kitchen gardens were observed. In earmarked Green areas, Green belt has not been developed according to norms and standard practices by project proponent. Natural shrubs have grown as against turfing, plantation. However, committee recommend that area under open/green area, road and community site needs to be verified as per standard methods adopted by Town & Country Planning Department which will lead to the conclusion whether 45% approved area under open/green area, road and community site is available or not.
2. Project proponent is required to obtain Environmental Clearance (EC) under provisions of EIA notification dated 14.09.2006 on account of following :
 - i. Last two licenses from the Town & Country Planning Department were granted after 14.09.2006 i.e. cutoff date of requiring EC .
 - ii. Also , in this case, total area of the colony crossed the threshold limit as prescribed in EIA Notification, 2006.
3. Consent to Establish & Consent to Operate have also not been obtained. It is violation of Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 by project proponent.

4. Project proponent has applied for registration of 39 Tube wells with Central Ground Water Authority (CGWA) but No Objection Certificate (NOC) from CGWA for extraction of ground water is not available. Flow meters fixed with tube wells need to be rectified to get the quantity of extracted water.
5. Rain water harvesting system for houses is not provided & rain water harvesting structures for open spaces & common area are non-functional. The basic purpose of ground water recharge is not being achieved by these structures.
6. Sewage is meeting the storm water drain as it is not getting passed through sewerage system to HUDA STP. Project proponent, Haryana Shehri Vikas Pradhikaran (HSVA) (former HUDA) and Gurugram Metropolitan Development Authority (GMDA) are required to resolve this issue jointly.
7. Maintenance of roads, footpath, parks is not up to the mark and system of collection of solid waste is not effective.
8. Construction and Demolition waste management Rules, 2016 and its guidelines are not being followed in the colony.
9. DG sets are operating without adequate stack heights
10. Part completion certificates have been granted to project proponent by Town and Country Planning Department, Haryana.

WHEREAS, Hon'ble NGT vide order dated 8th January, 2019 had directed CPCB as follows;

1. To exercise its statutory power to determine and recover the damages and issue further directions for closure of the project and initiating prosecution in accordance with the procedure prescribed under Air Act and Water Act.
2. The CPCB will be at liberty to coordinate with the concerned authorities including the CGWA and the State PCB. Action may include recovery of damages for loss to environment, closure of the project as well as prosecution under the relevant statutory provisions.
3. Action plan may be furnished to the Tribunal within three months; and

WHEREAS, the Ministry of Environment, Forest and Climate Change, Government of India vide notifications No. S. O. 157(E) of 27.02.1996 and S.O. 730(E) dated 10.07.2002 has delegated the powers vested under section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violations of the standards and rules notified under the E(P) Act, 1986 and amendment thereof; and

WHEREAS, in view of the above and in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, CPCB, vide letter dated 28.02.2019, directions were issued to M/s Ansal Properties & Infrastructure Ltd. (through its Chairman) to stop all the construction/expansion activities in Shushant Lok, Phase I, Gurugram with immediate effect. M/s Ansal Properties & Infrastructure Ltd, Shushant Lok-I, Gurugram was further directed that:

1. *M/s Ansal Properties & Infrastructure Ltd shall pay Environment Compensation of Rs12.18 Crore (Rupees Twelve crore eighteen lakh only) to CPCB on account of discharge of untreated sewage for 178 days (till 28.02.2019) as per Environmental Compensation Policy framed in compliance of Hon'ble NGT order dated 31.08.2018 in OA No. 593/2017 within 15 days from the receipt of these directions.*
2. *M/s Ansal Properties & Infrastructure Ltd. shall pay another Environmental Compensation as determined by Central Ground Water Authority on account of*

extraction of ground water without permission and defunct rain water harvesting system in Shushantlok, Phase-I, Gurugram.

3. The Environment Compensation amount mentioned in sl. no. 1 above shall be deposited in CPCB's Union Bank of India A/C No. 532702010009078, IFSC code UBIN0553271, Branch-IP Extension, Delhi.

4. In case of delay in deposition of Environment Compensation, penal interest shall be charged as per rules.

5. Ansal Properties & Infrastructure Ltd shall submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of report within 7 days from the receipt of these directions.

6. All the shortcomings as highlighted above in the concluding remarks of report shall be rectified within 30 days from the receipt of these directions.

7. Action taken report be submitted along with necessary documentary evidences immediately after completion of action taken.

8. Ansal Properties & Infrastructure Ltd shall apply & obtain all relevant NOCs, Consents and Environmental Clearance from concerned departments; and

WHEREAS, CPCB vide its Directions dated 28.02.2019, as referred above had also directed the Member Secretary, Central Ground Water Authority, 18/11, Jamnagar House, Man Singh Road, New Delhi-110011 for determination and levying Environmental Compensation on account of extraction of ground water through 39 nos. of tube-wells without permission and defunct rain water harvesting system in Shushant Lok, Phase-I, Gurugram; and

WHEREAS, in context with CPCB Directions dated 28.02.2019, M/s Ansal Properties & Infrastructure Ltd, Sushant lok-1, Gurugram has not deposited any amount till date and vide its letter dated 13.03.2019 had communicated complete denial of directions issued by CPCB and Hon'ble NGT. Rather, the builder had questioned the 'Authority and Powers' delegated to CPCB by the Act of Law and Hon'ble NGT; and

WHEREAS, scrutiny of the documents submitted by M/s Ansal Properties & Infrastructure Ltd, Sushant Lok-1, Gurugram revealed that none of the Authority as claimed by the Project Proponent is in the process of levying Environmental Compensation for the damages caused to the environment by the Project Proponent. It was also observed that Haryana SPCB is also completely dissatisfied with the acts of operation and reply by the company as evident by Haryana SPCB letter dated 26.02.2019; and

WHEREAS, the reply of M/S Ansal Properties & Infrastructure Ltd, Sushant Lok-1, Gurugram did not mention about action plan in respect of the shortcomings pointed out by the joint inspection team. The reply was also silent on **extraction of** ground water without permission and defunct rain water harvesting system in Shushant Lok, Phase-I, Gurugram; and

WHEREAS, it had also been also noticed that, same group of Builder Company had also been found guilty of damaging the environment in another case also titled as Rajendra Kumar Goel Vs. MoEFCC & Ors. (OA No. 378/2016 before NGT) and accordingly Hon'ble NGT has imposed an Environmental Compensation of Rs. 10.00 Crore with directions for deposition of an additional performance guarantee of Rs. 5.00 crore vide Order dated 25.03.2019. It had become evident that M/s Ansal Properties & Infrastructure Ltd, Sushant lok-1, Gurugram, had defaulted earlier also and having no regard for the Environment as well as Authorities concerned for protection of environment; and

WHEREAS, in view of above, Compliance Report was filed before Hon'ble NGT on 05.04.2019 with following recommendation:

1. *M/s Ansal Properties & Infrastructure Ltd, Shushant Lok-1, Gurugram, may be directed to submit the action plan for prevention & control of pollution from the premises and deposition of Environmental Compensation so that measures for restoration of normal environment.*
2. *Haryana SELAA, CGWA and Haryana SPCB may also be included as Respondents in the application under consideration.*
3. *CGWA may be directed for determination and levying Environmental Compensation on account of extraction of ground water through 39 nos. of tube-wells without permission and defunct rain water harvesting system in Shushant lok, Phase-1, Gurugram and also prosecute the agency for violations under E(P) Act, 1986.*

WHEREAS, Hon'ble NGT vide order dated 21.05.2019 directed CPCB as follows:

“Compliance report has been filed vide email dated 05.04.2019 indicating the steps taken. There is however nothing to show the exercise of statutory power for prosecution. The CPCB has suggested that the project proponent should furnish an action plan and CGWA should determine compensation for illegal extraction of ground water. We are of the view that such powers can be exercised by the CPCB itself by giving directions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. A Pollution Board is entitled to disconnect the electricity and water supply and take measures for stopping illegal activities as condition for continuing consent to establish or to operate.”;

WHEREAS, in view of above and in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, CPCB, M/s Ansal Properties & Infrastructure Ltd. (through its Chairman) was directed further on 18.06.2019 to the following effects:

- a. *To stop all the construction/expansion activities in Shushant Lok, Phase 1, Gurugram with immediate effect.*
- b. *to pay Environment Compensation of Rs. 14.6962 Crore (Rs. Fourteen Crone, Sixty Nine Lacs, Sixty two Thousand) only to CPCB on account of discharge of untreated sewage for 281 days (till 17.06.2019) as per Environmental Compensation Policy approved by Hon'ble NGT vide order dated 31.08.2018 in OA no. 593/2017. This was to be deposited within 15 days from the receipt of the directions.*
- c. *to pay additional Environmental Compensation as determined by Central Ground Water Authority on account of extraction of ground water without permission and defunct rain water harvesting system in Shushantlok, Phase-1, Gurugram.*
- d. *To submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of report within 7 days from the receipt of these directions and to rectify all the shortcomings as highlighted in the concluding remarks of report within 30 days from the receipt of these directions. Action taken report be submitted along with necessary documentary evidences immediately after completion of action taken.*

WHEREAS, response to CPCB's Directions dated 18.06.2019 is still awaited from M/s Ansal Properties & Infrastructure Ltd.; and

WHEREAS, a meeting had been conducted on 13.09.2019 in CPCB, Delhi with all the concerned stake-holders to review the progress made by the concerned agencies in compliance of the directions issued. Minutes of the Meeting were circulated vide letter dated 03.10.2019

for information and necessary action. It was also requested to submit the ATR to CPCB before 10.10.2019 and comply with Hon'ble NGT order dated 13.09.2019 in this matter where following Order was issued:

"Let the compliance reports be filed by the CPCB, State PCB, SIEAA, Haryana, CGWA, Town and Country Planning Department, Haryana, Dakshin Haryana Bijli, Vitran Nigam, Haryana Shahari Vikas Pradhikaran and District Magistrate Gurgaon within one month by e-mail at judicial-ngt@gov.in."

But, your response to CPCB's letter dated 03.10.2019 was not received; and

WHEREAS, Hon'ble NGT vide Order dated 28.09.2021 has issued following directions for CPCB:

"9. Violations found in the present case include absence of EC, Consent to Establish, Consent to Operate and consent for extraction of groundwater. The compensation assessed is only on account of untreated sewage water discharge and illegal extraction of groundwater. No compensation has been assessed for establishing

the project without prior EC. In view of law laid down in Goel Ganga Developers India Pvt. Ltd. Vs UOI, the scale of compensation has to be related to the cost of the project so as to operate as deterrent against the law violators. The scale of compensation, thus, needs to be revised."

"12. We also direct the Chief Secretary, Haryana to coordinate further action in light of above observations by calling a joint meeting of the concerned State authorities within one month from today. Status report of steps so taken as on 31.01.2022 may be filed before the next date by email at judicial-ngt@gov.in. Likewise, CPCB may also file its additional status report in the matter in the light of above observations."

WHEREAS, in view of the above direction of Hon'ble NGT, you were directed vide letter dated 12.11.2021 to submit following details to this office on or before 22.11.2021 so that, CPCB shall file Additional Status Report to Hon'ble NGT before next date of hearing i.e. 16.02.2022:

Certified copy of the total Project Cost of the Project under reference,

- i. Action taken in compliance of CPCB's directions dated 18.06.2019,
- ii. Action taken as per recommendations made by the Committee Members in the matter as mentioned in the Minutes of the Meeting dated 13.09.2019 and
- iii. Action taken in compliance of Hon'ble NGT Orders passed from time to time in this matter.

WHEREAS, since no response was received, reminder letter dated 30.12.2021 was also issued to M/s Ansal Properties & Infrastructure Ltd. However, response is still awaited; and

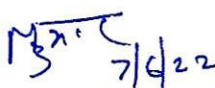
WHEREAS, HSPCB vide letter dated 24.11.2021 submitted copy of CA certificate of IVY Group Housing (Residential Complex) (License No. 151 of 2004 for 5.88 Acres), Sushant Lok I, Gurugram according to which the Project Cost is Rs. 15,149.38/- lakh only; and

WHEREAS, with reference to Hon'ble NGT order dated 28.09.2021 wherein NGT referred to the judgment of Hon'ble Supreme Court in the matter of Goel Ganga Developers India Pvt. Ltd. Vs. Union of India, Environmental Compensation at the amount of 100 Crore or 10% of the total Project Cost or whichever is higher, may be imposed. As, 10% of the said amount would be Rs. 1514.938/- lakhs which is less than Rs. 100 Crore, therefore, M/s Ansal Properties & Infrastructure Ltd. is required to deposit Rs. 100 Crore [Rupees Hundred Crore only] to CPCB.

NOW, THEREFORE, in view of above and in compliance of the NGT Order dated 28.09.2021 and in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, CPCB, M/s Ansal Properties & Infrastructure Ltd. (through its Chairman) is directed as follows:

- a. To pay Environment Compensation of 100 Crore [Rupees Hundred Crore] only to the CPCB and deposit in CPCB's Union Bank of India A/c No. 532702010009078, IFSC code UBIN0553271, Branch-IP Extension, Delhi on or before within 15 days of receipt of this direction. In case of delay in deposition of Environment Compensation, interest shall be charged as per rules.
- b. To pay additional Environmental Compensation as determined by Central Ground Water Authority on account of extraction of ground water without permission and defunct rain water harvesting system in Shushantlok, Phase-1, Gurugram.
- c. To submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of report within 7 days from the receipt of these directions and to rectify all the shortcomings as highlighted within 30 days from the receipt of these directions. Action taken report be submitted along with necessary documentary evidences immediately after completion of action taken.
- d. To apply & obtain all relevant NOCs, Consents and Environmental Clearance from concerned departments; and

Any violations of this direction shall attract appropriate legal action, without any further notice, in accordance with the provisions of the Environment (Protection) Act, 1986.


(Tanmay Kumar)
Chairman

Copy to:

1. **The Chairman** - For information please.
Haryana State Pollution Control Board
C-11, Sector - 6, Panchkula, Haryana-
134109
2. **The Chief Administrator,** - For information please.
Haryana Shahari Vikas Pradhikaran,
Plot No. C-3, HUDA Complex, Sec-6,
Panchkula, Haryana - 134109

3. **The City Magistrate,
CTM Gurugram,
Mini Secretariat,
1st Floor Gurugram – 122001**
 - a. Collection of Environmental Compensation imposed by CPCB be ensured.
 - b. Compliance of the Directions issued to M/s Ansal Properties & Infrastructure Ltd. please be ensured.
4. **The Director
Town and Country Planning
Department, Haryana
SCO 71-75, Sector 17C,
Chandigarh – 160017**
 - For information please.
5. **The Member Secretary
Central Ground Water Authority
18/11, Jamnagar House,
Man Singh Road, New Delhi-110011**
 - For information please.
6. **The Member Secretary,
State Environment Impact Assessment
Authority,
Bay's No. 55-58, Ist Floor,
Prayatan Bhawan, Sector-2,
Panchkula, Haryana**
 - For information please.
7. **The Chairman cum Managing Director, -
Dakshin Haryana Bijli Vitran Nigam,
Vidyut Sadan, Vidyut Nagar,
Hisar – 125005**
 - For information please.
8. **The Head, IT Division
CPCB, Delhi - 110032**
 - For information please.


