

Item No. 1

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 378/2022

**IN THE MATTER OF:**

**Mr. Sahil Garg,  
1918, Phase- 10, Mohali-160062, Punjab  
Phone: 9888346925**

...Applicant

Versus

**1. State of Punjab**

Through its Chief Secretary  
Punjab Civil Secretariat, Chandigarh  
Email: [cs@punjab.gov.in](mailto:cs@punjab.gov.in)

**2. Punjab Pollution Control Board**

Punjab Zonal Office-1, Vatavaran Bhawan, Nabha Road  
Patiala through its Secretary  
Email: [chairman.ptl.ppcb@punjab.gov.in](mailto:chairman.ptl.ppcb@punjab.gov.in)

**3. Mohali Development Authority**

Punjab Urban Planning and Development Authority Bhawan  
Sector- 62, Sahibzada Ajit Singh Nagar  
Punjab-160062  
Email: [helpdesk@gmada.gov.in](mailto:helpdesk@gmada.gov.in)/  
[ca@gmada.gov.in](mailto:ca@gmada.gov.in)

**4. District Magistrate cum deputy Commissioner**

SAS Nagar, Mohali, District Administration Complex  
Sector-76, SAS Nagar Mohali  
Email: [dc.mhl@punjab.gov.in](mailto:dc.mhl@punjab.gov.in)

...Respondents

**For Applicant:**

None for the applicant.

**For Respondents:**

Er. Gurhsharan Dass Garg, Environmental Engineer Regional Officer,  
Mohali on behalf of Member Secretary, PPCB.  
Er. Naresh Batta SE,MC, SAS Nagar on behalf of Deputy Commissioner,  
SAS NAGAR.

**PRESENT:**

**HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

---

**Judgment Reserved on:- 03.11.2023**

**Judgment pronounced on:- 30.01.2024**

---

**Application is registered based on a letter received by Email.**

**JUDGMENT**

**PRONOUNCED BY: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JM**

1. Mr. Sahil Garg resident of H.No. 1918, Phase-10, Mohali has sent by email copy of letter addressed to Ms. Isha Kalia, IAS Deputy Commissioner SAS Nagar District Administrative Complex Sector-76, Mohali and other authorities on public grievance portal of this Tribunal, which has been treated and registered as original application, complaining about concretization of open spaces, on the pretext of parking area requirements, and road-sides, in the name of pedestrian path, right upto the neck of the existing trees and non-implementation of any plantation program for developing green belts in open spaces and along the road-sides.

2. The relevant part of the letter petition enumerating the grievances of the applicant is reproduced as under :-

*“Nowadays all we can see is laying down interlocking tiles and concrete in open spaces and we can rarely see a patch of open land. Due to lack of the cleaning department the open spaces are not cleaned for years and they turn into a dumping ground which is not a good sight for the eyes and then after sometime to cover their lack the corporation clears the space overnight to be covered in concrete. The roadsides are covered in concrete right upto the neck of existing trees and even these poor trees might be experiencing difficulty breathing.*

*Dimensions of all public parks in the city are being reduced unnecessarily and illogically in the name of extra parking. Extra parking is definitely required to accommodate increasing number of vehicles but every site is different and needs to be examined whether reducing the dimensions would even make room for extra parking or not. All Roadsides are being laid with interlocking tiles in the name of pedestrian paths. Do we really need 20 feet wide pedestrian paths?*

*Here I would like to put up a question, where are we heading? Do we want to convert this city into a concrete prison where no*

*fresh plantation would take a breath, where there is not an inch of land available for our coming generations to plant a sapling? I understand that as a part of a fast growing nation, development of infrastructure is very important. And the corporation is doing this very beautifully, like recent upgradation of markets, fresh flooring, erection of railings etc. But at the same time the quality of the environment that we live in is also very important. One cannot find even a single plantation program in this development plan of the corporation, just because greenery needs regular maintenance and we don't want to do that, rather cover the city with concrete just for the sake of convenience so that we are free for any maintenance for at least a couple of years. The time is not far when Mohali becomes like any other metro city like a city of concrete.*

*Recently I got a chance to witness the work done by the Chandigarh administration. You might also be aware of their fresh plantations done along the roadsides. Why can't we convert our open public spaces into a green belt rather than laying interlocking tiles?*

*I as a responsible citizen take it as my duty to share ground facts with the administration so that necessary steps could be taken in the interest of all. You are requested to take note of the above and take necessary action at the earliest.”*

3. Vide order dated 05.07.2022, this Tribunal constituted a Joint Committee comprising of Principal Secretary, Ministry of Urban Development, Government of Punjab, Principal Chief Conservator of Forests, Government of Punjab, State PCB and Deputy Commissioner, Mohali with direction to submit factual and action taken report within two months which period was extended vide order dated 12.10.2022.

