HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA.
Ph. No. 0172-2577870-873

INDEX

Supplementary Agenda Items for the 185th meeting of the Board to be held on **28.08.2019** at **11.00 A.M.** under the Chairmanship of Sh. Ashok Kheterpal, Chairman of the Board in the Conference Room of the Haryana State Pollution Control Board, C-11, Sector-6, Panchkula are as under:-

Item No.	Subject	Page
185.10 (S)	Case no. 130/2009 titled HSPCB Vs. M/s Sarla Holding Pvt. Ltd. (Pathway World School, Raisina, Aravali Retreat, Raisaina Sohna, Gurugram, Farm no. 2 Sainik Farms, New Delhi).	10/1/185 – 10/36/220
185.11 (S)	Case no. 19//2007 titled as Haryana State Pollution Control Board Vs Ansal Housing & Construction Ltd. 15U/GF Indira Prakash, 2. Bharakhambha Road, New Delhi.	11/1/221 - 11/48/268
185.12 (S)	To engage Sh. Satpal Singh Rathi, Senior Environmental Engineer after retirement	12/1/269 - 12/2/270
185.13 (S)	Judgment passed by Hon'ble Special Environment Court, Faridabad in complaint filed under section 15 & 19 of the Environment (Protection) Act, 1986 for violation under Aravali Notification.	13/1/271 – 13/252/522
185.14 (S)	Ex-post facto sanction of promotion on post of Senior Environmental Engineer by promotion from amongst the Environmental Engineers.	14/1/523 – 14/3/525

Agenda Item 185.10(a)

Case no. 130/2009 titled HSPCB Vs. M/s Sarla Holding Pvt. Ltd. (Pathway World School, Raisina, Aravali Retreat, Raisaina Sohna, Gurugram, Farm No. 2 Sainik Farms, New Delhi).

The Ministry of Environment and Forest, Government of India had issued notification bearing no. S.O. 319(E) dated 7th May, 1992 **(Annexure-1)** prohibiting construction activities in aravali range.

The HSPCB had filed complaint under section 15 read with section 19 of Environment (Protection) Act, 1986 against the above said unit for violation of construction in the Aravali Range on 30.01.2009 before the Hon'ble Special Environment Court, Faridabad.

The Hon'ble Special Environment Court, Faridabad has decided the case on 25.04.2019 **(Annexure-2)** and relevant part of the judgment is reproduced as under:-

> ***"In view of adored discussion and finding, I am of the view that the complaint has miserably failed to proof the guilt of the accused facing trial. Hence, the accused are hereby acquitted of the charge labeled against them by giving them benefits of doubt. The bail and surety bounds stands discharge. File we consigned to records after due compliance with the red ink not that file should not be destroyed and be put up as and when accused are arrested by the police and surrender themselves in the court."***

The matter was examined by the legal cell of the HSPCB and the opinion is reproduced as under:-

> *"Having gone through the judgments, I have found that the decision of Ld. Trail Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filling an appeal as in the present case, complainant could not satisfactory prove the*

dete of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgment as: State of Haryana V. Raj Kumar, 2007 CrLJ4575(4577) (P&H), S. Ram Krishna V. S. Rami Reddy. 2008 CRLJ2625(2627), AIR 2008 SC2066: Gowrishankara Swamigalu V. State of Karnateka, 2008 CRLJ 3042 (3049)

"In all judgments Hon'ble Apex Court and High Court respectively held that if the evaluation of the evidence by the trail court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."

The copy of noting file where legal opinion was given by legal cell is given as **Annexure-3.**

It is pertinent to mention here that the Board had filed appeal in the Hon'ble Punjab and Haryana High Court against the judgment passed by the Special Environment Court, Faridabad in 27 cases of Aravali violation as per detail given at **Annexure-4** but the same was dismissed by the Hon'ble Punjab and Haryana High Court, Chandigarh. The copy of orders passed by Hon'ble Punjab and Haryana High Court on 01.12.2016 is given at **Anneuxre-5.**

The matter is placed before the Board for taking decision regarding filing of appeal in higher court against the judgment passed by the Hon'ble Special Environment Court, Faridabad in above said case please.

10/3/167

Annexure-1

रजिस्ट्री सं. डी.एल.-33004/92

REGD. No. D.L.-33004/92

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 7 मई, 1992

[प्रारूपी] जिन से निर्दिष्ट क्षेत्रों में कतिपय विधिविरुद्ध को कि केन्द्र में पर्यावरण को नुकसान पहुंचा रहे हैं के नियंत्रण के लिए पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3(1) और 3(2)(क) और पर्यावरण (संरक्षण) नियम, 1986 के नियम 3(3)(ख) के अधीन]

का. आ. 313(अ) :—पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3(1) और धारा 3(2)(क) के द्वारा एवं अधिसूचना, जिसमें सरकारी जिन में निर्दिष्ट क्षेत्र में विधिविरुद्ध को कि प्रदेश में पर्यावरण को नुकसान पहुंचा रहे हैं, के नियंत्रण के लिए आवेदन मांगे गए थे, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) में [विविध का.आ. 36(अ), तारीख 8 जनवरी, 1992] प्रकाशित की गई थी ;

और केन्द्रीय सरकार ने, उक्त सही आवेदनों पर समुचित रूप से विचार कर लिया है ;

और अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) नियम, 1986 के नियम 3 के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से उपाबद्ध अनुसूची के विभिन्न क्षेत्रों में उसमें पूर्ण अनुसूची के विरुद्ध विनिर्दिष्ट गतिविधियों और संक्रियाएं करने का निर्देश करती है—

(i) किसी बड़े उद्योग का प्रबन्धापना, जिसमें विस्तारण और आधुनिकीकरण भी है ;

(ii) (क) सभी खनन परियोजनाएं, जिसमें खनन गतिविधियां भी है

(ख) प्रवणताओं/पहाड़ियों वाले और पारिस्थितिकी रोष के अन्य ऐसे क्षेत्रों में विस्तारित खनन पट्टे और/या

(ग) खनन गतिविधियों की प्रकृति के लिए खनन ; जहां ऐसा है।

(iii) पेड़ों की कटाई :

(iv) किसी विकास एजेंसी का शासन, जानी हानियां, सेवाएं, समुदाय केंद्रों, दुकान-कक्षों का विनियमन और ऐसे विनियमित से संबंध कोई अन्य नियमावली (जिसमें उनसे संबंधित किसी अवसंरचना के भाग के रूपरेखा शामिल हैं);

(v) विधुतीकरण (नई प्रेषण लाइनों का बिछाना सहित)।

2. कोई व्यक्ति या उसका हितों में कोई अन्तरिम सहित प्रक्रियाएं या लेनदारियां करने की मांग करता है एक आवेदन संलग्न आवेदन प्रारूप में (उपलब्ध) प्रविष्ट, प्रमाणित और उस मंत्रालय, जहां किसी को देना जिसमें उपयुक्त सरकार के सम्बन्धित क्षेत्र और प्रस्तावित संख्या और प्रकिया के ब्यौरे विनिर्दिष्ट किये जायेंगे। आवेदन के साथ एक पर्यावरण प्रभावित कथन और एक पर्यावरणीय प्रबन्ध योजना भी देना और आवेदन पर विचार करने के लिये ऐसी अन्य सूचनाएं जिनको केन्द्रीय सरकार द्वारा अपेक्षा की जाए, देना।

3. केन्द्रीय सरकार, पर्यावरण और वन मंत्रालय, उसका अतिरिक्त के उपबन्धों का प्रभारी के लिये उसके द्वारा समय-समय पर जारी किये गए मार्गदर्शक सिद्धांतों का ध्यान रखते हुए आवेदन प्राप्ति की तारीख से तीन मास की अवधि के भीतर या ऐसा आवेदन से और कोई जानकारी मांगी गई हो तो ऐसी जानकारी की प्राप्ति से तारीख से तीन मास की अवधि के भीतर अनुज्ञा प्रदान देना या उक्त क्षेत्र में पर्यावरण पर प्रस्तावित प्रक्रिया या क्रिया के मूल्यांकन के आधार पर उक्त अवधि के भीतर अनुज्ञा देने इंकार करेगा।

4. इस अधिसूचना के अधीन अनुज्ञा की मांग के लिये कोई आवेदन विहित प्रारूप में (उपलब्ध वेबसाइट) उपलब्ध कराए जाने पर कर ,क्षेत्र, पर्यावरण और वन मंत्रालय, पर्यावरण भवन, सी जी ओ कॉम्प्लेक्स, लोधी रोड, नई दिल्ली को भेजा जा सकेगा।]

[सं. 12/1/91-पी ए/आई सी]
आर. सत्यमूर्ति, अवर

अनुसूची

वे क्षेत्र जहां जिला अनुज्ञा की प्रक्रियाओं और क्रियाओं का विशेष लागू होगा है।

(i) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और उत्तरप्रदेश राज्य के बागपत जिले के संबंध में इस अधिसूचना की तारीख को राज्य सरकार द्वारा रखे गए भू-अभिलेख में "बारी" के रूप में दर्शाए गए सभी आरक्षित वन, संरक्षित वन या कोई अन्य क्षेत्र

(ii) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और उत्तरप्रदेश राज्य के बागपत जिले के संबंध में राज्य सरकार द्वारा रखे गए भू-अभिलेखों में—

(क) सैर सुनहिल पहाड़, या

(ख) सैर सुनहिल रखा, या

(ग) सैर सुनहिल कोहड़, या

(घ) बंजर पीर, या

(ङ) खेड़

के रूप में दर्शित सभी क्षेत्र।

(iii) गुड़गांव जिले में इस अधिसूचना की तारीख तक हरियाणा राज्य को लागू होने वाले वनों के विनियमन एक्ट, 1900 की धारा 4 और धारा 5 की शर्तों अधीन जारी की गई अधिसूचनाओं के अन्तर्गत आने वाले सभी क्षेत्र।

(iv) बागपत (उत्तरप्रदेश) अधिनियम, 1952 [1952 का 51] के अधीन घोषित वनों के रूपरेखा उत्तर और उत्तरप्रदेश के सभी क्षेत्र।

अनुबंध

आवेदन का प्रारूप

1. (क) प्रस्तावित परियोजना का नाम और पता :

(ख) परियोजना का अवस्थान :
राज्य का नाम :
जिला, तहसील :
प्रस्तावित नवता

(ग) परिसीमित भागूकलिक स्थल और प्रस्तावित स्थल के लिए मानचित्र।

2. परियोजना के उद्देश्य :

(क) भूमि की अपेक्षाएं
कोर भूमि
बफर (विनिर्दिष्ट करें)

(ख) (i) प्रचलता, आर्थिकूलता और तुलना उपलब्धियां करते हुए क्षेत्र की उपलब्धियां :

(ii) प्रस्तावित भूमि का सम्पत्तीय वर्गीकरण :

(ग) 10 किलोमीटर मार्गमान के भीतर स्थित सभी संरक्षित स्मारक :

(घ) निकटतम राष्ट्रीय उद्यान/पक्षीविहार/जीव मंडल आरक्षित/संरक्षण/प्राचीन स्मारक/आरक्षित वन रेखे हुई :

(ङ) खदानों/खानों खोलने के लिए पूर्वापेक्षित योजना :

(च) हरित पट्टी योजना :

(छ) प्रतिकरात्मक वनरोपण योजना :

4. जलवायु और वायु गुणवत्ता* :

(क) समीप पड़ पदार्थ :

(ख) प्राधिकरण/मंत्रालय/सेवा द्वारा दिया गया प्रमाण:

(ग) परियोजना के लिए पानी की आवश्यकता :

(घ) परियोजना के एक दो एक, तीनों (दो सौ, दो सौ दो, एक सौ दो, एक सौ एक) के चालन की प्रकृति संक्षेप में :

**5. (क) जल भूमि स्तर पर जल संतुलन और भूजल की उपलब्धता और स्रोत :

(ख) सीन खोदने से जल की उपलब्धता :

(ग) उपयोग में लाए जाने वाले जल स्रोत, प्रतियोगी उपयोगकर्ताओं की (यदि कोई, भूमि, भूजल, सार्वजनिक प्रदाय) के ब्यौरे :

(घ) जल की उपलब्धता ;

(ङ) पिछले 10 वर्षों में जल की मात्रा और उपलब्धता में देखे गए परिवर्तन और प्रदेशगत से भारत द्वारा किए गए निष्कर्ष के ब्यौरे

(च) (i) कोई जाने वाले प्रभावित जल की मात्रा उसके उपयोग ब्यौरों सहित :

(ii) अधिग्रहीत उपयोगकर्ता से प्रभावित जल की मात्रा और उपलब्धता

*आवश्यकतानुसार मंत्रालय विकास विभाग और राज्य प्रदूषण नियंत्रण बोर्ड से प्राप्त किए गए जा सकते हैं।

**परियोजनाओं के लिए भू-जल बोर्ड और सिंचाई विभाग से सम्पर्क किया जा सकता है।

(iii) भूमि पर छोड़े जाने वाले अपरिष्कृत जल की मात्रा और भूमि की किस्म :

6. अपशिष्ट तेल

(क) उत्पादित होने वाले अपशिष्ट की प्रकृति और मात्रा :

(ख) होने वाले निपटान के प्रकार की प्रकृति :

7. शोर और कंपन

(क) शोर और कंपन के स्रोत :

(ख) परिवेश शोर का स्तर :

(ग) प्रस्तावित शोर रोधी उपाय विवरण सहित :

(घ) नियंत्रण उपायों के साथ अवशिष्ट प्रभाव, यदि कोई हो :

8. प्रभाव का स्रोत उपलब्ध करते हुए विद्युत की आवश्यकता :

यदि इस विषय में कोई प्रस्तावित है तो दूरी सबस्टेशन संबंधी ब्यौरे पृथक रूप से दिए जाएंगे :

9. अधिसूचित किए जाने वाला कुल क्षेत्र, उसके ब्यौरे सहित : क्षेत्र में स्थापित उद्योगों, प्रस्तावित स्थापना जानकारी

10. (क) पानी की जरूरत और विश्वसनीय की जाने वाली उपलब्धता :

(ख) पुनर्चक्रित योजना ब्यौरा :

11. सीवेज निपटान विवरण

12. (क) पर्यावरण उपयोग नियंत्रण विवरण :

सलग्नक-सलग्न एफ. ई. एफ. द्वारा जारी दिशा पत्र मार्गदर्शकों के अनुसार तैयार की गई ।

(ख) पर्यावरण संरक्षी प्रबन्ध योजना :

(ग) आपदा की विस्तृत रिपोर्ट :

(घ) वन (संरक्षण) अधिनियम, 1980 के अधीन वन भूमि के लिए आवेदन विवरण यदि वांछित हो :

13. राज्य सरकार नियंत्रण बोर्ड/पर्यावरण संरक्षण संगठन/केन्द्रीय/क्षेत्रीय प्रदूषण नियंत्रण बोर्ड की सिफारिशें :

आवेदन के हस्ताक्षर

आवेदक के नाम, पदनाम और पूरे डाक पते सहित

टिप्पण : 1. मद संख्या 3(ग), 4, 5, 6, 7, 8, 9, 10, 12 (ख) और 12 (घ) पेड़ों की कटाई की आवश्यकता नहीं है ।

2. मद संख्या 3 (ग), 4, 7, 11 विशाल एकड़ों के उपयुक्त भूमि सेवों, सामुदायिक केन्द्रों के निर्माण/पेड़ ऐसे किसी भी निर्माण जिनमें बड़ों की संख्या है से संबंधित आवेदन किया जाना भी आवश्यक नहीं है ।

3. मद संख्या 3 (ख), 3 (ग), 3 (ङ), 3(च), 4, 5, 6, 7, 8, 12 (क) और 12 (ख) विनिर्दिष्टकरण से आवश्यक नहीं है ।

4. खान, उद्योग, उपयोग सहित, संबंधित पर्यावरणविदों की सेवा से तैयार की जाने अपेक्षित होती है ।

5. जहां किसी मद के होने हुए भी देखी कोई भी मद (मदें) पर भी लागू नहीं होती विचार किया जाता है कारणों के सहित आवेदित की जा सकती है ।

MINISTRY OF ENVIRONMENT & FORESTS

NOTIFICATION

New Delhi, the 7th May, 1992

(Under Section 3(1) and 3(2) (v) of the Environment Protection) Act, 1986 and rule 5(3) (d) of the Environment (Protection) Rules, 1986 restricting certain activities in specified area of Aravali Range which are causing Environmental Degradation in the Region.

S.O. 319(E).—Whereas a Notification under section 3(1) and section 3(2) (v) of the Environment (Protection) Act, 1986 (29 of 1986) inviting objections against restricting certain activities in specified area of Aravalli Range which are causing Environmental Degradation in the Region was published in the Gazette of India, Part II-Section 3 Sub-section (ii) vide S.O. 25(E) dated 9th January, 1992;

And whereas all objections received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2), of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby prohibits the carrying on of the following processes and operations, except with its prior permission, in the areas specified in the Table appended to this Notification :

(i) Location of any new industry including expansion/modernisation;

(ii) (a) All new mining operations including renewals of mining leases.

(b) Existing mining leases in sanctuaries/ national Park and areas covered under Project Tiger and/or

(c) Mining is being done without permission of the competent authority.

(iii) Cutting of trees;

(iv) Construction of any clusters of dwelling units, farms houses, sheds, community centres, information centres and any other activity connected with such construction (including roads a part of any infrastructure relating thereto);

(v) Electrification (laying of new transmission lines).

2. Any person who desires to undertake any of the above mentioned processes or operations in the said areas, shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi, in the attached application form (Annexure) specifying, inter alia, details of the area and the proposed process or operation. He shall also furnish an Environment Impact Statement and an Environmental Management Plan along with the application and such other information as may be required by the Central Government for considering the application.

9. The Central Government in the Ministry of Environment and Forests shall, having regard to the guidelines issued by it from time to time for giving effect to the provisions of the said Act, grant permission within a period of three months from the date of receipt of the application or where further information has been asked for from the applicant, within a period of three months from the date of the receipt of such information, or refuse permission within the said time on the basis of the impact of the proposed process or operation on the environment in the said area.

4. For seeking permission under this Notification, an application in the prescribed form (see Annexure), duly filled in, may be submitted to the Secretary, Ministry of Environment and Forest, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi.

[No. 17/1/91-PLIIA]

R. RAJAMANI, Secy.

TABLE

Areas where carrying on of processes and operations without permission is prohibited

(i) all reserved forests, protected forests or any other area shown as "forest in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon District of the State of Haryana and the Alwar District of the State of Rajasthan.

(ii) all areas shown as :—

(a) Gair Mumkin Pahar, or

(b) Gair Mumkin Rada, or

(c) Gair Mumkin Behad, or

(d) Banjad Bood, or

(e) Rundh.

in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon district of the State of Haryana and the Alwar district of the State of Rajasthan.

(iii) all areas covered by notifications issued under section 4 and 5 of the Punjab Land Preservation Act, 1900, as applicable to the State of Haryana in the district of Gurgaon up to the date of this Notification.

(iv) all areas of Sariska National Park and Sariska Sanctuary notified under the Wildlife (Protection) Act, 1972 (53 of 1972).

ANNEXURE

APPLICATION FORM

1. (a) Name & address of the project proposed:

(b) Location of the project:
Name of the Place :
District, Tehsil :
Location Map :

(c) Alternate sites examined and the reasons for the site proposed:

2. Objectives of the project :

3. (a) Land Requirement :

Agriculture land :
Other specify) :

(b) (i) Topography of the area indicating gradient, aspect & altitude.

(ii) Erodability classification of the proposed land.

(c) Pollution sources existing within 10 km. radius.

(d) Distance of the nearest National Park/Sanctuary/Biosphere Reserve/Monuments/heritage site/Reserve Forest :

(e) Rehabilitation plan for Quarries/borrow areas :

(f) Green belt plan.

(g) compensatory afforestation plan.

4. Climate & Air Quality*:

(a) Windrose at site:

(b) Max./Min./Mean annual temperature.

(c) Ambient air quality data:

(d) Nature & concentration of emission of SPM, Gases (CO, CO2, SO2, NOx etc.) from the project:

5.** (a) Water balance at site surface and ground water availability and demand :

(b) Lean season water availability:

(c) Water source to be tapped with details of competing users (Rivers, lake, Ground, Public supply):

(d) Water Quality:

(e) Changes observed in quantity and quality of water in the last 15 years and present charging and extraction details:

(f) (i) Quantum of waste water to be released with treatment details :

(ii) Quantum & Quality of water in the receiving water body :

(iii) Quantum of waste water to be released on land and the type of land:

6. Solid Wastes :

(a) Nature & quantity of solid wastes generated:

(b) Solid waste disposal method:

7. Noise & vibrations:

(a) Sources of noise & vibrations:

*Data may be obtained from India Meteorological Department and State Pollution Control Board.

**Ground water Board and the Irrigation Deptt. Deptt. may be contacted for data.

(b) Ambient noise level:

(c) Noise & vibration control measures proposed:

(d) Subsidence problem, if any, with control measures:

8. Power requirement indicating source of supply; complete environmental details to be furnished separately, if captive power unit proposed:

9. Total labour force to be deployed with details of:

— Endemic health problems in the area.

— Health care system proposed:

10. (a) Number of families and population to be displaced:

(b) Rehabilitation Master Plan :

11. Risk assessment report:

12. (a) Environmental Impact Assessment Report:

(b) Environment Management Plan : Prepared as per Guidelines of MEF issued from time to time.

(c) Detailed Feasibility Report:

(d) Proposal for diversion of Forest land under Forest (Conservation) Act, 1980 including Benefit Cost analysis:

13. Recommendations of the State Pollution Control Board and/or the State Department of Environment & Forests.

Signature of the Applicant
Alongwith name, date and
full Postal address.

N.B.:

A. Item Nos. 3(e), 4, 5, 6, 7, 8, 9, 10, 12(b) and 12(c) are not applicable to cutting of trees.

B. Item Nos. 3(c), 4, 7, 11 are not applicable to construction of cluster of dwelling units, farm sheds, community centre and any other activity connected with such construction including roads.

C. Item Nos. 3(b), 3(c) 3(e), 3(f), 4, 5, 6, 7, 9, 12(a) & 12(b) are not applicable to electrification.

D. All items to be furnished in case of mining, industry thermal power, transport projects.

E. Notwithstanding the above, any item(s) considered not applicable may be so indicated alongwith reasons.

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Annexure-2

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID:HR0370

Case No.: 130 of 2009
Date of Inst.: 30.01.2009
Date of Judgment.: 25.04.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula, through Dr. C.V. Singh, 'Scientist-C' Gurgaon Region, Gurgaon.

.....Complainant.

Versus

1. M/s Sarla Holding Pvt. Ltd. (Pathway World School, Raisina, Aravali Retreat, Raisina, Sohna, Gurugram), Farm no.2, Sainik Farms, New Delhi.
2. Prashant Jain son of Sh. Parmod Jain, M/s Sarla Holding Pvt. Ltd.,2, Sainik Farms, New Delhi.

.....Accused.

Complaint under Section 15 of The Environment Protection Act, 1986.

Present: Sh.Rishi Pal Sharma, Advocate for the complainant.
Accused no.2 Prashant Jain and AR of accused no.1 on bail with Sh.S.S. Rao, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of Pathway World School, at Aravali Retreat, Raisina, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 804(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as

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Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Rada etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information center and any other activities connected with such construction and electrification etc, without obtaining prior environment clearance from Central/State Government. The accused being owner in possession has constructed/developed a Pathway World School in the Gair Mumkin Pahar land in the area of Aravali Retreat Raisina, District Gurgaon without obtaining the mandatory clearances and has violated the Aravali Notification; hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

3. Upon this complaint, accused was summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 13.07.2009. Accused appeared and he was released on bail.

4. In pre charge evidence complainant-Board examined Naveen Gulia as CW1. Thereafter, pre charge evidence was closed by ld. counsel for the complainant on 09.02.2016.

5. Upon finding a prima-facie case, charge was framed upon the accused and charge sheet was served upon him under Section 15 of Environment Protection Act on 23.02.2016.

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5. In after charge evidence examined two witnesses Sh. Naveen Galia and Sanjay Saini Patwari on the similar points and thereafter, after charge evidence was closed by ld. counsel for complainant on 05.03.2018.

7. Statement under Section 313 Cr.P.C. of accused was recorded on 09.04.2018 to which accused denied all the allegations and opted for leading defence evidence.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Notification dated 16.04.1987.
Ex.C3	:	Agenda itemno.135.8 (S)
Ex.C4	:	Minutes of the 135th meeting
Ex.C5	:	Order of Collector, Gurgaon.
Ex.C6	:	Inquiry report.
Mark-PX	:	Inspection report.
Mark-A	:	Affidavit of accused Prashant Jain
Mark-B	:	Letter dated 24.12.2008 of HSPCB, Panchkula.
Mark-C	:	Tubewell connection issued by XEN, Gurugram.
Ex.CW2/A	:	Copy of jamabandi of the year 2005-06

9. On the other hand to prove his case ld. defence counsel has tendered the following documents:-

Ex.CW1/D1	:	Environmental clearance for expansion/modernization

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		Pathways World School.
Ex.CW1/D1	:	List of permissions and approvals from various agencies.
Ex.CW1/D2	:	NOC
Ex.CW1/D3	:	letter of Conservator of Forests, Gurugram.
Ex.CW1/D3	:	Application for clearance under Aravali Notification.
Ex.CW1/D4	:	Letter dated 14.06.2007 of DC, Gurugram to Director, Environment Department, Haryana.
Ex.CW1/D5	:	Inspection report of M/s Surla Holding.
Ex.CW1/D6	:	letter dated 29.01.2009 of HSPCB, Panchkula written to Commissioner, Gurugram.
Ex.CW1/D7	:	Letter dated 05.01.2011 of DC, Gurugram written to Director, HSPCB, Panchkula.
Ex.CW1/D8	:	Letter dated 21.12.2010 of DC, Gurugram written to Commissioner, Gurugram.
Ex.CW1/D9	:	Inquiry report dated 24.06.2010.
Ex.CW1/D10	:	Inquiry report dated 02.04.2010 of Tehsildar, Sohna.
Ex.CW1/D11	:	Letter dated 29.01.2009 of HSPCB, Panchkula.
Ex.CW1/D12	:	Letter dated 20.02.2009 of Director, Environment Department, Haryana.
Ex.CW1/D13	:	Reminder dated 06.10.2009 of Director, Environment Department, Haryana.
Ex.CW1/D14	:	Letter dated 14.01.2010 of Financial Commissioner & Principal Secretary, Haryana.
Ex.CW1/D15	:	Letter dated 08.12.2009 of DC, Gurugram.

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Ex.CW1/D16 : Letter dated 27.11.2009 of Tehsildar, Sohna.

Ex.CW1/D17 : Report of the Regional Officer, Gurugram.

Ex.CW1/D18 : Letter of FCR.

Ex.CW1/D19 : Report of ERO, Gurugram.

Ex.CW1/D20 : Report of RO, Gurugram

10. I have heard Ld. counsel for complainant and defence counsel and have gone through case file carefully.

11. The case of the complainant, the Haryana State Pollution Control Board, is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm house, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

12. Per contra, the stand of the accused, in brief, is that the M/s Ansal Properties and Infrastructure Pvt.Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further his stand that the M/s Ansal Properties & Infrastructure Pvt. Ltd. had obtained all the requisite permissions from all the government departments before developing the said land and the subsequent selling of the plots, (which are part and parcel of the whole chunk of land), was done by way of registered sale deeds

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and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Learned counsel for the complainant Sh.Rishi Pal Sharma, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused, in violation of the notification, constructed the farm house and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh. Naveen Gulia. He has further submitted that the violation by the present accused was clearly proved upon file and as such the accused is liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

14. On the other hand, ld. counsel Sh.S.S. Rao, representing accused has urged that the revenue record pertaining to the land in question depicts the same as Gair Mumkin School and Gair mumkin Rajcha since March, 1990 till today which is prior to the Aravali Notification commencement dated 07.05.1992 and, therefore, the complaint is not maintainable and has been filed just to harass the accused. He has submitted that the RTI as well as other clarifications sought from the authorities clearly mention that the Aravali Notification is not applicable on the land in question. Apart from this, the accused has already obtained all the required NOCs and Environment clearance without prejudice to their rights on 25.01.2006 and, therefore, the compliance is already been done by them for future to save their

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interest. It is also argued that the MOEF Government of India granted environment clearance for expansion of project on 20.03.2008 while according "Gold" status to the project which also supports the defence version that the accused is a law abiding entity. He has also submitted that none of the prosecution witnesses could testify the allegations. He has argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* school in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Properties after obtaining all the necessary permissions from several government department and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document the actual factual position of the site is depicted as *gair mumkin* school & Bagicha and, therefore, the notification dated 07.05.1992 is not applicable on the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site (*"Moka Anusar"*) and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration and also that the present land has been clarified by the DC as out of the area of Aravali Notification. Learned defence counsel sum up his argument by saying that

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the prosecution failed to either prove the applicability of the notification on the land in question and all the required NOCs & ECs have been duly obtained by the accused. He has further submitted that the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant board has examined two witnesses CW1 Naveen Gulia and CW2 Sh. Sanjay Saini and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 16.04.1987; Ex.C3 Agenda item no.135.8 (S), Ex.C4 Minutes of the 135th meeting, Ex.C5 Order of Collector,Gurgaon, Ex.C6 Inquiry report, Mark-PX Inspection report, Mark-A Affidavit of accused Prashant Jain, Mark-B Letter dated 24.12.2008 of HSPCB, Panchkula, Mark-C Tubewell connection issued by XEN, Gurugram, Ex.CW2/A Copy of Jamabandi of the year 2005-06.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure*

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or contravention continues after the conviction for the first such failure or contravention."

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rada, gair mumkin kahed jhanjad beed and nunch*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused has raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused is liable to be punished for commission of offence as alleged?

19. It is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

20. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification, i.e. nature of the land in question, the complainant Board has

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relied upon the order of DC, Gurgaon, Ex.CW1/D4 order dated 14.05.2007 of the District Collector, Gurgaon.. It is contended that the entries in the *Khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department officials to make a way out and to flout the provisions of Aravali Notification. Here, the order of DC is relevant by which all the Circle Revenue Officers were directed to rectify the *khasra girdawari* as per the site.. However, it is not disputed by the complainant that the land in question is described as *gair mumkin* school in the Khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by District Revenue Official speaks out a volume regarding some very important facts. It says that the entries in the Khasra girdawari were changed in the Rabi crop 1991 from *gair-mumkin-pahar* to school and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated hurdling.*

21. However, the patwari can change the entry in *Khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha wakyati* which has not been done in this case. On the basis of the same

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report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari but it is patent from Ex.CW1/D4 that the revenue record was not changed thereafter and it continues as it was till today.

22. Although, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as *gair mumkin pahar* till the year 1991 and does not itself convert into a *gair mumkin* school but the facts of the present case can be differentiated from the rest of the land falling under the Aravali Notification because the land in question has duly been exempted from the applicability of the Aravali Notification which was clearly explained by the DC Gurugram vide letter dated 14.06.2007 Ex.CW1/D4. Further, the inspection report Ex.CW1/D5 also speaks in a way in favour of the accused as no clarification regarding applicability and Aravali Notification has been given in the said report as the matter was *subjudice*. In addition to this, Ex.CW1/D6 and Ex.CW1/D7 also depict that the entry in the revenue record was duly changed in the year 2003 kharif as gair mumkin school after following due procedure and Ex.CW1/D10 report dated 02.04.2010 of the Tehsildar patently reveals that the construction and development was done prior to 1990 after spending a lot on the land in question by the M/s Ansal Property which was later on sold to M/s Sarla Holding Pvt. Ltd.

23. Even otherwise the accused possesses all the required environment clearance dated 07.04.2008 Ex.CW1/D1 and NOCs dated 29.01.1990 in favour of M/s Ansal Properties & Ind. Ex.CW1/D2 and application for clearance dated 16.03.2006 Ex.CW1/D3.

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However, there is no evidence to conclude the collusion between the accused and the revenue official for making an entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Civil) 138 that:-

> *"If any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Shra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm house."*

25. Thus, the land in question can very safely be considered as *gair mumkin school*, which was recorded earlier, prior to the khasra girdawari of 1991 to till date. Therefore, the Aravali Notification is not applicable on the land in question.

26. It is settled law that the prosecution is required to prove its case against the accused beyond all shadows of reasonable doubt and not merely on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily prove the

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(Harish Dhawan)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. 25.04.2019

Authorised by Sec. 76 of the Evidence Act

21 MAY 2019

10/20/204

applicability of Aravali Notification dated 07.05.1992 on the land in question. Therefore, no violation of notification could be established on the records.

27. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

28. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, accused is hereby acquitted of the charge leveled against him. His bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in the open court
24.04.2019

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

Certified that this judgment consists of thirteen pages and each page are signed by me.

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

April 24, 2019

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21 MAY 2019

-223- 8/2/13

10/21/205

HSPCB Vs. Sarla Holding Pvt. Ltd. Case no.130/2009

CW2: Sh. Sanjay Saini, Patwari, Halqa Raisina.

On SA

I have brought the summoned record ie. Jamabandi for the year 2005-06 which is Ex.CW2/A (objected to) bearing Khewat No.64 and Khata no.97 in the name of M/s Sarla Holding Pvt. Ltd. Is recorded as owner of share 1395 (8.75 acres). The farm house in Aravali Retreat Raisina was built on Gair Mumkin Pahar. The land in dispute was gair mumkin farm house in year 1991 but after Collector order in year 2006 the same was changed from Gair Mumkin Farm House to Gair Mumkin Pahar in the revenue record. The jamabandi of the year 2005-06 is certified by me.

Cross by Sh.SS Rao, Advocate for accused.

It is correct that the suit land was recorded as farm house in the revenue record in the year 1990-91 and 1991-92. It is also correct that the Patwari entered the entries in the khasra girdawari after spot inspection. It is also correct that the girdawar verify the entry of the girdawari. There is no reference of any such report of girdawar that the entries entered by the Patwari regarding this farm house is not proper. I was not posted when the DC issued the order of change of Khasra Girdawari therefore I cannot say whether that order was passed after hearing the parties concerned, or not. It is incorrect that the order passed by the DC is illegal. I never conducted the spot inspection of the disputed farm house. It is incorrect to suggestion the notification of the year 1992 is not applicable of the land in dispute. The farm house was carved out before coming into force the said notification.

HSPCB

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Spl. Env. Court, Faridabad.
31.05.2016.

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Authorised by Sec. 76 of the Evidence Act

21 MAY 2019

10/22/206

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID:HR0370

Case No.: 130 of 2009
Date of Inst.: 30.01.2009
Date of Judgment.: 25.04.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula, through Dr. C.V. Singh, 'Scientist C' Gurgaon Region, Gurgaon.

.....Complainant.

Versus

1. M/s Sarla Holding Pvt. Ltd. (Pathway World School), Raisina, Aravali Retreat, Raisina, Sohna, Gurugram), Farm no.2, Sainik Farms, New Delhi.

2. Prashant Jain son of Sh. Parmod Jain, M/s Sarla Holding Pvt. Ltd. 2, Sainik Farms, New Delhi.

.....Accused.

Complaint under Section 15 of The Environment Protection Act, 1986.