(Prashant Gargava)
 Member Secretary

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 661/2018

(With report dated 07.09.2021)

Praveen Kakar & Ors.

Applicant(s)

Versus

Ministry of Environment & Forests & Ors.

Respondent(s)

Date of hearing: 28.09.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent(s): Mr. Rahul Khurana, Advocate for the State of Haryana & HSPCB
Mr. Shlok Chandra, Advocate for MoEF & CC
Mr. A.K. Prasad, Advocate for CGWA

ORDER

1. The question for consideration is the remedial action for encroachment of green areas, extraction of ground water and violation of other statutory norms by M/s. Ansal Properties and Infrastructure Ltd., Sushant Lok, Phase-I, Gurgaon, the project proponent (PP).

2. Vide order dated 19.09.2018, a report was sought from a joint Committee comprising representatives of the Central Pollution Control Board (CPCB), Town and Country Planning Department, Haryana, Delhi School of Planning and Architecture, Central Ground Water Authority (CGWA) and State Environment Impact Assessment Authority (SEIAA), Haryana. Report dated 16.11.2018 was considered on 08.01.2019 which pointed out various deficiencies. The Tribunal directed the CPCB to

exercise the statutory powers and take measures for closure of the project, initiating prosecution and recovering compensation for the damage to the environment in accordance with law.

3. For ready reference, extracts from the report of CPCB dated 16.11.2018 are reproduced:

- “1. Encroachment like hutment for security/labors, DG sets, kitchen gardens were observed in earmarked green areas, green belt has not been development according to the norms and standards practices by project proponent natural shrubs have grown up as against turfing, plantations. However, the committee recommend that area under open or green area, road and community site need to be verified as per standards methods adopted by Town and Country Planning Department which will lead to conclusion whether 45% approved under open or green area road and community site is available or not.*
- 2. Project proponent is required to obtain Environment clearance under provision of EIA notification dated 14.09.2006, as last two licenses were granted after 14.09.2006, cutoff date of requiring EC and total area crossed the threshold limit.**
- 3. consent to establish and consent to operate have also not been obtained. It is violation of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 by project proponent.**
- 4. Project proponent has applied for registration of 39 tube wells with Central Ground Water Authority but No Objection Certificate (NOC) from CGWA for extraction of ground water is not available. Flowmeters fixed with tube wells need to be rectified to get the quantity of extracted water.**
- 5. Rain water harvesting system for houses is not provided and rain water harvesting structures for open spaces and common area are non-functional. The basic purpose of ground water recharge is not being achieved by these structures.**
- 6. Sewage is meeting the storm water drain as it is not getting passed through sewerage system to HUDA STP. Project Proponent, Haryana Shehri Vikas Pradhikaran (HSVP) (Former HUDA) and Gurugram Metropolitan Development Authority (GMDA) are require to resolve this issue jointly.**
- 7. Maintenance of roads, footpath, parks is not up to the mark and system of collection of solid waste is not effective.*

8. *Construction and Demolition waste management rule, 2016 and its guidelines are not being followed in the colony.*
9. *DG sets are operating without adequate stack height.*
10. *Part completion certificate have been granted to project proponent by Town and Country Planning Department, Haryana.”*

4. The matter was considered on 21.05.2019 when the Tribunal noted that the CPCB had failed to take requisite action inspite of acknowledged violations which included absence of mandatory consents and continuing violation of norms for managing waste, affecting public health. Pursuant to the said observations, the CPCB filed its report dated 21.06.2019 which mentioned the action taken under Section 5 of the Environment (Protection) Act, 1986 (EP Act) requiring stopping of construction/expansion and payment of compensation of Rs. 14.6962 crores on “Polluter Pays” principle, apart from compensation to be assessed for illegal extraction of the groundwater. The Tribunal considered the matter on 13.09.2019 and directed further action in terms of directions of the CPCB including action for compensation for illegal extraction of ground water in exercise of statutory powers of the CGWA. The CGWA assessed compensation @ Rs. 40,44,000.00 per annum. The order is reproduced below:

“3.

“1. In exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986 to the Chairman, CPCB, following directions have been issued on 21.06.2019 to the Project Proponent and concerned Authorities to ensure compliance of Environmental Regulations and Orders issued by Hon’ble NGT.

1.	<i>The Chairman, Ansal Properties & Infrastructure</i>	-	<i>a. To stop all the construction/expansion activities in Sushant Lok,</i>
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		<p><i>Phase-I, Gurugram with immediate effect.</i></p> <p><i>b. To pay Environment Compensation of Rs. 14.6962 Crore (Rs. Fourteen Crone, Sixty Nine Lacs, Sixty, two Thousand only)only to CPCB on account of discharge of untreated sewage for 281 days (till 17.06.2019) to CPCB's Union bank of India A/c no. 532702010009078, IFSC code U13IN0553271,Branch-IP Extension, Delhi as per Environmental Compensation Policy framed in compliance of Hon'ble NGT order dated 31.08.2018 in OA no. 593/2017 within 7 days from the receipt of these directions. In case of delay in deposition of Environment Compensation, penal interest shall be charged as per rules.</i></p> <p><i>c. To pay another Environmental Compensation determined by Central Ground Water Authority on account of extraction of ground water without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram.</i></p> <p><i>d. To submit action plan to CPCB regarding rectification of the shortcomings as highlighted above in the concluding remarks of</i></p>
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			<i>report within 7 days from the receipt of these directions and to rectify all the shortcomings as highlighted in the concluding remarks of report within 30 days from the receipt of these directions. Action taken report be submitted along with necessary documentary evidences immediately after completion of action taken.</i>
2.	<i>The Chairman Haryana State Pollution Control Board</i>	-	<i>a. NOCs, Consents and Authorization granted to M/s Ansal Properties & Infrastructure Ltd. Gurugram be revoked immediately and shall not be considered in future also till compliance of these directions are made.</i> <i>b. Discharge of untreated sewage from the premises of the company into storm water drain be stopped.</i>
3.	<i>The Member Secretary Central Ground Water Authority</i>	-	<i>Environmental Compensation on account of extraction of ground water through 39 nos. of tube-wells without permission and defunct rain water harvesting system in Shushant Lok, Phase-1, Gurugram, be determined and levied immediately.</i>
4.	<i>The Chairman State Environment Impact Assessment Authority, Haryana</i>	-	<i>Environmental Clearance(s) granted to the Company, if any, be revoked immediately. No expansion case in future related to this site be considered till compliance</i>

			<i>of these directions are made.</i>
5.	<i>The City Magistrate, CTM Gurugram</i>	-	<i>a. Compliance of these directions issued to the Company and other State Government departments be ensured. b. Collection of Environmental Compensation imposed by CPCB be ensured.</i>
6.	<i>The Director Town and Country Planning Department, Haryana</i>	-	<i>a. No further expansion of the project be considered. b. No completion certificate be granted to the Company and any such certificate already granted be revoked immediately.</i>
7.	<i>The Chairman cum Managing Director, Dakshin Haryana Bijli, Vitran Nigam</i>	-	<i>No electricity supply be provided for any further expansion of the project by the company in Sushant Lok-1, Gurugram.</i>
8.	<i>The Chief Administrator, Haryana Shahari Vikas Pradhikaran</i>	-	<i>No water supply to the company be sanctioned for any further expansion of the project in Sushant Lok-1, Gurugram.</i>