4. In compliance thereof, report of the Joint Committee was filed vide email dated 23.11.2022. The relevant part of the report of the Joint Committee is reproduced below:-

**“Subject: Regarding the order of Hon’ble National Green Tribunal Principal Bench passed in O.A No.378 of 2022 titled as Sahil Garg Vs. State of Punjab.**

*Hon'ble NGT on O.A No. 378 of 2022 titled as Sahil Garg Vs State of Punjab has passed order dated 05.07.2022,whcrein it has directed as under:*

- The grievance in this letter petition sent by Mr. Sahil garg resident of H.No. 1918 Phase-10, Mohali which is treated and registered as original application, is regarding concretization of open spaced, on the pretext of parking area requirement and road sides, in the name of pedestrian path, right upto the neck*

of existing trees and non-implementation of any plantation program for developing green belt in open spaces and along the road side.

• A joint committee comprising of Principal Secretary, Ministry of Urban Development, Govt. of Punjab, Principal Chief Conservator of forests, Govt. of Punjab, State PCB and Deputy Commissioner, Mohali is hereby constituted. The committee shall meet within four weeks, undertake site visits, look into the grievances of the applicant and take requisite action by following due process of law. The joint committee may, besides taking into consideration judgment/directions of Hon'ble Supreme Court and this Tribunal, also consider the following aspects while submitting the factual and action taken report:

- i. Use of perforated tiles permitting percolation of water for boosting ground water.
- ii. landscaping of open spaces and road side and developing greenbelt along the road side with avenue plantation of native species
- iii. De-concretization of standing trees with proper space for proper rooting and growth of the tree.

Further, the Hon'ble National Green Tribunal vide order dated 12.10.2022 has said committee to submit a report within one month. PPCB vide letter no.380 dated 15.11.2022 has constitute a district level committee of following members under the Chairmanship of Additional Deputy Commissioner (UD) SAS Nagar to comply with the NGT orders:-

- Sub-Divisional Magistrate, SAS Nagar
- Divisional Forest Officer, SAS Nagar
- Superintending Engineer Municipal Corporation, SAS Nagar
- Representative of GMADA.
- Environmental Engineer, PPCB, SAS Nagar

The petitioner in the complaint it was visited by committee members on dt 17.11.2022 and it informed by Mr. Sahil Garg that the width of the pavement tiles in the city of SAS Nagar should be reduced and the kacha areas and berms should be cleaned, instead of laying tiles on them. The Hon'ble National Green Tribunal has given the following suggestions and the proposal of MC SAS Nagar(Mohali) and GMADA to with the suggestion is as under:

<b>Sr.No</b>	<b>Suggestion</b>	<b>Proposal</b>
1	Use of perforated tiles permitting percolation of water for boosting ground water.	Proposals for installing perforated tiles in place of interlocking tiles will be prepared and sent to the house of Municipal Corporation and GMADA and only perforated tiles will be used in future.

2	<i>landscaping of open spaces and road side and developing greenbelt along the road side with avenue plantation of native species</i>	<i>Under the Government's Nanak Bagichi Scheme, 4000 saplings have been planted in the city in the year 2022-23 in planting season by the Municipal Corporation and GMADA and in the last 3 years about 13000 saplings have been planted and development of green belts will continue in future also.</i>
3	<i>De-concretization of standing trees with proper space for proper rooting and growth of the tree.</i>	<i>As per the guidelines of Hon'ble NGT proper space is kept around the trees and out of 40925 trees in the city about 29006 trees were already de-concretize, out of remaining 11919 trees 4979 trees have been de-concretize and work of deconcretization of remaining 6940 trees is going on at war level. According to which the work of de-concretization of about 80% trees has been completed and the remaining work will be completed within the next one month.</i>

*It is to be mentioned here that the Municipal Corporation and GMADA will take the following measures in the future.*

- In place of interlocking tiles, steps will be taken to install perforated tiles.*
- New saplings will be planted in the city from time to time during the planting season by the Municipal Corporation and GMADA and proper space will be kept around the trees.*
- Along with this, care will be taken regarding the work of De-concretization and the instructions issued by the Hon'ble NGT from time to time will be strictly followed.”*

5. In view of the averments in the application and observations in the report of the Joint Committee, State of Punjab through Chief Secretary, Government of Punjab, State PCB, Mohali Development Authority and District Magistrate, Mohali were impleaded as respondents No. 1 to 4.