Present: Sh. Rishi Pal Sharma, Advocate for the complainant.
Accused no.2 Prashant Jain and AR of accused no.1 on bail with Sh.S.S. Rao, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of Pathway World School, at Aravali Retreat, Raisina, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as

(Varsha Sharma)
Presiding Officer-cum-JMIC
Special Environment Court
Faridabad 25.04.2019

Certified to be True Copy

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21 MAY 2019

10/23/207

Annexure - 3

from pre-page:

Subject: **Case No. 130/2009 titled as Haryana State Pollution Control Board Vs M/s Sarla Holding Pvt. Ltd. (Pathway World School, Raisina, Aravali Retreat, Raisina, Sohan, Gurugram), Farm House No 2, Sainik Farms, New Delhi.**

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Dr. C.V. Singh, Scientist C, Gurugram Region with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex:C1	:	Compilant
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Agenda Item No. 135.8
Ex.C4	:	Minutes of 135th meeting
Ex.C4	:	Notification dated 07.05.1992
Ex.C5	:	Order of Collector, Gurugram
Ex.C6	:	Inquiry report
Mark-PX	:	Inspection report
Mark-A		Affidavit of accused prashant Jain
Mark-B	:	Letter dated 24.12.2008 of HSPCB
Mark-C	:	Tubewell connection issued by XEN, Gurugram.
Ex.CW2/A	:	Copy of jamabandi of the year 2005-06
Ex.CW1/D1	:	Environment clearance for expansion of pathways World school.
Ex.CW1/D1	:	List of permissions and approvals from various agencies
Ex.CW1/D2	:	NOC
Ex.CW1/D3	:	letter of conservator of Forest, Gurugram
Ex.CW1/D3	:	Application for clearance under Aravali Notification
Ex.CW1/D4	:	Letter dated 14.06.2007 of DC, Gurugram to Director Environment Department, Haryana
Ex.CW1/D5	:	Inspection Report of M/s Sarla Holding.
Ex.CW1/D6	:	Letter dated 29.01.2009 of HSPCB, Panchkula written to Commissioner,

		Gurugram.
Ex.CW1/D7	:	Letter dated 05.01.2011 of DC, Gurugram, written to Director, HSPCB, Panchkula,
Ex.CW1/D8	:	Letter dated 05.01.2011 of DC, Gurugram, written to commissioner, Gurugram
Ex.CW1/D9	:	Inquiry report dated 24.06.2010
Ex.CW1/D10	:	Inquiry report dated 02.04.2010 of Tehsildar, Sohna.
Ex.CW1/D11	:	Letter dated 29.01.2009 of HSPCB Panchkula
Ex.CW1/D12	:	Letter dated 20.02.2009 of Director Environment Department, Haryana.
Ex.CW1/D13	:	Reminder dated 06.10.2009 of Director Environment Department, Haryana
Ex.CW1/D14	:	Letter dated 14.01.2010 of Financial Commissioner & Principal Secretary, Haryana
Ex.CW1/D15	:	Letter dated 08.12.2009 of DC, Gurugram
Ex.CW1/D16	:	Letter dated 27.11.2009 of Tehsildar, Sohna
Ex.CW1/D17	:	Report of Regional Officer, Gurugram.
Ex.CW1/D18	:	Letter of FCE.
Ex.CW1/D19	:	Report of Regional Officer Gurugram
Ex.CW1/D20	:	Report of Regional Officer Gurugram

That in the present matter Ld. Trial Court has framed following three points for determination.

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

(ii) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(iii) Whether the accused is liable to be punished for commission of offence as alleged?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 25.04.2019.

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e. subsequent to the commencement of Aravali Notification. The spot inspection report Mark-PX and other revenue records are itself insufficient to hold the status of the unit M/s Ansal properties which was later on sold to M/s Sarla Holding Pvt. Ltd., on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively hold that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

Satbir Singh.
12.6.19
(Satbir Singh)
District Attorney

M.S.

Plz. discuss.

13/6

Annexure-4

10/26/210

Plan 38194
17/6/19

Subject: **Case no. 130/2009 titled HSPCB B Vs. M/s Sarla Holding Pvt. Ltd (Pathway World School, Raisina, Aravali Retreat, Raisaina Sohna, Gurugram, Farm no. 2, Sainik Farms, New Delhi, Hon'ble Special Environment Court, Faridabad.**

Matter discussed, during discussion it has been observed that in similar matters appeal has been filed before Hon'ble Punjab & Haryana High Court in 25 number of cases but the same were dismissed and thereafter in all cases number around forty (40), it has been opined that cases are not fit for filing an appeal and in that regard matter has been discussed in meeting convened under the worthy Chairman, Haryana State Pollution Control Board and it has been decided that keeping in view of gravity of the cases, it would be appropriate that matter may be putup before Board in the next meeting.

The matter has not yet been putup before Board so, may issue direction to concerned branch to put the matter before the Board in the next meeting for consideration.

Satbir Singh.
18.6.19
(Satbir Singh)
District Attorney

M.S.

Agree with the above opinion. May kindly also direct before issue approve the same pls.

Chairman.

S. Hg
18/6

19/6

My agenda not in meeting DA

Satbir Singh.
19.6.19

S. Hg
19/6

19/6/19 EE(N.H.) Ashok.

19/6/19

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Annexure-A

decided in punjab and haryana high court

Sr. no.	Case no.	Name of Cases	Date of Order/ Decision	Status
1	Criminal Misc. No. A-809-MA of 2016(O & M)	HSPCB Vs Ashok Tull	1/12/2016	Dismissed
2	Criminal Misc. No. A-1110-MA of 2016(O & M)	HSPCB Vs Rajesh Chand Vats	1/12/2016	Dismissed
3	Criminal Misc. No. A-1111-MA of 2016(O & M)	HSPCB Vs Sunita Luthra	1/12/2016	Dismissed
4	Criminal Misc. No. A-1112-MA of 2016(O & M)	HSPCB Vs PPN Properties Pvt. Ltd.	1/12/2016	Dismissed
5	Criminal Misc. No. A-1125-MA of 2016(O & M)	HSPCB Vs Ms. Anita Badhwar and other	1/12/2016	Dismissed
6	Criminal Misc. No. A-1131-MA of 2016(O & M)	HSPCB Vs Guneet phillon and others	1/12/2016	Dismissed
7	Criminal Misc. No. A-1132-MA of 2016(O & M)	HSPCB Vs J.L. Khanna and others	1/12/2016	Dismissed
8	Criminal Misc. No. A-1133-MA of 2016(O & M)	HSPCB Vs arun Sharma and others	1/12/2016	Dismissed
9	Criminal Misc. No. A-1135-MA of 2016(O & M)	HSPCB Vs Madhu Chawla	1/12/2016	Dismissed
10	Criminal Misc. No. A-1145-MA of 2016(O & M)	HSPCB Vs Shiv Mohan Mehra	1/12/2016	Dismissed
11	Criminal Misc. No. A-1147-MA of 2016(O & M)	HSPCB Vs Anita Suhag and others	1/12/2016	Dismissed
12	Criminal Misc. No. A-1149-MA of 2016(O & M)	HSPCB Vs Anil Luthra	1/12/2016	Dismissed
13	Criminal Misc. No. A-1150-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed

14	Criminal Misc. No. A-1151-MA of 2016(O & M)	HSPCB Vs Sanjay Mittal	1/12/2016	Dismissed
15	Criminal Misc. No. A-1153-MA of 2016(O & M)	HSPCB Vs Mrs. Raj R. Gupta	1/12/2016	Dismissed
16	Criminal Misc. No. A-1154-MA of 2016(O & M)	HSPCB Vs Ritu Lekhi and others	1/12/2016	Dismissed
17	Criminal Misc. No. A-1160-MA of 2016(O & M)	HSPCB Vs Lt. Col. Krishan Kumar Chabra and others	1/12/2016	Dismissed
18	Criminal Misc. No. A-1161-MA of 2016(O & M)	HSPCB Vs Shard Mohan and others	1/12/2016	Dismissed
19	Criminal Misc. No. A-1162-MA of 2016(O & M)	HSPCB Vs Pushpa Pangtey and others	1/12/2016	Dismissed
20	Criminal Misc. No. A-1164-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed
21	Criminal Misc. No. A-1168-MA of 2016(O & M)	HSPCB Vs Jeewan Mohan	1/12/2016	Dismissed
22	Criminal Misc. No. A-1173-MA of 2016(O & M)	HSPCB Vs Smt. Pushpay Pangey and others	1/12/2016	Dismissed
23	Criminal Misc. No. A-1176-MA of 2016(O & M)	HSPCB Vs Sh. Sishil Gupta	1/12/2016	Dismissed
24	Criminal Misc. No. A-1177-MA of 2016(O & M)	HSPCB Vs C.P. Kukreja Associates Ltd.	1/12/2016	Dismissed
25	Criminal Misc. No. A-1178-MA of 2016(O & M)	HSPCB Vs Ms. Anita Suhag and others	1/12/2016	Dismissed

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26	Criminal Misc. No. A-1179-MA of 2016(O & M)	HSPCB Vs Namita Mehta	1/12/2016	Dismissed
27	Criminal Misc. No. A-1180-MA of 2016(O & M)	HSPCB Vs Rajiv Singh	1/12/2016	Dismissed

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i) Criminal Misc.No.A-1109-MA of 2016 (O&M)
Date of Decision : 01st December, 2016

Haryana State Pollution Control Board

..... Petitioner

Versus

Ashok Tuli

..... Respondent

(ii) Criminal Misc.No.A-1110-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajesh Chand Vats

..... Respondent

(ii) Criminal Misc.No.A-1111-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sunita Luthra

..... Respondent

(iv) Criminal Misc.No.A-1122-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

PFN Properties Pvt. Ltd.

..... Respondent

(v) Criminal Misc.No.A-1125-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Badhwar and others

..... Respondents

(vi) Criminal Misc.No.A-1131-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Guneet Dhillon and others

..... Respondents

(vii) Criminal Misc.No.A-1132-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

J.L.Kharma and others

..... Respondents

(viii) Criminal Misc.No.A-1133-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Arun Sharma and others

..... Respondents

(ix) Criminal Misc.No.A-1135-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Mrs. Madhu Chawla

..... Respondent

(x) Criminal Misc.No.A-1145-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Shiv Mohan Mehra

..... Respondent

(xi) Criminal Misc.No.A-1147-MA of 2016 (O&M)

Haryana State Pollution Control Board ..... Petitioner

Versus

Ms. Anita Suhag and others ..... Respondents

(xii) Criminal Misc.No.A-1149-MA of 2016 (O&M)

Haryana State Pollution Control Board ..... Petitioner

Versus

Anil Luthra ..... Respondent

(xiii) Criminal Misc.No.A-1150-MA of 2016 (O&M)

Haryana State Pollution Control Board ..... Petitioner

Versus

Gulshan Rai Jain ..... Respondent

(xiv) Criminal Misc.No.A-1151-MA of 2016 (O&M)

Haryana State Pollution Control Board ..... Petitioner

Versus

Sanjay Mittal ..... Respondent

(xv) Criminal Misc.No.A-1153-MA of 2016 (O&M)

Haryana State Pollution Control Board ..... Petitioner

Versus

Mrs. Raj R.Gupta ..... Respondent

(xvi) .Criminal Misc.No.A-1154-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Ritu Lekhi and another

..... Respondents

(xvii) Criminal Misc.No.A-1160-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Lt. Col. Krishan Kumar Chabra and others

..... Respondents

(xviii) Criminal Misc.No.A-1161-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sharad Mohan and another

..... Respondents

(xix) Criminal Misc.No.A-1162-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Pushpa Pangtey and others

..... Respondents

(xx) Criminal Misc.No.A-1164-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gulshan Rai Jain

..... Respondent

(xxi) Criminal Misc.No.A-1168-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Jeewan Mohan

..... Respondent

(xxii) Criminal Misc.No.A-1173-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Smt. Pushpa Pangey and others

..... Respondent

(xxiii) Criminal Misc.No.A-1176-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sh. Sushil Gupta

..... Respondent

(xxiv) Criminal Misc.No.A-1177-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

C.P.Kukreja Associates Ltd.

..... Respondent

(xxv) Criminal Misc.No.A-1178-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Suhag and others

..... Respondents

(xxvi) Criminal Misc.No.A-1179-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Namita Mehta

..... Respondent

(xxvii) Criminal Misc.No.A-1180-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajiv Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

***

Present : Mr. Lokesh Sinhal, Advocate
for the applicants.

***

AJAY TEWARI, J. (Oral)

These are all the applications for grant of leave to file an appeal against the judgment of acquittal and the relevant facts are taken from Criminal Misc.No.A-1135-MA of 2016. The other cases are similar cases only with the distinction that there are applications for condonation of delay of different periods and they all are being decided in terms of the decision in Criminal Misc.No.A-1135-MA of 2016.

The applicant-Board had launched prosecution under the Environment Protection Act, 1986 (in short 'the Act) against the respondent on the ground that she had unauthorizedly constructed a farm house in an area which was covered by notification dated 07.05.1992. The learned trial

Court, however, held that the version of the respondent is that they had purchased built up farm houses which as per the revenue record were shown to be existing prior to the notification dated 07.05.1992 and consequently on the date of notification, the land was not 'Gair Mumkin Pahar'.

Learned counsel for the applicant has argued that there is some material to show that this finding may not be fully correct. It cannot be lost sight that the penalty under the Act is very stiff and a person can be sentenced for five year imprisonment.

In these circumstances, it would be incumbent upon the Board to prove the case beyond reasonable doubt and merely because the two views may be possible and no order of finding of conviction cannot be returned.

Accordingly, the application stands dismissed. In other cases also, the prayer for condonation of delay is allowed but the applications for leave to file an appeal against the judgment of acquittal are dismissed as the counsel has accepted that the findings in one case would be applicable in other cases.

(AJAY TEWARI)
JUDGE

01st December, 2016
mamta

Whether speaking/reasoned Yes/No

Whether Reportable : *Yes/No*

Agenda Item 185.11(S)

Case No. 19/2007 titled as Haryana State Pollution Control Board Vs Ansal Housing & Construction Ltd. 15U/GF Indira Prakash, 2. Bharakhambha Road, New Delhi.

The Ministry of Environment and Forest, Government of India had issued notification bearing no. S.O. 319(E) dated 7th May, 1992 **(Annexure-1)** prohibiting construction activities in aravali range.

The HSPCB had filed complaint under section 15 read with section 19 of Environment (Protection) Act, 1986 against the above said unit for violation of construction in the Aravali Range on 30.07.2007 before the Hon'ble Special Environment Court, Faridabad.

The Hon'ble Special Environment Court, Faridabad has decided the case on 21.01.2019 **(Annexure-2)** and relevant part of the judgment is reproduced as under:-

"In view of adored discussion and finding, I am of the view that the complaint has miserably failed to proof the guilt of the accused facing trial. Hence, the accused are hereby acquitted of the charge labeled against them by giving them benefits of doubt. The bail and surety bounds stands discharge. File we consigned to records after due compliance with the red ink not that file should not be destroyed and be put up as and when accused are arrested by the police and surrender themselves in the court."

The matter was examined by the legal cell of the HSPCB and the opinion is reproduced as under:-

"Having gone through the judgments, I have found that the decision of Ld. Trail Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. Sc. in my opinion the case is not fit for filling an appeal as in the present case, complainant could not satisfactory prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgment as: State of Haryana V. Raj Kumar, 2007 CrLJ4575(4577) (P&H), S. Ram Krishna V. S. Rami Reddy. 2008 CRLJ2625(2627), AIR 2008 SC2066: Gowrishankara Swamigalu V. State of Karnataka, 2008 CRLJ 3042 (3049)

"In all judgments Hon'ble Apex Court and High Court respectively held that if the evaluation of the evidence by the trail court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."

The copy of noting file where legal opinion was given by legal cell is given as **Annexure-3**.

It is pertinent to mention here that the Board had filed appeal in the Hon'ble Punjab and Haryana High Court against the judgment passed by the Special Environment Court, Faridabad in 27 cases of Aravali violation as per detail given at **Annexure-4** but the same was dismissed by the Hon'ble Punjab and Haryana High Court, Chandigarh. The copy of orders passed by Hon'ble Punjab and Haryana High Court on 01.12.2016 is given at **Anneuxre-5**.

The matter is placed before the Board for taking decision regarding filing of appeal in higher court against the judgment passed by the Hon'ble Special Environment Court, Faridabad in above said case please.

11/3/223

Annexure-I

रजिस्ट्री सं. डी.एल.-33004/92

REGD. No. D.L.-33004/92

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 7 मई, 1992

[अन्यत्र रेंज में विनिर्दिष्ट क्षेत्रों में अधिसूचित विभाजनाओं को कि प्रदेश में पर्यावरण को नुकसान पहुंचा रहे हैं के निर्वारण के लिये पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3(1) और 3(2)(क) और पर्यावरण (संरक्षण) नियम, 1986 के नियम 5(3)(क) के अधीन]

का. आ. 315(अ) :—पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3(1) और धारा 3(2)(क) के अधीन तथा अधिसूचना, जिसमें अपराजनी रेंज में विनिर्दिष्ट क्षेत्र में अधिसूचित विभाजनाओं को कि प्रदेश में पर्यावरण को नुकसान पहुंचा रहे हैं, के निर्वारण के लिये मसौदा भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) में (वैधिए का.आ. 25(अ), तारीख 8 जनवरी, 1992) प्रकाशित की गई थी :

और केन्द्रीय सरकार ने, अपने सभी आक्षेपों पर जनवरी 1992 से विचार कर लिया है ;

अतः अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस की सूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट क्षेत्रों में उसकी पूर्व अनुज्ञा के बिना निम्नलिखित गतिविधियां और संक्रियाएं करने का निषेध करती है,—

(i) किसी नये उद्योग का अवस्थापन, जिसमें विस्तारण में आधुनिकीकरण भी है ;

(ii) (क) खदान संक्रियाएं, जिसमें खनन पट्टों का नवीकरण भी है

(ख) अपशारणों/उत्सर्जनों वाले और परिसंकटमय क्षेत्र के रूप माने जाने वाले क्षेत्रों में विद्यमान खनन पट्टे क्षेत्र/क्षेत्र

(ग) खनन प्राधिकारी की अनुज्ञा के बिना खनन ; जारी है जो रहा है।

(iii) पेड़ों की कटाई ;

(iv) किसी विद्यमान एककों का समूह, आवास कालोनी, सेवाएं, अनुसंधान केन्द्रों, पूर्णता-केन्द्रों का विस्तारण और ऐसे विस्तारण से संबद्ध कोई अन्य विस्तारण (जिसमें उनसे संबंधित किसी अवसंरचना के भाग के रूप में सड़कें हैं);

(v) विद्युतीकरण (नई रेखाएं, सहायक स्टेशनों का विस्तार आदि)।

2. कोई व्यक्ति जो उक्त क्षेत्रों में कोई प्रस्तावित खनिज प्रक्रियाएं या प्रक्रियाएं करने की वांछा करता है, एक आवेदन संलग्न आवेदन प्रारूप में (उपाबंध) सचिव, पर्यावरण और वन मंत्रालय, नई दिल्ली को देगा जिसमें अन्य बातों के साथ-साथ क्षेत्र और प्रस्तावित संक्रिया और प्रक्रिया के ब्यौरे विनिर्दिष्ट किये जायेंगे। आवेदन के साथ एक पर्यावरण समाघात कथन और एक पर्यावरणीय प्रबन्ध योजना भी देना और आवेदन पर विचार करने के लिये ऐसी अन्य सूचनाएं जिनकी केन्द्रीय सरकार द्वारा अपेक्षा की जाए, देगा।

3. केन्द्रीय सरकार, पर्यावरण और वन मंत्रालय, उक्त अधिसूचना के उपबन्धों का प्रभावी ये लिये उसके द्वारा समय-समय पर जारी किये गए मार्गदर्शक सिद्धांतों का ध्यान रखते हुए आवेदन प्राप्ति की तारीख से तीन मास की अवधि के भीतर या तो आवेदक से और कोई जानकारी मांगी गई हो तो ऐसी जानकारी की प्राप्ति की तारीख से तीन मास की अवधि के भीतर अनुज्ञा प्रदान करेगा या उक्त क्षेत्र में पर्यावरण पर अवधारित प्रक्रिया या संक्रिया के सामाघात के आधार पर उक्त अवधि के भीतर अनुज्ञा देने से इंकार करेगा।

4. इस अधिसूचना के अधीन अनुज्ञा की वांछा के लिये कोई आवेदन निम्नलिखित प्रारूप में (उपाबंध देखिए) सम्यक रूप से भर कर सचिव, पर्यावरण और वन मंत्रालय, पर्यावरण भवन, सी जी ओ कम्प्लेक्स, लोधी रोड, नई दिल्ली को भेजा जा सकेगा।]

[सं. 17/1/91-पी एस/आई ए]
भार. राजगोपाली, सचिव

उपाबंध

वे क्षेत्र जहां बिना अनुज्ञा की अधिसूचनाओं और संक्रियाओं का निषेध किया गया है।

(i) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और राजस्थान राज्य के अलवर जिले के संबंध में इस अधिसूचना की तारीख को राज्य सरकार द्वारा रखे गए भू-अभिलेखों में "बन" के रूप में दर्शाए गए सभी आरक्षित वन, संरक्षित वन या कोई अन्य क्षेत्र

(ii) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और राजस्थान राज्य के अलवर जिले के संबंध में राज्य सरकार द्वारा रखे गए भू-अभिलेखों में—

(क) वैर मुसलिम पहाड़ी, या

(ख) वैर मुसलिम राखा, या

(ग) वैर मुसलिम बीहड़, या

(घ) कंजर बीहड़, या

(ङ) बेंच

के रूप में वर्णित सभी क्षेत्र।

(iii) गुड़गांव जिले में इस अधिसूचना की तारीख तक हरियाणा राज्य को लागू पंजाब लैण्ड प्रिजर्वेशन एक्ट, 1900 की धारा 4 और धारा 5 की लागू की गई अधिसूचनाओं के अन्तर्गत आने वाले सभी क्षेत्र।

(iv) वन्यजीव (संरक्षण) अधिनियम, 1972 (1972 का 53) के प्रवर्तन के परिणामस्वरूप राष्ट्रीय उद्यान और संरक्षण वनारण्य के सभी क्षेत्र।

उपाबंध

आवेदन का प्रारूप

1. (क) प्रस्तावित परियोजना का नाम और पता :

(ख) परियोजना का अवस्थान :
ग्राम का नाम :
जिला, तहसील :
भौगोलिक स्थिति

(ग) परियोजना के आनुषंगिक एवम् और प्रस्तावित स्थल के लिए कारण :

2. परियोजना के उद्देश्य :

(क) भूमि की अपेक्षाएं
कृषि भूमि
अन्य (विनिर्दिष्ट करें)

(ख) (i) प्रवणता, अधिसुभेद्यता और कृषित्व उपबंधित करते हुए क्षेत्र की स्थलाकृति :

(ii) प्रस्तावित भूमि का अपरदनीय वर्गीकरण :

(ग) 10 किलोमीटर अर्धव्यास के भीतर विद्यमान प्रमुख खनिज :

(घ) निकटतम राष्ट्रीय उद्यान/वन्यजीव अभयारण्य/जीव मंडल आरक्षित/संरक्षित वन/प्राचीन स्मारक/पुरातत्वीय स्थल/आरक्षित वन रेखे दूरी :

(ङ) बाढ़ों/बाढ़ी एरिया के लिए सुरक्षित योजना :

(च) वृक्षित पट्टी योजना :

(छ) प्रतिकरात्मक वनरोपण योजना :

4. जलवायु और वायु क्वालिटी* :

(क) स्थल पर पवनलेख :

(ख) अधिकतम/न्यूनतम/औसत वार्षिक तापमान:

(ग) परिवेशी वायु क्वालिटी के आंकड़ें,

(घ) परियोजना से एस पी एम, रैसपी (पी एम 10, पीएम 2, एस ओ 2, एन ओ एक्स) के उत्सर्जन की प्रकृति और दर :

**5. (क) जल मूलस्रोत एवम् जल संग्रहण और सूअरण की आवश्यकता और मांग :

(ख) सीमा योजना में जल की उपलब्धता :

(ग) उपयोग में लाए जाने वाले जल स्रोत, प्रतिवेशी उपयोगिताओं की (नदी, झील, भूगर्भ, सार्वजनिक प्रदाय) के ब्यौरे :

(घ) जल की क्वालिटी :

(ङ) पिछले 15 वर्षों में जल की मात्रा और क्वालिटी में देखे गए परिवर्तन और कारणभाव में अपना तथा विश्लेषण के ब्यौरे

(च) (i) छोड़े जाने वाले अपशिष्ट जल की मात्रा- उसके उपचार ब्यौरों सहित :

(ii) अभिग्राही जलाशय में अपशिष्ट जल की मात्रा और क्वालिटी

*आंकड़े भारत मौसम विज्ञान विभाग और राज्य प्रदूषण नियंत्रण बोर्ड से प्राप्त किए जा सकते हैं।

**आंकड़ों के लिए भू जल बोर्ड और सिंचाई विभाग से सम्पर्क किया जा सकता है।

(iii) भूमि पर छोड़े जाने वाले अपशिष्ट जल की मात्रा और भूमि की किस्म :

6. प्रस्तावित बैल्ट

(क) प्रस्तावित ठोस अपशिष्ट की प्रकृति और मात्रा :

(ख) ठोस अपशिष्ट के प्रबंधन की पद्धति :

7. शोर और कंपन

(क) शोर और कंपन के स्रोत

(ख) परिवेश शोर का स्तर :

(ग) प्रस्तावित शोर और कंपन नियंत्रण उपाय :

(घ) नियंत्रण उपायों के बाद अवशिष्ट आसवा, यदि कोई हो :

8. उद्योग का स्रोत पहचानित करते हुए विद्युत की आवश्यकता :

यदि अपना विद्युत पूर्ति अपेक्षित है तो पूरे पर्यावरण संबंधी ब्यौरे पृथक रूप से दिए जाएंगे :

9. अधिसूचित किए जाने वाले कुल अधिक क्षेत्र, उसके ब्यौरे सहित : क्षेत्र में स्थानीय स्वास्थ्य संगठन, प्रस्तावित स्वास्थ्य प्रणाली

10. (क) शहरों की संख्या और विस्थापित की जाने वाली जनसंख्या :

(ख) पुनर्वास स्थान्तर स्थान :

11. संभावित विस्थापित रिपोर्ट

12. (क) पर्यावरण प्रभावशाली निर्धारण रिपोर्ट : समय-समय पर एस. ई. एल. द्वारा जारी किए गए मार्गदर्शकों के अनुसार तैयार की गई ।

(ख) पर्यावरण संबंधी प्रबन्ध योजना :

(ग) खानपत्र की विस्तृत रिपोर्ट :

(घ) वन (संरक्षण) अधिनियम, 1980 के अधीन वन भूमि के लिए प्रस्ताव जिसमें वनस्पति सर्वेक्षण विश्लेषण है :

13. राज्य प्रदूषण नियंत्रण बोर्ड और/या पर्यावरण और वन मंत्रालय विभाग की सिफारिशें :

आवेदक के हस्ताक्षर

आवेदक के नाम, तारीख और पूरे डाक पते सहित

टिप्पण : क. मद संख्या 3(ङ), 4, 5, 6, 7, 8, 9, 10, 12 (ख) और 12 (ग) वेरों की जानकारी सभी लागू नहीं है ।

ख. मद संख्या 3 (ग), 4, 7, 11 सिवाय उनके जो लघु, कृषि बेरों, सामुदायिक सेवाओं के विवरण और ऐसे किसी भी विवरण जिसमें सड़कें भी सम्मिलित है से संबंधित अन्य किसी कार्यों को लागू नहीं है ।

ग. मद संख्या 3 (क), 3 (ग), 3 (ङ), 3(च), 4, 5, 6, 7, 8, 12 (क) और 12 (ङ) विद्युतीकरण से लागू नहीं है ।

घ. खनन, उद्योग, उत्पादन शक्ति, परिवहन परियोजनाओं की दशा में सभी मदें प्रस्तुत करनी है ।

ङ. अगर किसी बात के होते हुए भी ऐसी कोई भी मद (मदें) पर भी लागू नहीं होती विश्वास किया जाता है आवेदकों के सुविधा अपेक्षित की जा सकती है ।

MINISTRY OF ENVIRONMENT & FORESTS

NOTIFICATION

New Delhi, the 7th May, 1992

(Under Section 3(1) and 3(2) (v) of the Environment Protection) Act, 1986 and rule 5(3) (d) of the Environment (Protection) Rules, 1986 restricting certain activities in specified area of Aravali Range which are causing Environmental Degradation in the Region.

S.O. 319(E).—Whereas a Notification under section 3(1) and section 3(2) (v) of the Environment (Protection) Act, 1986 (29 of 1986) inviting objections against restricting certain activities in specified area of Aravalli Range which are causing Environmental Degradation in the Region was published in the Gazette of India, Part II-Section 3 Sub-section (ii) vide S.O. 25(E) dated 9th January, 1992;

And whereas all objections received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2), of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby prohibits the carrying on of the following processes and operations, except with its prior permission, in the areas specified in the Table appended to this Notification :

(i) Location of any new industry including expansion|modernisation;

(ii) (a) All new mining operations including renewals of mining leases.

(b) Existing mining leases in sanctuaries| national Park and areas covered under Project Tiger and|or

(c) Mining is being done without permission of the competent authority.

(iii) Cutting of trees;

(iv) Construction of any clusters of dwelling units, farms houses, sheds, community centres, information centres and any other activity connected with such construction (including roads a part of any infrastructure relating thereto);

(v) Electrification (laying of new transmission lines).

2. Any person who desires to undertake any of the above mentioned processes or operations in the said areas, shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi, in the attached application form (Annexure) specifying, inter alia, details of the area and the proposed process or operation. He shall also furnish an Environment Impact Statement and an Environmental Management Plan along with the application and such other information as may be required by the Central Government for considering the application.

3. The Central Government in the Ministry of Environment and Forests shall, having regard to the guidelines issued by it from time to time for giving effect to the provisions of the said Act, grant permission within a period of three months from the date of receipt of the application or where further information has been asked for from the applicant, within a period of three months from the date of the receipt of such information, or refuse permission within the said time on the basis of the impact of the proposed process or operation on the environment in the said area.

4. For seeking permission under this Notification, an application in the prescribed form (see Annexure), duly filled in, may be submitted to the Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi.

[No. 17/1/91-PLIIA]

R. RAJAMANI, Secy.

TABLE

Areas where carrying on of processes and operations without permission is prohibited

(i) all reserved forests, protected forests or any other area shown as "forest in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon District of the State of Haryana and the Alwar District of the State of Rajasthan.

(ii) all areas shown as :—

(a) Gair Mumkin Pahar, or

(b) Gair Mumkin Rada, or

(c) Gair Mumkin Behed, or

(d) Banjad Beed, or

(e) Rundh,

in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon district of the State of Haryana and the Alwar district of the State of Rajasthan.

(iii) all areas covered by notifications issued under section 4 and 5 of the Punjab Land Preservation Act, 1900, as applicable to the State of Haryana in the district of Gurgaon up to the date of this Notification.

(iv) all areas of Sariska National Park and Sariska Sanctuary notified under the Wildlife (Protection) Act, 1972 (53 of 1972).

ANNEXURE

APPLICATION FORM

1. (a) Name & address of the project proposed:

(b) Location of the project:
Name of the Place :
District, Tehsil :
Location Map. :

(c) Alternate sites examined and the reasons for the site proposed:

2. Objectives of the project :

3. (a) Land Requirement :

Agriculture land :
Other specify) :

(b) (i) Topography of the area indicating gradient, aspect & altitude.

(ii) Erodability classification of the proposed land.

(c) Pollution sources existing within 10 km. radius.

(d) Distance of the nearest National Park|Sanctuary|Biosphere Reserve|Monuments|heritage site|Reserve Forest :

(e) Rehabilitation plan for Quarries|borrow areas :

(f) Green belt plan.

(g) compensatory afforestation plan.

4. Climate & Air Quality*:

(a) Windrose at site:

(b) Max.|Min.|Mean annual temperature.

(c) Ambient air quality data:

(d) Nature & concentration of emission of SPM, Gases (CO, CO2, SO2, NOx etc.) from the project:

5.** (a) Water balance at site surface and ground water availability and demand :

(b) Lean season water availability:

(c) Water source to be tapped with details of competing users (Rivers, lake, Ground, Public supply):

(d) Water Quality:

(e) Changes observed in quantity and quality of water in the last 15 years and present charging and extraction details:

(f) (i) Quantum of waste water to be released with treatment details :

(ii) Quantum & Quality of water in the receiving water body :

(iii) Quantum of waste water to be released on land and the type of land:

6. Solid Wastes :

(a) Nature & quantity of solid wastes generated:

(b) Solid waste disposal method:

7. Noise & vibrations:

(a) Sources of noise & vibrations:

*Data may be obtained from India Metoorological Department and State Pollution Control Board.

**Ground water Board and the Irrigation Deptt. Deptt. may be contacted for data.

(b) Ambient noise level:

(c) Noise & vibration control measures proposed:

(d) Subsidence problem, if any, with control measures:

8. Power requirement indicating source of supply; complete environmental details to be furnished separately, if captive power unit proposed:

9. Total labour force to be deployed with details of:

— Endemic health problems in the area.

— Health care system proposed:

10. (a) Number of families and population to be displaced:

(b) Rehabilitation Master Plan :

11. Risk assessment report:

12. (a) Environmental Impact Assessment Report:

(b) Environmental Management Plan : Prepared as per Guidelines of MEF issued from time to time.

(c) Detailed Feasibility Report:

(d) Proposal for diversion of Forest land under Forest (Conservation) Act, 1980 including Benefit Cost analysis.

13. Recommendations of the State Pollution Control Board and/or the State Department of Environment & Forests.

Signature of the Applicant
Alongwith name, date and full Postal address.

N.B.:

A. Item No.: 3(c), 4, 5, 6, 7, 8, 9, 10, 12(b) and 12(c) are not applicable to cutting of trees

B. Item Nos. 3(c), 4, 7, 11 are not applicable to construction of cluster of dwelling units, farm sheds, community centre and any other activity connected with such construction including roads.

C. Item Nos. 3(b), 3(c) 3(e), 3(f), 4, 5, 6, 7, 9, 12(a) & 12(b) are not applicable to electrification.

D. All items to be furnished in case of mining, industry thermal power, transport projects

E. Notwithstanding the above, any item(s) considered not applicable may be so indicated alongwith reasons.

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11/8/228 185

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
CID-HR0570

Annexure R-2

Case no. 19 of 2007
Date of Instt: 30.07.2007
Date of Judgment: 21.01.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Gurgaon Region Dr. C.V. Singh "Scientist C"

.....Complainant.

Versus

1. M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash 21 Bharahkambha Road, New Delhi.
2. Satish Yadav AGM (Legal) M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
3. Sh.Sushil Ansal son of late Sh. Charanji Lal Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
4. Gopal Ansal son of late Sh. Charanji Lal Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
5. Deepak Ansal son of late Sh. Charanji Lal Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
6. Sugar Jain son of Gopi Chand Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
7. Govind Ram Gogia son of K.L.Gogia Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.
8. Rajendra Kumar Khatri son of Bishambhar Nath Director of M/s Ansal Housing and Construction Ltd. 15 UGF Indra Prakash, 21 Bharahkambha Road, New Delhi.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Jatinder Singh, Advocate for the complainant.
Accused no.2,7 and 8 already discharged v.o.d.12.01.2015.
Proceeding against accused no.6 already dropped v.o.d.15.9.2014.
Accused no.3 to 5 on bail with Sh. S.S. Rao, Advocate.

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(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court

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Accused no.1 through AR Sh. Ganga Parshad on bail with Sh. SS Rao, Advocate.

Judgment:

The above named accused are facing trial under Section 15 read with Section 19 of Environment Protection Act read with Section 120B IPC.

