

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

Original Application No. 1008/2018

Deepak Datta

Applicant(s)

Versus

Govt. of NCT of Delhi

Respondent(s)

Date of hearing: 17.12.2019

Date of uploading: 20.12.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

ORDER

1. Question for consideration is the remedial action against illegal running of banquet halls in the area of Shivaji Marg, Near Zakhira Circle, Delhi, operating without requisite statutory consents and in violation of environmental norms, as alleged by the applicant.
2. While the issue of regulatory regime for compliance of the environmental norms by banquet halls and other such establishments may be covered by separate order being passed today in *O.A. No. 400/2017, Westend Green Farms Society Vs. Union of India & Ors.*, scope of present order is confined to the banquet halls in the area of Shivaji Nagar, Delhi which has been dealt with in the present matter earlier vide orders dated 17.01.2019, 21.05.2019, 09.08.2019 and 19.09.2019.

3. It will be suffice to refer to the order dated 19.09.2019 which gives resume of earlier orders:

“2. *Vide order dated 07.01.2019, the Tribunal sought an action taken report in the matter from a Joint Committee comprising of the Central Pollution Control Board (CPCB), the Delhi Pollution Control Committee (DPCC), the District Magistrate, Punjabi Bagh and the North Delhi Municipal Corporation (NDMC). Report dated 15.02.2019 stated that eight banquet halls were inspected, though there are many others in the area. The report established that during the inspections, these banquet halls claimed that they had approved building plans but they could not produce their respective building plans/maps. None of them had authorized parking arrangement. All had borewells but could not produce permission from the Central Ground Water Board (CGWB). Other deficiencies were also mentioned. Further report filed by the DPCC on 17.05.2019 was that three of the banquet halls were operating without Consent to Operate. Directions were issued for closure of their operation and disconnection of power/water supply. According to the report from SDM (Patel Nagar), illegal borewells in the said eight units were disconnected in line with the directions from the DPCC. DPCC had not dealt with the aspects relating to poor parking arrangements, use of coal fired tandoors, use of DG sets, installed music systems in the halls and non-functional ETPs.*

3. *Accordingly, on consideration of the matter, vide order dated 21.05.2019, a further joint inspection was directed to be carried out by the CPCB and the DPCC and a revised report was directed to be submitted. It was noted that the reports had not addressed the direction earlier issued by this Tribunal vide order dated 02.11.2018 in Westend Green Farms Society Vs. Union of India & Ors.¹ on the subject of distance of such banquet halls from the road in accordance with the Master Plan of Delhi -2021. The same was also required to be done in the revised report. It may be noted that the matter in Westend² was further considered on 08.07.2019 and several directions have been issued which cover the present matter also. The said matter has been separately considered today.*

4. *Report dated 26.07.2019 filed by the CPCB in respect of joint inspection of the banquet halls was considered by this Tribunal vide order dated 09.08.2019 and since various violations were reported, the Tribunal directed further action and filing of a compliance report. The observations in the said report are as follows:*

“5. *Environmental compensation for illegal groundwater extraction has been assessed individually for each of the 23 banquet halls.*

¹ O.A No. 400/2017, order dated 02.11.2018

² *ibid*

Learned Counsel appearing for the DPCC submits that borewells have been now sealed. With regard to parking issues, traffic congestion, noise pollution and fire safety infrastructure, the report states that concerned authorities for each of these matters will evaluate the situation. The banquet halls are situated in existing industrial area. Most of the banquet halls have come up in a cluster leading to severe stress on basic infrastructure including traffic management and parking. They also pose a fire hazard. The Tribunal has addressed the issue of unsustainable development beyond the carrying capacity of a location³ The operations of the banquet halls need to be gauged against the environmental stipulations inter alia under the provisions of Solid Waste Management Rules, 2016, the Air (Prevention and Control of Pollution) Act, 1981, Graded Response for Action Plan for Delhi NCT, Water (Prevention & Control of Pollution) Act, 1974, Central Ground Water Authority Guidelines, 2012, Noise Pollution (Regulation & Control) Rules, 2000.