6. Pursuant to service of notice replies have been filed by respondents no. 1, 3 and 4 vide email dated 07.02.2022 and by respondent no. 2 vide email dated 30.12.2022.

7. The relevant part of the reply filed by respondents no. 1, 3 and 4 is reproduced below:-

**“Short reply of Aashika Jain, IAS, Deputy Commissioner, Mohali on behalf of Respondent no. 1, 3 & 4.**

**X X X X**

2) That vide order dated 24.11.2022, the Hon'ble Tribunal has desired the response of the State of Punjab through its Chief Secretary, State Pollution Control Board, Mohali Development Authority and District Magistrate, Mohali.

3) That in compliance to the orders dated 24.11.2022, it is respectfully submitted that consequent upon the orders dated 5.7.2022 passed by the Hon'ble National Green Tribunal, the Punjab Pollution Control Board vide letter no. 380 dated 15.11.2022 has constituted a District Level Committee under the Chairmanship of Additional Deputy Commissioner (Urban Development), SAS Nagar (Mohali) comprising of the following officers to comply with the orders of the Hon'ble National Green Tribunal:

- a) Sub Divisional Magistrate, SAS Nagar
- b) Divisional Forest Officer, SAS Nagar
- c) Superintending Engineer, Municipal Corporation, SAS Nagar.
- d) Representation of GMADA.
- e) Environmental Engineer, PPCB, SAS Nagar.

4) That the committee members had met the applicant Ms. Sahil Garg who has given some suggestions to the committee, to which the Municipal Corporation, SAS Nagar has given proposals. The suggestions given by the applicant and the proposals to implement the suggestions of the applicant as given by the Municipal Corporation, SAS Nagar (Mohali) have been incorporated by the committee of officers in their report, which was later on submitted before the Hon'ble National Green Tribunal by the Punjab Pollution Control Board vide email dated 23.11.2022. A copy of the report of the committee of officers is enclosed herewith as Annexure-A for kind perusal of this Hon'ble Tribunal.

5) That the entire facts of the case and the suggestions given by the applicant relates to Municipal Corporation, SAS Nagar and Greater Mohali Area Development Authority (GMADA) and the committee in its report has also requested the Municipal Corporation, SAS Nagar and Greater Mohali Area Development Authority (GMADA) to take the following measures in future.

- a) In place of interlocking tiles, steps will be taken to install perforated tiles.
- b) New saplings will be planted in the city from time to time during the planting season by the Municipal Corporation and GMADA and proper space will be kept around the trees.
- c) Along with this, care will be taken regarding the work of De-concretization and the instructions issued by the Hon'ble National Green Tribunal from time to time will be strictly followed.

6) That MC Mohali has taken following steps on the suggestions of the Joint Committee report:

<b>Sr.No.</b>	<b>Reply sought in para no. 1 of the order dated 24.11.2022 passed by the Hon'ble MGT, New Delhi</b>	<b>Proposal</b>
1	Use of perforated tiles permitting percolation of water for boosting ground water.	Proposals for installing perforated tiles in place of interlocking tiles will be prepared after approval from the Corporation and GMADA only perforated tiles will be used for pavement in future.
2	Landscaping of open spaces and road side and developing greenbelt along the road side with avenue plantation of native species	During the last 3 years about 13000 samplings have been planted and under the Government's Nanak Bagichi Scheme 4000 samplings have been planted in the city along the road side in the year 2022-23 by the Municipal Corporation and GMADA. Green belt along the road side with the avenue plantation of native species shall be developed and continued in future also.
3	De-concretization of standing trees with proper space for proper rooting and growth of the tree.	As per the guidelines of Hon'ble National Green Tribunal proper spaces are kept around the trees and out of 40925 trees in the city about 29006 trees have already been de-concretized. Out of remaining 11919 trees 9500 trees have been de-Concretized and work of de-concretization of remaining 2500 trees is under process. In this way the work of de-concretization of about 94% trees has been completed and the de-concretization of about 6% tree shall be completed within the coming next month.