2. The present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region.

3. Briefly stating the facts of the present complaint are that accused no.1 company is engaged in business of developing land and laying infrastructure etc. and all the accused no. 2 to 8 are the officials and directors and responsible person of accused no.1 and are controlling and are responsible for the day to day affairs of accused no.1. The Ministry of Environment and Forest, Government of India issued Notification dated 7.5.1992 (hereinafter referred as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any clusters of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification Electrification "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government; Under the Aravali Notification the

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HJS (Sub-JMIC, Spl. Env. Court
Faridabad) 11.01.2019

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areas where carrying on the process and operations without permission have been prohibited are:-

i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bahed, or

d. Banjad Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India the powers to accord environmental clearance was delegated upon the State Government. This Notification was given vide publicity thereby cautioning the general public not to indulge in any prohibited activity/operation/process. After the issuance of notice dated 29.11.1999 the state government constituted expert committee for apprising and recommending the projects which committee has been holding the meeting from time to time. The certain violation of

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Aravali Notification came to the notice of complainant board and an inspection committee and a sub-committee was constituted and as per the inspection of committee and report prepared by sub-committee of officers of Complainant Board, Environment Department and District Administration it was found that accused no.1 had developed a complete township in the name and style of Golden height with a total area of many hundred acres falling in the area of Sohna in which individual farm houses have been carved out which includes roads, water supply, electricity, berms, barbed wires, fencing and separate gates etc. These developments have taken place on the area shown as Gair Mumkin Pahar in the revenue records. After verification, it was found that developer accused no.1 and other accused being President/Directors/Chairman and responsible persons for day to day working of accused no.1 in furtherance of criminal conspiracy planned and developed the huge area of many hundreds acres by way of allotment of land to various farm house owners in Golden Heights Area in violation of provision of Aravali Notification of 1992. Further, the entire exercise of carving out farm houses and its allotment after developing the same was done after the issuance of Notification dated 7.5.1992. Consequently, show cause notice dated 15.3.2006 in this regard was issued to the accused and other allottees. In the reply to the said show cause notice dated 23.03.2006 a total false stand was taken by saying that the Golden Heights was developed in the year 1989 and no any construction had been carried out after 7.5.1992. A sub committee was constituted to examine the replies and as per the report of the sub-committee, the project proponent, laid infrastructure for the cluster of the farm houses and is charging maintenance and development charges from

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Faridabad 21.01.2019

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the allottes i.e. owners of the farm houses. The sub-committee constituted by the complainant board consisting of officers of environment department, complainant board, district administration examined the inspection report and also examined the replies of the show cause notices issued to the violators of the Aravali Notification and report the project proponent had developed infrastructure for the cluster of around many farm houses and had completed the construction work and recommended the prosecution action against the accused for violating the provisions of Aravali Notification for not obtaining prior environmental clearance from the State Government. The khasra numbers of the farm houses have been mentioned in report of the sub-committee. The accused had been violating the provisions of Aravali Notification since and even after the commencement of Aravali Notification and fully knowing well that the whole exercise is in violation of provisions of Aravali Notification and accused continued violating the provisions of Aravali Notification and now states that individual farm houses were required to obtain prior environmental clearance and other clearances which is wholly incorrect and misleading. It is further averred that it was the primary duty of accused to obtain prior environmental clearance and without it accused had developed full township in a huge area by allotting land to owners of around many farm houses and developed infrastructure for these farm houses including roads, water supply, electricity, berms, barbed wires fencing and separate gates etc as per the complaint the accused was found to have constructed road, installed tube wells and offices and the construction and development was going even and after the year 1992 as a consequence of the above the board obtained requisite information from

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11/13/233

various departments with regard to development/violation carried out by the accused in the area. Based on the available information with the complainant, show cause notice dated 15.6.2007 was issued to the accused but the accused did not bother to reply the same and, therefore, the accused has clearly disregarded the mandate of law. The complainant avers further that in this manner the accused has degraded the ecological balance of the said area as he has also installed water pumps and tubewells for business purpose. Further, the complainant also gathered information from DHBVNL, Gurgaon and found that allottees of farm houses so developed by accused have been obtaining their power connection after 7.5.1992 which clearly establishes that the development and allotment of farm houses have been made after coming into force of Aravali Notification. Hence, by this illegal development of infrastructure and construction of farm houses, accused have committed an offence by way of breaching the terms and conditions of Notification dated 7.5.1992 and therefore finally it has been prayed that all the accused be summoned and prosecuted.

4. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 14.08.2007. Accused appeared on various dates and were released on bail.

5. During the trial, proceedings against accused no.6 was dropped for want of prosecution vide order dated 15.09.2014.

6. In pre charge evidence complainant-board examined Dr. C.V. Singh as CW1 and Sh. Hawa Singh Patwari as CW2. Thereafter, pre charge evidence was closed by court order vide order dated 09.01.2015.

(Vinod Sharma)
PO-cum-JMIC, Spl. Law Court
Faridabad/01.01.2019

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7. Upon finding a prima-facie case, charge was framed upon the accused no.1 and 3 to 5 and charge sheet was served to them under Section 15 of Environment Protection Act read with Section 120B of IPC on 12.01.2015 and accused no.2, 7 and 8 were discharged.

8. In after charge evidence learned counsel for accused further cross examined Dr. C.V. Singh and examined Narender Dalal Tehsildar as PW3 and thereafter, after charge evidence was closed by court order vide order dated 25.05.2015.

9. Statements under Section 313 Cr.P.C. of accused no.1, 3 to 5 were recorded on 01.12.2015 to which accused denied all the allegations and opted for leading defence evidence but no such evidence, except for some documents, has been brought on record and the defence evidence was closed by accused on 08.01.2019.

10. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Agenda item no.135.8
Ex.C3	:	Agenda item no.135.5
Ex.C4	:	Notification dated 16.04.1987.
Ex.C5	:	Show cause notice dated 15.03.2006.
Ex.C6	:	Reply to show cause notice dated 15.03.2006.
Ex.C7	:	Minutes of the meeting sub-committee held on 03-05 May, 2006.
Ex.C8	:	Letter dated 04.09.2007 of HSPCB

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Ex.C8	:	Letter dated 04.09.2007 of HSPCB

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Panchkula issued to DC, Gurugram.

Ex.C9 : Letter dated 24.11.2005 issued to DFO, Gurugram.

Ex.C10 : Letter dated 03.02.2006 issued to DTP, Gurugram.

Ex.C11 : Letter dated 24.11.2005 issued to DTP Enforcement, Mewat.

Ex.C12 : Reply dated 28.11.2005 of DTP, Gurugram.

Ex.C13 : Letter dated 24.01.2006 issued to DTP, Haryana, Chandigarh, issued by Director, Environment, Haryana.

Ex.C14 : Letter dated 24.07.2007 of HSPCB, Panchkula.

Ex.CW2/A : Jamabandi of the year 1986-87.

Ex.CW2/B : Jamabandi of the year 1991-92

Ex.CW2/C : Jamabandi of the year 1996-97

Ex.CW2/D : Jamabandi of the year 2001-02

Ex.CW2/E : Copy of mutation no.18932.

Ex.PW3/1 : Certified copy of Aks-shjra.

Mark-A : Letter dated 08.11.2005 of CS, Haryana.

Mark-B : Letter dated 02.02.2009 regarding supply of list of electric connection issued to SDO, Badshapur, Gurugram.

Mark-C : List of farm houses regarding electricity connection.

Mark-D : Letter dated 07.02.2005 of Tehsildar, Sohna issued to HSPCB, Gurugram.

Mark-E : Letter of Tehsildar, Sohna issued to DC, Gurugram.

Mark-F : List of Khasra number regarding change of gair mumkin pahar.

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Mark-G : Report of Patwari/Tehsildar regarding change of Gair Mumkin Pahar.

Mark-H : Minutes of the committee meeting held on 19-20 October, 2005.

Mark-I to Mark-19: Cutting of newspapers.

11. On the other hand to prove his innocence the accused relied upon the following documents:-

Ex.DX : Copy of Khasra Girdawari.

Ex.DY : Copy of Khasra Girdawari.

Ex.D1 : Letter dated 14.05.1991 of M/s Ansal Properties written to DTP, Haryana Chandigarh.

Ex.D2 : Letter dated 03.03.2016 of HSPCB, Panchkula written to Chandan Singh, Advocate.

Mark-DA : Letter dated 12.04.1989 of M/s Ansal Housing written to DTP, Gurugram.

Mark-DB : Letter dated 01.05.1989 of DTP, Gurugram written to M/s Ansal Housing.

12. I have heard complainant and defence counsel and have gone through case file carefully.

13. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali

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Notifications and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

14. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

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15. Learned counsel for the complainant Sh.Jatinder Singh, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Dr. C.V. Singh. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

16. On the other hand, ld. defence counsel Sh. S.S. Rao, represeming accused persons has submitted that argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as

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per the revenue document *khasra girdawari* which describes the actual factual position of the sites, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site (*"Moke Aanxor"*) and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

17. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Dr.C.V. Singh, CW2 Sh. Hawa Singh Patwari and CW3 Sh.Narender Dalal Tehsildar and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Agenda item no.135.8, Ex.C3 Agenda item no.135.5, Ex.C4 Notification dated 16.04.1987, Ex.C5 Show cause notice dated 15.03.2006, Ex.C6 Reply to show cause notice dated 15.03.2006, Ex.C7 Minutes of the meeting sub-committee held on 03-05 May, 2006, Ex.C8 Letter dated 04.09.2007 of HSPCB Panchkula issued to DC, Gurugram, Ex.C9 Letter dated 24.11.2005 issued to DFO, Gurugram, Ex.C10 Letter dated 03.02.2006

(V.K. Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/21.01.2019

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issued to DTP, Gurugram, Ex.C11 Letter dated 24.11.2005 issued to DTP Enforcement, Mewat, Ex.C12 Reply dated 28.11.2005 of DTP, Gurugram, Ex.C13 Letter dated 24.01.2006 issued to DTP, Haryana, Chandigarh, issued by Director, Environment, Haryana, Ex.C14 Letter dated 24.07.2007 of HSPCB, Panchkula, Ex.CW2/A Jamabandi of the year 1986-87, Ex.CW2/B Jamabandi of the year 1991-92, Ex.CW2/C Jamabandi of the year 1996-97, Ex.CW2/D Jamabandi of the year 2001-02, Ex.CW2/E Copy of mutation no.18932, Ex.PW3/1 certified copy of Aks-shjra, Mark-A Letter dated 08.11.2005 of CS, Haryana, Mark-B Letter dated 02.02.2009 regarding supply of list of electric connection issued to SDO, Badshapur, Gurugram, Mark-C List of farm houses regarding electricity connection, Mark-D Letter dated 07.09.2005 of Tehsildar, Sohna issued to HSPCB, Gurugram, Mark-E Letter of Tehsildar, Sohna issued to DC, Gurugram, Mark-F List of Khasra number regarding change of gair mumkin pahar, Mark-G Report of Patwari/Tehsildar regarding change of Gair Mumkin Pahar, Mark-H Minutes of the committee meeting held on 19-20 October, 2005, Mark-I to Mark-19 cutting of newspapers.

CW1 Dr CV Singh has exhibited the complaint Ex.C1, agenda item no.135 meeting Ex.C2 and Ex.C3, copy of notification Ex.C4, show cause notice dated 15.03.2006 and its reply Ex.C5 and Ex.C6, report of sub-committee Ex.C7, letter dated 04.09.2007 Ex.C8, replies dated 28.11.2005 to the letter of DTP Ex.C9 to Ex.C12, letter dated 24.01.2006 Ex.C13, sanction of prosecution vide letter dated 24.07.2007 Ex.C14. He has also marked certain documents but the same were not exhibited. During the cross examination the complainant has deposed that the complaint was

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Faridabad/21.01.2019

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drafted by him and all the documents were verified by the signatory, Joint Director and the Chairman of the Board. He has stated that he was authorized to file the present complaint vide notification Ex.C4. He has also relied upon Ex.C14 a letter bearing no.2243 dated 23.07.2007 vide which he was authorized by the Chairman also. He has stated that the Aravali Notification was published on 07.05.1992 but has admitted that no gazette was published. He has also stated that the complaint does not mentioned any detail of revenue record but has also volunteered that para no.9 mentions a certain land on which the violation was done. Admittedly, the revenue department did not apply the revenue detail of the land in question in his presence and might has been supplied later. Admittedly, the report of sub-committee Ex.C7 does not mention the details of the owners of the farm houses but as volunteered only three replies to the 129 show cause notices were received, therefore, the sub-committee had recommended the legal action against the owners of 148 farm houses. He has also admitted that the legal action recommendation did not mention the name of the company and the directors but volunteered that point 5 duly mentioned the directors of Golden Height Sohna and the project proponent. He could not tell the exact total area of the Golden Height Project and also could not tell that the farm houses have been numbered from D-1 to D-122 & E-1 to E-17. Admittedly, the complaint does not mention the date and details of the alleged violation but has also stated that para no.12 mentioned such details. He has also admitted that no sample of the roads or construction were obtained or sent to the laboratories for the purpose of knowing the age of construction and has also not obtained the record of tubewell etc. from the revenue department.

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(Wanita Mahtani)
PS-cum-JMIC, Spl. Env. Court
Faridabad/21.01.2019

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Admittedly, no jamabandi or khasra girdawari was filed with the complaint which could tell the nature of the land and the spot inspection report is also not present on the file. He has further stated that the Aravali notification was duly published in national dailies but has volunteered that no such newspaper could be produced in pre charge evidence. The witness has also stated that he could not tell the revenue details of the land in question orally and the same could be told by the revenue officials. He has stated that he himself had inspected the spot but neither any notice was served nor any report was prepared but the same was prepared by the field officer and on that basis show cause notices were issued. Admittedly, Ex.C7 the minutes of meeting also does not mention any detail regarding the said inspection. Admittedly, the last page of report Ex.C7 mentions the list of owners of 148 farm houses against whom the legal action was recommended but the name of present accused is not mentioned, although he has volunteered that serial no.5 duly mention the director of Golden Height Project.

CW2 Hawa Singh Patwari has brought the certified copies of jamabandi for the year 1986-87 Ex.CW2/A, of 1991-92 Ex.CW2/B, 1996-97 Ex.CW2/C, 2001-02 Ex.CW2/D and has deposed the ownership as per the record was *shamlat deh makbuja malkan* and the land had been transferred to the Municipal Corporation vide mutation no.18932 which is Ex.CW2/E. During cross examination he has stated that he did not bring any document on the basis of which the ownership of the land was transferred vide mutation Ex.CW2/E. He has stated that he could not tell the killa number & other details of land merely on the basis of the produced documents.

(Vandna Sharma)
PO-cum-JMIC, Spl. Env. Court 08.08.2019

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CW3 Narender Dalal, Tehsildar, Sohna, has exhibited the certified copy of Aks-sijra Ex PW3/1 as per which the red area shown was hilly area on which the farm houses of Golden Height Project had been constructed. During cross examination he has stated that he had not measured and located the land personally and has only prepared the certified copy of Aks-sijra on the basis of the revenue records. He has also stated that neither he had any separate details of golden height area nor had demarcated the said land on the site plan.

18. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

19. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution

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(Vinay Sharma)
HJS-cum-JMIC, Spl. Env. Court
Faridabad 08.02.2019

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Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin bahad, banjar beed and nimdh*, then the violator is liable to be punished under the provisions of the Act and the notification.

20. It is a conceded fact that M/s Ansal Housing and Construction Ltd. purchased the land in question and developed an area over the same. Now the points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

21. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of 'raising construction" is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account

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JSO-cum-JMIC, Spl. Enc. Court
Gurugram 21.01.2019

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merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

22. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

23. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13. *Barren and uncultivable land*

(Varsha Sehrawat)
Director-HSPCB, Spl. Env. Court
Faridabad (M) 01 7019

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also called gair mumkin denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is within cultivated blocks or within cultivated hamlets.

24. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha vakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari,and thereafter the rojnamacha vakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

25. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

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(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court

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26. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

27. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Cri.) 138 that:-

"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."

28. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document

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(Vanya Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad 21.01.2019

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to support the defence that the nature of land was *'gair mumkin farm house.'* Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

29. Thus, the land in question can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date. Therefore, the Aravali Notification is aptly applicable on the land in question.

30. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

31. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected.

32. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification, either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant has produced certain documents of DHBVNL, but the same remained merely marked and could not be formally proved for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to

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[Vinita Sharma]
PO-cum-JMIC, Spl. Env. Court
Faridabad/21.01.2019

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establish the *actus reus* of the offence but for want of their formal proof the court cannot based the guilt of accused on those documents.

33. Further, the show cause notice dated 15.03.2006 Ex.C5 mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification but the reply Ex.C6 to the said show cause notice is patent to the fact that the accused had denied any construction or electrification subsequent to the Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification). It is also pertinent to mention here that the accused have categorically averred in the said reply that the DTP Haryana had been informed in the year 1991 regarding completing the development works. However, no such documents could be brought by the defence in defence evidence.

34. Apart from this as per the complainant's version the spot inspection was done by himself but no such spot inspection report is present on the file. Hence, the court is unable to determine the exact date of construction raised by the accused on the land in question.

35. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved

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(Varsha Sharma)
PO-cum-JMIC, Spl. Ex. Court
Faridabad/21.01.2019

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the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

36. The principles of criminal jurisprudence are very clear that the prosecution sole is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

37. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, all the accused are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
21.01.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains twenty threepages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

January 21, 2019
Vikesh Kumar

01
Application No.
Date of presentation 21-1-19
Date of completion 21-2-19
Date of preparation of Copy
No. of Words 23 Charges Rs. 69
Urgent Legal Fees 74
Stamp Fee 5
Name of the Copyist
Date of Delivery 21-2-19

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08 FEB 2019

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Annexure-3

11/3[illegible]251

Subject: **Case No. 19/2007 titled as Haryana State Pollution Control Board Vs Ansal Housing & construction Ltd. 15UGF Indra Prakash, 2. Bharahkhambha Road, New Delhi.**

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges two witnesses Dr. CV Singh and Sh Narender Dalal Tehsildar were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complainant
Ex.C2	:	Agenda item no. 135.8
Ex.C3	:	Agenda Item no. 135.5
Ex.C4	:	Notification dated 16.4.1987
Ex.C5	:	Show Cause Notice dated 15.3.2006
Ex.C6	:	Reply to Show Cause notice dated 15.3.2006
Ex.C7	:	Minutes of the meeting committee held on 03.05.2006
Ex. C-8	:	Letter dated 04.9.2007 of Haryana State Pollution Control Board, Panchkula issed to DC, Gurugram
Ex.C-9	:	Letter dated 24.11.2005 issued to DFO, Gurugram
Ex. C-10	:	Letter dated 03.02.2006 issued to DTP, Gurugram
Ex. C-11	:	Letter dated 24.11.2005 issued to DTP enforcement, Mewat
Ex. C-12		Reply dated 28.11.2005 of DTP Gurugram
Ex. C-13		Letter dated 24.1.2006 issued to DTP Haryana, Chandigarh, Issued by director Environment, Haryana
Ex- C-14		Letter dated 24.72007 of Haryana State Pollution Control Board, Panchkula
Ex. CW-2/A		Jamabandi of the year 1986 -1987
Ex. CW-2/B		Jamabandi of the year 1991 -1992
Ex. CW-2/C		Jamabandi of the year 1996 -1997
Ex. CW-2/D		Jamabandi of the year 2001-2002
Ex. CW-2/E		Copy of Mutation no. 18932
Ex. PW3/1		Certified of Aks Sijra
Mark-A		Letter dated 08.11.2005 of CS Haryana
Mark-B		Letter dated 02.02.2009 regarding supply of list of electric connection issued to SDO, Bdshapur, Gurugram
Mark-C		List of farm House of regarding electricity connection
Mark-D		Letter dated 07.09.2005 of Tehsildar, Sohna issued to Haryana State Pollution Control Board, Gurugram
Mark-E		Letter of Tehsildar, Sohna issued to DC Gurgram

Mark-F		List of khasra no. regarding change of Gair Mumkin, Pahar
Mark-G		Report of Patwari/Tehsildar regarding change of Gair Mumkin Pahar
Mark-H		Minutes of comitte meeting held on 19-20 Oct, 2005
Mark-I		Cuttings of Newspapers
Ex.DX		Copy of khasra Girdawari
Ex.DY		Copy of Khasra Girdawari
Ex.D1		Letter dated 14.05.1991 of M/S Ansal Properties written to DTP Haryana Chandigarh
Ex.D2		Letter dated 03.03.2016 of Haryana State Pollution Control Board, Panchkula written to Chandan Singh, Advocate
Ex.DA		Letter dated 12.04.1989 of M/S Ansal Housing written to DTP Gurugram
Mark-DB		Letter dated 01.05.1989 of DTP, Gurugram written to MS Ansal Housing

That in the present matter Ld. Trial Court has framed following three points for determination. :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question
ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?
iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 21.01.2019.

Following the answer of first question, the land in question can very safely be considered as gair mumkin pahar, which was recorded earlier, prior to the khasra gurdawari of 1991 and which is recorded so after the orders of the District Collector, Gurugram, till. Therefore, Aravali Notification is aptly applicable on the land in question.

Now coming to the second point of consideration is whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. Ld. Trial Court has observed that there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification. Ld. Trial Court concluded that prosecution failed to prove the age of construction.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR

2008 SC2066; Gowrishankara Swamiglu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

Vikram Grewal
Vikram Grewal
L.A.
23-5-2019

ADA.

Agree with the opinion

24/5/19

Satbir Singh.
24-5-19

M.S.

Pls. go through & discuss.

24/5

EE(LI)

May if approved the opinion given by the legal cell be forwarded to R.O., Gurugram South for taking further necessary action in the matter, please.

04/06/19

Nitin Mehta
E.E. DLCL, HSPCB

M.S.

Pls. discuss.

7.16)

EE(LI)

11/34/254

Annexure-4

709

Annexure-A

decided in punjab and haryana high court

Sr. no.	Case no.	Name of Cases	Date of Order/ Decision	Status
1	Criminal Misc. No. A-1109-MA of 2016(O & M)	HSPCB Vs Ashok Tuli	1/12/2016	Dismissed
2	Criminal Misc. No. A-1110-MA of 2016(O & M)	HSPCB Vs Rajesh Chand Vats	1/12/2016	Dismissed
3	Criminal Misc. No. A-1111-MA of 2016(O & M)	HSPCB Vs Sunita Luthra	1/12/2016	Dismissed
4	Criminal Misc. No. A-1112-MA of 2016(O & M)	HSPCB Vs PPN Properties pPvt. Ltd.	1/12/2016	Dismissed
5	Criminal Misc. No. A-1125-MA of 2016(O & M)	HSPCB Vs Ms. Anita Badhwar and other	1/12/2016	Dismissed
6	Criminal Misc. No. A-1131-MA of 2016(O & M)	HSPCB Vs Guneet Dhillon and others	1/12/2016	Dismissed
7	Criminal Misc. No. A-1132-MA of 2016(O & M)	HSPCB Vs J.L. Khanna and others	1/12/2016	Dismissed
8	Criminal Misc. No. A-1133-MA of 2016(O & M)	HSPCB Vs arun Sharma and others	1/12/2016	Dismissed
9	Criminal Misc. No. A-1135-MA of 2016(O & M)	HSPCB Vs Madhu Chawla	1/12/2016	Dismissed
10	Criminal Misc. No. A-1145-MA of 2016(O & M)	HSPCB Vs Shiv Mohan Mehra	1/12/2016	Dismissed
11	Criminal Misc. No. A-1147-MA of 2016(O & M)	HSPCB Vs Anita Suhag and others	1/12/2016	Dismissed
12	Criminal Misc. No. A-1149-MA of 2016(O & M)	HSPCB Vs Anil Luthra	1/12/2016	Dismissed
13	Criminal Misc. No. A-1150-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed

14	Criminal Misc. No. A-1151-MA of 2016(O & M)	HSPCB Vs Sanjay Mittal	1/12/2016	Dismissed
15	Criminal Misc. No. A-1153-MA of 2016(O & M)	HSPCB Vs Mrs. Raj R. Gupta	1/12/2016	Dismissed
16	Criminal Misc. No. A-1154-MA of 2016(O & M)	HSPCB Vs Ritu Lekhi and others	1/12/2016	Dismissed
17	Criminal Misc. No. A-1160-MA of 2016(O & M)	HSPCB Vs Lt. Col. Krishan Kumar Chabra and others	1/12/2016	Dismissed
18	Criminal Misc. No. A-1161-MA of 2016(O & M)	HSPCB Vs Shard Mohan and others	1/12/2016	Dismissed
19	Criminal Misc. No. A-1162-MA of 2016(O & M)	HSPCB Vs Pushpa Pangtey and others	1/12/2016	Dismissed
20	Criminal Misc. No. A-1164-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed
21	Criminal Misc. No. A-1168-MA of 2016(O & M)	HSPCB Vs Jeewan Mohan	1/12/2016	Dismissed
22	Criminal Misc. No. A-1173-MA of 2016(O & M)	HSPCB Vs Smt. Pushpay Pangey and others	1/12/2016	Dismissed
23	Criminal Misc. No. A-1176-MA of 2016(O & M)	HSPCB Vs Sh. Sishil Gupta	1/12/2016	Dismissed
24	Criminal Misc. No. A-1177-MA of 2016(O & M)	HSPCB Vs C.P. Kukreja Associates Ltd.	1/12/2016	Dismissed
25	Criminal Misc. No. A-1178-MA of 2016(O & M)	HSPCB Vs Ms. Anita Suhag and others	1/12/2016	Dismissed

34

26	Criminal Misc. No. A-1179-MA of 2016(O & M)	HSPCB Vs Namita Mehta	1/12/2016	Dismissed
27	Criminal Misc. No. A-1180-MA of 2016(O & M)	HSPCB Vs Rajiv Singh	1/12/2016	Dismissed

11/37/257

Annexure-5

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i) Criminal Misc.No.A-1109-MA of 2016 (O&M)
Date of Decision : 01st December, 2016

Haryana State Pollution Control Board

..... Petitioner

Versus

Ashok Tuli

..... Respondent

(ii) Criminal Misc.No.A-1110-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajesh Chand Vats

..... Respondent

(ii) Criminal Misc.No.A-1111-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sunita Luthra

..... Respondent

(iv) Criminal Misc.No.A-1122-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

PPN Properties Pvt. Ltd.

..... Respondent

(v) Criminal Misc.No.A-1125-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Badhwar and others

..... Respondents

(vi) Criminal Misc.No.A-1131-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Guneet Dhillon and others

..... Respondents

(vii) Criminal Misc.No.A-1132-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

J.L.Khanna and others

..... Respondents

(viii) Criminal Misc.No.A-1133-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Arun Sharma and others

..... Respondents

(ix) Criminal Misc.No.A-1135-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Mrs. Madhu Chawla

..... Respondent

(x) Criminal Misc.No.A-1145-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Shiv Mohan Mehra

..... Respondent

(xi) Criminal Misc.No.A-1147-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Suhag and others

..... Respondents

(xii) Criminal Misc.No.A-1149-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Anil Luthra

..... Respondent

(xiii) Criminal Misc.No.A-1150-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gulshan Rai Jain

..... Respondent

(xiv) Criminal Misc.No.A-1151-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sanjay Mittal

..... Respondent

(xv) Criminal Misc.No.A-1153-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Mrs. Raj R.Gupta

..... Respondent

(xvi) Criminal Misc.No.A-1154-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Ritu Lekhi and another

..... Respondents

(xvii) Criminal Misc.No.A-1160-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Lt. Col. Krishan Kumar Chabra and others

..... Respondents

(xviii) Criminal Misc.No.A-1161-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sharad Mohan and another

..... Respondents

(xix) Criminal Misc.No.A-1162-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Pushpa Pangtey and others

..... Respondents

(xx) Criminal Misc.No.A-1164-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gulshan Rai Jain

..... Respondent

(xxi) Criminal Misc.No.A-1168-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Jeewan Mohan

..... Respondent

(xxii) Criminal Misc.No.A-1173-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Smt. Pushpa Pangey and others

..... Respondent

(xxiii) Criminal Misc.No.A-1176-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sh. Sushil Gupta

..... Respondent

(xxiv) Criminal Misc.No.A-1177-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

C.P.Kukreja Associates Ltd.

..... Respondent

(xxv) Criminal Misc.No.A-1178-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Suhag and others

..... Respondents

(xxvi) Criminal Misc.No.A-1179-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Namita Mehta

..... Respondent

(xvii) Criminal Misc.No.A-1180-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajiv Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

***

Present : Mr. Lokesh Sinhal, Advocate,
for the applicants.

***

AJAY TEWARI, J. (Oral)

These are all the applications for grant of leave to file an appeal against the judgment of acquittal and the relevant facts are taken from Criminal Misc.No.A-1135-MA of 2016. The other cases are similar cases only with the distinction that there are applications for condonation of delay of different periods and they all are being decided in terms of the decision in Criminal Misc.No.A-1135-MA of 2016.

The applicant-Board had launched prosecution under the Environment Protection Act, 1986 (in short 'the Act) against the respondent on the ground that she had unauthorizedly constructed a farm house in an area which was covered by notification dated 07.05.1992. The learned trial

Court, however, held that the version of the respondent is that they had purchased built up farm houses which as per the revenue record were shown to be existing prior to the notification dated 07.05.1992 and consequently on the date of notification, the land was not 'Gair Mumkin Pahar'.

Learned counsel for the applicant has argued that there is some material to show that this finding may not be fully correct. It cannot be lost sight that the penalty under the Act is very stiff and a person can be sentenced for five year imprisonment.

In these circumstances, it would be incumbent upon the Board to prove the case beyond reasonable doubt and merely because the two views may be possible and an order of finding of conviction cannot be returned.

Accordingly, the application stands dismissed. In other cases also, the prayer for condonation of delay is allowed but the applications for leave to file an appeal against the judgment of acquittal are dismissed as the counsel has accepted that the findings in one case would be applicable in other cases.

(AJAY TEWARI)
JUDGE

01st December, 2016
mamta

Whether speaking/reasoned Yes/No

Whether Reportable : *Yes/No*

रजिस्ट्री सं. डी.एल.-33004/92

REGD. No. D.L.-33004/92

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 9 मई, 1992

[अरावली रेंज में विनिर्दिष्ट क्षेत्रों से संबंधित निम्नलिखित को कि प्रदेश में पर्यावरण को नुकसान पहुंचा रहे हैं के निर्वेशन के लिये पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3(1) और 3(2)(क) और पर्यावरण (संरक्षण) नियम, 1986 के नियम 5(3)(v) के अधीन]

सा. का. 319(अ) :—पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3(1) और धारा 3(2)(क) के अधीन एक अधिसूचना, जिसमें अरावली रेंज में विनिर्दिष्ट क्षेत्र में संबंधित निम्नलिखित को कि प्रदेश में पर्यावरण को नुकसान पहुंचा रहे हैं, के निर्वेशन के लिये आदेश जारी किये गये थे, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) में (विधि का.आ. 25(अ), तारीख 6 जनवरी, 1992) प्रकाशित की गई थी ;

और केन्द्रीय सरकार ने, प्राप्त सभी आक्षेपों पर सम्यक रूप से विचार कर लिया है ;

अतः अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और उपधारा (2) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के उपाबद्ध सारणी में विनिर्दिष्ट क्षेत्रों में उसकी पूर्व अनुज्ञा के सिवाय निम्नलिखित गतिविधियां और प्रक्रियाएं करने का निर्देश करती है,—

(i) किसी भवन का अवस्थापन, जिसमें विस्तारण और आधुनिकीकरण भी है ;

(ii) (क) खनन संक्रियाएं, जिसमें खनन पट्टों का नवीकरण भी है

(ख) अभयारण्यों/राष्ट्रीय पार्कों और पारिस्थितिकी क्षेत्र के अन्य वाले क्षेत्रों में विद्यमान खनन पट्टे नवीनता

(ग) संबंधित प्राधिकारी की अनुज्ञा के बिना खनन कार्य किया जा रहा है।

(iii) पेड़ों की कटाई ;

(iv) किसी निवास एककों का समूह, व्यापार क्षेत्रों, सेवों, मनोरंजन केन्द्रों, सूचना-केन्द्रों का विनिर्माण और ऐसे विनिर्माण में संलग्न कोई अन्य क्रियाकलाप (जिसमें उसके संबंधित किसी अवसंरचना के काम के रूप में शामिल हैं) ;

(v) विद्युतीकरण (नई प्रेषण लाइनों का बिछाया जाना)।

2. कोई व्यक्ति जो उक्त क्षेत्रों में कोई उपरोक्त वर्णित क्रियाएं या क्रियाएं करने की इच्छा करता है, एक पर्यावरण संघात पर्यावरण प्रभाव में (उपांश) सचिव, पर्यावरण और वन मंत्रालय, नई दिल्ली को देगा जिसमें अन्य बातों के साथ-साथ क्षेत्र और प्रस्तावित क्रियाएं और क्रियाएं के ब्यौरे विनिर्दिष्ट किये जायेंगे। पर्यावरण के साथ एक पर्यावरण संघात कथन और एक पर्यावरणीय प्रबन्ध योजना भी देगा और आवेदन पर विचार करने के लिये ऐसी अन्य सूचनाएं जिनकी केन्द्रीय सरकार द्वारा अपेक्षा की जाए, देगा।

3. केन्द्रीय सरकार, पर्यावरण और वन मंत्रालय, उक्त अधिनियम के उपबन्धों का प्रभावी के लिये उसके द्वारा समय-समय पर जारी किये गए मार्गदर्शक सिद्धांतों का ध्यान रखते हुए आवेदन प्राप्ति की तारीख से तीन मास की अवधि के भीतर या जहां आवेदक से और कोई जानकारी मांगी गई हो तो ऐसी जानकारी की प्राप्ति की तारीख से तीन मास की अवधि के भीतर अनुज्ञा प्रदान करेगा या उक्त क्षेत्र में पर्यावरण पर प्रस्तावित क्रिया या क्रियाओं के सामाघात के आधार पर उक्त अवधि के भीतर अनुज्ञा देने से इंकार करेगा।

4. इस अधिसूचना के अधीन अनुज्ञा की मांग के लिये कोई आवेदन विहित प्रकार में (उपांश देखिए) समुचित रूप से भर कर सचिव, पर्यावरण और वन मंत्रालय, पर्यावरण भवन, सी जी ओ कामप्लेक्स, लोधी रोड, नई दिल्ली को भेजा जाएगा।]

[सं. 17/1/91-पी एफ/आई ए]
खरे, सचिवालयी, सचिव

सारणी

वे क्षेत्र जहां बिना अनुज्ञा की प्रक्रियाओं और क्रियाओं का निषेध किया गया है।

(i) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और राजस्थान राज्य के अलवर जिले के संबंध में इस अधिसूचना की तारीख को राज्य सरकार द्वारा रखे गए भू-अभिलेखों में "वन" के रूप में दर्शाए गए सभी संरक्षित वन, संरक्षित वन या कोई अन्य क्षेत्र

(ii) इस अधिसूचना की तारीख को हरियाणा राज्य के गुड़गांव जिले और राजस्थान राज्य के अलवर जिले के संबंध में राज्य सरकार द्वारा रखे गए भू-अभिलेखों में--

(क) गैर मुमकिन पहाड़, या

(ख) गैर मुमकिन पत्थर, या

(ग) गैर मुमकिन बीहड़, या

(घ) बंजर बीहड़, या

(ङ) वन

के रूप में दर्शित सभी क्षेत्र।

(iii) गुड़गांव जिले में इस अधिसूचना की तारीख तक हरियाणा राज्य को लागू संरक्षण वन (लैंड रिटेंशन एक्ट, 1900 की धारा 4 और धारा 5 की उपधारा की गई अधिसूचनाओं के अन्तर्गत आने वाले सभी क्षेत्र।

(iv) कमजोर (संरक्षण) अधिनियम, 1972 (1972 का 53) के [अलवर और भरतपुर] जिलों के राष्ट्रीय उद्यान और वन्यजीव अभयारण्य में सभी क्षेत्र।

उपांश

आवेदन का प्रपत्र

1. (क) प्रस्तावित परियोजना का नाम और पता :

(ख) परियोजना का प्रकार :
स्थान का नाम :
जिला, तहसील :
प्रस्तावित लम्बाई

(ग) परियोजना के प्रस्तावित स्थान और प्रस्तावित स्थल के लिए कारण :

2. परियोजना के उद्देश्य :

(क) भूमि की अपेक्षाएं
कृषि भूमि
वन (विनिर्दिष्ट करें)

(ख) (i) प्रचालन, अधिसूचना और संपूर्णता उपवर्णित करते हुए क्षेत्र की रूपरेखा :

(ii) प्रस्तावित भूमि का वर्तमान वर्गीकरण :

(ग) 10 किलोमीटर परिसीमा के भीतर किसी अन्य प्रस्तुत क्षेत्र :

(घ) किसी राष्ट्रीय उद्यान/अभयारण्य/जीव मंडल आरक्षित/ संरक्षण/प्राचीन स्थल/आरक्षित वन वैसे दूरी :

(ङ) अवर्गों/खारी एरिया के लिए पुनर्वास योजना :

(च) वृक्ष कटाई योजना :

(छ) प्रतिकरात्मक वनरोपण योजना :

4. जलवायु और वायु क्वालिटी* :

(क) स्थल पर परवर्तनेक्ष :

(ख) अधिसंरचना/सुविधा/सेवाएं सहित वर्णन :

(ग) परिवेशी वायु क्वालिटी के मानकों,

(घ) परियोजना से एस पी एम, सैक्षों (सी ओ, सी ओ 2, एस ओ 2, एन ओ एक्स) के उत्सर्जन की प्रकृति और दर :

**5. (क) जल भूतल स्थल पर जल संतुलन और भूजल की उपलब्धता और मांग :

(ख) सीवर सिस्टम में जल की उपलब्धता :

(ग) उपयोग में लाए जाने वाले जल स्रोत, परियोजना उपयोगकर्ताओं की (सभी, सीवर, भूमध्य, सामुदायिक प्रकार) के ब्यौरे :

(घ) जल की क्वालिटी :

(ङ) पिछले 10 वर्षों में जल की मात्रा और क्वालिटी में देखे गए परिवर्तन और वर्तमान में प्रचण्ड तथा निष्कर्षण के ब्यौरे

(च) (i) जोड़े जाने वाले प्रस्तावित जल की मात्रा उसके उपचार ब्यौरों सहित :

(ii) प्राधिकारी अवशिष्ट में प्रस्तावित जल की मात्रा और क्वालिटी

*आंकड़ें भारत मौसम विज्ञान विभाग और राज्य प्रदूषण नियंत्रण बोर्ड से प्राप्त किए गए जा सकते हैं।

**आंकड़ों के लिए भू जल बोर्ड और सिंचाई विभाग से सम्पर्क किया जा सकता है।

(iii) भूमि पर लगाई जाने वाले प्रतिषिद्ध जल की मात्रा और भूमि की किस्म :

4. प्रतिषिद्ध क्षेत्र

(क) प्रस्तावित क्षेत्र प्रतिषिद्ध की प्रकृति और मात्रा :

(ख) क्षेत्र प्रतिषिद्ध के अवधि की अवधि :

5. शोर और कंपन

(क) शोर और कंपन के स्रोत :

(ख) परिवेश शोर का स्तर :

(ग) प्रस्तावित शोर और कंपन नियंत्रण उपाय :

(घ) नियंत्रण उपायों के साथ अवशिष्ट अपशिष्ट, यदि कोई हो :

6. प्रयास का स्रोत उपयोगित करते हुए विद्युत की आवश्यकता :

यदि इसके विद्युत अपेक्षित है तो पूरे पर्यावरण संबंधी ब्यौरे पृथक रूप में दिए जाएंगे :

7. प्रतिनियोजित किए जाने वाले कुल श्रमिक बल, उसके ब्यौरे सहित : और से स्थायी स्वास्थ्य सेवाएं, प्रस्तावित स्वास्थ्य प्रणाली

10. (क) गावों की संख्या और विस्थापित की जाने वाली जनसंख्या :

(ख) पुनर्वास पैकेज स्थान :

11. अतिरिक्त विवरण दिए जाने

12. (क) पर्यावरण समाघात विश्लेषण रिपोर्ट : — समन-सुसंग पर एन. ई. एस. द्वारा जारी किए गए मार्गदर्शकों के अनुसार तैयार की गई ।

(ख) पर्यावरण संबंधी प्रबंध योजना :

(ग) सम्भाव्यता की विस्तृत रिपोर्ट :

(घ) वन (संरक्षण) अधिनियम, 1980 के अधीन वन भूमि के लिए प्रस्ताव जिसमें पर्याप्त सामाजिक विश्लेषण है :

13. राज्य प्रदूषण नियंत्रण बोर्ड और/या पर्यावरण और वन मंत्रालय विभाग की सिफारिशें :

मार्गदर्शक के अनुसार

मार्गदर्शक के साथ, तारीख और पूरे साथ पते सहित

टिप्पण : क. मद संख्या 3(ङ), 4, 5, 6, 7, 8, 9, 10, 12 (ख) और 12 (ग) पैरों की जानकारी की आवश्यकता नहीं है ।

ख. मद संख्या 3 (ग), 4, 7, 11 निवास एककों के समूह, कृषि सेवाएं, सामुदायिक केंद्रों के निर्माण और ऐसे किसी भी निर्माण जिसमें सड़कें भी सम्मिलित हैं से संबंधित अन्य किसी जानकारी की आवश्यकता नहीं है ।

ग. मद संख्या 3 (ङ), 3 (ग), 3 (ङ), 3(च), 4, 5, 6, 7, 8, 12 (च) और 12 (छ) विद्युतिकरण से संबंधित नहीं है ।

घ. खनन, उद्योग, उत्पादन संबंधित, परियोजनाओं की दशा में सभी मदें प्रस्तुत करनी है ।

ङ. अगर किसी कारण से होते हुए भी ऐसी कोई भी मद (मदें) पर जो लागू नहीं होती विचार किया जाता है कारणों के सहित उपदर्शित की जा सकती है ।

MINISTRY OF ENVIRONMENT & FORESTS

NOTIFICATION

New Delhi, the 7th May, 1992

(Under Section 3(1) and 3(2) (v) of the Environment Protection) Act, 1986 and rule 5(3) (d) of the Environment (Protection) Rules, 1986 restricting certain activities in specified area of Aravali Range which are causing Environmental Degradation in the Region.