2. Copies of CPCB Directions are sent to following Ministries and organizations also for information and appropriate action at their level:

- i. The Secretary, Ministry of Env., Forests and Climate Change, New Delhi.*
- ii. The Secretary, Ministry of Housing and Urban Affairs, New Delhi.*
- iii. The Director, Delhi School of Planning and Architecture, New Delhi.”*

5. Thereafter, vide order dated 05.02.2020, the Tribunal considered the report of the CPCB dated 14.10.2019 and letter dated 27.12.2019 of the CGWA addressed to the Deputy Commissioner, Gurgaon and report of

the State PCB dated 08.01.2020. The Tribunal accordingly directed the Chief Secretary, Haryana to evolve a mechanism as the authorities failed to take remedial action inspite of acknowledged violations. The direction is reproduced below:

“1 to 4. xxxxxxxxx

5. We have considered the action taken report filed by CPCB dated 14.10.2019 to the effect that a meeting was held on 13.09.2019 with the concerned authorities to review the progress in compliance of the order of this Tribunal and following recommendation were made:

- “(i) M/s Ansal Properties & Infrastructure be asked to provide revised ATR and to deposit the environmental compensation of Rs. 16.729 Crore (Rupees sixteen Crore, Seventy Two Lakhs Ninety Thousand) only (till 13.09.2019) and to deposit the compensation assessed by the Central Ground Water Authority for failure to recharge the ground water in terms of the conditions for ground water extraction at Rs. 40,44,000.00/- per annum.
- (ii) As per submission of DTCP representative, two licenses were issued after notification of EIA notifications, 2006 (after 14.09.2006) which led to expansion of the project and thus the project and thus the project need Environmental Clearance from SEIAA- Haryana and CTE & CTO from HSPCB.
- (iii) It was informed by DTCP that some colonies built by M/s Ansal Properties & infrastructure, at Sushant Lok-1, Gurugram has been transferred to MCG vide latter dated 12.02.2019, while the matter is still subjudice. Also license for expansion of the project has been granted by DTCP, although the project did not have necessary EC. DTCP may provide an explanation as to how the property has transferred to MCG when the matter is subjudice and also how completion certificate has been granted.
- (iv) **In view of above, DTCP is directed not to grant license for expansion /completion certificate to any other project within its jurisdiction if any court mater is pending against the project/ EC is not granted to the project.**
- (v) **Similarly, explanation be called from HSPCB as to how Consents/ authorization have been issued to the project when it has not been granted EC and be further directed not to grant any Consent/Authorization to projects which did not have EC.**
- (vi) In view of above discussion, all the members agreed that the Municipal Corporation Gurugram (MCG) may be directed further to examine the matter and to take necessary action at their level also.

(vii) *It is decided that all the Agencies will send their action taken report to CPCB in compliance of CPCB's directions dated 18.06.2019 at the earliest so that CPCB may file Report before Hon'ble NGT."*

6. *The Central Ground Water Authority (CGWA) has filed a copy of letter dated 27.12.2019 addressed to the Deputy Commissioner, Gurgaon to take coercive measures. The report of the State Pollution Control Board (SPCB) filed on 08.01.2020 inter-alia is as follows:*

*"The questioned matter is regarding Sushant Lok, Phase - I which is a residential township spread over 604.194 acres in Sector -27, 28, 43, 52 of Gurugram developed by the Company on various (112 Nos.) licenses (**Annexure-3**) (including license No. 151 of 2004 dated 02.12.2004 — IVY Group Housing Complex — 5.88 Acres) issued to the Company by Town and Country Planning Dept., Haryana from 1985 to 2011 under Section 3 of the Haryana Development & Regulations of Urban areas Act, 1975 and Rules framed there under. As per revised approved layout plan dated 24.12.2010 of Sushant Lok — I, total licensed area is 604.194 acres, out of which 18.357 Acres is earmarked for Group Housing. The remaining licensed area i.e. 585.797 acres is under net planned area. Area under plots & under commercial is 295.098 acres & 21.704 acres respectively making total saleable area 316.802 (295.098+21.704) which is 54.08% of net planned area.*

*The Company had applied for Environmental Clearance to the MoEF&CC on 30.03.2006 for the project IVY Group Housing Complex (License No. 151 of 2004 dated 02.12.2014 Total Plot area 23823.94 Sqm (5.88 Acres) and total Built up are 41433.94 Sqm) as the project was covered under EIA notification 1994 amended on 07.07.2004. The Company had applied No Objection Certificate (NOC) vide their letter dated 19.01.2006 & 17.07.2006 in connection with the requirement of environmental clearance from MoEF&CC, New Delhi and had deposited public hearing fee to the Board for which public hearing was conducted by the Board on 08.03.2006 which was pre-requisite for deciding environmental clearance by MoEF&CC, New Delhi. The minutes of meeting of public hearing dated 08.03.2006 was sent to the Secretary, Ministry of Environment, Forests & Climate Change, Government of India, New Delhi for deciding environmental clearance of the said project. Board had granted NOC vide No. HSPCB/2006/TAC-A/997 dated 07.08.2006 (Annexure-4) from pollution angle in connection with the requirement of Environmental Clearance from MoEF&CC and **NOC to establish will become operational once the environmental clearance is granted by MoEF&CC** under intimation to the Secretary, Ministry of Environment, Forests & Climate Change, Government of India, New Delhi. The **NOC was issued is wholly and solely for the purpose of meeting the requirement of Govt. of India and this NOC does not entitle the right to establish or right to operate the unit.** A complaint under section 15 of the Environment Protection Act was filed against the Company for the Group Housing Residential Complex (IVY), Sushant Lok, Gurugram (License No. 151 of 2004) for starting construction*

activity without obtaining prior mandatory environmental clearance as per notification dated 27.01.1994/07.07.2004/14.09.2006 in Special Environment Court vide complaint No. 48/08 (**Annexure-5**). **The Hon'ble Court has convicted the Company for the said offence and disposed off through Mega Lok Adalat the case on 20.12.2008 by imposing fine of Rs. 1000/- and compensation of Rs. 1.00 lac for the said offence considering plea bargaining application moved u/s 265-B Cr. PC.** The representative of the Company has made a statement before the Hon'ble Court on 20.12.2008 that the Company have obtained environmental clearance but **Company have never obtained environment clearance for this project till date.** The order of the Special Environment Court in this regard is enclosed as **Annexure -6**.

In view of above stated facts & incompliance of CPCB directions 18.06.2019, NGT order dated 08.01.2019, 13.09.2019 and CPCB letter dated 03.10.2019 and report of constituted committed 16.11.2018 & 05.04.2019, it is submitted that:-

1. NOC, Consent to Operate under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 & Authorization under Hazardous & Other Waste Management Rules, 2016 granted to M/s IVY Group Housing Complex, Sushant Lok-I, Gurugram [One of the project — (5.88 Acres area bearing license No. 151 of 2004 dated 02.12.2004) of the whole project under question - 604.19 acres] has been revoked by HSPCB vide No HSPCB/2019/798 dated 19.11.2019. (**Annexure-7**).
2. DG sets which were operating without adequate stack height have been sealed by the Board, copy of closure order and compliance of closure order is enclosed as (**Annexure -8 & 9**)
3. **Sanction for prosecution against M/s Ansal Properties & Infrastructure Ltd. 115, Ansal Bhawan, 16 K.G. Marg, New Delhi — 110001 and it's responsible persons has been accorded by the Chairman, HSPCB, Panchkula under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 vide Endst. No. HSPCB/Consent/2019/618 dated 15.10.2019 (Annexure-10) and the prosecution case will be filed in due course of time before Special Environment Court, Faridabad.**
4. Gurugram Metropolitan Development Authority (GMDA), Gurugram vide letter No. File No. 225025/01/2019/Infra-11/2006 dated 15.10.2019 (Annexure-11) has intimated that they have stopped untreated sewage flowing from the premises of the company and other areas in Storm Water Drain (SWD) and connection under question has been disconnected and now, there is no sewage flowing on said location and the same has already verified by the concerned field officer of HSPCB & GMDA at site on 19.10.2019 (Annexure -12)."