7) That GMADA has floated tenders for the work of de-concretization around trees on PR7 road on 30.01.2023 and execution work will be started by 20.02.2023.”

8. The relevant part of the reply filed by respondent no. 2 is reproduced below:-

**“Short reply of Er. Gursharan Dass Garg, Environmental Engineer, Punjab Pollution Control Board, Regional Office, Mohali on behalf of Punjab Pollution Control Board.**

**X X X X X**  
2) That vide order dated 24.11.2022, the Hon'ble Tribunal has desired the response of the State of Punjab through its Chief Secretary, State Pollution Control Board, Mohali Development Authority and District Magistrate, Mohali.

3) That in compliance to the orders dated 24.11.2022, it is respectfully submitted that consequent upon the orders dated 5.7.2022 passed by the Hon'ble National Green Tribunal, the Punjab Pollution Control Board vide letter no. 380 dated 15.11.2022 has constituted a District Level Committee under the Chairmanship of Additional Deputy Commissioner (Urban Development), SAS Nagar (Mohali) comprising of the following officers to comply with the orders of the Hon'ble National Green Tribunal:

- a) Sub Divisional Magistrate, SAS Nagar
- b) Divisional Forest Officer, SAS Nagar
- c) Superintending Engineer, Municipal Corporation, SAS Nagar.
- d) Representation of GMADA.
- e) Environmental Engineer, PPCB, SAS Nagar.

4) That the committee members had met the applicant Ms. Sahil Garg who has given some suggestions to the committee, to which the Municipal Corporation, SAS Nagar has given proposals. The suggestions given by the applicant and the proposals to implement the suggestions of the applicant as given by the Municipal Corporation, SAS Nagar (Mohali) have been incorporated by the committee of officers in their report, which was later on submitted before the Hon'ble National Green Tribunal by the Punjab Pollution Control Board vide email dated 23.11.2022. A copy of the report of the committee of officers is enclosed herewith as Annexure-A for kind perusal of this Hon'ble Tribunal.

5) That the entire facts of the case and the suggestions given by the applicant relates to Municipal Corporation, SAS Nagar and Greater Mohali Area Development Authority (GMADA) and the committee in its report has also requested the Municipal Corporation, SAS Nagar and Greater Mohali Area Development Authority (GMADA) to take the following measures in future.

- a) In place of interlocking tiles, steps will be taken to install perforated tiles.
- b) New saplings will be planted in the city from time to time during the planting season by the Municipal Corporation and GMADA and proper space will be kept around the trees.



*c) Along with this, care will be taken regarding the work of De-concretization and the instructions issued by the Hon'ble National Green Tribunal from time to time will be strictly followed.*

*6) That it is pertinent to mention here that the Chief Secretary to Government of Punjab and the State Pollution Control Board have only been impleaded as performa parties, whereas, the actual work on the suggestions given by the applicant and the future measures as suggested by the committee of officers in its report are to be implemented by the Municipal Corporation, SAS Nagar and Greater Mohali Area Development Authority (GMADA).*

*7) That the short reply of the Punjab Pollution Control Board may kindly be allowed to be placed on record in compliance to order dated 24.11.2022 of the Hon'ble National Green Tribunal for kind consideration and appropriate orders.”*

9. Er. Gurhsharan Dass Garg, Environmental Engineer RO, Mohali on behalf of MS, PPCB and Er. Naresh Batta SE,MC, SAS Nagar appeared on behalf of Deputy Commissioner, SAS NAGAR before this Tribunal on 03.11.2023 and we interacted with them and in the course of interaction they assured due compliance with the directions regarding de-concretization of trees. In view of the nature of the issues involved, we reserved the order.

10. We have gone through the averments made in the application, observations made in the report of the Joint Committee and submissions made in the replies filed by the respondents No.1 to 4 and other material on record.

11. The case involves substantial environmental questions of de-concretization of trees and protection of parks, open spaces, green belts in cities which are being over-concretized without providing adequate green cover or destroying the existing green cover.