S.O. 319(E).—Whereas a Notification under section 3(1) and section 3(2) (v) of the Environment (Protection) Act, 1986 (29 of 1986) inviting objections against restricting certain activities in specified area of Aravalli Range which are causing Environmental Degradation in the Region was published in the Gazette of India, Part II-Section 3 Sub-section (ii) vide S.O. 25(E) dated 9th January, 1992;

And whereas all objections received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2), of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby prohibits the carrying on of the following processes and operations, except with its prior permission, in the areas specified in the Table appended to this Notification :

(i) Location of any new industry including expansion/modernisation;

(ii) (a) All new mining operations including renewals of mining leases.

(b) Existing mining leases in sanctuaries/ national Park and areas covered under Project Tiger and/or

(c) Mining is being done without permission of the competent authority.

(iii) Cutting of trees;

(iv) Construction of any clusters of dwelling units, farms houses, sheds, community centres, information centres and any other activity connected with such construction (including roads a part of any infrastructure relating thereto);

(v) Electrification (laying of new transmission lines).

2. Any person who desires to undertake any of the above mentioned processes or operations in the said areas, shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi, in the attached application form (Annexure) specifying, inter alia, details of the area and the proposed process or operation. He shall also furnish an Environment Impact Statement and an Environmental Management Plan along with the application and such other information as may be required by the Central Government for considering the application.

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3. The Central Government in the Ministry of Environment and Forests shall, having regard to the guidelines issued by it from time to time for giving effect to the provisions of the said Act, grant permission within a period of three months from the date of receipt of the application or where further information has been asked for from the applicant, within a period of three months from the date of the receipt of such information, or refuse permission within the said time on the basis of the impact of the proposed process or operation on the environment in the said area.

4. For seeking permission under this Notification, an application in the prescribed form (see Annexure), duly filled in, may be submitted to the Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi.

[No. 17/1/91-PL/IA]

R. RAJAMANI, Secy.

TABLE

Areas where carrying on of processes and operations without permission is prohibited :

(i) all reserved forests, protected forests or any other area shown as "forest in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon District of the State of Haryana and the Alwar District of the State of Rajasthan.

(ii) all areas shown as :—

(a) Gair Mumkin Pahar, or

(b) Gair Mumkin Rada, or

(c) Gair Mumkin Behed, or

(d) Banjad Beed, or

(e) Rundh.

in the land records maintained by the State Government as on the date of this notification in relation to Gurgaon district of the State of Haryana and the Alwar district of the State of Rajasthan.

(iii) all areas covered by notifications issued under section 4 and 5 of the Punjab Land Preservation Act, 1900, as applicable to the State of Haryana in the district of Gurgaon up to the date of this Notification.

(iv) all areas of Sariska National Park and Sariska Sanctuary notified under the Wildlife (Protection) Act, 1972 (53 of 1972).

ANNEXURE

APPLICATION FORM

1. (a) Name & address of the project proposed:

(b) Location of the project:
Name of the Place :
District, Tehsil :
Location Map. :

(c) Alternate sites examined and the reasons for the site proposed:

2. Objectives of the project :

3. (a) Land Requirement :

Agriculture land :
Other specify) :

(b) (i) Topography of the area indicating gradient, aspect & altitude.

(ii) Broadability classification of the proposed land.

(c) Pollution sources existing within 10 km. radius.

(d) Distance of the nearest National Park|Sanctuary|Biosphere Reserve|Monuments|heritage site|Reserve Forest :

(e) Rehabilitation plan for Quarries|borrow areas :

(f) Green belt plan.

(g) compensatory afforestation plan.

4. Climate & Air Quality*:

(a) Windrose at site:

(b) Max.|Min.|Mean annual temperature.

(c) Ambient air quality data:

(d) Nature & concentration of emission of SPM, Gases (CO, CO2, SO2, NOx etc.) from the project:

5.** (a) Water balance at site surface and ground water availability and demand :

(b) Lean season water availability:

(c) Water source to be tapped with details of competing users (Rivers, lake, Ground, Public supply):

(d) Water Quality:

(e) Changes observed in quantity and quality of water in the last 15 years and present charging and extraction details:

(f) (i) Quantum of waste water to be released with treatment details :

(ii) Quantum & Quality of water in the receiving water body :

(iii) Quantum of waste water to be released on land and the type of land:

6. Solid Wastes :

(a) Nature & quantity of solid wastes generated:

(b) Solid waste disposal method:

7. Noise & vibrations:

(a) Sources of noise & vibrations:

*Data may be obtained from India Meteorological Department and State Pollution Control Board.

**Ground water Board and the Irrigation Deptt. Deptt. may be contacted for data.

(b) Ambient noise level:

(c) Noise & vibration control measures proposed:

(d) Subsidence problem, if any, with control measures:

8. Power requirement indicating source of supply; complete environmental details to be furnished separately, if captive power unit proposed:

9. Total labour force to be deployed with details of:

— Endemic health problems in the area.

— Health care system proposed:

10. (a) Number of families and population to be displaced:

(b) Rehabilitation Master Plan :

11. Risk assessment report:

12. (a) Environmental Impact Assessment Report:

(b) Environmental Management Plan : Prepared as per Guidelines of MEF issued from time to time.

(c) Detailed Feasibility Report:

(d) Proposal for diversion of Forest land under Forest (Conservation) Act, 1980 including Benefit Cost analysis:

13. Recommendations of the State Pollution Control Board and/or the State Department of Environment & Forests.

Signature of the Applicant
Alongwith name, date and
full Postal address.

N.B.:

A. Item Nos. 3(c), 4, 5, 6, 7, 8, 9, 10, 12(b) and 12(c) are not applicable to cutting of trees

B. Item Nos. 3(c), 4, 7, 11 are not applicable to construction of cluster of dwelling units, farm sheds, community centre and any other activity connected with such construction including roads.

C. Item Nos. 3(b), 3(c) 3(e), 3(f), 4, 5, 6, 7, 9, 12(a) & 12(b) are not applicable to electrification.

D. All items to be furnished in case of mining, industry thermal power, transport projects

E. Notwithstanding the above, any item(s) considered not applicable may be so indicated alongwith reasons.

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Agenda Item no. 185.12(S)

To engage Sh. Satpal Singh Rathi, Sr. Environmental Engineer after retirement

It is submitted that Sh. Satpal Singh Rathi, Sr. Environmental Engineer is going to retire on 31.08.2019. He is important functionary in the Board as he is handling the important issues i.e. Planning, Consent Policy and Procedures, TAC (Policy), RO meetings, Lok-Sabha, Rajya Sabha, Vidhan Sabha Questions and related matters, Vidhan Sabha Committees i.e. Public Accounts Committee (PAC), Committee on Public undertakings (PUC) & Committee on budget Estimate etc., PAG and CAG reports including audit paras, Water & air Rules, Annual Reports of the Board, Best practices of other states, policies of other departments, draft development plans of T& CP Deptt. State level Sanctioning and Monitoring Commitee, Pradhan Mantri Gram Vikas Yojna.

In addition to above, he is managing and supervising General Issues of Water Pollution, Ground Water, surface water, WQRC, Wet Lands, Water bodies and their monitoring including NWMP, Water Audit and inter State Pollution. General Issues regarding CETP/STPs, IT Park, industrial estates/Parks, Ezs/EPZs, Bio Tech Parks, Yamuna and Ghaggar Rivers and Action Plan for abatement of their Pollution and also the work of IT Cell.

Further some important issues like Annual Auditing of Board as per CPCB criteria, Co-ordination with MoEF and CPCB on specific General issues including implementation of CPCB specific directions under section 18, online continues effluent and emissions monitoring system in industries and other projects, procedures/methodology for implantation of various Acts/Rules and implantation of ongoing project of E & Y are also needed to be looked after and supervised at the level of an experienced person which can be handled properly and promptly by him to have effective results.

Presently, there is shortage of technical officers at senior level in the Board. 13 posts of Environmental Engineer are vacant and not being filled up due to litigations pending in the Hon'ble High Court and 06 AEEs have been given the charge of environmental engineers to cope up the work. There are more than 50 cases pending with the Hon'ble National Green Tribunal wherein status report is regularly filed by the Board. Sh. Satpal Singh Rathi, Senior Environmental Engineer is supervising this work also.

The service record of Sh. Satpal Singh Rathi, Senior Environmental Engineer has been satisfactory in the HSPCB. After his retirement the technical work of the Board will be affected adversely. His services in the Board are required in office exigency, therefore, he may be engaged by the Board after his retirement i.e. 31.08.2019 as a Senior Technical Advisor for a period of one year at fixed remuneration of Rs. 60,000/- per month.

The matter is placed before the Board of Directors for consideration and approval please.

Agenda Item 185.13(S)

Judgment passed by Hon'ble Special Environment Court, Faridabad in complaint filed under section 15 & 19 of the Environment (Protection) Act, 1986 for violation under Aravali Notification.

The Ministry of Environment and Forest, Government of India had issued notification bearing no. S.O. 319(E) dated 7th May, 1992 **(Annexure-1)** prohibiting construction activities in aravali range.

The HSPCB had detected 707 violations in the area of Gurugram during the year 2005-2006 & 2006-2007 respectively. Accordingly the field office was directed action against 707 units vide letter no. HSPCB/2008/2687 dated 05.02.2009 **(Annexure-2)**. The HSPCB had filed complaint under section 19 read with section 15 of Environment (Protection) Act, 1986 before the Hon'ble Special Environment Court, Faridabad.

The Special Environment Court, Faridabad has recently decided cases of 12 farm houses established in Aravali range as per detail given below submitted by Regional Officer, Gurugram (South):-

Sr. No.	Name of unit	Case No.	Date of filing of the case	Case decided by the Spl. Env. Court, Faridabad
1.	M/s D and A Stores E-25, South Extention Part-II, New Delhi(Farm House No. D-55 A, Aravali Retreat, Raisina, Sohna, Gurgaon)	345/209	28.10.2009	24.05.2019
2.	M/s Ajay Grover S/o Satapal Gover R/o J-II, Sector-12, Noida (Farm House No. D-120, Aravali Retreat, Raisina, Sohna, Gurgaon)	98/2009	29.01.2009	24.04.2019
3.	Smt. Suman Kansal W/o Yogest Kansal R/o B-77, Patel Nagar-II, Ghaziabad U.P. (Farm House No. F-15 A, Aravali Retreat, Raisina, Sohna, Gurgaon)	10/2010	29.01.2010	18.01.2019
4.	M/s P.S. Attri S/o Late Sh. Kashi Ram R/o B-9/6482, Basant Kunj, New Delhi.(Farm House No. E-8, Aravali Retreat, Raisina, Gurgaon)	168/2009	29.01.2009	10.03.2019
5.	M/s Nitin Narain Beri S/o Inder Narain Beri R/o 103, National Media Center, NH-8 Gurugram (Farm House No. D-122, Aravali Retreat, Raisina, Sohna, Gurugram)	374/2009	28.10.2009	16.03.2019
6.	M/s Rahul jain S/o Sh. Ravinder Kumar	167/2009	29.01.2009	18.03.2019

	R/o H.No. 138, Narmada Aperment New Delhi (Farm House No. D-21, Aravali Retreat, Raisina Sohna, Gurugram)			
7.	M/s Sanjeev Kamal S/o J.R. Kamal R/o A-205, Defence Colony, New Delhi (Farm House No. D-18, Aravali Retreat, Raisina, Sohna, Gurugram)	351/ 2009	28.01.2009	08.03.2019
8.	Dr. Chaya Lyengar W/o Dr. Manoj Raje R/o Lyengar Farm House Bijwasan Road, Post Office Kapashera, New Delhi (Farm House No. E-4, Aravali Retreat, Raisina, Sohna, Gurugram)	378/ 2009	28.10.2009	15.03.2019
9.	Sh. Jai P. Sawhney S/o Arjan Sawhney R/o 30/4, East Patel Nagar, New Delhi (Farm House No. A-47A, Aravali Retreat, Raisina, Sohna, Gurugram)	402/ 2009	12.11.2009	13.03.2019
10.	Sh. Jai P. Sawhney S/o Arjan Sawhney R/o 30/4, East Patel Nagar, New Delhi (Farm House No. A-47A, Aravali Retreat, Raisina, Sohna, Gurugram)	403/ 2009	12.11.2009	13.03.2019
11.	Dr. Mohd. Zaki S/o Mr. Rehmat R/o C-3, 3019, Vasant Kunj, New Delhi (Farm House No. D-15, Aravali Retreat, Raisina, Sohna, Gurugram)	379/ 2009	28.05.2009	08.03.2019
12.	M/s Dinesh Mean Jaki S/o Dr. Mohamad Jaki R/o G-45b, East of Kailash, New Delhi (Farm House No. D-15, Aravali Retreat, Raisina, Sohna, Gurugram)	116/ 2009	29.01.2009	05.03.2019

The certified copy of judgment passed by Hon'ble Special Environment Court, Faridabad in the above said 12 cases is given at **Annexure-3 to 14** respectively.

The relevant passed judgment which is reproduced as under:-

"In view of adored discussion and finding, I am of the view that the complaint has miserably failed to proof the guilt of the accused facing trial. Hence, the accused are hereby acquitted of the charge labeled against them by giving them benefits of doubt. The bail and surety bounds stands discharge. File we consigned to records after due compliance with the red ink not that file should not be destroyed and be put up as and when accused are arrested by the police and surrender themselves in the court."

The matter was examined by the legal cell of the HSPCB in all the 12 cases and the opinion is reproduced as under:-

"Having gone through the judgments, I have found that the decision of Ld. Trail Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filling an appeal as in the present case, complainant could not satisfactory prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgment as: State of Haryana V. Raj Kumar, 2007 CrLJ4575(4577) (P&H), S. Ram Krishna V. S. Rami Reddy, 2008 CRLJ2625(2627), AIR 2008 SC2056; Gowrishankara Swamigalu V. State of Karnataka, 2008 CRLJ 3042 (3049)

"In all judgments' Hon'ble Apex Court and High Court respectively held that if the evaluation of the evidence by the trail court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."

The copy of noting file in one such case where legal opinion was given by legal cell is given as **Annexure-15**.

It is pertinent to mention here that the Board had filed appeal in the Hon'ble Punjab and Haryana High Court against the judgment passed by the Special Environment Court, Faridabad in 27 cases of Aravali violation as per detail given at **Annexure-16** but the same was dismissed by the Hon'ble Punjab and Haryana High Court, Chandigarh. The copy of orders passed by Hon'ble Punjab and Haryana High Court on 01.12.2016 is given at **Anneuxre-17**.

The matter is placed before the Board for taking decision regarding filing of appeal in higher court against the judgment passed by the Hon'ble Special Environment Court, Faridabad in 12 cases please.

REGD. No. D.L.-33004/92

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 277] नई दिल्ली, गुरुवार, मई 7, 1992/वैशाख 17, 1914
No. 277] NEW DELHI, THURSDAY, MAY 7, 1992/VAISAKHA 17, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate page is given to this Part in order that it may be filed as a separate compilation.

(1)

[1]

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(2) Annexure-2

13/9/279

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA
PH- 2577870-73

No. HSPCB/2008/ 2687 Dated: 5-2-09

To

The Regional Officer
Gurgaon.

Sub: Prosecution under section 15 read with section 19 of Environment (Protection) Act, 1986 for violation of Aravalli Notification.

Please refer to your letter No. HSPCB/GR/2009/10028 dated 28.1.2009 on the subject cited above.

The Regional Officer to exercise the powers delegated to him vide notification 394 (E) of Environment (Protection) Act for filing of complaint in the Special Environment Court against the persons/ firms/ industries for violations of the provisions of Aravali notification dated 7.5.1992 against violators.

Therefore you are requested to take action against 707 units in view of powers already delegated to you after satisfying legal requirements/ procedures and send report to head office.

Scientist 'C' (HQ)
For Chairman

Annexure-3 13/10/280

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID-HR0370

Case no. 345 of 2009
Date of Instt: 28.10.2009
Date of Judgment: 24.05.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Sh.Chand Saini, Gurgaon Region.

.....Complainant.

Versus

1. M/s D&A Stores E-25, South Extention Part-II, New Delhi.
2. Mrs. Monica Vaderna wife of Ashcush Vaderna (Proprietor) of accused no.1, resident of E-2/19, DLF, Phase-I, Gurugram.
3. Deepshikha Estate (P) Ltd, 115, Ansal Bhawan, 16-KG Marg, New Delhi; through its Director/MD/GM/Secretary.
4. M/s Ansal Housing & Construction Ltd.15 UGF, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
5. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
6. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
7. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
8. A.K. Rajvanshi Authorized Signatory of accused no.3.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Mrs. Ranjana Sharma, Advocate for the complainant.
Accused no.2 Monica Vaderna and AR of accused no.1 on bail with Sh.S.S.Rao, Advocate.
Accused no.4 and 7 through AR Sh. Ganga Parsad on bail with Sh. SS Rao, Advocate.
Accused no.3, 4 and 6 through AR Sh. Ajay Kumar on bail with Sh.SS Rao, Advocate.
Accused no.8 A.K. Rajvanshi already discharged v.o.d. 01.04.2016.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/24.05.2019

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No.13-55A at Golden Height, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Sh. Chand Saini, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O.394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any clusters of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification Electrification "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government; Under the Aravali Notification the areas where carrying on the process and operations without permission have been prohibited are:-

(Varsha Narang)
PO-cum-JMEC, Spl. Inv. Cell
Faridabad 21.05.2019

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13/12/282

i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bahad, or

d. Banjad Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India whereby the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/24.05.2019

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18 JUN 2019

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13/13/283

come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail punitive action under the Aravali Notification. The accused no.3 to 7 through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land in the name of Golden Heights in the area of village & Tehsil Sohna, District Gurugram without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 has purchased 2 acres 1 Marla of land bearing no.D-55A in Golden Heights, village Sohna vide a duly registered sale deed dated 17.05.2004 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate, boundary wall and fencing etc. in collusion with other accused in Golden Heights, village Sohna, Gurugram. A show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

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Authorised by Sec. 76 of the Evidence Act

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/04.06.2019

18 JUN 2019

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13/14/284 6

3. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 08.03.2016. Accused appeared on various dates and were released on bail.

4. In pre charge evidence complainant-board examined Sh. Naveen Gulia as CW1 and Sh. Balraj Ahlawat as CW2. Thereafter, pre charge evidence was closed by ld. counsel for complainant on 19.02.2016.

5. Upon finding a prima-facie case, charge was framed upon the accused no.1 to 7 and charge sheet was served to them under Section 15 of Environment Protection Act and accused no.8 was discharged on 01.04.2016 and 10.05.2016.

6. In after charge evidence learned counsel for accused further cross examined Sh.Bir Singh Patwari, Sh. Naveen Gulia and Sh. Balraj Ahlawat and thereafter, after charge evidence was closed by ld. counsel for complainant on 20.05.2016.

7. Statements under Section 313 Cr.P.C. of accused were recorded on 20.05.2019 in which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:-

Ex.C1	:	Complaint
Ex.C2	:	Joining report.
Ex.C3	:	Notification dated 16.04.1987.
Ex.C4	:	Agenda item no.135.5

(Vinish Sharma)
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Ex.C5	:	Agenda item no.135.3(S)
Ex.C6	:	Copy of sale deed dated 17.05.2004.
Ex.C7	:	Show cause notice dated 10.09.2009.
Ex.C8	:	Notification dated 07.05.1992.
Ex.C9	:	Order of Collector, Gurugram.
Ex.CW1/A	:	Spot inspection report.
Ex.PW3/A	:	Copy of mutation no.12234
Ex.PW3/B	:	Copy of mutation no.18932.
Ex.PW3/C	:	Copy of mutation no.23697
Mark-A	:	Report of Patwari.
Mark-B	:	Copy of letter dated 05.02.2009 of HSPCB, Panchkula.

9. I have heard complainant and defence counsel and have gone through case file carefully.

10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

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11. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

12. Learned counsel for the complainant Mrs. Ranjana Sharma, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh.Naveen Gulia and Sh. Balraj Singh who prepared the spot inspection report. He

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further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

13. On the other hand, ld. defence counsel Sh.S.S. Rao, representing the accused has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Garhi Khandkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was

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necessary for the prosecution to establish the fact of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mauka Annexe*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

14. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Sh.Naveen Gulia, CW2 Sh. Balraj Ahlawat and CW3 Sh. Bir Singh Patwari and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Joining report, Ex.C3 Notification dated 16.04.1987, Ex.C4 Agenda item no.135.5, Ex.C5 Agenda item no.135.8(S), Ex.C6 Copy of sale deed dated 17.05.2004, Ex.C7 Show cause notice dated 10.09.2009, Ex.C8 Notification dated 07.05.1992, Ex.C9 Order of Collector, Gurugram, Ex.CW1/A Spot inspection report, Ex.PW3/A Copy of mutation no.12234, Ex.PW3/B Copy of mutation no.18932, Ex.PW3/C Copy of mutation no.23697.

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Mark-A Report of Patwari and Mark-B Copy of letter dated 05.02.2009 of HSPCB, Panchkula.

15. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

16. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks,*

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[illegible] and [illegible], then the violator is liable to be punished under the provisions of the Act and the notification.

17. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

18. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

19. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was

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raised prior to the notification, hence the date of construction becomes very relevant.

20. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *Khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdwari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated holding.*

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21. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha wakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamacha wakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

22. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

23. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

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24. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Civil) 138 that:-

> *"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Shra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

25. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm*

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hunter's. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

26. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdwari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any Jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be held to be proved to be a part of the said land for want of revenue records.

27. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

28. The prosecution has not brought on record the sale deed by which the accused no.4 M/s Ansal Housing had purchased the land in question but has proved the sale deed Ex.6 vide which accused no.1 purchased the individual farm house bearing no.D-55A Golden Height, Sohna, Gurugram. But admittedly, no electricity connection document has come on record. For the determination of the liability of accused,

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violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The spot inspection report Ex.CW1/A and the sale deed Ex.C6 are in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

29. As per the prosecution version itself there is only a main gate and some wiring present on the farm house in question which cannot be said to be a construction of a farm house in any manner. No other evidence of any other construction on the land in question has been brought on record by the complainant, therefore, the factum of existence of any farm house on the land in question is not proved.

30. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this duration for the reasons best known to the complainant. The said documents might have

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been proved very relevant piece of evidence to establish the *actus reus* of the offence.

31. Further, the show cause notice dated 10.09.2009 Ex.C7 mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

32. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

33. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly mined after 07.05.1992. Therefore, no violation of notification could be established of records.

34. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

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35. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
24.05.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains eighteen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370
24.05.2019

Application No. 343
Date of Preparation 13-6-19
Fees Received on 13-6-19
Date of Preparation of Copy
No. of Pages 18 Copy Fee 54
Copy Fee 90
5
13-6-19

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Annexure-4 13/28/298 (2)

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
UID-HR0370

Case no. 96 of 2009
Date of Instt: 29.01.2009
Date of Judgment: 24.04.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Gurgaon Region Dr. C.V. Singh 'Scientist C'

.....Complainant.

Versus

Ajay Grover son of Satyapal Grover resident of J-11, Sector-12, Noida.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Mrs. Ranjana Sharma, Advocate for the complainant.
Accused Ajay Grover on bail with Sh.AK Singh, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.D-120 at Golden Height, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as

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Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Rada etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information centers and any other activities connected with such construction and electrification etc. The said notification also provide for the procedure for obtaining prior environment clearance from Central/State Government in the following manner:- Any person who desires to undertake any of the above mentioned processes of operation in the said area shall submit an application to the commissioner and secretary to the government of Haryana environment department Chandigarh specifying inter-alia details of the area and the propoded process or operations. The prior environment clearance is required to be obtained from Environment Department, Haryana. Environment clearance is necessary for carrying on the process and operations without permission have been pechibited area-

I All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bahad, or

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d. Bandjad Deed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii. All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail penitive action under the Aravali Notification. The accused being owner in possession has constructed/developed a farm house no.D-120 in the Gair Mumkin Pahar land in the area of Golden Heights, District Gurgaon without obtaining the mandatory clearances and has violated the Aravali Notification. A show cause notice was also issued to the accused person at his postal address regarding prosecution for violation of Aravali

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Notification by way of illegal construction of farm house No.D-120 having area 2 acres in Golden Heights, Sohna, Gurugram. This illegal construction has not only resulted in land degradation, but has also disturbed the ecological balance of the environment in the area by causing alternation in the natural land/profile and endangered the fragile ecology of the Aravali Hills and committed the violation of the provisions of the Environment Protection Act. This illegal development and construction of farm houses, the accused has committed an offence by way of breaching the terms and conditions of the notification dated 07.05.1992 and has made themselves liable to be prosecuted and punished under Section 15 of the Environment Protection Act, hence, this complaint.

3. Upon this complaint, accused was summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 15.10.2009. Accused appeared on 19.07.2013 and was released on bail.

4. In pre charge evidence complainant-board examined Sh. Sunder Singh Patwari as CW1 and Dr.CV Singh as CW2. Thereafter, pre charge evidence was closed by ld. counsel for complainant on 13.05.2016.

5. Upon finding a prima-facie case, charge was framed upon the accused and charge sheet was served to him under Section 15 of Environment Protection Act on 30.05.2016.

6. In after charge evidence learned counsel for accused examined Sh. Dinesh Kumar and thereafter, after charge evidence was closed by ld. counsel for the complainant on 08.11.2016.

7. Statement under Section 313 Cr.P.C. of accused was recorded on 03.01.2017 to which accused denied all the allegations and

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opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Notification dated 07.05.1992.
Ex.C3	:	Notification dated 16.04.1987.
Ex.C4	:	Letter dated 24.12.2008 of HSPCB, Panchkula.
Ex.C5	:	Show cause notice dated 07.04.2006
Ex.C6	:	Gazette notification dated 16.04.1987.
Ex.C7	:	Minutes of the meeting sub committee held on 03-05 May, 2006.
Ex.C8	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C9	:	Minutes of the 135th meeting.
Ex.C10	:	Photographs
Ex.CW1/A	:	Copy of Mutation no.12382.
Ex.CW1/B	:	Copy of mutation no.18932
Ex.CW1/C	:	Certificate issued by Patwari.
Ex.CW3/A	:	Status report.

9. I have heard complainant and defence counsel and have gone through case file carefully.

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10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

11. Per contra, the stand of the accused, in brief, is that the M/s Anral Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of

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law as it was done in the year of 2005. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

12. Learned counsel for the complainant Mrs.Ranjana Sharma, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Dr. C.V. Singh and Sh.Dinesh Kumar who has prepared the spot inspection report. She further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

13. On the other hand, ld. defence counsel Sh.A.K. Singh, representing the accused has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as

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Gair Ahmikh farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site (*"Moka Annum"*) and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

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14. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Sunder Singh Patwari, CW2 Dr.C.V. Singh and CW3 Sh. Dinesh Kumar and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 07.05.1992, Ex.C3 Notification dated 16.04.1987, Ex.C4 Letter dated 24.12.2008 of HSPCB, Panchkula, Ex.C5 Show cause notice dated 07.04.2006, Ex.C6 Gazette notification dated 16.04.1987, Ex.C7 Minutes of the meeting sub committee held on 03-05 May, 2005, Ex.C8 Minutes of the committee meeting held on 19-20 October, 2005, Ex.C9 Minutes of the 135th meeting, Ex.C10 Photograph, Ex.CW1/A Copy of Mutation no.12382, Ex.CW1/B Copy of mutation no.18932, Ex.CW1/C Certificate issued by Patwari and Ex.CW3/A Status report.

15. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of such such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

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16. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of Sate of Rajasthan and all areas shown as *goir mumkin pahar, goir mumkin reta, goir mumkin bahed, banjad beed and rundh*, then the violator is liable to be punished under the provisions of the Act and the notification.

17. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

18. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered

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within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

19. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

20. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *Maasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *nor est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per

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the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated fields.*

21. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha vakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamcha vakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

22. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

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23. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

24. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of gair mumkin farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Crl.) 138 that:-

> *"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Hal-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

25. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are

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illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land use" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

26. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any revenue record mentioning the land on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

27. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

28. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house

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bearing no.D-120, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record and merely purchasing the disputed property after 07.05.1992 does not necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The said status report Ex.CW3/A is in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

29. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.CW3/A is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

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30. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this direction for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the *actus reus* of the accused.

31. Further, the show cause notice dated 07.04.2006 Ex.C5 mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

32. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.CW3/A is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

33. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not merely on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to

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give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

34. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

35. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused is hereby acquitted of the charge leveled against him by giving him benefit of doubt. His bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
24.04.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains seventeen pages and all the pages are checked and signed by me.

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Faridabad.UID:HR0370
24.04.2019

Application No. 4414
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Annexure-5

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID:HR0370

Case no.10 of 2016
Date of Instt: 29.01.2016
Date of Judgment:18.01.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon.

.....Complainant.

Versus

1. Smt. Suman Kansal wife of Yogesh Kansal resident of B-77, Patel Nagar-II, Ghaziabad U.P.
2. Yogesh Kansal son of Tara Chand Kansal resident of B-77, Patel Nagar-II, Ghaziabad U.P.
3. Anil Garg son of Sh. A.S. Garg resident of E-295, Greater Kailash-I, New Delhi.
4. Tripta Garg wife of Anil Garg resident of E-295, Greater Kailash-I, New Delhi.
5. S.S. Kashyap son of H.L.Kashyap (GAP of accused no.3 and 4) resident of 51 Munirka Enclave, New Delhi.
6. M/s Ansal Housing & Construction Ltd.15 UGF, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
7. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
8. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
9. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.

.....Accused.

Complaint under Section 15 of The Environment Protection Act, 1986.

Present: Mrs. Ranjana Sharma, Advocate for the complainant.
Accused no.3 and 4 already declared PP v.o.d.17.02.2014.
Accused no.1 Suman Kansal and accused no.2 Yogesh Kansal on bail with Sh.SS Rao,Advocate.

(Varsha Sharma)
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Special Environment Court,
Faridabad 18.01.2019

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Accused no.5 already discharged v.o.d.04.04.2016.
Accused no.7 and 8 through AR Sh. Ajay Kumar on bail with Sh. SS Rao, Advocate.
Accused no.6 and 9 through AR Sh. Ganga Parsad on bail with Sh. SS Rao, Advocate.

Judgment

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of farm house bearing No.F-15A at Aravali Retreat, Raisina, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O. 394(E) under Environment Protection Act, 1986 Regional Officer of Haryana Pollution Control Board is competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Rada etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information center and any other activities connected with such construction and electrification etc. without obtaining prior environment clearance from Central/State Government. Accused no.6 to 9 got the wind of provisions of the Environment Protection Act 1986 when the process of issuance of Aravali Notification was under consideration then they, with the help of its responsible officers/directors etc., colluded with the officers of the revenue

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department and succeeded in making/preparing wrong, frivolous and illegal entries in the revenue record of village Raisina, Tehsil Sohna, Distt. Gurgaon showing the entry Gair Mumkin Pahar to Gair Mumkin Farm House which were contrary to the factual position on the ground that there was no work done towards the development of farm house project on the ground till 1992 when the factum of changing of reverse record in village Raisina came to the knowledge, the Collector, Gurgaon took action and sought the report from its subordinate officers who after inspection submitted the report and the Collector found that entries of Gair Mumkin Farm House in place of Gair Mumkin Pahar were false, frivolous and illegal and he vide an order memo no.2605-06 SK dated 23.2.2006 directed the District Revenue officer, Gurgaon correct the wrong entries. The accused persons no.6 to 9, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 and 2 have purchased 1 acre of land bearing no.F-15A in Aravali Retreat, Raisina vide a duly registered sale deed dated 19.11.2004 from accused no.3 to 5 and constructed a farm house by way of an illegal construction in form of gate and fencing and cemented pole etc. in collusion with other accused in Aravali Retreat, Raisina, Gurgaon. On perusal of revenue record, the department noticed that the entries made one year prior to Aravali Notification, were shown as gair mumkin pahar in khasra girdawari of October, 1990 but were shown farm house in khasra girdawari of March, 1991. This change was not possible in a short span of time. Show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological

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balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

3. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 19.04.2010. Accused appeared on various dates and were released on bail.