7. ***In view of above, reports of the CPCB and the SPCB, it is patent that the project has been built up illegally without any EC and without any consent under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974. It is a matter of great surprise how the Town and Country Planning Department, Haryana granted license or a part completion certificate, ignoring serious violations.***

8. ***In view of the above serious violation of law, including non-payment of assessed compensation of Rs. 16.729 crore (as per report of CPCB quoted above) for discharge of untreated sewage water, apart from compensation for illegal extraction of ground water required to be paid at the rate of Rs. 40,44,000.00 per annum (as per report of CPCB quoted above), we require the Chief Secretary, Haryana to suggest the mechanism for enforcement of Rule of Law and also to prevent such illegalities in the State. The Chief Secretary may explore action against the collusion by the concerned officers of the State PCB, the Town and Country Planning Department or other State authorities for their failures mentioned above including the officers who agreed for insignificant compensation of one lac by way of plea bargaining in spite of conviction for serious offence. In this regard, action of black listing, attaching available assets of the defaulting builder may also be considered, apart from other coercive measures. Such a report be furnished by e-mail at judicial-ngt@gov.in within one month.***

9. ***It will be open to the State of Haryana to bring to the notice of any Authority where proceedings involving the said party may be pending the above defaults. The Chief Secretary may also explore whether the matter needs to be entrusted to CBI.***

10. ***That apart, considering the seriousness of the breach of the environmental laws by the project proponent where even EC has not been obtained for such a mega project, the MoEF&CC besides taking action as provided in statute may also consider working out a mechanism for mitigation measures to offset the damages already caused to the environment and for taking precautionary measures for anticipated future damages."***

6. However, no adequate action was taken as noted in further order dated 01.10.2020 after considering the report of the Chief Secretary, Haryana and a fresh direction was issued to the Chief Secretary. The operative part of the order is reproduced below:

"1 to 2. xxx xxx xxx

3. In view of the above, the Chief Secretary, Haryana has filed reports dated 16.03.2020 and 30.09.2020 as follows:-

*“In this regard, it is submitted that the matter has been reviewed at the level of undersigned through three meetings held on 13.02.2020, 17.07.2020 and on 11.08.2020, with the stakeholder Departments of Town and Country Planning, Environment and Climate Change and Power and authorities / agencies of SEIAA, HSPCB, GMDA, DHVBN and District Administration and reviewed the various actions undertaken by different agencies of the State, in compliance of the directions issued by Hon'ble Tribunal. **HSPCB has revoked the consents issued to the Project, and sealed the DG sets, operating without adequate stack height.***

Further, HSPCB has also filed prosecution before the Special Environment Court of Faridabad on 30.06.2020 against M/s Ansal Properties & Infrastructure Ltd. The remaining State agencies have been directed to submit their reports to the Hon'ble Tribunal, in compliance of specific directions issued to them

*With reference to the actions to be initiated against the possible collusion of HSPCB and TCP officials in the lapses, it is informed that **HSPCB has initiated action against the lapses by instituting an enquiry under an independent enquiry Officer Sh. R.R Banswal, IAS (Retd.) on 20.05.2020 and same is under process. Similarly, TCP Department has also been directed to examine the details and take action against the erring officials.***

In continuation of the meetings held at Chief Secretary level, a follow up meeting was also held at the level of Additional Chief Secretary of Environment and Climate Change Department on 14.08.2020 to finalize the draft mechanism and to strengthen the existing structure of SEIAA/SEAC in the State. Accordingly, a draft mechanism is being proposed by SEIAA the salient features of which are as below.

- The draft mechanism is proposing to include consolidated conditions relating to different Departments / agencies / authorities, for appropriate monitoring through proper coordination among different Departments / agencies.*
- The proposed mechanism will assess and review the progress of various mitigation measures imposed in the EC issued for Category B projects under the EIA Notification by SEIAA through the Monitoring Cell, headed by DG, Environment and Climate Change Department, who is also the Member Secretary of SEIAA. The Monitoring Cell shall include Joint Director of Environment and Technical Executive Officers supported by three Technical Officers in the rank of Scientists / Engineers in the respective fields of expertise. Further, the Monitoring Cell will also have adequate administrative and field staff, including*

Sectoral Coordinators and Domain Area Experts, as determined by the Environment Department.

- *As far as imposition of conditions are concerned, it has been decided to take up the issue with HREERA and TCP Department for making provisions in its regulations for registrations of building construction and area development projects with detailed provisions for submission of arrangements and facilities to be provided to control environmental pollution and waste management including measures like greenbelts, conservation of water, ambient air quality monitoring facilities, waste recycling provisions, etc.*
- *The TCP Department shall also include conditions, seeking NOC from Power Department before granting OC to the developers and TCP Department shall also earmark requisite land for sub-stations at the time of approving the layout plan for the projects. TCP Department has also been directed to explore and impose conditions, as indicated by Hon'ble Tribunal for regulating the environmental norms in the projects.*

This mechanism will be finalized by Department of Environment and Climate Change and will be adopted in the State after due approval of the competent authority, including MoEF & CC. We expect the same to be in place within next three months, i.e., by November 2020.

Therefore, as indicated in the above paras, the State is finalizing its mechanism for monitoring the conditions and environmental norms imposed by various authorities and agencies, which is likely to be in place soon. The above interim report may kindly be taken on record and an additional period of two months time may kindly be granted for filing of the final report as directed by the Hon'ble NGT vide its order dated 05.02.2020.

Further, the delay in submission of the report due to unavoidable administrative delays may kindly be condoned.”

4. From the above, it is clear that no effective steps have been so far taken. Neither the guilty officers have been brought to book nor the violations of law have been remediated. Compensation assessed has not been recovered. Even simple step of black listing of the project proponent has not been taken. We have noticed similar non compliance in several matters, including four other matters listed today being OA No. 506/2019, Mukund Dhote v. UOI, OA No. 764/2018, Kissan Udey Samiti v. State of Haryana & Ors., OA No. 688/2019, Aditya Jakhar v. State of Haryana and OA 155/2020, Dr. Manorama v. TDI.

5. In view of the above, let necessary effective steps be now taken and further report filed by the Chief Secretary, Haryana before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. A copy of the report may be simultaneously provided to the project proponent, for response, if any before the next date.”