12. It may be observed at the outset that concretization on road sides by use of interlocking tiles is not prohibited. In the Guidelines for the use of Interlocking Concrete Block Pavement Published by: Indian Roads Congress, the use of interlocking concrete block pavement is not

recommended for Expressways, National Highways, State Highways and Major District Road. However, if an MDR or State Highways passes through an habitation, their use is permitted. The Guidelines notice that Interlocking Concrete Block Pavements have been found to have applications in several situations. Such as : 1. Footpaths and Side-walks 2. Cycle Tracks 3. Residential Streets 4. Car Parks 5. Fuel Stations 6. Rural Roads through Villages 7. Toll Plaza 8. Highway Rest Areas 9. Bus Depots 10. Approaches to Railway Level Crossings 11. Intersections 12. City Streets 13. Truck Parking Areas 14. Urban Sections of Highways 15. Road Repairs during Monsoon 16. Container Depots 17. Port Wharf and Roads 18. Roads in High Altitude Areas. The Guidelines also acknowledge advantages and limitations of the use of the same. Layer of sand is used under and between the interlocking tiles. Use of interlocking tiles with sand without contamination is not prohibited as water can seep through the joints. Use of permeable block pavement in cities and towns can help replenish depleting underground sources of water, filter pollutants before they reach open water sources, help reduce storm water runoff and decrease the quantum of drainage structures.

13. However, concretization upto the roots and trunks of the trees is not permissible. In Original application No. 82 of 2013 filed in the matter of de-concretization around trees standing on roads, pavements, parks etc. this Tribunal vide its order dated 23.04.2013 directed public authorities, more particularly Municipal Corporation of Delhi, DDA, DTC, DMRC, NHAI and all Government respondents including the Director General of CPWD and the Chief Engineer, PWD that all the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or other damaging elements be removed from the trees forthwith and that the concrete surrounding the trees within one metre of the trees be removed forthwith and due precaution taken in

future so that no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees.

14. Concretization around trees not only hampers root aeration but also the percolation of water which could ultimately lead to death of the tree.

15. Since concretization around trees leads to damage of the root system of the tree which ultimately leads to its death so an area of one meter is required to be left de-concretized around the base of the tree at the time of construction of the pavements or roads to facilitate percolation of water to the roots. The area should be leveled with earth/soil and grass/shrubs may be planted, if need be.

16. We are of the view that even concretization /tiling of road berms beyond footpath and central verge of the roads/ pathways also needs to be avoided and appropriate land scaping with plantation of grass, shrubs, flowering plants may be done which will not only allow drainage of water from the metalled portion of the road to the same and help in recharging of ground water but also add to aesthetics of the road without hampering the prospect of widening of the road if so required.

17. In view of the above Chief Secretary to Government of Punjab is directed to issue appropriate instructions within one month to all the Municipal Bodies/Civic Agencies/Government Departments/Gram Panchayats to ensure:-

- (i) That all the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension insulated cables etc. placed on trees are removed within one month from the date of issuance of the instructions;

- (ii) That the trees which are already concretized are de-concretized, manually without use of JCB machines etc so that the roots and trunks are not damaged, by leaving soil filled space of one meter radius to allow percolation of water to the roots thereof within two months from the date of issuance of the instructions;
- (iii) That during fresh construction of roads/ pavements etc, a fresh clause is added in the tender documents that one meter area around the trees shall be left de-concretized/soil filled to allow percolation of water to the roots and that.
- (iv) That concretization of road berms beyond footpath and central verge of the roads/ pathways be avoided and appropriate landscaping with plantation of grass, shrubs, flowering plants may be done, as may be viable.

18. It may also be observed here that the area of the parks cannot be indiscriminately reduced in the name of making provision for parking and concretization of the same.

19. In **Bangalore Medical Trust v. B.S. Muddappa, (SC) 1991(4) SCC 54** Hon'ble Supreme Court allowed writ petition filed by the residents of the locality and set aside the diversion of the user and allotment of the site reserved for a public park to private persons for construction of a hospital. The observations made by Hon'ble Supreme Court in that case, which are also relevant to the present case, are reproduced as under:-

*"24. Protection of the environment, open spaces for recreation and fresh air, play grounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme. It is that public interest which is sought to be promoted by the Act by establishing the BDA. The public interest in the reservation and preservation of open spaces for parks and play grounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other user. Any such act would be contrary to the legislative intent and inconsistent with the statutory requirements. Furthermore, it would be in direct conflict with the constitutional*

mandate to ensure that any State action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all the citizens. 1. See *Kharak Singh v. The State of U. P.*, (1964) 1 SCR 332 ; *Municipal Council, Ratlan v. Shri Vardhi.chand*, (1981) 1 SCR 97; *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, (1981) 2 SCR 516; *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545; *State of Himachal Pradesh v. Umed Ram Sharma*, AIR 1986 Supreme Court 847 and *Vikram Deo Singh Tomar v. State of Bihar*, AIR 1988 Supreme Court 1782.