4. During the proceedings accused no.3 and 4 were declared Proclaimed Person vide order dated 17.02.2014.

5. In pre charge evidence complainant-board examined Sh. Yashpal Computer Operator as CW1, Sh. Hawa Singh Patwari as CW2 and Sh. Sanjeev Kumar as CW3. Thereafter, pre charge evidence was closed by ld. counsel for the complainant on 14.03.2016.

6. Upon finding a prima-facie case, charge was framed upon the accused no.1,2 and 6 to 9 and charge sheet was served to them under Section 15 of Environment Protection Act on 04.04.2016 and 02.05.2016 and accused no.5 was discharged on 04.04.2016.

7. In after charge evidence Sh. Yashpal Computer Operator, Sh. Hawa Singh Patwari, Sh. Sanjeev Kumar and Sh. Kuldeep Singh were examined by ld. counsel for complainant. Thereafter, after charge evidence was closed by ld. counsel for complainant on 21.12.2018.

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8. Statements under Section 313 Cr.P.C. of accused no.1,2 and 6 to 9 were recorded on 07.01.2019 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and defence evidence was closed by accused today itself.

9. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint
Ex.C2	:	Certificate of Patwari Raisina and notification dated 16.04.1987.
Ex.C3	:	Copy of rapat rojnamcha and 135th meeting.
Ex.C4	:	Notification dated 07.05.1992 and copy of mutation no.2343.
Ex.C1&C5	:	Copy of sale deed dated 19.11.2004
Ex.C6	:	Show cause notice dated 25.08.09 issued to accused no.1
Ex.C7	:	Status report and Spot Inspection Report.
Ex.C8	:	Letter dated 05.02.2009 of HSPCB, Panchkula.
Ex.C9	:	Minutes of the meeting sub-committee held on 3-5 May, 2005.
Ex.C10	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C11	:	Order of Collector, Gurugram.
Ex.C12&Ex.C13:		Photographs.

10. I have heard complainant and defence counsel and have gone through case file carefully.

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11. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

12. Per contra, the stand of the accused, in brief, is that the M/s Ansal Properties and Infrastructure Pvt.Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2005. It is also their defence that all the construction was raised on the land in question prior to the commencement

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of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Ld. counsel for the complainant Mrs. Ranjana Sharma, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being *Gair Mumkin Pahar*, could be done. The present accused no.1 and 2 in collusion with accused no.6 to 6 and in violation of the notification constructed the farm house and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh. Sanjeev Kumar and Sh.Kuldeep Singh. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused were liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

14. On the other hand, ld. counsel Sh.S.S. Rao, representing accused no.1, 2 and 6 to 9 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Properties and Infrastructure Pvt.Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Properties and Infrastructure Pvt. Ltd. has been tried and decided on merits vide judgment dated 17.12.2014. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin farm house* in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Properties after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations

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of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *khasra girdawari* which describes the actual factual position of the sites, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Moka Ammar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant board has examined four witnesses CW1 Sh. Yashpal Computer Operator, CW2 Sh. Hawa Singh Patwari, CW3 Sh. Sanjeev Kumar and CW4 Sh. Kuldeep Singh and has relied upon several documents such as Ex.C1 Complaint, Ex.C2 Certificate of Patwari Rajpura and notification dated 16.04.1987, Ex.C3 Copy of mpct rojnamcha and 135th meeting, Ex.C4 Notification dated 07.05.1992 and copy of mutation

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no.2343, Ex.C1&C8 Copy of sale deed dated 19.11.2004, Ex.C6 Show cause notice dated 25.08.09 issued to accused no.1, Ex.C7 Status report and Spot Inspection Report, Ex.C8 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.C9 Minutes of the meeting sub-committee held on 3-5 May, 2006, Ex.C10 Minutes of the committee meeting held on 19-20 October, 2005, Ex.C11 Order of Collector, Gurugram and Ex.C12&Ex.C13 Photographs.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of such such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification

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in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rada, gair mumkin bahed, khajat beed and rasab*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. It is a conceded fact that M/s Ansal Properties and Infrastructure Pvt. Ltd. purchased the land in question and developed an area over the same. Now the points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have mixed construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?.

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

20. Taking into hand the first argument of ld. defence counsel that the present complaint against accused no.3 M/s Ansal Properties and Infrastructure Pvt. Ltd. is operating as double jeopardy because the earlier complaint titled as HSPCB Vs. M/s Ansal Properties has already been decided on 17.12.2014 and the accused has been acquitted in that case. It is pertinent to mention here that the copy of judgment dated 17.12.2014 clearly shows that the said complaint was for the whole chunk of land having an area of approximately 1200 acre whereas this complaint is also against the subsequent individual purchaser of a particular land along with the developer company i.e. M/s Ansal Properties. The previous complaint was for developing the whole area by way of laying roads, electricity

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lines and constructing several farm houses but the extent of construction in the both complaint has to be decided on the peculiar evidence as well as facts of each and every case. The present complaint is related to the construction of individual farm house having specific number and, therefore, the offence is separate and distinct even though the two offences arise out of same facts and allegations. It has been clearly held in State of Haryana Vs. Tek Chand 1998(3) RCR(Criminal) 10 that Section 300 Cr.P.C. proviso and Article 20(2) of the Constitution of India talks about the doctrine of double jeopardy and to invoke the bar of Article 20(2) of The Constitution of India, identity of the offence is requisite condition. Previous conviction or acquittal for one offence does not bar a subsequent trial and conviction for a separate and distinct offence even though the two offences arise out of the same facts and allegations in the two complaints are identical. Hence, it can very safely be concluded that this complaint, in no manner, operates as double jeopardy of accused no.2, thus the argument of ld. defence counsel, in this context, is liable to be dismissed.

19. The argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land.

20. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction

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on the land though it is disputed that the construction was mixed prior to the notification, hence the date of construction becomes very relevant.

21. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification, i.e. nature of the land in question, the complainant Board has relied upon order of DC, Gurgaon, Ex.C11 order dated 21.09.2006 of the District Collector, Gurgaon. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. Here, the order of DC Ex.C11 is relevant by which all the Circle Revenue Officers were directed to rectify the *khasra girdawari* as per the site which was *gair mumkin pahar*. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation*

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unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated holding.

22. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha* vakyati Ex.C2 which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamacha vakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority. Therefore, the order of DC Ex.C11 can very safely be read into evidence.

23. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

24. In addition to this the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as

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the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

25. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Cri.) 138 that:-

> *"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

26. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was

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'gair mumkin farm house' . Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

27. Thus, the land in question can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date. Therefore, the Aravali Notification is aptly applicable on the land in question.

28. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. For this the prosecution has relied upon the Status report and spot inspection report Ex.C7 and show cause notice dated 25.06.2009 Ex.C6. The allegations are that the accused have constructed a farm house without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area. The spot inspection report Ex.C7 mentions that a main gate along with pillars and fencing were observed at the site.

29. The prosecution has not brought on record the sale deed by which the accused no.3 M/s Ansal Properties had purchased the land in question but has proved the sale deed dated 22.12.2004 Ex.C1 & Ex.C5 vide which accused no.1 and 2 purchased the individual farm house bearing no.F-15A Aravali Retreat, Raisina. But admittedly, no electricity connection document has come on record. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The

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said status report and spot inspection report Ex.C7 and the sale deed dated 19.11.2004 Ex.C1 and Ex.C5 are in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

30. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. But the status report and spot inspection report Ex.C7 is mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

31. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and nin this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

32. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

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33. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, accused are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance with a red ink note that file should not be destroyed and be put up as and when accused no.3 Anil Garg and accused no.4 Tripta Garg are arrested by the police and surrendered themselves in the court.

Announced in the open court
18.01.2019

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

Certified that this judgment consists of seventeen pages and each page are signed by me.

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

January 18, 2019
Vikash Kumar

Application No. 342
Date of Preparation 4-7-19
Record Received on 4-7-19
Date of Preparation of Copy 4-7-19
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Annexure 2

13/62/332

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID-HR0379

Case no. 168 of 2009
Date of Instt: 29.01.2009
Date of Judgment: 13.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Gurgaon Region Dr. C.V. Singh "Scientist C"

.....Complainant.

Versus

P.S. Atri son of late Sh. Kashi Ram resident of B-9/6482, Basant Kunj, New Delhi.

.....Accused

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused P.S. Atri on bail with Sh.LS Yadav, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.E-8 at Golden Height, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as

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Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Rada etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information centers and any other activities connected with such construction and electrification etc. The said notification also provide for the procedure for obtaining prior environment clearance from Central/State Government in the following manner:- Any person who desires to undertake any of the above mentioned processes of operation in the said area shall submit an application to the commissioner and secretary to the government of Haryana environment department Chandigarh specifying inter-alia details of the area and the proposed process or operations. The prior environment clearance is required to be obtained from Environment Department, Haryana. Environment clearance is necessary for carrying on the process and operations without permission have been prohibited are:-

i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bahed, or

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(Vinay Sharma)
PO-cum-JBWC, Spl. Sub. Court
Panchkula 19.11.2019

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d. Jamabandi, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail penitive action under the Aravali Notification. The accused being owner in possession has constructed/developed a farm house no.E-8 in the Goir Mumkin Pahar land in the area of Golden Heights, District Gurgaon without obtaining the mandatory clearances and has violated the Aravali Notification. A show cause notice was also issued to the accused person at his postal address regarding prosecution for violation of Aravali

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Notification by way of illegal construction of farm house No.E-8 having area 2 acres in Golden Heights, Sohna, Gurugram. This illegal construction has not only resulted in land degradation, but has also disturbed the ecological balance of the environment in the area by causing alternation in the natural land/profile and endangered the fragile ecology of the Aravali hills and committed the violation of the provisions of the Environment Protection Act. This illegal development and construction of farm houses, the accused has committed an offence by way of breaching the terms and conditions of the notification dated 07.05.1992 and has made themselves liable to be prosecuted and punished under Section 15 of the Environment Protection Act, hence, this complaint.

3. Upon this complaint, accused was summoned to face trial under Section 15 of Environment Protection Act by the Ld. Predecessor of this court vide order dated 27.10.2009. Accused appeared on 05.06.2012 and was released on bail.

4. In pre charge evidence complainant-board examined Dr. C.V. Singh as CW1. Thereafter, pre charge evidence was closed by court order vide order dated 24.09.2012.

5. Upon finding a prima-facie case, charge was framed upon the accused and charge sheet was served to him under Section 15 of Environment Protection Act on 16.04.2013.

6. In after charge evidence learned counsel for accused further cross examined Dr. C.V. Singh and Sh. Parveen Kumar Patwari and thereafter, after charge evidence was closed by ld. counsel for the complainant on 19.09.2014.

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Gurugram 17.03.2015

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7. Statement under Section 313 Cr.P.C. of accused was recorded on 25.11.2014 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1 : Complaint.

Ex.C2 : Status report.

Ex.C3 : Photograph.

Ex.C4 : Show cause notice dated 15.03.2006

Ex.C5 : Reply to show cause notice.

Ex.C6 : Notice dated 03.09.2007.

Ex.C7 : Letter dated 24.12.2008 of HSPCB, Panchkula.

Ex.PW2/A : Copy of mutation no.12231

Ex.PW2/B : Copy of mutation no.18932

Ex.PW2/C : Certificate of Patwari.

Ex.PW2/D : Copy of jamabandi of the year 2001-02.

9. On the other hand to prove his case, ld. defence counsel has produced the following documents:-

Ex.D1 : Copy of judgment dated 26.05.2009 passed by ld. District Judge, Gurugram.

10. I have heard complainant and defence counsel and have gone through case file carefully.

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(Manika Bhawan)
JO cum-JE(C), Spl. Exe. Court
Gurugram 13.03.2019

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11. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchaser. In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

12. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and non est for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the

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construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Dr. C.V. Singh. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

14. On the other hand, ld. defence counsel Sh. L.S. Yadav, representing the accused has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as Gair Mumkin farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry

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on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Moke Anusar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

11. In order to substantiate the allegations, the complainant Board has examined two witnesses CW1 Dr. C.V. Singh and CW2 Sh.

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Fast Track Court
Faridabad (Haryana)

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Parveen Kumar Patwari and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Status report, Ex.C3 Photograph, Ex.C4 Show cause notice dated 15.03.2006, Ex.C5 Reply to show cause notice, Ex.C6 Notice dated 08.09.2007, Ex.C7 Letter dated 24.12.2008 of HSPCB, Panchkula, Ex.PW2/A Copy of mutation no.12231, Ex.PW2/B Copy of mutation no.18932, Ex.PW2/C Certificate of Patwari and Ex.PW2/D Copy of Jamabandi of the year 2001-02.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected

(Vartika Bansal)
JCO-cum-JSIIC, Spl. Env. Court
Faridabad (C) 19.3.2019

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forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin kohed, banjar kadi and rundh*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

19. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which from figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

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Faridabad 13.05.2019

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20. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

21. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the mala fide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification, However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin nadik* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation*

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PO cum OMR, Sub Div. Court
Faridabad 13.03.2015

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*unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated land*ing.

22. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha wakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamcha wakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not yet aside by any superior authority.

23. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a gair mumkin farm house.

24. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior

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PO-cum-(NIC, Distt Env Cell)
Faridabad 19.03.2013

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Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

25. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Anmol Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Cri.) 138 that:-

> *"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Shjra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

25. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials.

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PO cum-JE(C), Spl. Env. Court
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Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

27. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the kharif girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any revenue record mentioning the land on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

28. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

29. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.E-8, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record and merely purchasing the disputed property after 07.05.1992 does not

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necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The said status report Ex.C2 is in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

10. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C2 is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

31. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the

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JMIC(MC), Sp. Env. Court
Faridabad 19.03.2019

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accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this direction for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the *actus reus* of the accused.

32. Further, the show cause notices dated 15.03.2006 & 08.09.2007 Ex.C4 & Ex.C6 mention the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

33. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C2 is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

34. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not merely on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of

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(Varsha Sharma)
DO-cum-MIC, Spl. Env. Court
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construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

35. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre ponderance of probabilities, which also has not been done so in the present case.

36. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused is hereby acquitted of the charge leveled against him by giving him benefit of doubt. His bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
13.03.2019

(Vivek Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad,UID:HR0370

Note: This judgment contains seventeen pages and all the pages are checked and signed by me.

(Vivek Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad,UID:HR0370
13.03.2019

Application No. 190
Date of application 14-03-2019
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Reconciled by Smt. ... of the Petitioner Adv.

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(2)

Annexure-7 13/79/349

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
UID-HR0370

Case no. 374 of 2009
Date of Instt: 28.10.2009
Date of Judgment: 15.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Sh.Chand Sukri, Gurgaon Region.

.....Complainant.

Versus

1. Nitin Narain Beri son of Dr.Jader Narain Beri resident of 103, National Media Center, NH-8, Gurugram.
2. Mrs. Sulini Minocha Beri wife of Nitin Narain Beri resident of 103, National Media Center, NH-8, Gurugram.
3. Rajender son of Ram Chander resident of Sohna, Distt.Gurugram.
4. M/s Aastal Housing & Construction Ltd.15 UGF, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
5. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
6. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
8. Tarun Dwivedi Authorized Signatory of accused no.4.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused No.1 Nitin Narain Beri and accused no.2 Mrs. Shalini Minocha on bail with Sh.I.S Yadav, Advocate.
Accused No.3 Rajender already declared PP v.o.d.05.09.2014.
Accused no.5 and 6 through AR Sh. Ajay Kumar on bail with Sh. SS Rao, Advocate.
Accused no.4 and 7 through AR Sh. Ganga Parsad on bail with Sh.SS Rao, Advocate.
Accused no.8 already discharged v.o.d. 30.08.2016.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.D-122 at Golden Height, Sohna, Gurgaon in violation of Notification

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PO cum-JMIC, Spl. Env. Court
Faridabad 14.03.2019

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no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Sh. Chand Saini, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O.394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any element of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification Electrification "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government. Under the Aravali Notification the areas where carrying on the process and operations without permission have been prohibited etc.

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(Mukul Sharma)
Director (HSPCB, Sub. Env. Court)
Faridabad 28.03.2019

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i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Babul, or

d. Banjad Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India whereby the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having

(Ms. ... Sharma)
PLO to DHC, Spl. Env. Court
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3. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the Id. Predecessor of this court vide order dated 20.07.2010. Accused appeared on various dates and were released on bail.

4. During the proceedings accused no.3 Rajender was declared Proclaimed Persons vide order dated 05.09.2014.

5. In pre charge evidence complainant-board examined Sh. Sanjeev Kumar as CW1. Sh. Balraj Singh. Thereafter, pre charge evidence was closed by ld. counsel for complainant on 28.03.2016.

6. Upon finding a prima-facie case, charge was framed upon the accused no.1,2 and 4 to 7 and charge sheet was served to them under Section 15 of Environment Protection Act on 22.04.2016 and accused no.8 was discharged on 30.08.2016 .

7. In after charge evidence learned counsel for accused further cross examined Sh.Sanjeev Kumar and Sh. Balraj Singh and thereafter, after charge evidence was closed by ld. counsel for the complainant on 01.05.2017.

8. Statements under Section 313 Cr.P.C. of accused were recorded on 03.07.2017 and 21.07.2017 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

9. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1 : Complaint.

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Ex.C2	:	Notification dated 16.04.1987.
Ex.C3	:	Minutes of the 135th meeting.
Ex.C4	:	Notification dated 03.05.1992.
Ex.C5	:	Copy of sale deed dated 18.12.2007.
Ex.C6	:	Show cause notice dated 07.08.2006.
Ex.C6/A	:	Show cause notice dated 16.09.2009.
Ex.C7	:	Spot inspection report.
Ex.C8	:	Letter dated 05.02.2009 of HSPCB, Panchkula.
Ex.C9	:	Minutes of the meeting sub-committee held on 03-05 May, 2006.
Ex.C10	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C11	:	Reply to show cause notice.

10. I have heard complainant and defence counsel and have gone through case file carefully.

11. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment

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Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

12. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The

(V. [illegible])
PO, o/o JMIC, Spl. Env. Court
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construction was clearly proved upon file by the evidence of Sh.Sanjeev Kumar and Sh. Balraj Singh who prepared the spot inspection report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

14. On the other hand, ld. defence counsel Sh.I.S Yadav, representing the accused No.1 and 2 has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm

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houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mauka Jaiza*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In support of the arguments advanced by ld. defence counsel for accused no.1 and 2, learned counsel Sh. S.S. Rao, representing accused no.4 to 7 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Housing and Construction Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Housing and Construction Ltd. has been tried and decided on merits vide judgment dated 21.01.2019. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin farm house* in the revenue record

(Vaidik Mathur)
JCJ(Spl. Court), Spl. Jail, Gwn
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on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *khasra girdawari* which describes the actual factual position of the sites, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mauka Ansaar*") and, therefore, the correction of entries by the revenue officials is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated

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07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

16. In order to substantiate the allegations, the complainant Board has examined two witnesses CW1 Sh.Sanjeev Kumar and CW2 Sh. Balraj Singh and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 10.04.1987, Ex.C3 Minutes of the 135th meeting Ex.C4 Notification dated 07.05.1992, Ex.C5 Copy of sale deed dated 18.12.2007, Ex.C6 Show cause notice dated 07.09.2006, Ex.C6/A Show cause notice dated 10.09.2009, Ex.C7 Spot inspection report, Ex.C8 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.C9 Minutes of the meeting sub-committee held on 03-05 May, 2006, Ex.C10 Minutes of the committee meeting held on 19-20 October, 2005 and Ex.C11 Reply to show cause notice.

17. The present complaint has been filed for prosecution of the accused for commission of offences punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five*

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(V. K. Sharma)
PCS/HJS, Sr. Env. Court
Faridabad 14.03.2018

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thousand rupees for every day during which such
failure or contravention continues after the conviction
for the first such failure or contravention."

18. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin balard, kagjat beal and canal*, then the violator is liable to be punished under the provisions of the Act and the notification.

19. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

20. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of 'raising

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construction". is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

21. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

22. Lastly, taking into account the pre requisite for the applicability of the Aravali Notification, it is contended that the entries in the *Khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department officials to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and non est. In this regard the inquiry report submitted by district revenue officials marks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin* pukka to farm house and gair mumkin zadid but surprisingly the

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conversion of the nature of land from gair mumkin (uncultivable land) to fana kasht (cultivable land) was done within a short span of time between March 1990 and July 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land* means cultivated gair mumkin *thereon all barren and uncultivable land like* mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated holdings.

23. However, the patwari can change the entry in *Bhuma girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamacha vahyati* which has not been done in this case. On the basis of the same report, the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the *Bhuma girdawari* and thereafter the *rojnamacha vahyati* was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 25.02.2016 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

24. Even otherwise, merely altering the entry in the *Bhuma girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore,

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the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a gair mumkin farm house.

25. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly entered in rectify the entries in the khasra girdawari.

26. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of gair mumkin farm house in the khasra girdawari but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very recently, held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Crl.) 135 that-

> *"If any persons without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of remarks and also Sikat, then such stray and illegal entry any how act, will and are not sufficient to*

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held that the land in litigation was gair mumkin farm houses."

27. Therefore, it can very safely be concluded that the entries in the khasra girdawari of the year 1991 were without any basis and thus are illegal and non est. Therefore, no implicit reliance can be placed on such void, non est and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any 'Change of land use" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

28. Thus, the land of Golden Heights project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any jamabandi mentioning the nature of land as *gair mumkin pahar* on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

2nd Point

29. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are

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that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

30. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.13-122 Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record and merely purchasing the disputed property after 07.05.1992 does not necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

31. As per the prosecution version itself there is only a main gate and some wiring present on the farm house in question which cannot be said to be a construction of a farm house in any manner. No other evidence of any other construction on the land in question has been

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brought on record by the complainant, therefore, the factum of existence of any farm house on the land in question is not proved.

32. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this duration for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the *actus reus* of the offence.

33. Further, the show cause notices dated 07.09.2006 & 10.09.2009 Ex.C6 & Ex.C6A mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

34. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

35. It is settled law that the prosecution is required to prove fully the case against the accused beyond all shadows of reasonable doubt and

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rest more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

36. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

37. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused no.1,2 and 4 to 7 are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance with a red ink note that file should not be destroyed and be put up as and when accused no.3 Rajender is arrested by the police and surrendered himself in the court.

Announced in open court.
14.03.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID-HR0370

Note: This judgment contains nineteen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID-HR0370
14.03.2019

Application No. 154
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Annexure-8

13/97/367

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
UID-HR0370

Case no. 167 of 2009
Date of Instt: 29.01.2009
Date of Judgment: 18.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Gurgaon Region Dr. C.V. Singh 'Scientist C'

.....Complainant.

Versus

Rahul Jain son of Sh. Ravinder Kumar resident of H.No.138, Narmada Apartment, Alkanda, New Delhi.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused Rahul Jain on bail with Sh.I.S Yadav, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.D-21 at Golden Height, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 319(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the comp

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PO cum-JMIC, Spl. Env. Court
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Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Rada etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information centers and any other activities connected with such construction and electrification etc. The said notification also provide for the procedure for obtaining prior environment clearance from Central/State Government in the following manner:- Any person who desires to undertake any of the above mentioned processes of operation in the said area shall submit an application to the commissioner and secretary to the government of Haryana environment department Chandigarh specifying inter-alia details of the area and the proposed process or operations. The prior environment clearance is required to be obtained from Environment Department, Haryana. Environment clearance is necessary for carrying on the process and operations without permission have been prohibited are:-

i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bahed, or

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad 18.03.2019

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e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notifications issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary-department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail punitive action under the Aravali Notification. The accused being owner in possession has constructed/developed a farm house no.D-21 in the Gair Mumkin Pahar land in the area of Golden Heights, District Gurgaon without obtaining the mandatory clearances and has violated the Aravali Notification. A show cause notice was also issued to the accused person at

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(Vinay Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/18.03.2019

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his postal address regarding prosecution for violation of Aravali Notification by way of illegal construction of farm house No.D-21 having area 2 acres in Golden Heights, Sohna, Gurugram. This illegal construction has not only resulted in land degradation, but has also disturbed the ecological balance of the environment in the area by causing alteration in the natural land/profile and endangered the fragile ecology of the Aravali hills and committed the violation of the provisions of the Environment Protection Act. This illegal development and construction of farm houses, the accused has committed an offence by way of breaching the terms and conditions of the notification dated 07.05.1992 and has made themselves liable to be prosecuted and punished under Section 15 of the Environment Protection Act, hence, this complaint.

3. Upon this complaint, accused was summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 28.10.2009. Accused appeared on 05.06.2012 and was released on bail.

4. In pre charge evidence complainant-board examined Dr. C.V. Singh as CW1. Thereafter, pre charge evidence was closed by court order vide order dated 17.01.2013.

5. Upon finding a prima-facie case, charge was framed upon the accused and charge sheet was served to him under Section 15 of Environment Protection Act on 12.03.2013.

6. In after charge evidence learned counsel for accused further cross examined Sh. Dinesh Kumar and thereafter, after charge evidence was closed by court order vide order dated 06.01.2015.

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(Vartika Sharma)
PO cum JMIC, Spl. Env. Court
Faridabad 12.03.2019

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7. Statement under Section 313 Cr.P.C. of accused was recorded on 10.02.2015 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Copy of sale deed dated 19.05.2003.
Ex.C3	:	Reply to show cause notice.
Ex.C4	:	Status report.
Ex.C5	:	Letter dated 21.09.2011 of HSPCB, Gurugram written toTehsildar, Sohna, for taking certified copy of jamabandi.
Ex.C6	:	Letter dated 24.12.2008 of HSPCB, Panchkula.
Ex.C7	:	Minutes of the meeting sub-committee held on 03-05 May, 2006.
Mark-A to C	:	Public notices.
Mark-D	:	Order of Collector, Gurugram.
Mark-E	:	Inquiry report of DRO, Gurugram.

9. I have heard complainant and defence counsel and have gone through case file carefully.

10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the

(Vanita Sahrawat)
HCS (Judicial Branch), Addl. Civil Judge (Sr. Div.)
Fast Track Court, Gurugram
15.03.2019

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Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchaser. In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

11. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

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(Vinita Jaswal)
HO-cum-Addl. Sessions Judge, Fast Track Court
Faridabad/28.03.2019

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12. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Dr. C.V. Singh and Sh. Dinesh Kumar who prepared the status report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

13. On the other hand, ld. defence counsel Sh. L.S. Yadav, representing the accused has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in

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question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Moka Ammar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

14. In order to substantiate the allegations, the complainant Board has examined two witnesses CW1 Dr. C.V. Singh and CW2 Sh. Dinesh Kumar and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Copy of sale deed dated 19.05.2000, Ex.C3 Reply to

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show cause notice, Ex.C4 Status report, Ex.C5 Letter dated 21.09.2011 of HSPCB,Gurugram written toTehsildar, Sohna, for taking certified copy of jamabandi, Ex.C6 Letter dated 24.12.2008 of HSPCB, Panchkula, Ex.C7 Minutes of the meeting sub-committee held on 03-05 May, 2006, Mark-A to C Public notices, Mark-D Order of Collector, Gurugram and Mark-E Inquiry report of DRO, Gurugram.

15. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

16. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained

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JE(Lab)-HSPCB, Bhl. Law, Court
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by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin bahad, banjar land and roads*, then the violator is liable to be punished under the provisions of the Act and the notification.

17. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

18. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

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19. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

20. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification, which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farar house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *nav est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin sailab* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation*

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unless an a High court shall be classed uncultivable, whether such land is isolated blocks or within cultivated hurdling.

21. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha wakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamcha wakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2000 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

22. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

23. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior

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Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

24. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Anmol Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Crl.) 138 that:-

> *"If any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm house."*

25. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials.

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Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

26. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any revenue record mentioning the land on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

27. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

28. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.D-21, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record and merely purchasing the disputed property after 07.05.1992 does not

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necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owner of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is one give rise to be proved on records, which is the construction of farm house subsequent to the date of notification but except the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The said status report Ex.C4 is in itself insufficient to hold the status of the farmhouse on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

29. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C4 is also silent on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

30. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification. After it

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HCS (Jud.) Spl. Fast Track Court
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had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this direction for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the *actus reus* of the accused.

31. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C4 is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

32. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not merely on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

33. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

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JE-cum-JMIC, Spl. Ex. Court
Gurugram/18.03.2019

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32. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused is hereby acquitted of the charge leveled against him by giving him benefit of doubt. His bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
18.03.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains seventeen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370
18.03.2019

Application No. 137
Date of Presentation 20-3-19
Record Received on 8-3-19
Date of Preparation of Copy
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Annexure-9 2

13/114/384

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID-HR0370

Case no. 351 of 2009
Date of Instt: 28.01.2009
Date of Judgment: 08.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Sh.Chand Saini, Gurgaon Region.

.....Complainant.

Versus

1. Sanjeev Kamal son of J.R. Kamal resident of A-205, Defence Colony, New Delhi.
2. Monika Kamal wife of Sanjeev Kamal resident of A-205, Defence Colony, New Delhi.
3. M/s Ansal Housing & Construction Ltd.15 UGF, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
4. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
5. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
6. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. Tarun Dwivedi Authorized Signatory of accused no.4.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused No.1 Sanjeev Kamal on bail with Sh.J.P. Singla, Advocate.
Accused No.2 Monika Kamal on bail with Sh.J.P. Singla, Advocate.
Accused no.4 and 5 through AR Sh. Ajay Kumar on bail with Sh. SS Rao, Advocate.
Accused no.3 and 6 through AR Sh. Ganga Parsad on bail with Sh.SS Rao, Advocate.
Accused no.7 already discharged v.o.d. 19.09.2014.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing

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No.D-18 at Golden Heights, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Sh. Chand Sahil, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O.394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any clusters of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification Electrification "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government; Under the Aravali Notification the areas where carrying on the process and operations without permission have been prohibited are:-

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i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Balved, or

d. Banjad Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.1189(E) dated 29.11.1999 of Ministry of Environment Government of India whereby the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having

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come into force in the specified area was given a wide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail punitive action under the Aravali Notification. The accused no.3 to 7, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land in the name of Golden Heights in the area of village & Tehsil Sohna, District Gurugram without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 & 2 have purchased 2 acres of land bearing no.D-18 in Golden Heights, village Sohna vide a duly registered sale deed dated 18.12.2007 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate, boundary wall and fencing etc. in collusion with other accused in Golden Heights, village Sohna, Gurugram. A show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

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PO-cum-HOC, Sub Reg. Gair
Faridabad 30.3.2019

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1. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 08.03.2010. Accused appeared on various dates and were released on bail.

4. In pre charge evidence complainant-board examined Sh. Bhagwan Singh Khatana as CW1, Sh. Chand Sahil as CW2 and Sh. Bir Singh Patwari as CW3. Thereafter, pre charge evidence was closed by court order vide order dated 20.11.2013.

5. Upon finding a prima-facie case, charge was framed upon the accused no.1 to 6 and charge sheet was served to them under Section 15 of Environment Protection Act and accused no.7 was discharged on 19.09.2014.

6. In after charge evidence learned counsel for accused further cross examined Sh.Balraj Singh and thereafter, after charge evidence was closed by ld. counsel for the complainant on 26.02.2016.

7. Statements under Section 313 Cr.P.C. of accused were recorded on 14.03.2016 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought onrecord and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1 : Complaint/Order of Collector, Gurugram.

Ex.C2 : Joining report.

Ex.C3 : Notification dated 16.04.1987.

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Faridabad/19.03.2019

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Ex.C4 : Sale deed dated 18.12.2007.

Ex.C5 : Show cause notice dated 26.08.2009.

Ex.C6 : Letter dated 05.02.2009 of HSPCB, Panchkula.

Ex.CW3/A : Copy of mutation No.18932

Ex.CW3/B : Copy of jamabandi of the year 2001-02.

9. I have heard complainant and defence counsel and have gone through case file carefully.

10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1993 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

11. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali

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Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2009. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

12. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh.Chand Saini and Sh. Balraj Singh who prepared the spot inspection report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

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13. On the other hand, ld. defence counsel Sh. J.P. Singla, representing the accused No.1 and 2 has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the

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land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site (*"Moke Ammar"*) and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

14. In support of the arguments advanced by ld. defence counsel for accused no.1 and 2, learned counsel Sh. S.S. Rao, representing accused no.3 to 6 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Housing and Construction Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Housing and Construction Ltd. has been tried and decided on merits vide judgment dated 21.01.2019. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin farm house* in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permission from several government departments and none of the officers had objected granting of said

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permissions. therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *khasra girdawari* which describes the actual factual position of the site, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mohr Amaar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant Board has examined four witnesses CW1 Sh. Bhagwan Singh Khatana, CW2 Sh. Chand Saini, CW3 Sh. Bir Singh Patwari and CW4 Sh. Balraj

(Ms. Shalini)
JCJ-cum-JMFC, Sohna, Gurgaon
For Board 08.03.2019

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Singh and has relied upon on several documents such as Ex.C1 Complaint/Order of Collector, Gurugram, Ex.C2 Joining report, Ex.C3 Notification dated 16.04.1987, Ex.C4 Sale deed dated 18.12.2007, Ex.C5 Show cause notice dated 26.08.2009, Ex.C6 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.CW3/A Copy of mutation No.18932 and Ex.CW3/B Copy of jamabandi of the year 2001-02.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained

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by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin nala, gair mumkin bahal, barsati beed and nauli*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

19. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

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(Vinita Bansal)
TO-cum-JSJF, Spl. Env. Court
Faridabad 05.03.2019

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20. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

21. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin nadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation*

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unless as a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated tracts.

22. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha vakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamacha vakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

23. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

24. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior

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Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

25. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Cri.) 138 that:-

> *"if any patwari without any legal authority has made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Ikt-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

26. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials.

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Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

27. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any Jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

28. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

29. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.D-18, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record

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and merely purchasing the disputed property after 07.05.1992 does not necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

30. As per the prosecution version itself there is only a main gate and semi wiring present on the farm house in question which cannot be said to be a construction of a farm house in any manner. No other evidence of any other construction on the land in question has been brought on record by the complainant, therefore, the factum of existence of any farm house on the land in question is not proved.

31. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain

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documents of DHBVNL but no effort was made in this duration for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the *actus reus* of the offence.

32. Further, the show cause notice dated 26.08.2009 Ex.C5 mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

33. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

34. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

35. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable

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shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

36. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused n.1,2 and 3 to 6 are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
08.03.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains nineteen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370
08.03.2019

Application No. 132
Date of Presentation 15-3-19
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Date of Preparation 15-3-19
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Annexure-10

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
HR0370

Case no. 376 of 2009
Date of Instt: 25.10.2009
Date of Judgment: 18.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Sh.Chetal Saini, Gurgaon Region.

.....Complainant.

Versus

1. Dr. Chaya Lyengar wife of Dr. Manoj Raje resident of Lyengar Farm Bijwasan Road, Post Office Kapashera, New Delhi.
2. Dr. Soumya daughter of late Sh. R.V. Parthsarthy resident of Lyengar Farm Bijwasan Road, Post Office Kapashera, New Delhi
3. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
4. M/s Ansal Housing & Construction Ltd.15 UGF, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
5. M/s Ilfac Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
6. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. A.K. Rajvanshi, Authorized Signatory of accused no.4.

.....Accused.

Complaint under Section 15 &19 of The Environment Protection Act, 1986.

Present: Sh.Sudarsan Kumar, Advocate for the complainant.
Accused No.1 Chaya Lyengar and accused no.2 Soumya Lyengar on bail with Sh.L.S. Yadav, Advocate.
Accused no.3 and 5 through AR Sh. Ajay Kumar on bail with Sh. SS Rao, Advocate.
Accused no.4 and 6 through AR Sh. Ganga Parsad on bail with Sh.SS Rao, Advocate.
Accused no.7 already discharged v.o.d. 02.12.2016.

Judgment:

The person accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.E-4 at Golden Height, Sohna, Gurgaon in violation of Notification no.