7. In pursuance of above, the Chief Secretary, Haryana has filed report dated 07.09.2021. The report refers to the meeting held on 14.08.2020 under the Chairmanship of Additional Chief Secretary, Environment, Haryana. The mechanism which is said to have been worked out is as follows:

“A) State Level Monitoring Committee (SLMC) and District Level Monitoring Committee (DLMC)

State Level Monitoring Committee (SLMC) and District Level Monitoring Committee (DLMC) had been constituted vide notification no. 1.6/18/2018-3Env.dated 24.09.2018(Annexure R/1) for monitoring the compliance of environmental norms for the EC given by SEIAA" The District Level Monitoring Committee (DLMC) will do the site inspections and will submit all the reports to SLMC

Action taken by SLMC:

The SLMC has held its first meeting on 05.01.2021 to discuss the monitoring mechanism and has asked the District Level Monitoring Committee to convene its meeting. Also, it has started the process to issue show cause notices to project proponents who have not submitted the mandatory six-monthly compliance reports. The D.O. letters have also been written to all Deputy Commissioners to convene the meeting of DLMC and Member Secretary, HSPCB was also directed that all regional officers of the HSPCB shall get the meeting convened every month.

B) State Environmental Monitoring Cell

For smooth functioning of SLMC, State minutes of the meeting dated 23.11..2020 (Annexure If/2) held under the Chairmanship of Chief Secretary to Government of Haryana, the approval of creation of State Environmental Monitoring Cell (SEMC) has been granted which will work under the Director General, Environment & Climate Change cum-Member Secretary SEIAA.

SEMC will prepare the data of compliance reports, compliance of environment norms by project proponent along with DLMC and put up before SLMC.

C) Sectoral Coordinators and Domain Area Experts

Further, in Tier III it is proposed that SEMC should also have the Sectoral Coordinators (SC) and Domain Area Experts (DAE) who will monitor the compliances of all the conditions as mentioned in the Environment Clearance Letter in case of only those projects which SLMC decided to get conducted through SC and DAE apart from

DLMC. The SC/DAE will be emplaned as per their qualifications and area of expertise”

8. With regard to the action taken in individual cases, the report is as follows:

“a. In OA No 661/2018 (Praveen Kakkar & Ors V/s MoEF & CC and Ors).

- *The Haryana State Pollution Control Board (HSPCB) has revoked the NOC, Consent to operate issued under the provisions of Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 and also revoked the authorization granted under Hazardous & Other Waste Management Rules, 2016 vide letter no. HSPCB/ 2019/ 798 dated 19.11.2019 to M/S IVY Group Housing Complex, Sushant Lok-I Gurugram (One of the projects with 5.88 acres area bearing license No 151 of 2004 dated 02.12.2004) of the whole project under question- 604.19 acres.*
 - *HSPCB has sealed the DG sets which were operating without adequate stack height.*
 - *HSPCB has also filed prosecution case under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 against M/s Ansal Properties & Infrastructure Ltd. 115, Ansal Bhawan, 16 KG Marg, New Delhi - 110001 and other persons/ directors in the Special Environment Court, Faridabad on 30.06.2020.*
 - *Gurugram Metropolitan Development Authority (GMDA), Gurugram vide letter No. File No. 225025/01/2019/Infra-11/2006 dated 15.10.2019 has intimated that they have stopped untreated sewage flowing from the premises of the company and other areas in Storm Water Drain (SWD) and connection under question has been disconnected and now there is no sewage flowing on said location and the same has already been verified by the committee of HSPCB & GMDA by conducting site visit on 19.10.2019.*
 - *With reference to the actions to be initiated against the possible collusion of HSPCB and Town and Country Planning (TCP) officials in the lapses, HSPCB has initiated action by instituting an inquiry under an independent inquiry Officer Sh. R.R Banswal, IAS (Retd.) on 20.05.2020. In furtherance, 8 no. of hearings were conducted by inquiry officer. However, due to prevailing COVID-19 pandemic and health issues, he has requested Member Secretary, H.S.P.C.B. vide letter no. 834916/2021/ Estt.Br. Dated 22/06/2021 to assign the instant enquiry to some other inquiry officer. Sh. Balwan Singh , IAS (Retd), 178-J Amaravali Enclave , Post Office Chandi Mandir, Panchkula has appointed as Inquiry Office vide letter no. HSPCB/Estt/2021/3097-3101 Dated 10.08. 2021. Copy of aforementioned letter dated 22.06.2021 is hereby annexed as Annexure R/3.*

- Deputy Commissioner, Gurugram directed the concerned Tehsildars to recover the compensation amount of Rs, 44.44 lacs per annum imposed by CGWA and 16.729 crores imposed by CPCB on M/S Ansal Properties & Infrastructure Ltd. and the proceedings of the recovery were initiated and recovery certificates were issued for attaching the property but the proceedings were stopped in compliance of Supreme Court orders in the matter of CA No. 3111/ 2020 M/S Ansal Properties and Infrastructure Ltd. vs. Praveen Kakkar & Ors. The relevant portion of the orders is given below: -

"Status quo as of today **with regard to the possession of the property shall be maintained by the parties."**

b. In OA No 688/2019 (Aditya Jharkhar V/s State of Haryana)

- I-ISPCB has revoked the consent to operate granted to the unit under Water and Air Act vide its order HSPCB/GRS-275/2020/1805 dated 27.07.2020.
- HSPCB has filed the prosecution for the violations against the Directors of the project in Special Environment Court, Faridabad.
- The Board has imposed Environmental compensation of Rs. 1.69 Cr vide order no. HSPCB/GRS-275/2020/1807-1809 dated 27.07.2020 on the unit for the violations committed as per Environmental Compensation Policy framed by Board vide order dated 29.04.2019 as amended on 20.12.2019 and notice has been issued to the unit in this regard. Further it is for appraisals of Hon'ble Tribunal that against the Developer of M/s Ramprastha Saare Township (Group Housing Complex) Saare Gurugram Private Limited, Village - Wazirpur , Meoka , Sector-92 Gurugram. The case for Insolvency and Bankruptcy Code has been accepted by National Law Tribunal (NCLT), Principal Bench New Delhi and NCLT has already vide it's order dated 01.03.2021 delivered on 09.03.2021 appointed Interim Resolution Professional. A letter dated 10.08.2021 by Regional Officer Gurugram has been already been issued to Interim Resolution Professional with request to release the payment of Rs. 1.69 Cr. In favor of Haryana State Pollution Control Board. The copies of aforementioned order dated 27.07.2020 and letter dated 10.08.2021 is hereby annexed as Annexure R/4 and R/5 respectively.

c. In OA No 506/2019 (Mukund Dhote V/s Union of India & ors)

- In the said matter, Environmental Compensation has been calculated 12,02,80,310 (Rs. Twelve Crore Two lakh Eighty Thousand Three Hundred Ten Only) in compliance of NGT order dated 21.11.2019 by the committee consisting of representatives of. CPCB, MoEF and HSPCB. Further, Joint Committee has opined that responsibilities of discharge of sewage/solid waste shall also be vested with the following authorities:

- i. *Town and Country Planning Haryana for granting license to builders prior to development of infrastructure related to sewerage system.*
 - ii. *HSVP for development of basic infrastructure for sewage and solid waste management of the area.*
- *The M/s Smart Housing Pvt. Ltd., (Project- Summer Palm), Sector-86, Greater Faridabad has been directed to deposit Environmental Compensation vide office letter no. HSPCB/FR/ 2020/5145 dated 19.02.2020 and HSPCB/FR/2020/2488 dated 20.10.2020 and HSPCB/FR/2020/2998-99 dated 02.12.2020. Further, District Collector has been requested for recovery of Environmental Compensation through land revenue arrears recovery method vide RO Faridabad letter no. 3251-52 dated 14.12.2020.*
 - *Recovery certificate has been issued by District Collector vide No. 2966 dated 22.12.2020.*
 - *With reference to black listing of project proponent, The District Town Planner dated 18.01.2021 has debarred the Directors of the companies namely Smart Housing Pvt. Ltd and Umang Real Tec. Pvt. Ltd. and restrained them from obtaining new licenses. The said action has been taken as the Licensee companies has neither complied with orders of NGT OA No. 506/2019 nor fulfilled the terms and conditions of the license.*
 - *With reference to sealing and taking possession of public utility spaces in the project, sealing and taking over of vacant flats, if any, A committee has been constituted by Senior Town Planner to identify the allotted/ unsold flats, community site, commercial component and utility sites vide it memo no. 60-62 dated 08.01.2021. Vide memo no. FD-DTP(E)/2097 dated 13.04.2021 the office of District Town Planner, Faridabad. Submitted the report of Committee to Senior Town Planner where in it is mention that the inspection Committee had a meeting with building manager of maintenance of secretary of resident welfare the Group Housing Project and it was informed by RWA representative that out of 776 flats in the society, 720 flats were occupied and further no flat under the ownership of developer /licensee (as on 27.01.2021) the inspection committee also inspected the club building and it was found that the building had already sealed jointly by Pollution Control Board and DTP(E) Faridabad . The representatives of RWA also informed the inspection team that the community sites have already been sold by the licensee and it was also informed that the society is yet to be handed over to RWA and therefore RWA has no locus-standi on any assets of builder except maintenance thereof on behalf of residents. Further, it was informed by RWA members that the project has been taken over by the NCLT u/s 14 of Insolvency and Bankruptcy Code (IBC-2016) & hence NCLT shall take further necessary action against Licensee. Further, the same report forwarded by Senior Town Planner Faridabad to Director, Town and Country*

Planning Haryana vide memo no.888 dated 13.04.2021. Copy of inspection report dated 13.04.2021 by District Town Planner Faridabad and Memo no. 888 dated 13.04.2021 are here by annexes as Annexure R/6 and R/'7 respectively.

- With reference to Steps taken by the State in view of report of Joint Committee filed in OA No 506/2019 and conclusion made in this report along-with recommendations, HSVP Executive Engineer No.2 Faridabad has intimated that master sewerage line has been laid in front of M/s Smart Housing Pvt. Ltd. (Summer palm) Sector-86, Faridabad and the society has to deposit sewerage connection fees in HSVP and thereafter sewerage connection shall be accorded accordingly. Vide memo no.3827 dated 09.08.2021 the office of district town planner has directed M/ s Smart Housing Pvt. Ltd, to deposit the sewerage connection fee to the concerned authority and to obtain regular sewerage and water disposal connection. Copy of Memo dated 09.08.2021 is hereby annexes as Annexure R/8.

d. In OA No 764/2018 (Kissan Udey Samiti V/s State of Haryana & ors.)

- In the said matter, Hon'ble NGT has imposed the Environment compensation against various project proponents & same has not been submitted by the project proponents concerned. Therefore, vide letter dated 20.03.2020 Deputy Commissioner, Sonipat has been requested for recovery of Environment Compensation. Accordingly, Summons were issued by Tehsildar, Rai (Sonipat) for asking to deposit the Environment Compensation on 31.08.2020 as imposed by Hon'ble NGT.
- 03 Projects i.e. M/s Parker Estate Developers Pvt. Ltd., M/s Pardesi Developers Pvt Lt. (M/s CMK M/s CMD Built-Tech Pvt. Ltd) Project and M/s TDI Infrastructure Ltd. have filed Civil Appeal before Hon'ble Supreme Court of India. 01 Project i.e. M/s Narang Constructions & Financiers Pvt. Ltd., Sector 62, Kundli Sonipat has approached the High Court of Punjab and Haryana by way of writ petition (Civil). 02 no cases have submitted environment compensation of 50% as imposed by NGT in compliance of order issued by Hon'ble Supreme Court. The detail of the same in table form is as under:

Sr . No .	Name and Address	Details of Case pending in Supreme Court/ High Court	Environment Compensation imposed by NGT	Environment Compensation Recommended by the joint Committee	Amount deposited by the project
1.	M/s TDI Infrastructure Ltd(TDI Kingsbury Apartment),	Civil Appeal No. 3478 of 2020 (pending with	Rs. 10 Cr.	18,49,08,165 /-	--

	G.T. Road, Sonapat	Supreme Court)			
2.	M/s TDI Infrastructure Ltd. My floor2 Sector 60, Sonapat	Civil Appeal No. 3478 of 2020 (pending with Supreme Court	Rs. 2.5 Cr.	1,62,56,792/-	--
3.	M/s TDI Infrastructure Ltd. Tuscan City, Sector 58, Sonapat	Civil Appeal No. 3478 of 2020 (pending with Supreme Court	Rs. 2.5 Cr.	11,42,02,841 /-	--
4.	M/s CMD Built Tech Pvt. Ltd. (Ushay Towers), Sector – 61, Kundli, Sonapat	Civil Appeal No. 3178 of 2020 (pending with Supreme Court	Rs. 2.5 Cr	3,65,72,745/-	1.25 Cr.
5.	M/s Parkar Estate Development Pvt. Ltd. Sector – 61, Kundli, Sonapat	Civil Appeal No. 3177 of 2020 (pending with Supreme Court	Rs. 2.5 Cr	4,70,88,735/-	1.25 Cr.
6.	M/s Narang Construction & Financiers Ltd., (Maxheight) Sector – 62, Kundli, Sonapat	CWP No. 15424/202 0 (pending with Supreme Court	Rs. 2.5 Cr	5,50,38,551/-	--

- Further, HSPCB has filed the cases in Special Environment Court, Kurukshetra against the violators. The status of court cases given in table below:-

Title	Court Name and Case detail	Next hearing	Filed by
M/s TDI Infrastructure Ltd. for Kingsbury Apartments, G. T Road, Kundli Sonipat Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM- M/2019/34	31/08/2021	Sh. Lalit Malik, AEE

M/s Pardesi Developers Private Limited, Sector-61 Village Rasoi, Kundli Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/2020/26	08/09/2021	Sh. Abhijeet Singh, AEE
M/s Narang Construction & Financiers Pvt. Ltd. Sector 62, Kundli Sonipat Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/2020/30	08/09/2021	Sh. Abhijeet Singh, AEE
M/s Parker Estate Developers Pvt. Ltd Sector-61, Kundli, Sonipat	The Special Environment Court, Kurukshetra, Case No. CRM-M/2020/31	08/09/2021	Sh. Abhijeet Singh, AEE
M/s TDI Infrastructure Ltd. for Tuscan City, Sector 60, Kundli Sonipat Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/ 2020/ 28	31/08/2021	Sh. Abhijeet Singh, AEE
M/s TDI Infrastructure Ltd. for Tuscan City, Sector 60, Kundli Sonipat Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/ 2020/ 28	31/08/2021	Sh. Abhijeet Singh, AEE
M/s TDI Infrastructure Ltd. for (My Floor 2) Sector 60, Kundli, Sonipat Vs HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/2020/27	31/08/2021	Sh. Abhijeet Singh, AEE
M/s TDI Infrastructure Ltd. for Kingsbury Apartments, G.T. Road, Kundli Sonipat v. HSPCB	The Special Environment Court, Kurukshetra, Case No. CRM-M/2020/29	31/08/2021	Sh. Abhijeet Singh, AEE

e. In OA No. 155/2020 Dr. (Mrs.) (Manorama Sharma & Anr. V/s TDI Infrastructure Limited & Ors.)