25. Reservation of open spaces for parks and play grounds is universally recognized as a legitimate exercise of 'statutory power rationally related to the protection of the residents of the locality from the ill-effects of urbanisation.\*2 2. See for e.g. : - *Karnataka Town and Country Planning Act, 1961*; *Maharashtra Regional and Town Planning Act, 1966*; *Bombay Town Planning Act, 1954*; *The Travancore Town and Country Planning Act, 1120*; *The Madras Town Planning Act, 1920*; and the Rules framed under these Statutes; *Town and Country Planning Act, 1971 (England and Wales)*; *Encyclopaedia Americana, Volume 22 page 240*; *Encyclopaedia of the Social Sciences, Volume XII at page 161*; *Town Improvement Trusts in India, 1945 by Rai Sahib Om Prakash Aggrawala, p. 35 et. seq*; *Halsbury's Statutes, Fourth Edition, p. 17 et. seq.* and *Journal of Planning and Environment Law, 1973 p. 130 et. seq.* See also: *Penn Central Transportation Company v. City of New York*, (1978) 57 Law Ed 2d 631 438 US 104; *Village of Belle Terre v. Bruce Boraas*, (1974) Law Ed 2d 797 : 416 US 1; *Village of Euclid v. Ambler Realty Company*, (1926) 272 US 365; *Halsey v. Esso Petroleum Co. Ltd.*, (1961) 1 WLR 683. 26.

26. In *Agins v. City of Tiburon*, (1980) 447 US 255, the Supreme Court of the United States upheld a zoning ordinance which provided....it is in the public interest to avoid unnecessary conversion of open space land to strictly urban uses, thereby protecting against the resultant impacts, such as.... pollution,.... destruction of scenic beauty, disturbance of the ecology and the environment, hazards related to geology, fire and flood, and other demonstrated consequences of urban sprawl'. Upholding the ordinance, the Court said:- ...The State of California has determined that the development of local open-space plans will discourage the "premature and unnecessary conversion of open-space land to urban uses". The specific zoning regulations at issue are exercises of the city's police power to protect the residents of Tiburon from the ill-effects of urbanization. Such governmental purposes long have been recognised as legitimate. The zoning ordinances benefit the appellants as well as the public by serving the city's interest in assuring careful and orderly development of residential property with provision for openspace areas..." 3. See comments on this decision by *Thomas J Schoenbaum, Environment Policy Law-1985p. 438 et.seq.* See also summary and comments, (1980) 10 ELR 10125 et. seq.

27. The statutes in force in India and abroad reserving open spaces for parks and play grounds are the legislative attempt to eliminate the misery of disreputable housing condition caused by urbanisation. Crowded urban areas tend to spread disease, crime and immorality. As stated by the U. S. Supreme Court in

*Samuel Berman v. Andrew Parker, (1954) 99 Law Ed 27: 348 US 26:- "..... They may also suffocate the spirit by reducing the people who live there to the status of (Per Douglas, J.).*

*28. Any reasonable legislative attempt bearing a rational relationship to a permissible state objective in economic and social planning will be respected by the Courts. A duly approved scheme prepared in accordance with the provisions of the Act is a legitimate attempt on the part of the Government and the statutory authorities to ensure a quiet place free of dust and din where children can run about and the aged and the infirm can rest, breath fresh air and enjoy the beauty of nature. These provisions are meant to guarantee a quiet and healthy atmosphere to suit family needs of persons of all stations. Any action which tends to defeat that object is invalid. As stated by the U. S. Supreme Court in Village of Belle Terre v. Bruce Boraas, (1974) 39 Law Ed 2d 797 :416 US 1 :- "...The police power is not confined to elimination of filth, stretch, and unhealth places. It is ample to lay out zones where family values, youth values, and the blessings of quite seclusion and clean air make the area a sanctuary for people." See also Village of Euclid v. Ambler Realty Company, (1926) 272 US 365. See the decision of the Andhra Pradesh High Court in T. Damodhar Rao v. The Special Officer, Municipal Corporation of Hyderabad, AIR 1987 Andhra Pradesh 171. "*