- 6. In spite of serious violations including continued operation without Consent to Operate, which is a criminal offence, the DPCC has not taken requisite preventive and remedial action for enforcement of law such as closure, prosecution, and assessment and recovery of compensation.*
- 7. In view of material emerging from the report, that apart from prosecution and other remedial measures, it is necessary that the illegal activities are stopped forthwith by exercising statutory powers as per law.”*
- 5. In pursuance of the above, an action taken report has been filed on 17.09.2019 mentioning that in all compensation of about Rs. 80 Lakhs has been recovered from 91 defaulting banquet halls in terms of inadequate parking, illegal ground water extraction and operation without consent to operate. There is no material to indicate how the compensation recovered meets the norms of ‘Polluter Pays’ principle in terms of extent of pollution, period of violation, cost of damage to the environment and public health and the turnover of the polluters.*
- 6. As observed in a separate order passed today in Original Application No. 400/2017, Westend Green Farms Society v. Union of India & Ors., there is dire need of proper regulation of banquet halls to mitigate the adverse impact on environment and public health. Further steps are required for laying down siting guidelines and mechanism for*

³ 3 Ajay Khara Vs. Container Corporation of India Limited & Ors., O.A No. 568/2016 and SPOKE Vs. M/s. Kasauli Glaxie Resort and other connected matters, O.A No. 218/2017

assessing the adverse impact and also ensuring proper monitoring mechanism.

7. In view of the above, let a further action report be filed by the Member Secretary, DPCC by 30.11.2019 and he may remain present in person on the next date.”

4. In view of above, compliance report has been filed by DPCC on 13.12.2019 on the subject of mitigation measures to check adverse impact on environment and public health by the banquet halls and such other establishments, including laying down of siting guidelines, apart from dealing with the aspect of environmental compensation to recover the cost of restoration of the environment.

5. On the subject of siting guidelines, reference has been made to ‘The (Prevention of Banquet Halls) Regulations, 2010’ issued by the DDA laying down following conditions for setting up of banquet halls:

- a) Minimum plot size — 300 sq. m. The maximum number of guests be fixed by Licensing Authority depending on locational considerations e.g. road width, parking etc.*
- b) For Industrial plots to be used as Banquet Hall, the minimum road width shall be 12m ROW.*
- c) In case of commercial plots in designated commercial centers, the banquet Hall shall be allowed if it shall be directly abutting 18 mtrs. ROW.*
- d) No encroachment of any kind shall be allowed on the streets or public land due to banqueting activities i.e. Shamiana, Generator etc.*
- e) It shall be the responsibility of the Owner to ensure adequate provision for sanitation facilities and for hygienic disposal of the waste generated in the Banquet Hall complex, so that no inconvenience or hardship is caused to the neighbourhood on any account.*
- 0 All the measures required for ensuring structural, fire safety shall be the responsibility of the Owner.*
- g) If the applicant makes addition/alteration to the existing industrial building or reconstructs the building for banquet hall the approved building plans as per Building Bye-Laws shall be necessary.*

- h) License from DCP (Licensing), provision of parking during the events and clearance from Traffic Police, shall be the responsibility of the Owner.*
- i) Permission for using the premises for Banquet Hall shall be subject to the payment of necessary fee along with the conversion charges and deficient parking charges (in case of existing building prior to Notification of MPD-2021) on the prevailing rates as approved by the Government from time to time.*
- j) If the applicant makes addition/alteration to the existing industrial building or reconstructs the building for Banquet Hall the approved building plans as per Building Bye-Laws shall be necessary. In such cases, the norms of parking for Banquet Hall use premises as per MPD-2021 shall be applicable.*
 - i) A minimum parking of 3 Equivalent Car Space (ECS) per 100 sqm of floor area for the Banquet Halls need to be provided.*
 - ii) In case of Banquet Hall, basements within the ground envelope shall be allowed for parking. Stilt floor parking is also permissible.”*

6. It is stated that the above recommendations are not adequate to deal with the issue of unregulated parking and traffic congestion.

