

Item No. 02

Court No. 1

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

Original Application No. 296/2023

Ashok Chandra Gautam

Applicant

Versus

Vinod Thakur & Ors.

Respondent(s)

Date of hearing: 24.04.2023

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

**ORDER**

1. Grievance in this application is against failure to prevent violation of order of this Tribunal dated 03.01.2020 in Appeal No. 114/2019, *Piyush Heights Residents Welfare Association vs. Haryana State Pollution Control Board & Ors.* requiring the Ministry of Environment, Forests and Climate Change (MoEF&CC) and State PCB to take a call on the consequential remedial action after Environmental Clearance was revoked and Consent to Establish / Consent to Operate cancelled. Order dated 03.01.2020 is reproduced below for ready reference:

“1. *This appeal has been preferred against the order dated 07.10.2019 passed by the State Pollution Control Board (SPCB) under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act) and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) to close down the process of M/s Piyush Heights (Piyush Buildwell India Ltd.), Sector-89, Faridabad. It has been observed in the impugned order that the housing complex covered by ‘red’ category was set up in violation of the Water Act and the Air Act and the unit failed to respond to the show cause notice. The Consent to Operate (CTO) had expired.*

*Consent to Establish (CTO) had been revoked. Environmental Clearance (EC) had also been revoked by the Ministry of Environment, Forests and Climate Change (MoEF&CC) vide order dated 03.09.2019.*

2. *The appellant has described itself as Resident Welfare Association of occupants of flats in the housing complex. Grievance of the appellant is that only school building was constructed by the builder in the green area illegally against which O.A. No. 58/2016 was filed before this Tribunal. The MoEF&CC admitted the illegality in construction of the building. Vide order dated 30.10.2018, the application was disposed of in view of the statement made on behalf of the MoEF&CC that remedial action will be taken. Further, vide order dated 26.03.2019, the Tribunal recorded the statement made on behalf of the MoEF&CC that EC was revoked and that the SPCB may take action for cancelling CTE and CTO under the Air Act and the Water Act. E.A. No. 28/2019 was filed by the appellant which was disposed of on 01.08.2019 as the consents had already been cancelled.*
3. *Only grievance of the appellant is that action should have been taken against illegal construction of school building but the residents of the residential complex should not be affected.*
4. *Admittedly, EC for the entire project was revoked which has not been challenged. The appellant was aware of this development. The appellant has not even approached the State Pollution Board by way its grievance. The Board may have its limitation till revocation of EC stands.*
5. *In these circumstances, ignoring procedural technicality, we permit the appellant to move the concerned authorities for appropriate modification/clarification, including restoration of EC partially. The MoEF&CC may pass an appropriate order on the application preferably within two weeks. MoEF&CC may decide whether any compensation is liable to be paid for illegal construction in violation of EC condition and whether illegally constructed building is to be demolished or used by Government for any permissible public purpose. The SPCB may also take decision on the application of the appellant expeditiously as per law.”*

2. According to the application now filed, though the school structure in question was demolished, construction is being again done in violation of master plan and zoning plan. In spite of report to the authorities, no action is being taken. The applicant has annexed photographs in support of the grievance.

3. Let factual position be verified by the State PCB and District Magistrate, Faridabad and action taken report given to Registrar General of this Tribunal within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If found necessary, the Registrar General may place the matter before the bench for further directions.

Subject to above, the application is disposed of.

A copy of this order be forwarded to by State PCB and District Magistrate, Faridabad e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

April 24, 2023  
Original Application No. 296/2023  
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