20. It may be observed here that due to ever escalating prices in real estate, open spaces and green belts are encroached upon by the Land Mafia in active connivance with the concerned Administrative Officers or due to inaction/negligence on their part in taking requisite remedial action. The practices of encroaching upon green belts/parks by constructing /erecting religious structures/parking spaces/ Transformers/DG Sets etc. is widely prevalent. Most convenient method of encroachment on green areas/parks is construction of some religious structures which are also defended by projecting questions of faith and masquerading the procured support of devotees having women and children in the forefront. Despite directions by Hon'ble Supreme Court for preventing/demolishing such unauthorized constructions on public land, the State and its instrumentalities continue to pose ignorance even despite complaints by the residents and coverage even by the print and electronic media.

21. In view of importance of protection and proper maintenance of open spaces, parks, green belts and instances of conversion of part or whole of open spaces, parks, green belts in the State of Punjab coming up before this Tribunal, we consider it appropriate to widen the scope of the present proceedings and constitute a Joint Committee comprising of representatives of (i) MOEF&CC, (ii) CPCB, (iii) ACS/Principal Secretary, Department of urban Planning Government of Punjab, (iv) ACS/Principal Secretary, Department of Local Bodies, Government of Punjab (v) Director General, Town and Country Planning, Punjab, (vi) Chief Administrator, PUDA and (vii) PSPCB with the directions to (1) compile/catalogue information regarding all green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab with requisite details as to (a) location, revenue number, boundaries, measurements etc.; (b) present status regarding plantation/green cover, user, maintenance, and agency deputed for maintenance; and (c) encroachments (including encroachments made by unauthorizedly constructing religious structures) made on the same with requisite details as to who made the encroachments, when and in which manner and what action has been taken/is to be taken for removal of such encroachments specifically mentioning Court cases decided/pending regarding the same; (2) to get entire such information uploaded on the website of the District Administration and Municipal Bodies for seeking public participation for protection of green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab against any encroachment and also for ensuring proper use and maintenance thereof; and (3) to verify factual position of per capita green cover and assess its adequacy in view of the number of residents and give suggestions for remedial measures required to be taken for proper user, development, maintenance,

protection, and improvement of such green areas/parks/green belts reserved in the respective areas of all the Municipal Bodies in the State of Punjab.

22. The Committee may constitute sub committees, seek reports from concerned administrative officers, NGOs, Civil Societies Environmental Activists or other experts in the field as may be considered appropriate and may also seek complaints from Members of Public. The Member Secretary, PSPCB shall be the Nodal Officer for coordination and compliance and all necessary expenses including travel, boarding, lodging expenses shall be borne by PSPCB. Report may be submitted by the Joint Committee within three months to this Tribunal by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF and also to the Chief Secretary to Government of Punjab who shall place the same before the Government of Punjab for such action on the recommendations of the Joint Committee as may be considered appropriate.

23. We are also of the considered view that the matter of protection of green areas/public parks/green belts and trees needs proper statutory framework for reservation, development, maintenance and preservation of green areas/parks/greenbelts and protection of trees. Besides the statutory frame work, appropriate administrative guidelines are also required to be issued for identification, demarcation, development, maintenance and preservation of green areas/parks/green belts and protection of trees in the urban development/colonization schemes/layouts.

24. In the context of increasing environmental air and water pollution, we consider it appropriate to make a suggestion to Government of Punjab to consider the desirability of making suitable amendments in the



relevant Rules in this regard. We also find that at present there is no legislation in the State of Punjab for protection of green areas/parks/green belts and trees and we also consider it appropriate to suggest to Government of Punjab to consider desirability of enactment of appropriate legislation on the lines of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975 and the Delhi Preservation of Trees Act, 1994/the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976. The Chief Secretary to Government of Punjab is directed to place the above suggestion before the Government of Punjab within two months for such action as may be considered appropriate.

25. In view of the above the present application is disposed of with direction to the Chief Secretary to Government of Punjab to file his affidavit mentioning in detail action taken for issuance of instructions and placing the recommendations of the joint Committee and also the suggestion given by this Tribunal before Government of Punjab as mentioned above before learned Registrar General of this Tribunal, within six months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF, who may, if necessary, put up the matter before this Bench for further directions.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 30th, 2024  
AG