Following changes are suggested for the purpose:

- “
- i) Since in the industrial areas, public parking is not commonly provided as in the case of commercial centers, banqueting may be allowed only up to 30% of the plots on a particular stretch of a road in future if common parking is not provided by the concerned local body in nearby areas.*
 - ii) For industrial plots to be used as Banquet halls, the minimum road width should be 18 meters ROW instead of 12 meters as prescribed under the Regulations at present.*
 - iii) In case of industrial plots, banquet halls should be permitted only after sub-division of plots (if any) approved by the Competent Authority and building plan is sanctioned as per the Development Control norms and Building Bye-Laws. The other conditions provided in "The (Permission of Banquet Halls) Regulations, 2010" should also be strictly examined before any new banquet hall is allowed to come up.*
 - iv) The existing parking norms of 3 ECS per 100 sqm of floor area may be increased to 6 ECS per 100 sqm of floor area to accommodate 100% additional parking inside the plot. The provision of mechanized double decker parking may also be*

adopted by the Banquet hall owners subject to approval by the concerned local body.

- v) *In the banquet halls to come up in future should have front set back and should not have boundary to facilitate it to be used for parking purpose.*

These aforesaid suggestions may also be referred to DDA for further consideration and suitable amendments in the Banquet Hall Regulations and in the Delhi Master Plan.

Apart from the above, following are also suggested for consideration by this Hon'ble Tribunal for appropriate directions:

- vi) *The concerned local bodies will have to make prior arrangement of additional parking space before accepting any new application along with deficient parking charges for new banquet hall.*
- vii) *Construction of new banquet hall should be allowed only after the plot owner obtains Consent to Establish under the Air (Prevention and Control of Pollution) Act, 1981 & Water (Prevention and Control of Pollution) Act, 1974 from DPCC.*
- i) *Since it has been observed that due to the use of horse drawn carriages during Barat Processions the traffic crawls due to narrowing of the ROW, it would be appropriate to ban the use of such carriages particularly in the area under consideration and in other industrial areas as well where Banquet halls have come up.*
- ii) *The use of DG sets kept on trucks/trolleys during the Barat Processions also causes air and noise pollution apart from creating traffic congestion; hence, the use of DG sets during such processions needs to be prohibited in industrial areas.”*

7. DPCC has further suggested regulatory steps as follows:

“(A) For the Banquet halls under operation

- i) *The concerned Consent Management Cell of DPCC will carry out random inspection during the peak season (from 1st October to 31st March) of the banquet halls having consent to operate to report on violations (if any) of the conditions imposed while giving Consent to Operate. A weekly report to be sent to MS, DPCC regarding violations and action taken thereof. The Consent Management Cell will furnish monthly report during off peak season from 01.04.2019 upto 30.09.2019.*
- ii) *The banquet hall owner will obtain clearance from traffic police as required under the Regulations. The traffic police shall keep regular vigil over the traffic*

movement during peak days and take appropriate action under the Delhi Police Act for violations. DPCC to be informed if heavy traffic congestion is noticed on a particular date due to the activities of a particular banquet hall(s) so that necessary action can be taken including levy of Environment Compensation.

iii) The area SDM and SHO of concerned police station will be required to furnish periodic reports of noise monitoring and action taken thereon to the Divisional Commissioner and to the MS, DPCC.

iv) If any complaint related to noise is received by Police Station through the dedicated helpline or through the portal, the concerned SHO shall get it inspected within one hour and intimate the DPCC.

(B) For Banquet Halls to come up in future:

i) The Consent Management Cell of DPCC will give a monthly monitoring report to MS/Chairman, DPCC regarding start of construction of banquet hall in its areas. The construction can be started only after grant of Consent to Establish. In case of any violation is detected, immediate action as per law will be taken.

ii) The concerned Executive Engineer of building department of each urban local body will give a monthly report to the reporting authority/Commissioner of the Corporation regarding start of construction of banquet hall only after 'Sanction of Building Plan' and grant of 'Consent to Establish'.

iii) Before grant of Consent to Establish by DPCC, the banquet hall owner will be required to produce the certificate from the MCD regarding availability of adequate parking facility either in-house or in a common parking facility with details of equivalent car spaces (ECS).”

8. We find no reason why the above suggestions be not acted upon to give effect to the 'Precautionary' and 'Sustainable Development' principles of environmental law. Let DPCC take further steps by issuing guidelines/directions in above terms in exercise of its statutory powers and ensure compliance and file a further status report to this Tribunal by 31.03.2020 by e-mail at judicial-ngt@gov.in.

List for further consideration on 11.05.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

December 20, 2019
Original Application No. 1008/2018
DV