- In compliance of NGT order dated 01.10.2020 it is submitted that five prosecution cases have already been filed in special Environment Court, Kurukshetra against M/s TDI Infrastructure Ltd., Kundli, Sonipat. Environment Compensation has also been issued against the above said unit which has not been submitted by the unit therefore summon has been issued for auction of land belong to TDI Infrastructure Ltd. by Revenue Department to recover the Environment Compensation imposed against the said unit. Present case as subject cited above has been filed against M/s TDI Infrastructure Ltd (For TDI City), Residential Plotted Colony at Sector 58, 59 60 61 & 64 in Hon'ble NGT. The Joint Committee as deputed by NGT submitted the report to Chief Secretary, Government of Haryana. As per report, the said project has been found

non-complying in the provisions of Water Act, 1974. As per committee report show cause notice dated 12.07.2021 was issued to the said project on the point related to Pollution Control Board for 15 days. No reply from the unit received in this office till date. The unit was again inspected on 02.08.2021 to check the present status of the observations as raised by the committee. At site, it has been found that the project has total 8816 residential plot and presently 250 residential plots have been constructed from which domestic discharge is generated. The project still not obtained CTE&CTO from HSPCB and also not installed STP for the residential plotted colony. The project is under installation of STP of capacity 250 KLD for which construction has been started. Therefore, Environment compensation of Rs. 5,35,12,500/- have been proposed to Head Office vide this office letter No 1846 dated 03.08.2021 and Draft Complaint for filling prosecution against the said project has been sent to Head Office vide this office letter No.1847 dated 03.08.2021 his office till date. Copy of report submitted by joint committee formed in compliance of NGT order dated 01.10.2020 is annexed hereby as Annexure R/9.”

9. We have given due consideration to the report of the Chief Secretary, Haryana and find that the effectiveness of mechanism needs to be studied in the light of success in preventing and remedying violations. The Chief Secretary, while experimenting the mechanism evolved, may undertake study of extent of its success to consider what further changes are required in the mechanism after some time. Violations have been reported in the last several years and it is yet to be seen whether the compliance level has improved. We have separately considered violations in different cases mentioned in the report by separate orders in the said matters today. Violations found in the present case include absence of EC, Consent to Establish, Consent to Operate and consent for extraction of groundwater. The compensation assessed is only on account of untreated sewage water discharge and illegal extraction of groundwater. No compensation has been assessed for establishing the project without prior EC. In view of law laid down in *Goel Ganga Developers India Pvt. Ltd. v UOI*¹, the scale of

¹ (2018) 18 SCC 257

compensation has to be related to the cost of the project so as to operate as deterrent against the law violators. The scale of compensation, thus, needs to be revised.

10. It does appear that so far effectiveness of monitoring is not reflected from the report either in the matter of preventing colluding officers who have enabled gross violations or from dissuading the violators or providing remedy to the victims. Only mention is appointment of an inquiry officer on 10.08.2021. Unless there is speedy effective action, mere appointment of an enquiry officer after three years of highlighting of rampant violations, in collusion with the State authorities is merely an eye wash. Similarly, with regard to effective recovery from M/s Ansal Properties and Infrastructure Ltd., only justification for not effecting recovery or taking punitive measures is order of *status quo* with regard to possession. There is no bar against effecting recovery of assessed compensation or blacklisting, in terms of observations of the Tribunal in Para 4 in the order dated 01.10.2020. This only shows lack of sensitiveness, commitment and will of the administration in enforcing rule of law. We further find that as per order of the CPCB under Section 5 of the EP Act dated 21.06.2019, the State PCB was required to revoke the consents/authorizations given to M/s Ansal Properties and Infrastructure Ltd., the SEIAA, Haryana was required to revoke EC. The Director, Town and Country Planning Department was required not to allow any expansion or grant any completion and the Electricity Department was directed not to supply electricity for expansion of any project of the PP in Sushant Lok, Phase-1, apart from direction to the HSVP not to supply water for such expansion. Nothing is shown to have been done. Thus, the policy needs to be reviewed. Least expected for ensuring compliance by Residential Complexes is to inventorise such projects and to ascertain their compliance status. Second

step is to place such status in public domain with reference to check list of conditions requiring compliance, with technical accuracy, to ensure that no such projects come up without being compliant with norms. There have to means to encourage best practices for waste management, including decentralised waste processing facility in coordination with concerned local body for collection of residual waste. Other issues need focus are water harvesting, greenery, leaving open spaces, dual piping system for utilisation of treated water for reuse. One cannot ignore that haphazardly developed housing projects are potential for degradation of environment, affecting public health. Prior to occupation and handing over to RWA, audit of compliances by a proper and accountable mechanism needs to be ensured. Revamping of Town and Country Planning Department, SEIAA, SEAC and State PCB and their interse coordination is a must for meaningful and prompt action against violators. Ownership and oversight of mechanism has to be of officers of proven credibility and status.

11. We note that notice has not been issued to the PP so far, as the Tribunal in the first instance sought action taken report from statutory authorities in exercise of their powers but in view of inadequacy of action, the Tribunal may have to consider further action after giving opportunity to the PP. Issue notice to the PP – M/s Ansal Properties and Infrastructure Ltd., 115 Ansal Bhawan, K.G. Marg, New Delhi-110001 by e-mail to show cause why further action be not taken for the violations, already noted. Response be filed within one month. Haryana Sehari Vikas Pradhikaran (HSVP) and Town and Country Planning Department, Haryana may also explain how licenses have been granted for developing societies without ensuring requirement of providing basic infrastructure of waste management and other amenities required for clean environment and what action is being taken when violations are found. The said

Departments may also file their action taken reports in the matter by e-mail in same manner as in above direction.

12. We also direct the Chief Secretary, Haryana to coordinate further action in light of above observations by calling a joint meeting of the concerned State authorities within one month from today. Status report of steps so taken as on 31.01.2022 may be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. Likewise, CPCB may also file its additional status report in the matter in the light of above observations.

List for further consideration on 16.02.2022.

A copy of this order be sent to the Chief Secretary, Haryana and CPCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

September 28, 2021
Original Application No. 661/2018
DV

Item Nos. 03 to 05

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 661/2018

Praveen Kakar & Ors.

Applicant(s)

Versus

Ministry of Environment & Forests & Ors.

Respondent(s)

WITH

Original Application No. 764/2018
(M.A. No. 20/2022)

Kissan Udey Samiti

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

WITH

Original Application No. 155/2020
(I.A. No. 35/2022)

Dr. (Mrs.) Manorama Sharma & Anr.

Applicant(s)

Versus

TDI infrastructure Limited & Ors.

Respondent(s)

Date of hearing: 01.04.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MS. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicants: Mr. Shiv Charan Garg, Advocate for Applicant in OA 764/2018
Mr. Sachin Jain, Advocate for Applicant in OA 155/2020

Respondents: Mr. Anil Grover, Senior AAG with Mr. Rahul Khurana, Advocate for State of Haryana & HSPCB
Mr. Amit Singh Chauhan, Advocate for CPCB
Ms. Nitika Choukse, Advocate for DHBVN
Ms. Kanika Agnihotri Advocate for M/s TDI Infrastructure Ltd.
Mr. A.R. Takkar and Ms. Unnati Anand, Advocates for M/s Parker Estate Development Pvt. Ltd.
Mr. Sushant Dahiya, Advocate for M/s Narang Constructions & Financiers Pvt. Ltd.

ORDER

Hearing concluded. Order reserved which will be uploaded on the website on or before 27.05.2022.

Written submissions/further documents/reports, if any, may be filed within two weeks from today by e-mail.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Pushpa Sathyanarayana, JM

Prof. A. Senthil Vel, EM

April 01, 2022
Original Application No. 661/2018
and other connected matters
DV