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S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Sh. Chand Saini, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O.394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any clusters of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification Electrification "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government; Under the Aravali Notification the areas where carrying on the process and operations without permission have been prohibited are:-

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i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of this Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rada, or

c. Gair Mumkin Bihad, or

d. Banjhd Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India whereby the powers to accord environmental clearance was delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government to the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having

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come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail punitive action under the Aravali Notification. The accused no.3 to 7, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land in the name of Golden Heights in the area of village & Tehsil Sohna, District Gurugram without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 & 2 have purchased 2 acres of land bearing no.E-4 in Golden Heights, village Sohna vide a duly registered sale deed dated 03.09.2004 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate, boundary wall and fencing etc. in collusion with other accused in Golden Heights, village Sohna, Gurugram. A show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degredation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

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3. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 18.05.2010. Accused appeared on various dates and were released on bail.

4. In pre charge evidence complainant-board examined Sh. Chand Saini as CW1, Sh. Sohan Singh as CW2, Sh. Lalit Mohan Patwari as CW3 and Sh. Balraj Singh as CW4. Thereafter, pre charge evidence was closed by ld. counsel for complainant on 26.02.2016.

5. Upon finding a prima-facie case, charge was framed upon the accused no.1 to 6 and charge sheet was served to them under Section 15 of Environment Protection Act on 01.07.2016 and accused no.7 was discharged on 02.12.2016 .

6. In after charge evidence learned counsel for accused further cross examined Sh.Chand Saini and thereafter, after charge evidence was closed by ld. counsel for the complainant on 12.03.2018.

7. Statements under Section 313 Cr.P.C. of accusal were recorded on 05.10.2018 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are

Ex.C1 : Complaint.

Ex.C2 : Joining report.

Ex.C3 : Notification dated 16.04.1987.

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Ex.C4 : Sale deed dated 03.09.2004.

Ex.C5 Show cause notice dated 09.09.2009.

Ex.C6 Reply to show cause notice.

Ex.C7 : Letter dated 05.02.2009 of HSPCB, Panchkula.

Ex.CW4/A Spot inspection report.

9. I have heard complainant and defence counsel and have gone through case file carefully.

10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

11. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their

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stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

12. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Kalsira, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh.Chand Saini and Sh. Balraj Singh who prepared the spot inspection report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

13. On the other hand, ld. defence counsel Sh.LS Yadav, representing the accused No.1 and 2 has argued that the complainant

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could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the fact of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("Moka

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Annexure"] and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

14. In support of the arguments advanced by ld. defence counsel for accused no.1 and 2, learned counsel Sh. S.S. Rao, representing accused no.3 to 6 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Housing and Construction Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Housing and Construction Ltd. has been tried and decided on merits vide judgment dated 21.01.2019. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Goir Mainkin farm house* in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complaint are that the

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accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *Mauza girdawari* which describes the actual factual position of the sites, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Moka Ansaar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant Board has examined four witnesses CW1 Sh.Chand Saini, CW2 Sh. Sultan Singh, CW3 Sh. Lalit Mohan Patwari and CW4 Sh. Balraj Singh and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Joining report, Ex.C3 Notification dated 16.04.1987, Ex.C4 Sale

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sheet dated 05.09.2006, Ex.C5 Show cause notice dated 09.09.2009, Ex.C6 Reply to show cause notice, Ex.C7 Letter dated 05.02.2009 of HSPCB, Panchkula and Ex.CW4/A Spot inspection report.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, If any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin eraki,*

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your months behind, hanjad hard and rough, then the violator is liable to be punished under the provisions of the Act and the notification.

18. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

19. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the said township is admittedly a fully developed area i.e. way more than boundary wall.

20. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was

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related prior to the notification, hence the date of construction becomes very relevant.

21. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *non est*. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pohar* to farm house and *gair mumkin nallah* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated holding.*

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22. However, the patwari can change the entry in *Mauza girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamacha wakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamacha wakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

23. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as gair mumkin pahar till the year 1991 and does not itself convert into a *gair mumkin* farm house.

24. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

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25. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Agpal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Crl.) 138 that:-

> *"If any patwari without any legal authority had made the stray entries in the khasra girdawari for some considerations and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Aks-Shjra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

26. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm*

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house'. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

27. Thus, the land of Golden Height project, situl Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

28. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

29. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.E-4, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record and merely purchasing the disputed property after 07.05.1992 does not necessarily means that the construction was raised by the purchaser as the

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complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

30. As per the prosecution version itself there is only a main gate and semi wiring present on the farm house in question which cannot be said to be a construction of a farm house in any manner. No other evidence of any other construction on the land in question has been brought on record by the complainant, therefore, the feature of existence of any farm house on the land in question is not proved.

31. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL but no effort was made in this duration for the reasons best known to the complainant. The said documents might have

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been proved very relevant piece of evidence to establish the actus reus of the offence.

32. Further, the show cause notice dated 09.09.2009 (ex.C5 mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

33. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

34. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

35. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

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36. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused no.1,2 and 3 to 6 are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance.

Announced in open court.
18.03.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370

Note: This judgment contains nineteen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad.UID:HR0370
18.03.2019

Application No. 147
Date of Preparation 29-3-19
Record Received on 29-3-19
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Annexur-II

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UIDHR0370

Case no.402 of 2009
Date of Instt: 12.11.2009
Date of Judgment: 13.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon.

.....Complainant.

Versus

1. Sh. Jal P. Sawhney son of Arjan Das Sawhney resident of 30/4, East Patel Nagar, New Delhi.
2. Mrs. Nalini Sawhney wife of Jal P. Sawhney resident of 30/4, East Patel Nagar, New Delhi.
3. M/s Ansal Properties & Infrastructure Ltd.115 Ansal Bhawan, 16, Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
4. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
5. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
6. M/s Credo Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. Manish Kaul, Sr. Manager, Authorized Signatory of accused no.3.

.....Accused.

Complaint under Section 15 of The Environment Protection Act, 1986.

Present: Mrs. Ranjana Sharma, Advocate for the complainant.
Accused no.1, 2 and 7 already declared PP v.o.d.13.10.2014.
Accused no.3 and 6 through Sh. PN Rai on bail with Sh.S.S. Rao, Advocate.
Accused no.4 and 5 through AR Sh. Durga Lal on bail with Sh. SS Rao, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.A-47A at Aravali Retreat, Raisina, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

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Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad 13.03.2019

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2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon with the averment that vide notification no.S.O. 394(E) under Environment Protection Act, 1986 Regional Officer of Haryana Pollution Control Board is competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as *Gair Mumkin Pahar or Gair Mumkin Rocks* etc. qua location of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information center and any other activities connected with such construction and electrification etc. without obtaining prior environment clearance from Central/State Government. Accused no.3 to 5 got the wind of provisions of the Environment Protection Act 1986 when the process of issuance of Aravali Notification was under consideration then they, with the help of its responsible officers/directors etc., colluded with the officers of the revenue department and succeeded in making/preparing wrong, frivolous and illegal entries in the revenue record of village Raisina, Tehsil Sohna, Distt. Gurgaon showing the entry Gair Mumkin Pahar to Gair Mumkin Farm House which were contrary to the factual position on the ground that, there was no work done towards the development of farm house project on the ground till 1992 when the factum of changing of revenue record in village Raisina came to the knowledge, the Collector, Gurgaon took action and sought the report from its subordinate officers who after inspection submitted the report and the Collector found that entries of Gair Mumkin Farm House in place of Gair Mumkin Pahar were false, frivolous

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and illegal and he vide an order memo no.2605-06 SK dated 23.02.2006 directed the District Revenue officer, Gurgaon correct the wrong entries. The accused persons no.3 vis 7, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 and 2 have purchased one acres of land bearing no.A-47A in Aravali Retreat, Raisina vide a duly registered sale deed dated 07.05.2003 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate and fencing and cemented pole etc. in collusion with other accused in Aravali Retreat, Raisina, Gurgaon. On perusal of revenue record, the department noticed that the entries made one year prior to Aravali Notification, were shown as gair mumkin pahar in khasra girdawari of October, 1990 but were shown farm house in khasra girdawari of March, 1991. This change was not possible in a short span of time. Show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

1. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide

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order dated 17.03.2010. Accused appeared on various dates and they were released on bail.

4. During the proceedings accused no.1 Jai P. Sawhney, accused no.2 Mrs. Nalini Sawhney and accused no.7 Manish Kaul were declared proclaimed persons vide order dated 13.10.2014.

5. In pre charge evidence complainant-Board examined Sh.Sanjeev Kumar as CW1, Sh.Siya Ram Patwari as CW2 and Sh. Vijay Chaudhary as CW3. Thereafter, pre charge evidence was closed by ld. counsel for the complainant on 22.09.2017.

6. Upon finding a prima-facie case, charge was framed upon the accused no.3 to 6 and charge sheet was served to them under Section 15 of Environment Protection Act on 07.11.2017.

7. In after charge evidence Sh. Siya Ram Patwari was examined by ld. defence counsel. Thereafter, after charge evidence was closed by ld. counsel for complainant on 21.12.2018.

8. Statements under Section 313 Cr.P.C. of accused were recorded on 21.01.2019, accused denied the allegations leveled against them and pleaded innocence and opted to adduce defence evidence but no defence evidence has been brought on record and the same was closed by accused itself.

9. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Notification dated 18.04.1987
Ex.C3	:	Minutes of the 135th meeting.
Ex.C4	:	Notification dated 07.05.1992.

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Ex.C5	:	Copy of sale deed dated 07.05.2003.
Ex.C6	:	Show cause notice dated 01.09.2009
Ex.C6/A	:	Final show cause notice dated 28.01.2009
Ex.C7	:	Inspection report.
Ex.C8	:	Letter dated 05.02.2009 of HSPCB, Panchkula.
Ex.C9	:	Minutes of the meeting sub committee held on 3-5 May, 2006.
Ex.C10	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C11	:	Order of Collector, Gurugram.
Ex.CW2/A	:	Copy of mutation no.2153.

10. I have heard Ld. counsel for complainant and defence counsel and have gone through case file carefully.

11. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered them liable to be prosecuted and punished for the same.

Per contra, the stand of the accused, in brief, is that the M/s Ansal Properties and Infrastructure Pvt.Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the

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land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that the M/s Ansal Properties & Infrastructure Pvt. Ltd. had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Learned counsel for the complainant Mrs. Ranjana Sharma, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused no.1 and 2 in collusion with accused no.3 to 6 and in violation of the notification constructed the farm house and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh.Sanjeev Kumar and Sh.Vijay Chaudhary, who prepared the site inspection report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

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14. Per Contra, ld. defence counsel Sh. S.S. Rao, representing accused no.3 to 6 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Properties and Infrastructure Pvt.Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Properties and Infrastructure Pvt. Ltd. has been tried and decided on merits vide judgment dated 17.12.2014. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Properties after obtaining all the necessary permissions from several government departments, and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *Mauka gedawari* which describes the actual factual position of the sites, depicts the land in-question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site (*"Mauka Ameen"*) and, therefore, the correction of entries by the revenue official is not as per the order of

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the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Sh. Sanjeev Kumar, CW2 Sh. Shyn Ram Patwari and CW3 Sh. Vijay Chaudhary and has relied upon on several documents such as Ex.C1 Complaint; Ex.C2 Notification dated 16.04.1987, Ex.C3 Minutes of the 135th meeting, Ex.C4 Notification dated 07.05.1992, Ex.C5 Copy of sale deed dated 07.05.2003, Ex.C6 Show cause notice dated 01.09.2009, Ex.C6A Final show cause notice dated 28.01.2000, Ex.C7 Inspection report, Ex.C8 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.C9 Minutes of the meeting sub committee held on 3-5 May, 2005, Ex.C10 Minutes of the committee meeting held on 19-20 October, 2005, Ex.C11 Order of Collector, Gurugram, and Ex.CW2/A Copy of mutation no.2153.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of such such failure or contravention, be punishable with imprisonment for a term*

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which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin kabarl, banjar land and roads*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. It is a conceded fact that M/s Ansal Properties and Infrastructure Pvt. Ltd. purchased the land in question and developed an area over the same. Now the points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?.

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Special Environment Court,
Faridabad (H.B.S.D.N)

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(iii) Whether the accused are liable to be punished for commission of offence as alleged?

10. Taking into hand the first argument of ld. defence counsel that the present complaint against accused no.3 M/s Ansal Properties and Infrastructure Pvt. Ltd. is operating as double jeopardy because the earlier complaint titled as HSPCB Vs. M/s Ansal Properties has already been decided on 17.12.2014 and the accused has been acquitted in that case. It is pertinent to mention here that the copy of judgment dated 17.12.2014 clearly shows that the said complaint was for the whole chunk of land having an area of approximately 1200 acre whereas this complaint is also against the subsequent individual purchaser of a particular land along with the developer company i.e. M/s Ansal Properties. The previous complaint was for developing the whole area by way of laying roads, electricity lines and constructing several farm houses but the extent of construction in the both complaint has to be decided on the peculiar evidence as well as facts of each and every case. The present complaint is related to the construction of individual farm house having specific number and, therefore, the offence is separate and distinct even though the two offences arise out of same facts and allegations. It has been clearly held in State of Haryana Vs. Teh Chand 1998(3) RCRCriminal 18 that Section 300 Cr.P.C. proviso and Article 20(2) of the Constitution of India talks about the doctrine of double jeopardy and to invoke the bar of Article 20(2) of The Constitution of India, identity of the offence is requisite condition. Previous conviction or acquittal for one offence does not bar a subsequent trial and conviction for a separate and distinct offence even though the two offences arise out of the same facts and allegations in the two complaints are identical. Hence, it can very safely be concluded that this complaint, in no manner, operates as double

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jeopardy of accused no.3, thus the argument of ld. defence counsel, in this context, is liable to be dismissed.

20. The argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land.

21. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

22. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification, i.e. nature of the land in question, the complainant Board has relied upon Ex.C11 order dated 21.09.2006 of the District Collector, Gurgaon. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafidy of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. Here, the order of DC Ex.C11 is relevant by which all the Circle Revenue Officers were directed to rectify the *Khasra girdawari* as per the site which was *gair mumkin pahar*. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and *mis est*. In this regard the

(Vanita Sharma)
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Special Environment Court,
Faridabad 13.02.2013

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inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pathar* to farm house and *gair mumkin sadak* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between March 1990 and mid 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and uncultivable land (also called gair mumkin) denotes all barren and uncultivable land like mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated holding.*

23. However, the patwari can change the entry in *khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha waqyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamcha waqyati was entered and the nature of the land was again recorded as *gair mumkin pathar*. However, the said rectification was done on the orders dated 23.02.2006 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority. Therefore, the order of DC Ex.C11 can very safely be read into evidence.

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24. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as *gair mumkin pahar* till the year 1991 and does not itself convert into a *gair mumkin* farm house.

25. In addition to this the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the khasra girdawari.

26. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Civil) 138 that:-

> *"if any patwari without any legal authority had made the stray entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of jamabandi and Mu-Sijra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."*

(Vinita Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad 13.03.2019

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admittedly, no electricity connection document has come on record. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The inspection report Ex.C7 and the sale deed Ex.C5 are in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

31. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. But the inspection report Ex.C7 are mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

32. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

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Vandit Bansal
Presiding Officer-cum-JHC
Special Environment Court
Faridabad 18.06.2018

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33. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

34. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, accused no.3 to 6 are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance with a red ink note that file should not be destroyed and be put up as and when accused no.1 Jai P. Sawhney, accused no.2 Mrs. Nalini Sawhney and accused no.7 Manish Kaul are arrested by the police and surrendered themselves in the court.

Announced in the open court
13.03.2019

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

Certified that this judgment consists of sixteen pages and each page are signed by me.

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

March 13, 2019

346
Application No.
Date of Preparation 14-6-19
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Annexure-12

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD. UID:HR0370

Case no.403 of 2009
Date of Instt: 12.11.2009
Date of Judgment: 13.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon.

.....Complainant.

Versus

1. Sh. Jal P. Sawhney son of Arjan Das Sawhney resident of 30/4, East Patel Nagar, New Delhi.
2. Mrs. Nalini Sawhney wife of Jal P. Sawhney resident of 30/4, East Patel Nagar, New Delhi.
3. M/s Ansal Properties & Infrastructure Ltd.115 Ansal Bhawan, 16, Kasturba Gandhi Marg, New Delhi through its Director/MD/GM, Secretary.
4. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
5. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM Secretary.
6. M/s Green Park Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. Aditya Wadhera, Addl. General Manager, Authorized Signatory of accused no.3.

.....Accused.

Complaint under Section 15 of The Environment Protection Act, 1986.

Present: Mrs. Ranjana Sharma, Advocate for the complainant.
Accused no.1 and 2 already declared PP v.o.d.13.10.2014.
Accused no.3 and 6 through Sh. FN Rai on bail with Sh.S.S. Rao, Advocate.
Accused no.4 and 5 through AR Sh. Durga Lal on bail with Sh. SS Rao, Advocate.
Accused No.7 Aditya Wadhera already discharged v.o.d.07.11.2017.

Judgment

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.A-47B at Aravali

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad 13.03.2019

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Retreat, Raisina, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Chand Saini, Gurgaon Region, Gurgaon with the averments that vide notification no.S.O. 394(E) under Environment Protection Act, 1986 Regional Officer of Haryana Pollution Control Board is competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as *Gair Mumkin Pahar* or *Gair Mumkin Rode* etc. qua locality of any new industry or mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information center and any other activities connected with such construction and electrification etc. without obtaining prior environment clearance from Central/State Government. Accused no.3 to 6 got the wind of provisions of the Environment Protection Act 1986 when the process of issuance of Aravali Notification was under consideration then they, with the help of its responsible officers/directors etc., colluded with the officers of the revenue department and succeeded in making/preparing wrong, frivolous and illegal entries in the revenue record of village Raisina, Tehsil Sohna, Dist. Gurgaon showing the entry Gair Mumkin Pahar to Gair Mumkin Farm House which were contrary to the factual position on the ground that there was no work done towards the development of farm house project on the ground till 1992 when the factum of changing of revenue record in village Raisina came to the knowledge, the

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Collector, Gurgaon took action and sought the report from its subordinate officers who after inspection submitted the report and the Collector found that entries of Gair Mumkin Farm House in place of Gair Mumkin Pahar were false, frivolous and illegal and be vide an order memo no.2605-06 SK dated 23.02.2006 directed the District Revenue officer, Gurgaon correct the wrong entries. The accused persons no.3 to 7, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm house in the Gair Mumkin Pahar land without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 and 2 have purchased one acres of land bearing no.A-473 in Aravali Retreat, Raisina vide a duly registered sale deed dated 05.02.2004 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate and fencing and cemented pole etc. in collusion with other accused in Aravali Retreat, Raisina, Gurgaon. On perusal of revenue record, the department noticed that the entries made one year prior to Aravali Notification, were shown as gair mumkin pahar in khasra girdawari of October, 1990 but were shown farm house in khasra girdawari of March, 1991. This change was not possible in a short span of time. Show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the latter of Chairman, hence, this complaint

(Varsha Sharma)
Presiding Officer-cum-Addl.
Special Environment Court,
Faridabad 19.03.2019

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Examined

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for taking action against the accused under Section 15 of Environment Protection Act.

3. Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 17.03.2010. Accused appeared on various dates and they were released on bail.

4. During the proceedings accused no.1 Jai P. Sawhney, accused no.2 Mrs. Nalini Sawhney were declared proclaimed persons vide order dated 13.10.2014.

5. In pre charge evidence complainant Board examined Sh.Sanjeev Kumar as CW1, Sh.Siya Ram Patwari as CW2 and Sh. Vijay Chaudhary as CW3. Thereafter, pre charge evidence was closed by ld. counsel for the complainant on 22.09.2017.

6. Upon finding a prima-facie case, charge was framed upon the accused no.3 to 6 and charge sheet was served to them under Section 15 of Environment Protection Act and accused no.7 was discharged on 07.11.2017.

7. In after charge evidence Sh. Siya Ram Patwari was examined by ld. defence counsel. Thereafter, after charge evidence was closed by ld. counsel for complainant on 21.12.2018.

8. Statements under Section 313 Cr.P.C. of accused were recorded on 21.01.2019, accused denied the allegations leveled against them and pleaded innocence and opted to adduce defence evidence but no defence evidence has been brought on record and the same was closed by accused itself.

9. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

(Vinod Kumar)
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Faridabad 13.06.2019

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Ex.C1	:	Complaint.
Ex.C2	:	Notification dated 16.01.1987
Ex.C3	:	Minutes of the 13th meeting.
Ex.C4	:	Notification dated 07.05.1992.
Ex.C5	:	Copy of sale deed dated 05.02.2004.
Ex.C6	:	Show cause notice dated 01.09.2009
Ex.C6A	:	Final show cause notice dated 28.01.2009
Ex.C7	:	Inspection report.
Ex.C8	:	Letter dated 05.02.2009 of HSPCB, Panchkula.
Ex.C9	:	Minutes of the meeting sub committee held on 3-5 May, 2006.
Ex.C10	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C11	:	Order of Collector, Gurugram.
Ex.CW2/A	:	Copy of mutation no.2152.

10. I have heard Ld. counsel for complainant and defence counsel and have gone through case file carefully.

11. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin pahar* in the revenue records and the accused has totally destroyed the said land by way of constructing farm houses in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered them liable to be prosecuted and punished for the same.

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(Varsha Sharma)
Presiding Officer cum-MM,
Special Environment Court,
Panchkula 13.08.2019

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12. Per contra, the stand of the accused, in brief, is that the M/s Ansal Properties and Infrastructure Pvt.Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that the M/s Ansal Properties & Infrastructure Pvt. Ltd. had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *void ab initio* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

13. Learned counsel for the complainant Mrs. Ranjana Sharma, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused no.1 and 2 in collusion with accused no.3 to 6 and in violation of the notification constructed the farm house and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh.Sanjeev Kumar and Sh.Vijay Chaudhary, who prepared the site inspection report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are

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liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

12. Per Contra, ld. defence counsel Sh. S.S. Rao, representing accused no.3 to 6 has submitted that firstly, the present complaint and trial of accused no.3 (M/s Ansal Properties and Infrastructure Pvt.Ltd.) is operating as double jeopardy of M/s Ansal company as the main case titled as HSPCB Vs. M/s Ansal Properties and Infrastructure Pvt. Ltd. has been tried and decided on merits vide judgment dated 17.12.2014. He has vehemently argued that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records' entry on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Properties after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm house on the land in question after issuance of the notification dated 07.05.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. He has argued that as per the revenue document *khasra girdawari* which describes the actual factual position of the sites, depicts the land in question as *gair mumkin* farm house and, therefore, the notification dated 07.05.1992 is not applicable on the land. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land.

Dr. Jyoti Bhawat
Presiding Officer-cum-DJ(C)
Special Environment Court,
Faridabad 15.03.2016

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the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mukta Ahwaal*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.05.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Sh. Sanjeev Kumar, CW2 Sh. Siya Ram Panwar and CW3 Sh. Vijay Chaudhary and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 16.08.1987, Ex.C3 Minutes of the 135th meeting, Ex.C4 Notification dated 07.05.1992, Ex.C5 Copy of sale deed dated 05.02.2004, Ex.C6 Show cause notice dated 01.09.2009, Ex.C6/A Final show cause notice dated 28.01.2009, Ex.C7 Inspection report, Ex.C8 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.C9 Minutes of the meeting sub committee held on 3-5 May, 2006, Ex.C10 Minutes of the committee meeting held on 19-20 October, 2005, Ex.C11 Order of Collector, Gurugram, and Ex.CW2/A Copy of mutation no.2152.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

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(Vikas Sharma)
Presiding Officer-cum-Addl.
Special Environment Court
Faridabad 17.05.2019

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"whoever fails to comply with or contravenes any of the provisions of this act, or the rules made or orders or direction issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."

17. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and operation in any manner without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rode, gair mumkin bahad, banjar beed and rundh*, then the violator is liable to be punished under the provisions of the Act and the notification.

18. It is a conceded fact that M/s Ansal Properties and Infrastructure Pvt. Ltd. purchased the land in question and developed an area over the same. Now the points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(Nirmla Nanwal)
Presiding Officer-cum-HSPC,
State Environment Court,
Faridabad (HR) 2019

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Faridabad

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(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?;

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

19. Taking into hand the first argument of ld. defence counsel that the present complaint against accused no.3 M/s Ansal Properties and Infrastructure Pvt. Ltd. is operating as double jeopardy because the earlier complaint titled as HSPCB Vs. M/s Ansal Properties has already been decided on 17.12.2014 and the accused has been acquitted in that case. It is pertinent to mention here that the copy of judgment dated 17.12.2014 clearly shows that the said complaint was for the whole chunk of land having an area of approximately 1200 acre whereas this complaint is also against the subsequent individual purchaser of a particular land along with the developer company i.e. M/s Ansal Properties. The previous complaint was for developing the whole area by way of laying roads, electricity lines and constructing several farm houses but the extent of construction in the both complaint has to be decided on the peculiar evidence as well as facts of each and every case. The present complaint is related to the construction of individual farm house having specific number and, therefore, the offence is separate and distinct even though the two offences arise out of same facts and allegations. It has been clearly held in State of Haryana Vs. Tek Chand 1998(3) RCR(criminal) 10 that Section 300 Cr.P.C. proviso and Article 20(2) of the Constitution of India talks about the doctrine of double jeopardy and to invoke the bar of Article 20(2) of The Constitution of India, identity of the offence is requisite condition. Previous conviction or acquittal for one offence does not bar a subsequent trial and

Urvashi Sharma
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad (18.06.2019

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conviction for a separate and distinct offence even though the two offences arise out of the same facts and allegations in the two complaints are identical. Hence, it can very safely be concluded that this complaint, in no manner, operates as double jeopardy of accused no.3, thus the argument of ld. defence counsel, in this context, is liable to be dismissed.

20. The argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary wall, is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land.

21. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

22. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification, i.e. nature of the land in question, the complainant Board has relied upon Ex.C11 order dated 21.09.2006 of the District Collector, Gurgaon. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafidy of accused and the revenue department official to make a way out and to flout the provisions of Aravali Notification. Here, the order of DC Ex.C11 is relevant by which all the Circle Revenue Officers were directed to notify the *khasra girdawari* as per the site which was *gair mumkin pahar*.

(Vinod Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad (HR) 29.06.2018

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However, it is not disputed by the complainant that the land in question is also called as *gair mumkin farm house* in the khasra girdawari for the year 1991-92 it is refuted by saying that the said entry was illegal and not correct in the report the inquiry report submitted by district revenue officials speaks out a volume regarding many very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin tarkik* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual *page 272 no.13, Barren and uncultivable land (also called gair mumkin denotes all barren and uncultivable land viz. mountains, deserts, etc. Land which cannot be brought under cultivation profitably or at a high cost shall be classed uncultivable, whether such land is reclaimed lands or when cultivated lands.*

21. However, the patwari can change the entry in *Khasra girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamcha vakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamcha vakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2016 of DC much later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order

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was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority. Therefore, the order of DC Ex.C11 can very safely be read into evidence.

24. Even otherwise, merely altering the entry in the *khasra girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was coming as *gair mumkin pahar* till the year 1991 and does not itself convert into a *gair mumkin* farm house.

25. In addition to this the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the same cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the *khasra girdawari*.

26. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* farm house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Aunal Properties and Infrastructure Pvt. Ltd. and others Vs. HSPCB 2012 (3) RCR (CRL) 138 that:-

> *"If any patwari without any legal authority had made the error entries in the khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the column of ownership and Ak-*

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18 JUN 2019

Pradeep Sharma,
Presiding Officer-cum-JMIC,
Special Environment Court,
Panchkula 11.07.2019

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Sirsa, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in litigation was gair mumkin farm houses."

27. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *"gair mumkin farm house"*. Merely changing the entry in revenue record without "CLU" certification does not *ipso facto* change the actual nature of land.

28. Thus, the land in question can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded as after the orders of the Deputy Collector, Gurgaon, dt date. Therefore, the Aravali Notification is aptly applicable on the land in question.

29. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. For this the prosecution has relied upon the site inspection report Ex.C7 and show cause notices dated 01.09.2009 and 28.01.2009 Ex.C6 & Ex.C6A. The allegations are that the accused have constructed a farm house without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area. The inspection report Ex.C7 prepared by Sh. Vijay Chaudhary, (CW3) mentions that a front side boundary, main gate along with pillars and fencing were observed at the site.

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18 JUN 2019

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10. The prosecution has not brought on record the sale deed by which the accused no.3 M/s Ansal Properties had purchased the land in question but has proved the sale deed Ex.C5 vide which accused no.1 and 2 purchased the individual farm house bearing no.A-47B Aravali Retreat, Raiwas. But similarly, no electricity connection document has come on record. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are silent on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The inspection report Ex.C7 and the sale deed Ex.C5 are in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notifications. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

11. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. But the inspection report Ex.C7 are mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

12. It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not more on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and

(Vinod Sharma)
Presiding Officer(Addl.)
Special Environment Court,
Faridabad (HR)

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Assistant Registrar
National Green Tribunal

19 JUN 2019

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13/182/452

In this case the prosecution/complainant could not satisfactorily proved the date of construction which was allegedly mixed after 07.05.1992. Therefore, no violation of notification could be established of records.

33. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

34. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, accused no.3 to 6 are hereby acquitted of the charge leveled against them by giving them benefit of doubt. Their bail and surety bonds stands discharged. File be consigned to records after due compliance with a red ink note that file should not be destroyed and be put up as and when accused no.1 Jai P. Sawhney and accused no.2 Mrs. Nalini Sawhney are arrested by the police and surrendered themselves in the court.

Announced in the open court
13.03.2019

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

Certified that this judgment consists of sixteen pages and each page are signed by me.

(Varsha Sharma)
Presiding Officer-cum-JMIC,
Special Environment Court,
Faridabad. UID:HR0370

March 13, 2019

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19 JUN 2019

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2

Annexure-13

13/182/453

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-JMIC, SPECIAL ENVIRONMENT COURT, FARIDABAD.
UID-HR0370

Case no. 170 of 2009
Date of instt. 28.05.2009
Date of Judgment: 08.03.2019

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Sh.Chand Saini, Gurgaon Region.

.....Complainant.

Versus

1. Dr. Mohd. Zaki son of Mr. Rehmat resident of C-3, 3019, Vasant Kunj, New Delhi.
2. Nuzhat Naseem Jaki wife of Dr. Mohd. Zaki resident of C-3, 3019, Vasant Kunj, New Delhi.
3. M/s Ansal Housing & Construction Ltd.15 OCP, Indra Prakash 21, Barakhamba Road,Kasturba Gandhi Marg, New Delhi through its Director/MD/GM/ Secretary.
4. M/s Elite Developers Pvt. Ltd. Through its Director/MD/GM/ Secretary.
5. M/s Delhi Towers & Estates Pvt. Ltd. Through its Director/MD/GM/Secretary.
6. M/s Green Pure Theatres Associated Pvt. Ltd. Through its Director/MD/GM/ Secretary.
7. S.C. Wadhwa Authorised Signatory of accused no.3.

.....Accused.

Complaint under Section 15 & 19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused No.1 Mohd. Zaki and accused no.2Nuzhat Naseem on bail with Sh.Ravir Singh, Advocate.
Accused no.4 and 5 through AR Sh. Ajay Kumar on bail with Sh. SS Rao, Advocate.
Accused no.3 and 6 through AR Sh. Ganga Prasad on bail with Sh. SS Rao, Advocate.
Accused no.7 already discharged vide ord. 29.11.2016.

Judgment:

The instant accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.D-55 at Golden Height, Sohna, Gurgaon in violation of Notification

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18 MAR 2019

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vide S.O. 319(E) dated 07.05.1992 thereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board (statutory body) through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurgaon with the averment that vide notification no. S.O. 319(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) whereby in exercise of powers conferred under Section 3(1) and 3(2)(v) of the EP Act, 1986 read with Section 5(3) (d) of the Environment Protection Rules, 1986, the Central Government imposed certain bans and restrictions upon certain activities in the specified area of Aravali range. Under clause (iv) of this Aravali Notification construction of any clusters of dwelling unit, farm houses, sheds, community centre, information centres and any other activity connected with such construction (including road of part of any infrastructure relating thereto) has been prohibited and under clause (v) of this Notification it is stated that "laying of new transmission lines" has been prohibited/banned except under the prior environment clearance from the Central/State Government. Under the Aravali Notification the areas where carrying on the process and operations without permission have been prohibited are:-

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i All reserved forest, protected forest or any other area shown as forest in the land record maintained by state [illegible] as on the date of this Notification in relation to Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Rocks, or

c. Gair Mumkin Nalas, or

d. Banjar Kasht, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1949 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The another Notification no. S.O.-1189(E) dated 29.11.1999 of Ministry of Environment Government of India whereby the powers to accord environmental clearance was delegated upon the State Government. It is the submission that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the Secretary, department of environment Government of Haryana along with Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Annual Notification and bans/restrictions/prohibitions having

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Authorised to Sign on behalf of the Petitioner

16 MAR 2019

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coming into force of the notified area was given a vide publicity by the Environment Department Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail positive action under the Aravali Notification. The accused no.3 to 7, through their responsible officers and directors, laid infrastructure in the form of roads etc. for constructing/developing farm houses in the Gair Mumkin Pahar land in the name of Golden Heights in the area of village & Tehsil Sohna, District Gurugram without obtaining the mandatory clearance and thus violated the Aravali Notification. The accused no.1 & 2 have purchased 2 acres of land bearing no.13-55 in Golden Heights, village Sohna vide a duly registered sale deed dated 27.06.1995 from accused no.3 and constructed a farm house by way of an illegal construction in form of gate, boundary wall and fencing etc. in collusion with other accused in Golden Heights, village Sohna, Gurugram. A show cause notice was also issued to the accused person for violation of Aravali Notification by way of illegal construction. The illegal construction resulted into the land degradation and disturbed the ecological balance of the environment in the area by causing alteration in natural land and endangered the fragile economy of Aravali Hills. The accused committed an offence by way of breaching the terms and conditions of Aravali Notification and thus made themselves to be prosecuted and punished under Section 15 of The Environment Protection Act. The complainant has been asked to file the present complaint by the letter of Chairman, hence, this complaint for taking action against the accused under Section 15 of Environment Protection Act.

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8 MAP 2019

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Upon this complaint, accused were summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 08.09.2010. Accused appeared on various dates and counsel was heard.

In pre charge evidence complainant-board examined Sh. [illegible] as CW1, Sh. Lalit Mohan as CW2 and Sh. Chand Saini as CW3. Thereafter, pre charge evidence was closed by ld. counsel for the complainant on 14.08.2016.

Upon finding a prima-facie case, charge was framed upon the accused no.1,2 and 4 to 6 on 25.07.2016 and 22.08.2016 and charge sheet was read to them under Section 15 of Environment Protection Act and accused no.7 was discharged on 29.11.2016.

In after charge evidence learned counsel for accused further cross examined Sh. Chand Saini and Sh.Lalit Mohan Patwari and thereafter, after charge evidence was closed by ld. counsel for the accused on 03.03.2017.

Statements under Section 313 Cr.P.C. of accused were recorded on 17.10.2017 to which accused denied all the allegations and stated pleading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused vide statement dated [illegible].

Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.CW1/1 — Complaint.

Ex.CW1/2 — Notification dated 16.04.1987.

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[illegible]
Ld. Special Sessions
PC Cases (CBI), Spl. Law, Court
[illegible]

18 MAR 2019

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13/188/458

Ex.C5 — Minutes of the 135th meeting.

Ex.C6 — Gazette Notification dated 07.05.1992.

Ex.C7 — Show cause notice dated 10.09.2009.

Ex.C8 — Letter dated 05.02.2009 of HSPCB, Panchkula.

Ex.C9 — Spot inspection report.

Ex.C10 — Minutes of the meeting sub committee held on 03-05 May, 2006.

Ex.C11 — Minutes of the committee meeting held on 19-20 October 2005.

Ex.C12 — Photograph.

Ex.C13 — Copy of mutation No.7992

Mark-A — Copy of sale deed dated 27.06.1996

I have heard complainant and defence counsel and have gone through the case file carefully.

The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as gair mumkin pahar in the revenue records and the accused has totally destroyed the same by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.1). In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby, violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

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18 MAR 2014

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13/189/459

M/S M.V. Wood Arts vs.
2

Case no. 529 of 2017

Per contra, the version of the accused, in brief, is that the M/s. Anvil Housing and Construction Ltd. and others purchased and developed the said land question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as gair mumkin farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further, their stand that they had obtained all the requisite permission from all the concerned departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the changes in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and not on the basis of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the commencement of the Aravali Notification and, therefore, also the said notification has no applicability on the accused.

Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate, Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be raised. The present accused persons in violation of the notification raised the farm houses and thus violated the notification. The contravention was clearly proved upon file by the evidence of Sh.Chand Singh, Balraj Singh who prepared the spot inspection report. He

18 MAR 2019

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submitted that the violation by the present accused was clearly
upon file and as such all the accused are liable to be punished
Section [illegible] of Environment Protection Act for violation of the
Notification.

On the other hand, ld. defence counsel Sh. Jasvir Singh,
ing the accused No.1 and 2 has argued that the complainant
connect the farm house in question with the Aravali Notification
neither any revenue record nor any sale deed regarding the
in question and, therefore, the notification is not applicable on
ouse in question. He has further submitted that the ingredients
notification are also not fulfilled hence, no violation could be
record. He has further urged that the activity of raising
on by the accused could also not been established, therefore, the
involvement of accused also remained not proved. He has submitted that
the notification dated 07.05.1992 is not applicable on the land in question,
described as *Goir Wandla* farm house in the revenue record on the date of
of the said notification and further the subsequent change of
records, entry on the orders of District Collector, Gurgaon is invalid and
Court of following due process of law. He has also urged that
in question was purchased by M/s Ansal Housing after obtaining
necessary permissions from several government departments and
no objection of the officers had objected granting of such permissions, therefore,
the accused acted in a bonafide manner. It is also submitted by him that
the allegations of the complainant are that the accused constructed farm
house on the land in question after issuance of the notification dated
without seeking the prior permission and, therefore, it was

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for the prosecution to establish the factum of construction by ... subsequent to the date of notification. It is urged by him that ... structure of boundary walls and gate does not amount to a ... it" as it was meant only to demarcate and for protection of the ... submitted that the order of District Collector, Gurgaon itself ... directing the entries in revenue records as per the site ("*Mauka*") ... and, therefore, the correction of entries by the revenue official is ... the order of the District Collector and cannot be taken into ... Learned defence counsel sum up his argument by saying ... prosecution has failed to either prove the applicability of the ... on the land in question and the accused or the fact of raising ... by the accused subsequent to the notification dated ... and, therefore, the guilt of accused cannot be said to be proved ... reasonable doubt and thus they are liable to be acquitted by giving ... benefit of doubt.

In support of the arguments advanced by ld. defence counsel ... accused no.1 and 2, learned counsel Sh. S.S. Rao, representing ... no.3 to 6 has submitted that firstly, the present complaint and trial ... accused no.3 (M/s Ansal Housing and Construction Ltd.) is operating ... the jeopardy of M/s Ansal company as the main case titled as ... M/s Ansal Housing and Construction Ltd. has been tried and ... on merits vide judgment dated 21.01.2019. He has vehemently ... that the notification dated 07.05.1992 is not applicable on the land ... question, described as *Gair Mumkin farm house* in the revenue record ... date of operation of the said notification and further the subsequent ... of records vide orders of District Collector, Gurgaon is

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18 MAR 2019

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illegal [illegible] without following due process of law. He has also

the land in question was purchased by M/s Ansal Housing after

all the necessary permissions from several government

and none of the officers had objected granting of such

, therefore, the accused acted in a bonafide manner. It is also

by him that the allegations of the complainant are that the

erected [illegible] on the land in question after issuance of

tion above [illegible] without seeking the prior permission

ore, it was necessary for the prosecution to establish the fact

ion by the accused subsequent to the date of notification. He

that as per the revenue document, *Misara girdawari* which

the actual physical position of the sites, depicts the land in

fair state [illegible] boundary wall, therefore, the notification dated

is not applicable on the land. It is urged by him that mere

of boundary walls and gate does not amount to

tion" as it was meant only to demarcate and for protection of the

submitted that the order of District Collector, Gurgaon itself

directing the entries in revenue records as per the site [illegible]

, therefore, the correction of entries by the revenue officer in

the order of the District Collector and cannot be taken into

. Learned defence counsel sum up his arguments by saying

prosecution failed to either prove the applicability of the

on the land in question and the accused or the fact of raising

by the accused subsequent to the notification dated

, therefore, the guilt of accused cannot be said to be proved

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Case no. 529 of 2009

beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

15. In order to substantiate the allegations, the complainant Board has examined three witnesses CW1 Sh. Balraj Ahluwat, CW2 Sh. Sanjay Mohan Panwar and CW3 Sh. Chand Saini and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 15.09.1998, Ex.C3 Minutes of the 135th meeting, Ex.C4 Gazette Notification dated 25.05.1992, Ex.C5 Show cause notice dated 10.10.2008, Ex.C6 Letter dated 05.02.2009 of HSPCB, Panchkula, Ex.C7 Spot inspection report, Ex.C8 Minutes of the meeting sub committee held on 03-05 May, 2006, Ex.C9 Minutes of the committee meeting held on 19-20 October 2005, Ex.C10 Photograph, Ex.CW2/A Copy of mutation No.7992 and Mark-A Copy of sale deed dated 27.06.1995.

16. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of such ... contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which*

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[illegible] another condition after the conviction for the first such failure or contravention."

Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and in any manner, without the prior permission of the Pollution the manner depicted therein and in all reserved forests, protected any other areas shown as forest in the land records maintained the State Government as on date of this notification in relation to District of State of Haryana and Alwar District of State of and all areas shown as *gair mumkin pahar, gair mumkin nala, [illegible] land and earth*, then the Violator is liable to be punished under the provisions of the Act and the notification.

The points of determination are as follows:

(I) Whether the Aravali Notification dated 07.05.2002 has applicability on the land in question?

(II) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

Another argument of ld. defence counsel is that construction is pucca and therefore does not fall within the ambit of "mining operation", is also devoid of merits as the word construction denotes

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(Vivek Jamwal)
Advocate/LEC Spl. Env. Court
Enrolled on 03.01.2019

18 MAR 2019

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creating any sort of [illegible] building, erection by putting together the construction materials which bears figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction" which cannot be taken into account [illegible] an amendment by demarcating the land. Moreover, the said [illegible] adversely [illegible] developed area i.e. way more than [illegible].

It is also an admitted fact that no prior permission from the department was obtained by the accused before starting [illegible] on the land though it is disputed that the construction was [illegible] to the notification, hence the date of construction becomes [illegible] not.

21. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification, it is contended that the entries in the revenue girdawari were changed in the immediate previous year of the [illegible] of the Aravali Notification which clearly shows the malafide of accused and the revenue department official to make a way out to flout the provisions of Aravali Notification. However, it is [illegible] by the complainant that the land in question is described as *gair mumkin farsa house* in the Masara girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and non est. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the Masara girdawari were changed in the Rabi crop 1991 from *gair mumkin* [illegible] to farm house and *gair mumkin* nadi but surprisingly the

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Advocate

18 MAR 2019

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13/196/466

...ed by Mohd Zaheer
...

...Case No. 7644 of 2000

...on the said issue and from any unculturable uncultivable land w...
...any boulders, shall be done within a short span of time between ...
...1990 and not ... this was not humanly possible as it requires a ...
...surveys and efforts. It is also mentioned in the report that as per ...
...record manual page 172 no.13, *Barren and unculturable land* ...
...*said gair mumkin khadim, ek barren and unculturable land like ...*
...*deserts, etc. land which cannot be brought under cultivation ...*
...*high water shall be classed unculturable, whether such land is ...*
...*blocks or within enclosed localities.*

However, the patwari can change the entry in *khasra* ...
if the nature of the land is changed but for that he should also ...
note the same in the *rojnamcha waqyati* which has not been done in ...
On the basis of the same report the District Collector, Gurgaon ...
conference of the matter and ordered to rectify the entries in the ...
khasra forward and thereafter the *rojnamcha waqyati* was corrected and ...
nature of the land was again recorded as *gair mumkin pahar*. ...
However, the said rectification was done on the orders dated 23.02.2006 ...
of DC which later to the commencement of the Aravali Notification but ...
the order has not been challenged till date by the accused or any ...
other person before any appellate authority or a Civil Court, the same has ...
attained finality. The said order was pronounced by a public servant ...
within his official capacity which is still unchallenged and not set aside ...
by any superior authority.

21. Even otherwise, merely altering the entry in the *khasra* ...
does not change the very character of the land as it requires a ...

Considered to be True

Authorised u/Sec. 76 of the ...

18 MAR 2019

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13/197/467

for other things that were exceptions of the revenue official. Therefore, the land remained the same which was coming as gair mumkin till the year 1991 and does not itself convert into a *gair mumkin* house.

In addition to this, the revenue entries only tells the nature of collection of revenue but for the other purposes the same cannot exclusively relied upon. Hence, it can be held that the Senior Scale as the Deputy Commissioner has rightly ordered to rectify in the khasra girdawari.

However, there is no evidence to conclude the collusion of the accused and the revenue official for making entry of *gair mumkin* house in the *Khasra girdawari* but the same does not affect the act done by the revenue official for the reasons best known to them. Hon'ble Punjab and Haryana High Court has very categorically held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2013 (2) RCR (Crl.) 138 that:-

> *"If any person without any legal authority had made the entry in the Khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relief upon the evidence of panchayat and Ahl-Sijra, then such entry and illegal entry are not void and are not sufficient to*

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land that the land in litigation was gair mumkin

thumbi from hamara."

Therefore, it can safely be concluded that the entries in Jamabandi of the year 1991 were without any basis and thus are illegal and non est. Therefore, no implicit reliance can be placed on such [illegible] entries. The accused cannot be allowed to gain benefit of the wrongful and illegal act done by the revenue officials. Further, accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" permission does not ipso facto change the actual nature of land.

22. Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdwari of 1991 and was recorded so after the orders of the District Collector, Gurgaon. Further the complainant has not produced any jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house is allegedly being constructed and there is nothing on file to show the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be proved to be a part of the said land for want of revenue records.

23. Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are

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the accused have constructed the farm houses without seeking prior

which resulted in land degradation and alteration in the mineral

of the Aravalli Hills area.

However the prosecution has neither brought on record the (2)

by which the accused purchased the individual farm house

D-55, Golden Heights, Gurugram. But apart from this, no other

such as electricity connection document has come on record

purchase of the disputed property after 07.05.1992 does not

means that the construction was raised by the purchaser as the

did due bother to enquire about the previous owners of the

nd, then, the possibility of raising construction by the

owners cannot be ruled out. For the determination of the liability

d, violation of Aravali Notification is *sine qua non* to be proved

, which is the construction of farm house subsequent to the date

notification but except for the oral testimonies of complainant

the whole records are mute on the point of proving date of

construction i.e. subsequent to the commencement of Aravali Notification.

not be proved on file that the said construction was done after

encement of the Aravali Notification, therefore, the prosecution has

discharge the burden to prove the construction by the accused

seeking prior permission, after the Aravali Notification.

As per the prosecution version itself there is only a main gate

wiring provided on the farm house in question which cannot be

a construction of a farm house in any manner. No other

of any other construction on the land in question has been

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record to show complainant, therefore, the fact of existence of farm house on the land in question is not proved.

It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project completed after the commencement of Aravali Notification either is the electrification i.e. laying of new transmission lines by the DHBVN which the complainant could have produced certain documents of DHBVN has no effect was made in this duration for the same are not known to the complainant. The said documents might have been produced very relevant piece of evidence to establish the active role of the accused.

Further, the show cause notice dated 10.09.2009 Ex.C5 does not give the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was legally burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

It is settled law that the prosecution is required to prove itself the case against the accused beyond all shadows of reasonable doubt and not only on the probability. Single reasonable doubt created in the mind

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suggests the innocence of the accused, and is sufficient to the benefit of the doubt and in this case the complainant could not satisfactorily proved the date of which was allegedly raised after 07.05.1992. Therefore, no notification could be established of records.

The principles of criminal jurisprudence are very clear that on side is supposed to prove its case beyond a reasonable doubt and not be a mere pre-ponderance of probabilities, which been done so in the present case.

In view of aforesaid discussion and finding, I am of the view plainant has miserably failed to prove the guilt of the accused Hence, the accused no.1,2 and 3 to 6 are hereby acquitted of leveled against them by giving them benefit of doubt. Their ety bonds stands discharged. File be consigned to records after ease.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/HID/HR0370

Note: This judgment contains nineteen pages and all the pages are and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad/HID/HR0370
06.03.2019

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2 Annexure-14 13/202/472

IN THE COURT OF VARSHA SHARMA, PRESIDING OFFICER-CUM-CJM(SE), SPECIAL ENVIRONMENT COURT, FARIDABAD.

Case no. 116 of 2009
Date of Instt: 29.01.2009
Date of Judgment: 05.03.2010

Haryana State Pollution Control Board, C-11, Sector-6, Panchkula through its Regional Officer Gurgaon Region Dr. C.V. Singh, Scientist 'C'

.....Complainant.

Versus

Danish Moin Jaki son of Dr. Mohamad Jaki resident of C-45b, East of Kailash, New Delhi.

.....Accused.

Complaint under Section 15 & 19 of The Environment Protection Act, 1986.

Present: Sh.Sudarshan Kumar, Advocate for the complainant.
Accused Danish Moin Jaki on bail with Sh.MS Yadav, Advocate.

Judgment:

The present accused are facing trial under Section 15 of Environment Protection Act 1986 for construction of a farm house bearing No.D-53 at Golden Height, Sohna, Gurgaon in violation of Notification no. S.O. 319(E) dated 07.05.1992 (hereinafter referred to as the Aravali Notification).

2. Briefly stated the facts of the present complaint are that the present complaint has been filed by Haryana State Pollution Control Board as statutory body through its Regional Officer Dr. C.V. Singh, Scientist-C, Gurgaon Region, Gurgaon with the averment that vide notification no.SO 394(E) under Environment Protection Act, 1986 Haryana State Pollution Control Board as well as Regional Office of Haryana Pollution Control Board are competent to file the complaint as

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Ministry of Environment and Forest Govt. of India (hereinafter referred to as MOEF) issued notification dated 7.5.1992 (hereinafter referred to as Aravali Notification) wherein the Central Government imposed certain bans and restrictions in the specified area of Aravali range like area shown as Gair Mumkin Pahar or Gair Mumkin Reda etc. qua location of any new industry, of mining operations or cutting of trees or construction of any dwelling units, farm houses, sheds, community center, information centers and any other activities connected with such construction and electrification etc. The said notification also provide for the procedure for obtaining prior environment clearance from Central/State Government in the following manner:- Any person who desires to undertake any of the above mentioned processes of operation in the said area shall submit an application to the commissioner and secretary to the government of Haryana environment department Chandigarh specifying inter-alia details of the area and the proposed process or operations. The prior environment clearance is required to be obtained from Environment Department, Haryana. Environment clearance is necessary for carrying on the process and operations without permission have been prohibited are:-

i - All reserved forest, protected forest or any other area shown as forest in the land record maintained by state government as on the date of the Notification in relation of Gurgaon district of Haryana and Alwar district of State of Rajasthan.

ii All area shown as:-

a. Gair Mumkin Pahar, or

b. Gair Mumkin Reda, or

c. Gair Mumkin Bahad, or

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d. Banjar Beed, or

e. Rundh in the land records maintained by the state government as on date of this Notification in relation to Gurgaon district of State of Haryana and the Alwar district of State of Rajasthan.

iii All the areas covered by Notification issued u/s 4&5 of The Punjab Land Preservation Act 1919 as applicable to the State of Haryana in the district of Gurgaon upto the date of Notification.

The aforesaid Notification no. S.O.-1189(E) dated 29.11.1992 of Ministry of Environment Government of India the powers to accord environmental clearance were delegated upon the State Government. It is thus patent that with the issuance of said Notification, the application seeking prior environmental clearance were required to be submitted to the secretary, department of environment Government of Haryana alongwith Environment Impact Statement/Environment Management Plan and/or any other such information as may be prescribed or required by the State Government in the department of environment. The factum of issuance of Aravali Notification and bans/restrictions/prohibitions having come into force in the specified area was given a vide publicity by the Environment Department/Government of Haryana thereby cautioning the general public not indulge in any prohibited activity/operation/process which may entail punitive action under the Aravali Notification. The accused being owner in possession has constructed/developed a farm house no.D-53 in the Gair Mumkin Pahar land in the area of Golden Relaxia, District Gurgaon without obtaining the mandatory clearances and has violated the Aravali Notification. A show cause notice was also issued to the accused person at his postal address regarding prosecution for violation of Aravali

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Mr. Sharma
HSPCB-HSIIDC, Vpl. Env. Court
Faridabad 0565 7019

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Notification by way of illegal construction of farm house No.D-53 having area 2 acres in Golden Heights, Sohna, Gurugram. This illegal construction has not only resulted in land degradation, but has also disturbed the ecological balance of the environment in the area by causing alteration in the natural land profile and endangered the fragile ecology of the Aravali Hills and committed the violation of the provisions of the Environment Protection Act. This illegal development and construction of farm house the accused has committed an offence by way of breaching the various provisions of the notification dated 07.05.1992 and has made themselves liable to be prosecuted and punished under Section 15 of the Environment Protection Act, hence, this complaint.

3. Upon this complaint, accused was summoned to face trial under Section 15 of Environment Protection Act by the ld. Predecessor of this court vide order dated 15.10.2009. Accused appeared on 14.02.2011 and was released on bail.

4. In pre charge evidence complainant-board examined Sh. Sanjeev Kumar as CW1 and Sh. Dinesh Kumar Yadav as CW2. Thereafter, pre charge evidence was closed by ld. counsel for complainant on 04.07.2016.

5. Upon finding a prima-facie case, charge was framed upon the accused and charge sheet was served to him under Section 15 of Environment Protection Act on 06.10.2016.

6. In after charge evidence no any witness was examined by ld. complainant counsel and thereafter, after charge evidence was closed by ld. counsel for the complainant on 16.12.2016.

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(Vandna Saxena)
PO cum JMIC, Spl. Env. Court
Gurugram 07.03.2019

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7. Statement under Section 313 Cr.P.C. of accused was recorded on 04.01.2017 to which accused denied all the allegations and opted for leading defence evidence but no such evidence has been brought on record and the defence evidence was closed by ld. counsel for accused today itself.

8. Documents tendered by learned counsel for complainant along with the complaint and in the evidence of witnesses are:

Ex.C1	:	Complaint.
Ex.C2	:	Notification dated 16.04.1987.
Ex.C3	:	Minutes of the 135th meeting.
Ex.C4	:	Notification dated 07.05.1992.
Ex.C5/A	:	Show cause notice dated 15.03.2005.
Ex.C5/B&C	:	Show cause notice dated 08.09.2007
Ex.C6	:	Status report.
Ex.C7	:	Letter dated 24.12.2008 of HSPCB, Panchkula.
Ex.C8	:	Minutes of the committee meeting held on 19-20 October, 2005.
Ex.C9	:	Minutes of the meeting sub-committee held on 03-05 May, 2006.
Ex.C10	:	Order of Collector, Gurugram.
Ex.CW2/A	:	Photographs.

9. I have heard complainant and defence counsel and have gone through case file carefully.

10. The case of the complainant the Haryana State Pollution Control Board is that the land in question was described as *gair mumkin*

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pahar in the revenue records and the accused has illegally destroyed the said land by way of constructing farm houses, in complete violation of the Aravali Notification dated 07.05.1992 (hereinafter referred to as Aravali Notification) and illegally allotted several small plots to the individual purchasers (accused no.11. In this manner, he has degraded the Aravali Hills and damaged the ecology after commencement of the notification and thereby violated the provisions of Section 15 of Environment Protection Act, 1986 and rendered himself liable to be prosecuted and punished for the same.

11. Per contra, the stand of the accused, in brief, is that the M/s Ansal Housing and Construction Ltd. and others purchased and developed the area in question before the commencement of the Aravali Notification and also that the land in question was not recorded as *gair mumkin Pahar* in any of the records mentioned in the said notification and it was recorded as *gair mumkin* farm house and, therefore, the Aravali Notification has no applicability on the land in question. It is further their stand that they had obtained all the requisite permission from all the government departments before developing the said land and the subsequent selling of the plots, which are part and parcel of the whole chunk of land, was done by way of registered sale deeds and, therefore, they had violated no provision either of the Environment Protection Act or the Aravali Notification. The case of the accused further proceeds that the change in the revenue records, done on the orders of District Collector, Gurgaon, was illegal and *non est* for want of following due procedure of law as it was done in the year of 2006. It is also their defence that all the construction was raised on the land in question prior to the

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commencement of the Aravali Notification and, therefore, also the notification has no applicability on the accused.

12. Learned counsel for the complainant Sh.Sudarshan Kumar, Advocate/Advocate argued that as per notification dated 7.5.1992 no any construction upon land of Raisina, being Gair Mumkin Pahar, could be done. The present accused persons in violation of the notification constructed the farm houses and thus violated the notification. The construction was clearly proved upon file by the evidence of Sh. Sanjeev Kumar and Sh. Dinesh Kumar Yadav, who prepared the status report. He further submitted that the violation by the present accused was clearly proved upon file and as such all the accused are liable to be punished under Section 15 of Environment Protection Act for violation of the Aravali Notification.

13. On the other hand, ld. defence counsel Sh. M.S. Yadav, representing the accused has argued that the complainant could not connect the farm house in question with the Aravali Notification as there is neither any revenue record nor any sale deed regarding the property in question and, therefore, the notification is not applicable on the farm house in question. He has further submitted that the ingredients of the notification are also not fulfilled hence, no violation could be proved on records. He has further urged that the activity of raising construction by the accused could also not been established, therefore, the involvement of accused also remained not proved. He has submitted that the notification dated 07.05.1992 is not applicable on the land in question, described as *Gair Mumkin* farm house in the revenue record on the date of operation of the said notification and further the subsequent change of records entry

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(Vinita Sharma)
PCS (JUD), Spl. Env. Court
Faridabad 19.03.2019

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on the orders of District Collector, Gurgaon is invalid and illegal for want of following due process of law. He has also urged that the land in question was purchased by M/s Ansal Housing after obtaining all the necessary permissions from several government departments and none of the officers had objected granting of such permissions, therefore, the accused acted in a bonafide manner. It is also submitted by him that the allegations of the complainant are that the accused constructed farm houses on the land in question after issuance of the notification dated 07.03.1992 without seeking the prior permission and, therefore, it was necessary for the prosecution to establish the factum of construction by the accused subsequent to the date of notification. It is urged by him that mere construction of boundary walls and gate does not amount to a "construction" as it was meant only to demarcate and for protection of the land. He has submitted that the order of District Collector, Gurgaon itself was for correcting the entries in revenue records as per the site ("*Mauka Ansaar*") and, therefore, the correction of entries by the revenue official is not as per the order of the District Collector and cannot be taken into consideration. Learned defence counsel sum up his argument by saying that the prosecution has failed to either prove the applicability of the notification on the land in question and the accused or the fact of raising construction by the accused subsequent to the notification dated 07.03.1992 and, therefore, the guilt of accused cannot be said to be proved beyond reasonable doubt and thus they are liable to be acquitted by giving them benefit of doubt.

14. In order to substantiate the allegations the complainant Board has examined two witnesses CW1 Sh. Sanjeev Kumar and CW2

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Sh. Dinesh Kumar Yadav and has relied upon on several documents such as Ex.C1 Complaint, Ex.C2 Notification dated 16.04.1987, Ex.C3 Minutes of the, 135th meeting, Ex.C4 Notification dated 07.05.1992, Ex.C5/A Show cause notice dated 15.03.2005, Ex.C5/B&C Show cause notice dated 08.09.2007, Ex.C6 Status report, Ex.C7 Letter dated 24.12.2008 of HSPCB, Panchkula, Ex.C8 Minutes of the committee meeting held on 19-20 October, 2005, Ex.C9 Minutes of the meeting sub-committee held on 03-05 May, 2006, Ex.C10 Order of Collector, Gurgaon and Ex.CW2/A Photographs.

15. The present complaint has been filed for prosecution of the accused for commission of offence punishable under Section 15 read with Section 19 of Environment Protection Act of 1986, which postulates that:-

> *"whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of such such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention."*

16. Supplementing the provisions of the Act of 1986, as per the Aravali Notification, if any person is carrying on the process and

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operation in any manner, without the prior permission of the Pollution Board in the manner depicted therein and in all reserved forests, protected forests or any other areas shown as forest in the land records maintained by the State Government as on date of this notification in relation to Gurgaon District of State of Haryana and Alwar District of State of Rajasthan and all areas shown as *gair mumkin pahar, gair mumkin rocks, gair mumkin kheltari, banjar kadim and rundh*, then the violator is liable to be punished under the provisions of the Act and the notification.

17. The points of determination are as follows:-

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question?

(ii) Whether the accused have raised construction subsequent to the commencement date of the Aravali Notification without obtaining prior permission, thereby violated the provisions of Aravali Notification?

(iii) Whether the accused are liable to be punished for commission of offence as alleged?

18. Another argument of ld. defence counsel is that construction of gate and fencing does not fall within the ambit of "raising construction", is also devoid of merits as the word construction denotes creating any sort of formation, building, erection by putting together the construction material which form figure, shape, formation or frame. Thus, even the construction of only gate and boundary walls is also covered within the meaning of "construction", which cannot be taken into account merely as an arrangement for demarcating the land. Moreover, the

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(Vandna Bhardwaj)
Personal(MIC) Sch. Ete. Court
Gurgaon(HR) 13.03.2019

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township is admittedly a fully developed area i.e. way more than basically built."

19. It is also an admitted fact that no prior permission from the environment department was obtained by the accused before starting construction on the land though it is disputed that the construction was raised prior to the notification, hence the date of construction becomes very relevant.

20. Firstly, taking into account the pre requisite for the applicability of the Aravali Notification. It is contended that the entries in the *khasra girdawari* were changed in the immediate previous year of the commencement of the Aravali Notification which clearly shows the malafide of accused and the revenue department officials to make a way out and to flout the provisions of Aravali Notification. However, it is not disputed by the complainant that the land in question is described as *gair mumkin farm house* in the khasra girdawari for the year 1991 but it is refuted by saying that the said entry was illegal and not so. In this regard the inquiry report submitted by district revenue official speaks out a volume regarding some very important facts. It says that the entries in the khasra girdawari were changed in the Rabi crop 1991 from *gair mumkin pahar* to farm house and *gair mumkin nadhi* but surprisingly the conversion of the nature of land from gair mumkin (uncultivable land) to farm house (cultivable land) was done within a short span of time between kharif 1990 and rabi 1991 which was not humanly possible as it requires a lot of investments and efforts. It is also mentioned in the report that as per the land record manual page 272 no.13, *Barren and unpalliable land* (also called *gair mumkin*) denotes all barren and uncultivable land like

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mountains, deserts, etc. Land which cannot be brought under cultivation unless at a high cost shall be classed uncultivable, whether such land is isolated blocks or within cultivated boundary.

21. However, the patwari can change the entry in *Haqiat girdawari* if the nature of the land is changed but for that he should also incorporate the same in the *rojnamacha wakyati* which has not been done in this case. On the basis of the same report the District Collector, Gurgaon took cognizance of the matter and ordered to rectify the entries in the khasra girdawari and thereafter the rojnamacha wakyati was entered and the nature of the land was again recorded as *gair mumkin pahar*. However, the said rectification was done on the orders dated 23.02.2006 of DC which later to the commencement of the Aravali Notification but because the order has not been challenged till date by the accused or any other person before any appellate authority or a Civil Court, the same has attained finality. The said order was promulgated by a public servant acting in his official capacity which is still unchallenged and not set aside by any superior authority.

22. Even otherwise, merely altering the entry in the *Haqiat girdawari* does not change the very character of the land as it requires a lot of other things than mere signatures of the revenue official. Therefore, the nature of the land remained the same which was shown as *gair mumkin pahar* till the year 1991 and does not itself convert into a *gair mumkin* farm house.

23. In addition to this, the revenue entries only tells the nature of the land for collection of revenue but for the other purposes the

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cannot be conclusively relied upon. Hence, it can be held that the Senior Authority such as the Deputy Commissioner has rightly ordered to rectify the entries in the *khasra girdawari*.

24. However, there is no evidence to conclude the collusion between the accused and the revenue official for making entry of *gair mumkin* pucca house in the *khasra girdawari* but the same does not affect the illegal act done by the revenue official for the reasons best known to them. The Hon'ble Punjab and Haryana High Court has very unambiguously held that in a revision petition titled as M/s Ansal Properties and Infrastructure Pvt. Ltd and others Vs. HSPCB 2012 (3) RCR (Cri) 138 that:-

> *"If any patwari without any legal authority had made the stray entries in the Khasra girdawari for some consideration and for the reasons best known to him, which were illegal and without any authority and further relied upon the entries of Jamabandi and Aks-Shjra, then such stray and illegal entry are non est, void and are not sufficient to hold that the land in Jalgarhan was gair mumkin farm houses."*

25. Therefore, it can very safely be concluded that the entries in the *khasra girdawari* of the year 1991 were without any basis and thus are illegal and *non est*. Therefore, no implicit reliance can be placed on such void, *non est* and stray entries. The accused cannot be allowed to gain

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benefit of the wrongful and illegal act done by the revenue officials. Further, the accused could not show any "Change of land user" document to support the defence that the nature of land was *'gair mumkin farm house'*. Merely changing the entry in revenue record without "CLU" certification does not *qua facto* change the actual nature of land.

26. (1) Thus, the land of Golden Height project, tehsil Sohna, District Gurugram can very safely be considered as *gair mumkin pahar*, which was recorded earlier, prior to the khasra girdawari of 1991 and which is recorded so after the orders of the District Collector, Gurgaon, till date but the complainant has not produced any revenue record mentioning the land on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of revenue records.

27. (2) Now, coming to the second point of consideration i.e. whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. The allegations are that the accused have constructed the farm houses without seeking prior permission which resulted in land degradation and alteration in the natural land profile of the Aravali Hills area.

28. However, the prosecution has neither brought on record the sale deed by which the accused purchased the individual farm house bearing no.D-53, Golden Heights, Gurugram. But apart from this, no other document such as electricity connection document has come on record

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Advocate
Punjab-2018, Jyti Law Wing
Enrolment no. 7019

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and merely purchasing the disputed property after 07.05.1992 does not necessarily means that the construction was raised by the purchaser as the complainant did not bother to enquire about the previous owners of the property and, therefore, the possibility of raising construction by the previous owners cannot be ruled out. For the determination of the liability of accused, violation of Aravali Notification is *sine qua non* to be proved on records, which is the construction of farm house subsequent to the date of notification but except for the oral testimonies of complainant witnesses, the whole records are mute on the point of proving date of construction i.e. subsequent to the commencement of Aravali Notification. The said status report Ex.C6 is in itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification, therefore, the prosecution has failed to discharge the burden to prove the construction by the accused without seeking prior permission, after the Aravali Notification.

29. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C6 is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

30. It was incumbent upon the prosecution to establish that the farm houses were constructed and the whole infrastructure of the project was completed after the commencement of Aravali Notification either it

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had to prove the electrification i.e. laying of new transmission lines by the accused for which the complainant could have produced certain documents of DHBVNL, but no effort was made in this direction for the reasons best known to the complainant. The said documents might have been proved very relevant piece of evidence to establish the active role of the accused.

31. Further, the show cause notices dated 15.03.2006 and 08.09.2008 Ex.C5/A to Ex.C5/C mentions the details of prohibited activities which was alleged to be done by the accused after operation of Aravali Notification. Hence, the complainant was heavily burdened to prove on records that the said activities were done after 07.05.1992 (date of Aravali Notification).

32. However, in such cases there may not be direct evidence but for proving the guilt, all the links of circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex.C6 is also mute on the point of age of construction. Therefore, there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification.

33. It is settled law that the prosecution is entitled to prove itself the case against the accused beyond all shadows of reasonable doubt and not merely on the probability. Single reasonable doubt created in the mind of the court, suggests the innocence of the accused, and is sufficient, to give him the benefit of the doubt and in this case the prosecution/complainant could not satisfactorily proved the case of

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(Vinita Saraswat)
PO-cum-JMIC, Spl. Fast. Court
Faridabad (Haryana)

13 MAR 2018

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construction which was allegedly raised after 07.05.1992. Therefore, no violation of notification could be established of records.

34. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere preponderance of probabilities, which also has not been done so in the present case.

35. In view of aforesaid discussion and finding, I am of the view that the complainant has miserably failed to prove the guilt of the accused facing trial. Hence, the accused is hereby acquitted of the charge leveled against him by giving him benefit of doubt. His bail and surety bonds stands discharged. File be consigned to record after due compliance.

Announced in open court.
05.03.2019

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad UID:HR0370

Note: This judgment contains seventeen pages and all the pages are checked and signed by me.

(Varsha Sharma)
PO-cum-JMIC, Spl. Env. Court
Faridabad, UID:HR0370
05.03.2019

118

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13/219/489

Annexure 15

from pre-page:

Subject: Case No. 345/2009 titled as Haryana State Pollution Control Board Vs M/s D and A Stores E-25, South Extension Part-II, new Delhi (Farm House No. D-55 A, Aravali Retreat, Ranisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurugram with the avurment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex.C1	:	Compilant
Ex.C2	:	Joining Report
Ex.C3	:	Notification dated 16.04.1987
Ex.C4	:	Agenda Item No. 135.5
Ex.C5	:	Agenda Item No. 135.8 (S)
Ex.C6	:	Copy of Sale deed dated 17.05.2004
Ex.C7	:	Show Cause Notice dated 10.09.2009
Ex.C8	:	Notification dated 07.05.1992
Ex.C9	:	order of Collector, Gurugram
Ex.CW1/A	:	Spot Inspection Report
Ex.CW3/A	:	Copy of Mutation 12234
Ex.CW3/B	:	Copy of Mutation 16932
Ex.CW3/C	:	Copy of Mutation 23697
Mark-A		Report of Patwari
Mark-B	:	Copy of letter dated 05.02.2009 of HSPCB, Panchkula

That in the present matter Ld. Trial Court has framed following three points for determination.

(I) Whether the Aravalli Notification dated 07.05.1992 has any applicability on the land in question

(II) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(III) Whether the accused is liable to be punished for commission of offence as alleged?

13/220/490

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 24.05.2019.

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e. subsequent to the commencement of Aravali Notification. The spot inspection report Ex. CW1/A and Sale Deed Ex.C5 are itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments, I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively hold that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

(Priya Sudrewal) 5/8/19
ADA

P.A.

Satbir Singh.
5-8-19

M.S. We may place the case before the Board, in the next meeting, as decided in earlier similar cases.

5.8.19

Chaiyan.

Urgent matter

EE(NH/M.)SC/2. Satbir Singh. 9-8-19

5.8.19

13/821/491

from pre-page:

Subject: Case No. 96/2009 titled as Haryana State Pollution Control Board Vs Ajay Grover R/o J-II, Sector-12, Noida, Farm house No. D-120, Aravali Reatreat, Raisina, Sohna Gurugram Honble Spl. Env. Court

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurugram with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex.C1	:	Compliant
Ex.C2	:	Notification dated 07.05.1992
Ex.C3	:	Notification dated 16.04.1987
Ex.C4	:	Letter dated 24.12.2008 of HSPCB Panchkula
Ex.C5	:	Show Cause Notice dated 07.04.2006
Ex.C6	:	Gazette Notification dated 16.04.1987
Ex.C7	:	Minutes of the meeting sub-committee held on 3-5 May, 2006.
Ex.C8	:	Minutes of the Committee held on 19-20 October, 2005
Ex.C9	:	Minutes of the 133th Meeting
Ex.C10	:	Photograph
Ex.CW1/A	:	Copy of Mutation No. 12382
Ex.CW1/B	:	Copy of Mutation No. 18932
Ex.CW1/C	:	Certificate issued by Patwari
Ex.CW3/A	:	Status report

That in the present matter Ld. Trial Court has framed following three points for determination.

(I) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

(II) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(III) Whether the accused is liable to be punished for commission of offence as alleged?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 24.04.2019.

13/220/49.2

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

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01/08/19

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e. subsequent to the commencement of Aravali Notification. The said status report Ex. CW3/A is itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments, I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 1575(4577)(P&H), S. Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

5/8/19
(P.S.) Surjewala)
ADA

D.A.

Satbir Singh.
5-8-19

M.S.

we may place the same before Board in the next meeting, as decided in earlier similar cases.

Chairman.

