

Item No. 02

Court No. 1

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

(By Video Conferencing)

Original Application No. 745/2022

Chander Mohan Sharma & Ors.

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

Date of hearing: 17.10.2022

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

Applicant: Mr. Aditya Dhawan, Advocate

**ORDER**

1. Grievance in this application is against illegal construction at Khasra No. 987/3, 986/2, 984, 985/4, 983 and 983/1/2 Mauja/Mohal Dhar Tuti Kandi, District Shimla, H.P in violation of judgment of this Tribunal dated 16.11.2017, in *O.A. No. 121/2014, Yogendra Mohan Sengupta v. UOI & Ors.* Violations pointed out are as follows:-

**“Violations:**

VI. Sanctions/ permissions to construct 5 storied or 6 storied structures, in teeth, with the guidelines and directions, issued by this Hon'ble Tribunal in case of '*Yogendera Mohan Sengupta v. State of H.P & Ors.*'

VII. FAR sanctioned 1.75 as against 1.50, as provided in the interim development plan for Shimla planning Area;

VIII. The height of each building/Block, is not only in contravention with the interim development plan for Shimla planning Area but also with the guidelines and directions, issued by this Hon'ble Tribunal in case of 'Yogendera Mohan Sengupta v. State of H.P & Ors.';

IX. No load bearing capacity of the soil was tested before permitting such huge construction for commercial purpose in the name of 'domestic/residential-use';

X. No rain water harvesting Tank installed by the builder;

XI. Construction carried out by the builder within 2 meters of the existing trees (as against 10.4.8 General Regulations, of the interim development plan for Shimla planning Area). In fact, twice the builder has also been found causing damage the trees, by cutting/chopping branches, etc.;

XII. Construction of these Blocks has been carried out by the builder without maintaining a minimum distance of 5 meters between each block (as against 10.4.8 General Regulations, of the interim development plan for Shimla planning Area). In fact, between the Blocks, i.e., in the setback area, huge steel frame structure has been raised for purpose of fitting of separate water tanks for domestic water storage;

XIII. No green area left on the land; and

XIV. The plinth has been dangerously raised beyond 15 meters against the permissible (maximum) 2 meters, as provided in 10.4.8

General Regulations, of the interim development plan for Shimla planning Area.”

2. It is pointed out that draft development plan was sought to be introduced by the HP Government in violation of judgment of this Tribunal which has been disapproved and set aside by the Tribunal vide order dated 14.10.2022 in OA 297/2022, *Yogendra Mohan Sengupta v. UOI & Ors.*

3. In view of above, we direct that the matter be looked into in the first instance by the High-Powered Committee in terms of judgment of this Tribunal dated 16.11.2017 in O.A. No. 121/2014, supra headed by Secretary, Urban Development, HP and take remedial action in accordance with law.

The application is disposed of.

If any grievance survives, it will be open to the applicant to take remedies afresh.

The applicant may serve a set of papers with a copy of this order on Secretary, Urban Development, HP and file affidavit of service within one week.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

October 17, 2022  
O.A. No. 745/2022  
A