EE(N/W) DO 1/2 upon matter DA 05/08/19 Satbir Singh 5-8-19

from pre-page:

Subject: Case No. 10/2010 titled as Haryana State Pollution Control Board Vs Smt. Suman Kansal W/o Yogesh Kansal R/o B-77, Patel Nagar-II, Ghaziabad UP. (Farm House No. F-15 A, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurugram with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex.C1	:	Compliant
Ex.C2	:	Joining Report
Ex.C3	:	Notification dated 16.04.1987
Ex.C4	:	Agenda Item No. 135.5
Ex.C5	:	Agenda Item No. 135.8 (S)
Ex.C6	:	Copy of Sale deed dated 17.05.2004
Ex.C7	:	Show Cause Notice dated 10.09.2009
Ex.C8	:	Notification dated 07.05.1992
Ex.C9	:	order of Collector, Gurugram
Ex.CW1/A	:	Spot Inspection Report
Ex.CW3/A	:	Copy of Mutation 12234
Ex.CW3/B	:	Copy of Mutation 16932
Ex.CW3/C	:	Copy of Mutation 23697
Mark-A		Report of Patwari
Mark-B	:	Copy of letter dated 05.02.2009 of HSPCB, Panchkula

That in the present matter Ld. Trial Court has framed following three points for determination.

(I) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

(ii) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(iii) Whether the accused is liable to be punished for commission of offence as alleged?

13|924|494

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 18.01.2019.

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e. subsequent to the commencement of Aravali Notification. The spot inspection report Ex. CW1/A and Sale Deed Ex.C6 are itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments, I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

5/8/19
(P.S. Surjewala)
ADA

D.A.

Sathbir Singh
5-8-19

M/S: We may place the same before the Board in next meeting, as decided in earlier similar cases.

Chairman's o/c

5/8/19

Sathbir Singh
9-8-19

13/825/475

Subject: Case No. 168/2009 titled as Haryana State Pollution Control Board Vs P.S Attri S/o Late Sh. Kashi Ram R/o B-9/6482, Basant Kunj, New Delhi. (Farm House No. E-8, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges two witnesses CW1 Dr. CV Singh and CW2 Sh Parveen Kumar Patwari were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complainant
Ex.C2	:	Status Report
Ex.C3	:	Photograph
Ex.C4	:	Show Cause Notice dated 15.03.2006
Ex.C5	:	Reply to show cause notice
Ex.C6	:	Notice dated 08.09.2007
Ex.C7	:	Letter dated 24.12.2008 of HSPCB, Panchkula
Ex.PW2/A	:	Copy of mutation no. 12231
Ex.PW2/B	:	Copy of Mutation no. 18932
Ex. PW2/C	:	Certificate of Patwari
Ex. PW2/D	:	Copy of Jamabandi of the year 2001-2002

That in the present matter Ld. Trial Court has framed following three points for determination :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question.

ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 13.03.2019. In such cases there may not be direct evidence but for proving the guilt, all the links of the circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex C-2 is also mute on the point of age of construction. Therefore there is nothing on record to consider that the construction of farm house were raised subsequent to the Aravali Notification.

13/226/496

Now coming to the second point of consideration i.e whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. Ld. Trial Court has observed that there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification. Ld. Trial Court concluded that prosecution failed to prove the age of construction.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamiglu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

15-7-19.

Ashish Sharma
L.A.

ADA

Agree with the opinion

15/4/19.

D.A.

file may be sent to Sr. EEI pls.

Sathinder
15-4-19

M.S

SE-II

16/4

16/4/19

16/4/19

13/2217/497

Subject: Case No. 374/2009 titled as Haryana State Pollution Control Board Vs Nitin Narain Beri S/o Dr. Inder Narain Beri R/o 103, National Media Center, NH-8, Gurugram (Farm House No. D-122, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges three witnesses Sh. Chand Saini, Sh. Vijay Choudhary and Sh. Siya Ram Patwari were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complainant
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Minutes of the 135th meeting
Ex.C4	:	Notification dated 07.05.1992
Ex.C5	:	Copy of sale deed dated 18.12.2007
Ex.C6	:	Show cause notice dated 07.09.2009
Ex.C6/A	:	Show cause notice dated 10.09.2009
Ex.C7	:	Spot inspection report
Ex.C8	:	Letter dated 05.02.2009 of HSPCB Panchkula
Ex. C9	:	Minutes of the meeting sub-committee held on 03.05 May, 2006
Ex. C10	:	Minutes of the committee meeting held on 19-20 October, 2005
Ex. C11	:	Reply to Show Cause Notice

That in the present matter Ld. Trial Court has framed following three points for determination :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question.

ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

iii. Whether the accused are liable to be punished for the commission of offence as alleged ?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 14.03.2019 and it has been concluded that the complainant failed to produce any jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although the Aravali Notification is applicable on the land in question but the farm house in

13/2008/498

question could not to be proved to be a part of said land for want of revenue records.

Accordingly, in the present case Hon'ble Court concluded in answer to the 1st point of determination that Aravali Notification is applicable on land in question.

At the time of determination on second question Ld. Trial Court has observed that there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification. Ld. Trial Court concluded that prosecution failed to prove the age of construction.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

Navneet

Navneet Lochan
Legal Assistant

Ld. ADA

Agree with the opinion.

15/4/19.

DA.

Satbir Singh.
15-4-19

H.S.

May agree with the opinion of legal branch pts.

16/4

Chairman.

Subject: Case No. 167/2009 titled as Haryana State Pollution Control Board Vs Rahul Jain S/o Sh. Ravinder Kumar R/o House no. 138, Narmada Apartment, New Delhi (Farm House No. (D-21, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges two witnesses CW1 Dr. CV Singh and Sh. Dinesh Kumar were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complainant
Ex.C2	:	Copy of Sale Deed dated 19.05.2000
Ex.C3	:	Reply to show cause notice
Ex.C4	:	Status report
Ex.C5	:	Letter dated 21.09.2011, HSPCB, Gurugram written to Tehsildar, Sohna, for taking certified copy of Jamabandi
Ex.C6	:	Letter dated 24.12.2008 of HSPCB, panchkula
Ex.C7	:	Minutes of the meeting Sub-Committee held on 03.05.2006
Mark A-C	:	Public Notices
Mark D	:	Order of Collector Gurugram
Mark E	:	Enquiry report of DRO, Gurugram

That in the present matter Ld. Trial Court has framed following three points for determination. :-

iv. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

v. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

vi. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defense counsel Ld. Court decided the matter on 18.03.2019. In such cases there may not be direct evidence but for proving the guilt, all the links of the circumstantial evidence chain must be connected. There is admittedly no electricity connection or tubewell installed on the land in question and the status report Ex C-4 is also mute on the point of age of construction. Therefore there is nothing on record

13/039/5

to consider that the construction of farm house were raised subsequent to the Aravali Notification

At the time of determination on second question Ld. Trial Court has observed that there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification. Ld. Trial Court concluded that prosecution failed to prove the age of construction.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627), AIR 2008 SC2056; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

15-4-19
Ashish Sharma
L.A.

APA

Agree with opinion

15/4/19

D.A.

file may be send to Sr. EEI bld.

15.4.19

S.E.E-I

16/4/19

13/231/501

Subject: Case No. 351/2009 titled as Haryana State Pollution Control Board Vs Sanjeev Kumal S/o J.R. Kumal R/o A-205, Defence Colony, New Delhi. (Farm House No. D-18, Aravali Retreat, Raisina, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges three witnesses Sh. CW1 Sh. Bhagwan Singh Khatana, CW2 Sh. Chand Saini and CW3 Bir Singh Patwari were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complainant/order of Collector, Gurugram
Ex.C2	:	Joining Report
Ex.C3	:	Notification dated 16.04.1987
Ex.C4	:	Sale deed dated 18.12.2007
Ex.C5	:	Show cause notice dated 26.08.2009
Ex.C6	:	Letter dated 05.02.2009 of HSPCB, Panchkula
Ex.CW3/A	:	Copy of Mutation no. 18932
Ex.CW3/B	:	Copy of Jamabandi of the year 2001-2002

That in the present matter Ld. Trial Court has framed following three points for determination. :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defense counsel Ld. Court decided the matter on 08.03.2019 and held that the complainant has not produced any jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of Revenue Records.

Now coming to the second point of consideration ie whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. Ld. Trial Court has observed that the whole records are mute on the point of proving date of construction i.e subsequent to commencement of Aravali notification. It could not be proved on the file that the said construction was

13/822/508

done after commencement of the Aravali Notification. Therefore the prosecution have failed to discharge the burden to prove the construction by the accused without seeking prior permission after the Aravali notification.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

Vikram Grewal 15-4-19
Vikram Grewal
I.A.

Agree with opinion.

Parkewale
A.D.A. 15/4/19.

file may be send to Sr. EEI pls.

Sathirsingh.
15.4.19

SEE-I

1614

13/233/503

Subject: Case No. 376/2009 titled as Haryana State Pollution Control Board Vs Dr. Chaya Lyengar w/o Dr. Manoj Raje R/O Lyengar Farm House Bijwasan Road, Post Office Kapashera, New Delhi. (Farm House No. E-4, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges three witnesses CW1 Sh. Chand Saini, CW2 Sh. Sohan Singh, CW3 Lalit Mohan Patwari and CW4 Sh. Balraj Singh were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complaint
Ex.C2	:	Joining Report
Ex.C3	:	Notification dated 16.04.1987
Ex.C4	:	Sale deed dated 03.09.2004
Ex.C5	:	Show cause notice dated 09.09.2009
Ex.C6	:	Reply to show cause notice.
Ex.C7	:	Letter dated 05.02.2009 of HSPCB Panchkula
Ex.CW4/A	:	Spot Inspection Report.

That in the present matter Ld. Trial Court has framed following three points for determination. :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defense counsel Ld. Court decided the matter on 18.03.2019 and hold that the complainant has not produced any jamabandi mentioning the nature of land as gair mumkin pahar on which the farm house in question is allegedly being constructed and there is nothing on file to demarcate the said land. Therefore, although Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of Revenue Records.

Now coming to the second point of consideration ie whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. Ld. Trial Court has observed that the whole records are mute on the point of proving date of construction i.e subsequent to commencement of

Aravali notification. It could not be proved on the file that the said construction was done after commencement of the Aravali Notification. Therefore, the prosecution have failed to discharge the burden to prove the construction by the accused without seeking prior permission after the Aravali notification.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the Judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

12.4.19
NIPUN BHATIA
LA.

Agree with opinion

15/4/19

Sathsingh.
15-4-19

1614

W
16/4/19

13/235/505

from pre-page:

Subject: Case No. 402/2009 titled as Haryana State Pollution Control Board Vs Arjan Sawhney R/o 30/4, East Patel Nagar, new Delhi, Aravali Retreat, Ranisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurugram with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex.C1	:	Compliant
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Minutes of the 135th Meeting
Ex.C4	:	Notification dated 07.05.1992
Ex.C5	:	Copy of Sale deed dated 07.05.2003
Ex.C6	:	Show Cause Notice dated 01.09.2009
Ex.C6/A	:	Final Show Cause Notice dated 28.01.2009
Ex.C7	:	Inspection report
Ex.C8	:	Letter dated 05.02.2009 of HSPCB Panchkula
Ex.C9	:	Minutes of the meeting sub-committee held on 3-5 May, 2006.
Ex.C10	:	Minutes of the Committee held on 19-20 October, 2005
Ex.C11	:	order of Collector, Gurugram
Ex.CW2/A	:	Copy of Mutation No. 2153

That in the present matter Ld. Trial Court has framed following three points for determination.

(i) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

(ii) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(iii) Whether the accused is liable to be punished for commission of offence as alleged?

13/836/506

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 13.03.2019.

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e. subsequent to the commencement of Aravali Notification. The inspection report Ex. C7 and Sale Deed Ex.C5 are itself insufficient to hold the status of the farm-house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments, I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, in my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy. 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

5/8/19
(P.S. Surjewale)
ADA

D.A.

Balbir Singh.
5-8-19

D.S.

We may place this case also in boardmeeting, as decided in similar cases earlier.

Chairman.

EE(HQ) DS Dir(Legal) Balbir Singh 9-8-19

13/437/5077

from pre-page:

Subject: Case No. 403 of 2009 titled as Haryana State Pollution Cintrol Board Vs Arjun Sawhney R/o 30/4, East Patel Nagar, New Delhi, Farm House No. A-47 B, Aravali Retreat, Raisina, Sohan, Gurugram, Hon'ble Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

In this case all the facts have been mentioned in the judgments so for the sake of bravity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer Sh. Chand Saini, Gurugram Region, Gurugram with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges the following documents were tendered by Ld. Counsel on behalf of complainant:

Ex.C1	:	Compliant
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Minutes of the 135th Meeting
Ex.C4	:	Notification dated 07.05.1992
Ex.C5	:	Copy of Sale deed dated 05.02.2004
Ex.C6	:	Show Cause Notice dated 01.09.2009
Ex.C6/A	:	Final Show Cause Notice dated 01.09.2009
Ex.C7	:	Inspection report
Ex.C8	:	Letter dated 05.02.2009 of HSPCB Panchkula
Ex.C9	:	Minutes of the meeting sub-committee held on 3-5 May, 2006.
Ex.C10	:	Minutes of the Committee held on 19-20 October, 2005
Ex.C11	:	order of Collector, Gurugram
Ex.CW2/A	:	Copy of Mutation No. 2152

That in the present matter Ld. Trial Court has framed following three points for determination.

(I) Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

(II) Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

(III) Whether the accused is liable to be punished for commission of offence as alleged?

12/838/508

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 13.03.2019.

Following the answer to the first question Ld Trial Court concluded that Aravali Notification is applicable on the land in question.

At the time of determination on second question Ld. Trial Court has observed that the whole records are mute on the point of providing date of construction i.e, subsequent to the commencement of Aravali Notification. The Inspection report Ex. C7 and Sale Deed Ex.C5 are itself insufficient to hold the status of the farm house on the date of commencement of the Aravali Notification. It could not be proved on file that the said construction was done after commencement of the Aravali Notification.

Following the answer to third question the Ld. Trial Court has given benefit of doubt to the accused.

Having gone through the judgments, I have found that the decision of Ld. Trial Court is reasonable and not perverse. It is settled law that the prosecution is required to prove itself the case against the accused beyond reasonable doubt and not more on probability. So, In my opinion the case is not fit for filing an appeal as in the present case, complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

3/8/19
(R.S. Burjewala)
ADA

D.A.

Satbir Singh.
5.8.19

3/8/19 M.S.

we may place the same before BOARD in the next meeting, as decided in earlier similar cases.

Chairman.

Urgent matter.

Satbir Singh.
9.8.19

3.8.19
818

13/229/509

Subject: Case No. 379/2009 titled as Haryana State Pollution Control Board Vs Dr. Mohd. Zaki S/O Mr. Rehmat R/O C-3, 3019, Vasant Kunj, New Delhi. (Farm House No. D-55, Aravali Retreat, Raisina, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges three witnesses CW1 Sh. Rajraj Singh, CW2 Sh. Lalit Mohan and CW3 Sh. Chand saini were examined and following documents were tendered on behalf of complainant:

Ex.C1	:	Complaint
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Minutes of the 135th meeting.
Ex.C4	:	Gazette Notification Dated 07.05.1992
Ex.C5	:	Show cause notice dated 10.09.2009
Ex.C6	:	Letter dated 05.02.2009 of HSPCB Panchkula.
Ex.C7	:	Spot Inspection Report
Ex.C8	:	Minutes of the Meeting sub committee held on 01-05 may, 2006
Ex.C9	:	Minutes of the committee meeting held on 19-20 October 2005.
Ex.10	:	Photographs
Ex.CW2/A	:	Copy of mutation no. 7992
Mark-A	:	Copy of sale deed dated 27.06.1996

That in the present matter Ld. Trial Court has framed following three points for determination :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question
ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?
iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defense counsel Ld. Court decided the matter on 08.03.2019 and held that the complainant has not produced any Jamabandi mentioning the nature of land as gair mumkin paher on which the farm house in question is allegedly being constructed and there is nothing

13/240/510

on file to demarcate the said land. Therefore, although Aravali Notification is applicable on the land in question but the farm house in question could not be said to be proved to be a part of the said land for want of Revenue Records.

Now coming to the second point of consideration ie whether the accused have constructed in violation of the Aravali Notification subsequent to the commencement date. Ld. Trial Court has observed that the whole records are mute on the point of proving date of construction i.e subsequent to commencement of Aravali notification. It could not be proved on the file that the said construction was done after commencement of the Aravali Notification. Therefore, the prosecution have failed to discharge the burden to prove the construction by the accused without seeking prior permission after the Aravali notification.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so, in my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627), AIR 2008 SC2066; Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3049)

> *"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."*

Nipun 15-04-2019
NIPUN BHATIA
L.A.

AFDA

Agree with opinion.

15/4/19

D.A.

file may be sent to Sr. EE I pls.

15.4.19

SEE-I

16/4

16/04/19

13/241/511

Subject: Case No. 116/2009 titled as Haryana State Pollution Control Board Vs Dinesh Kumar Jaki S/o Dr. Mohamad Jaki R/o G-45b, East of Kailash, New Delhi. (Farm House No. B-15, Aravali Retreat, Raisina, Sohna, Gurgaon) Hon'ble Special Environment Court, Faridabad.

In the present matter on the request of Regional Officer concerned Branch has sought opinion whether the case is fit for appeal or not.

Brief facts :

In this case all the facts have been mentioned in the judgments so for the sake of brevity there is no need to repeat here again all facts. However, brief facts are that the present complaint has been filed by Haryana State Pollution Control Board as statutory Body through its Regional Officer, Gurgaon, with the averment that notification No. S.O.394(E) under Environmental Protection Act, 1986. The accused has committed an offence by way of breaching the terms and conditions of the Aravali Notification and made himself to be prosecuted and punished u/s 15 of the Environment (Protection) Act.

That to prove the charges three witnesses Sh. Chand Saini, Sh. Vijay Choudhary and Sh. Siya Ram Patwari were examined and following documents were tendered on behalf of complainant :-

Ex.C1	:	Complainant
Ex.C2	:	Notification dated 16.04.1987
Ex.C3	:	Minutes of the 135th meeting
Ex.C4	:	Notification dated 07.05.1992
Ex.C5/A	:	Show cause notice dated 15.03.2006
Ex.C5/B&C	:	Show cause notice dated 08.09.2007
Ex.C6	:	Status report
Ex.C7	:	Letter dated 24.12.2008 of HSPCB, Panchkula
Ex.C8	:	Minutes of the committee meeting held on 19-20 October, 2005
Ex. C9	:	Minutes of the meeting sub- committee held on 03.05 May, 2006
Ex. C10	:	Order of Collector, Gurugram
Ex.CW2/A	:	Photographs

That in the present matter Ld. Trial Court has framed following three points for determination. :-

i. Whether the Aravali Notification dated 07.05.1992 has any applicability on the land in question

ii. Whether the accused has raised construction subsequent to the commencement date of the Aravali notification without obtaining prior permission thereby violated the provisions of Aravali Notification?

iii. Whether the accused are liable to be punished for the commission of offence as alleged?

That after hearing the arguments of complainant and defence counsel Ld. Court decided the matter on 05.03.2019, the complainant board has been relied upon Ex.C10 order of District collector, Gurgaon and it has been decided that the entries in Khasra girdawari were changed in the immediate previous year of the commencement of Aravali Notification which clearly shows the malafide intention

13/242/51R

of the accused and the Revenue Department official to make a way out and to flout the provisions of Aravali Notification.

Accordingly, in the present case Hon'ble Court concluded to answer to the 1st point of determination that Aravali Notification is applicable on land in question.

At the time of determination on second question Ld. Trial Court has observed that the site inspection report Ex.C6 are mute on the point of age of construction and there is nothing on record to consider that the construction of farm house was raised subsequent to the Aravali Notification. Ld. Trial Court concluded that prosecution failed to prove the age of construction.

Following the answer of third question Ld. Trial Court has given the benefit of doubt to the accused.

Having gone through the judgments I have found that the decision of Ld. Trial Court is reasonable and not perverse so. In my opinion the case is not fit for filing an appeal as in the present case complainant could not satisfactorily prove the date of construction and due to this particular fact Ld. Court has given the benefit of doubt to the accused.

Further, to provide strength to my opinion I would like to refer following judgments as: State of Haryana v. Raj Kumar, 2007 CrLJ 4575(4577)(P&H), S.Ram Krishna V. S. Rami Reddy, 2008 CrLJ2625(2627); AIR 2008 SC2066, Gowrishankara Swamigalu v. State of Karnataka, 2008 CrLJ 3042 (3044)

"In all judgments Hon'ble Apex Court and High court respectively held that if the evaluation of the evidence by the trial court does not suffer from illegality, manifest error or perversity and the main grounds on which it has based its order are reasonable and plausible, the High Court should not disturb the order of acquittal even if another view is possible."

Navneet Lochan
Legal Assistant

Ld. ADA

Agree with the opinion

15/4/19

D.A.

Satbir Singh.
15.4.19

M/S.

May agree with the opinion of

Legal branch.

Chairman

16/4

Sd/- Executive Engineer
Sd/- Superintending Engineer
Satbir Singh

13|243|513

Annexure-L6

309

Annexure-A

decided in punjab and haryana high court

Sr. no.	Case no.	Name of Cases	Date of Order/ Decision	Status
1	Criminal Misc. No. A-1109-MA of 2016(O & M)	HSPCB Vs Ashok Tuli	1/12/2016	Dismissed
2	Criminal Misc. No. A-1110-MA of 2016(O & M)	HSPCB Vs Rajesh Chand Vats	1/12/2016	Dismissed
3	Criminal Misc. No. A-1111-MA of 2016(O & M)	HSPCB Vs Sunita Luthra	1/12/2016	Dismissed
4	Criminal Misc. No. A-1112-MA of 2016(O & M)	HSPCB Vs PPN Properties pVt. Ltd.	1/12/2016	Dismissed
5	Criminal Misc. No. A-1125-MA of 2016(O & M)	HSPCB Vs Ms. Anita Badhwar and other	1/12/2016	Dismissed
6	Criminal Misc. No. A-1131-MA of 2016(O & M)	HSPCB Vs Guneet Dhillon and others	1/12/2016	Dismissed
7	Criminal Misc. No. A-1132-MA of 2016(O & M)	HSPCB Vs J.L. Khanna and others	1/12/2016	Dismissed
8	Criminal Misc. No. A-1133-MA of 2016(O & M)	HSPCB Vs arun Sharma and others	1/12/2016	Dismissed
9	Criminal Misc. No. A-1135-MA of 2016(O & M)	HSPCB Vs Madhu Chawla	1/12/2016	Dismissed
10	Criminal Misc. No. A-1145-MA of 2016(O & M)	HSPCB Vs Shiv Mohan Mehra	1/12/2016	Dismissed
11	Criminal Misc. No. A-1147-MA of 2016(O & M)	HSPCB Vs Anita Suhag and others	1/12/2016	Dismissed
12	Criminal Misc. No. A-1149-MA of 2016(O & M)	HSPCB Vs Anil Luthra	1/12/2016	Dismissed
13	Criminal Misc. No. A-1150-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed

13/244/514

14	Criminal Misc. No. A-1151-MA of 2016(O & M)	HSPCB Vs Sanjay Mittal	1/12/2016	Dismissed
15	Criminal Misc. No. A-1153-MA of 2016(O & M)	HSPCB Vs Mrs. Raj R. Gupta	1/12/2016	Dismissed
16	Criminal Misc. No. A-1154-MA of 2016(O & M)	HSPCB Vs Ritu Lekhi and others	1/12/2016	Dismissed
17	Criminal Misc. No. A-1160-MA of 2016(O & M)	HSPCB Vs Lt. Col. Krishan Kumar Chabra and others	1/12/2016	Dismissed
18	Criminal Misc. No. A-1161-MA of 2016(O & M)	HSPCB Vs Shard Mohan and others	1/12/2016	Dismissed
19	Criminal Misc. No. A-1162-MA of 2016(O & M)	HSPCB Vs Pushpa Pangley and others	1/12/2016	Dismissed
20	Criminal Misc. No. A-1164-MA of 2016(O & M)	HSPCB Vs Gulshan Rai Jain	1/12/2016	Dismissed
21	Criminal Misc. No. A-1168-MA of 2016(O & M)	HSPCB Vs Jeewan Mohan	1/12/2016	Dismissed
22	Criminal Misc. No. A-1173-MA of 2016(O & M)	HSPCB Vs Smt. Pushpay Pangey and others	1/12/2016	Dismissed
23	Criminal Misc. No. A-1176-MA of 2016(O & M)	HSPCB Vs Sh. Sichil Gupta	1/12/2016	Dismissed
24	Criminal Misc. No. A-1177-MA of 2016(O & M)	HSPCB Vs C.P. Kukreja Associates Ltd.	1/12/2016	Dismissed
25	Criminal Misc. No. A-1178-MA of 2016(O & M)	HSPCB Vs Ms. Arjita Suhag and others	1/12/2016	Dismissed

13/245/515

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26	Criminal Misc. No. A-1179-MA of 2016(O & M)	HSPCB Vs Namita Mehta	1/12/2016	Dismissed
27	Criminal Misc. No. A-1180-MA of 2016(O & M)	HSPCB Vs Rajiv Singh	1/12/2016	Dismissed

13/246/516

Annexure-17

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i) Criminal Misc.No.A-1109-MA of 2016 (O&M)
Date of Decision : 01st December, 2016

Haryana State Pollution Control Board

..... Petitioner

Versus

Ashok Tuli

..... Respondent

(ii) Criminal Misc.No.A-1110-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajesh Chand Vats

..... Respondent

(ii) Criminal Misc.No.A-1111-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sunita Luthra

..... Respondent

(iv) Criminal Misc.No.A-1122-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

PPN Properties Pvt. Ltd.

..... Respondent

(v) Criminal Misc.No.A-1125-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Badhwar and others

..... Respondents

13/947/517

(vi) Criminal Misc.No.A-1131-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gurjeet Dhillon and others

..... Respondents

(vii) Criminal Misc.No.A-1132-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

J.L.Khanna and others

..... Respondents

(viii) Criminal Misc.No.A-1133-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Arun Sharma and others

..... Respondents

(ix) Criminal Misc.No.A-1135-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Mrs. Madhu Chawla

..... Respondent

(x) Criminal Misc.No.A-1145-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Shiv Mohan Mehra

..... Respondent

(xi) Criminal Misc.No.A-1147-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Suhag and others

..... Respondents

(xii) Criminal Misc.No.A-1149-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Anil Luthra

..... Respondent

(xiii) Criminal Misc.No.A-1150-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gulshan Rai Jain

..... Respondent

(xiv) Criminal Misc.No.A-1151-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sanjay Mittal

..... Respondent

(xv) Criminal Misc.No.A-1153-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Mrs. Raj R.Gupta

..... Respondent

13/249/519

(xvi) Criminal Misc.No.A-1154-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Ritu Lekhi and another

..... Respondents

(xvii) Criminal Misc.No.A-1160-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Lt. Col. Krishan Kumar Chabra and others

..... Respondents

(xviii) Criminal Misc.No.A-1161-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sharad Mohan and another

..... Respondents

(xix) Criminal Misc.No.A-1162-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Pushpa Pangtey and others

..... Respondents

(xx) Criminal Misc.No.A-1164-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Gulshan Rai Jain

..... Respondent

13/2250/520

(xxi) Criminal Misc.No.A-1168-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Jeewan Mohan

..... Respondent

(xxii) Criminal Misc.No.A-1173-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Smt. Pushpa Pangey and others

..... Respondent

(xxiii) Criminal Misc.No.A-1176-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Sh. Sushil Gupta

..... Respondent

(xxiv) Criminal Misc.No.A-1177-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

C.P.Kukreja Associates Ltd.

..... Respondent

(xxv) Criminal Misc.No.A-1178-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Ms. Anita Suhag and others

..... Respondents

(xxvi) Criminal Misc.No.A-1179-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Namita Mehta

..... Respondent

(xxvii) Criminal Misc.No.A-1280-MA of 2016 (O&M)

Haryana State Pollution Control Board

..... Petitioner

Versus

Rajiv Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

***

Present : Mr. Lokesh Sinhal, Advocate,
for the applicants.

***

AJAY TEWARI, J. (Oral)

These are all the applications for grant of leave to file an appeal against the judgment of acquittal and the relevant facts are taken from Criminal Misc.No.A-1135-MA of 2016. The other cases are similar cases only with the distinction that there are applications for condonation of delay of different periods and they all are being decided in terms of the decision in Criminal Misc.No.A-1135-MA of 2016.

The applicant-Board had launched prosecution under the Environment Protection Act, 1986 (in short 'the Act) against the respondent on the ground that she had unauthorizedly constructed a farm house in an area which was covered by notification dated 07.05.1992. The learned trial

Court, however, held that the version of the respondent is that they had purchased built up farm houses which as per the revenue record were shown to be existing prior to the notification dated 07.05.1992 and consequently on the date of notification, the land was not 'Gair Mumkin Pahar'.

Learned counsel for the applicant has argued that there is some material to show that this finding may not be fully correct. It cannot be lost sight that the penalty under the Act is very stiff and a person can be sentenced for five year imprisonment.

In these circumstances, it would be incumbent upon the Board to prove the case beyond reasonable doubt and merely because the two views may be possible and an order of finding of conviction cannot be returned.

Accordingly, the application stands dismissed. In other cases also, the prayer for condonation of delay is allowed but the applications for leave to file an appeal against the judgment of acquittal are dismissed as the counsel has accepted that the findings in one case would be applicable in other cases.

(AJAY TEWARI)
JUDGE

01st December, 2016
mamta

Whether speaking/reasoned Yes/No

Whether Reportable: *Yes/No*

Agenda Item No. 185.14(S) 14/1/523(S)

Ex-post facto sanction of promotion on post of Senior Environmental Engineer by promotion from amongst the Environmental Engineers.

The Government vide Memo No. 2/24/2010-1Env. dated 06.06.2017 **(Annexure-1)** sanctioned 02 posts of Senior Environmental Engineer in the Functional Pay Level-14 as per Seventh Pay Package (Rs. 118500/-) in the Board and simultaneously prescribed the following mode of recruitment and qualification and experience for the post:-

Mode of recruitment	"By Promotion"
Prescribed Qualifications & Experience	"7 years experience in the Board as Environmental Engineer OR Total 14 years experience as Environmental Engineer & Assistant Environmental Engineer subject to the condition that the student possess Degree in Engineering".

One post of Senior Environmental Engineer became vacant on 02.01.2019 due to retirement of Sh. Chand Saini, Senior Environmental Engineer.

Keeping in view the urgent requirement and cope up with the work of HSPCB, the senior most Environmental Engineer, Sh. Bhupinder Singh Rinwa was promoted vide order Endst. No. HSPCB/Estt./2019/4726-4759 dated 10.06.2019 **(Annexure-'A')**. His 70% ACR are good or more than good. He is having 08 years experience as Assistant Environmental Engineer and 06 years experience as Environmental Engineer. He fulfills the eligibility criteria as prescribed by the Government, mentioned above. No contemplated disciplinary proceedings or vigilance enquiry is pending against him. As he has already been promoted, therefore, ex-post facto approval is required.

As per the draft service rules approved by the Board vide agenda item No. 174.6, wherein the Board is the prescribed authority for promotion to the post of Senior Environmental Engineer. Therefore, the Haryana State Pollution Control Board is the Competent Authority to fill the post of Senior Environmental Engineer by promotion from amongst the Environmental Engineers.

The proposed promotion to the post of Senior Environmental Engineer from the post of Environmental Engineer is one cadre to another, within the same Group of service (i.e. class 1 to class 1) hence not required to place before the Departmental Promotion Committee (Government Instructions No. 2/10/97-2GS1 dated 05.06.2003 **(Annexure-'B')**.

In view of above, may consider and accord ex-post facto approval for promotion of Sh. Bhupinder Singh Rinwa to the post of Senior Environmental Engineer with conditions as per **Annexure-'A'**.

Submitted for consideration and approval please.

14/2/524 ANNEXR-A

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA.
Ph. No. 0172-2577870-873

OFFICE ORDER

Sh. Bhupender Singh Rinwa, Environmental Engineer, presently posted as Regional Officer, HSPCB, Dharuhera is hereby promoted to the post of Senior Environmental Engineer in the Functional Pay Level-14 as per Seventh Pay Package (Rs. 118500/-) against the vacant post, with the following conditions:-

i) He will remain on probation for a period of one year from the date of joining as Senior Environmental Engineer.

ii) The above promotion is subject to the right of others, who are otherwise senior to him.

Dated Panchkula, the
10th June, 2019.

Ashok Kheterpal
Chairman

Endst. No. HSPCB/Estt./2019/ 4726-4759 Dated: 10/6/2019

A copy of the above is forwarded to the following for information and necessary action:-

1. The Senior Accounts Officer, HSPCB, Panchkula.
2. The Environmental Engineer (CDC) (IT Cell), HSPCB, Panchkula.
3. Sh. Bhupender Singh Rinwa, Environmental Engineer, Regional Office, HSPCB, Dharuhera. He is requested to join duties in Head Office of HSPCB immediately.
4. All Section Incharges in Head Office/All Regional Officers in Field Offices/Laboratory Incharges of the Board.
5. Deputy Superintendent, HRMS.
6. PS to Chairman/PA to Member Secretary for information of the officers.

Admn. Officer (Estt.)
for Chairman

14/3/525 Annexure-B Promotion (382)

Subject:- **Setting up of Departmental Promotion Committees to consider the cases for promotion to Group A & Group B posts.**

Will all the Administrative Secretaries to Government Haryana kindly refer to this department's instructions issued vide letters of even. number dated 9th January, 2002 and 6th February, 2002 on the subject noted above?

2. All the departments were directed to formulate Departmental Promotion Committees to consider the cases for promotion to Group 'A' and Group 'B' posts vide the letters under reference. The cases of promotion to Group A & B posts are referable to the Haryana Public Service Commission for their concurrence/ approval under Article 320(3) (b) of the Constitution of India. As such, the departments vide letters under reference were directed to associate a member of the H.P.S.C. in the Departmental Promotion Committee with the objective to curtail time wasted in correspondence seeking approval of the H.P.S.C.

Some departments have referred queries to this office seeking clarification on the point whether the cases of promotion from one cadre to another cadre in the same Group of Service are to be placed before the Departmental Promotion Committee. In this regard, it is clarified that as per Rule 3 (o) of the Haryana Public Service Commission (Limitation of Functions) Regulations, 1972, no approval of the H.P.S.C. is required in the matter of promotion from one cadre to another within the same Group of service. Accordingly, the cases of promotion from one cadre to another within the same Group of service are not required to be placed before the Departmental Promotion Committee and as such, the cases of promotion from one cadre to another within the same Group of service (i.e. from Class-I to Class-I and Class-II to Class-II itself) may not be placed before the Departmental Promotion Committee and may be processed for approval of the promotion from the authorities, as before.

3. The instructions under reference shall be deemed to have been modified to the extent indicated above.

4. These instructions may be brought to the notice of all concerned for necessary action and compliance.

Yours faithfully

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government Haryana.

To

All the Administrative Secretaries to Government Haryana.

U.O.No.2/10/97-2 GSI No. Dated Chandigarh, the 5th June, 2003

No. 2/10/97-2GSI Dated Chandigarh, the 5th June, 2003

A copy is forwarded to the following for information and necessary action in continuation

HARYANA STATE POLLUTION CONTROL BOARD

AGENDA

For the

185th meeting of the Board

to be held on 28-08-2019 at 11:00 Am

PANCHKULA

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA.
Ph. No. 0172-2577870-873

No. HSPCB/Estt./2019/EG-36/ 6543 - 6559 Dated: 21/8/2019

To

1. The Chairman,
Haryana State Pollution Control Board, Panchkula.

2. The Director,
Environment & Climate Change Department, Haryana,
SCO No. 1-3, Sector 17-D, Chandigarh.

3. The Director General,
Urban Local Bodies Department, Haryana,
Bays No. 11-14, Sector-4, Panchkula.

4. The Principal Chief Conservator of Forests,
Haryana, Panchkula.

5. The Transport Commissioner, Haryana,
30-Bays Building, Chandigarh.

6. The Engineer-in-Chief, Haryana,
Public Health Engineering Department, Haryana,
Panchkula.

7. The Director Technical,
Haryana Powers Generation Corporation Limited (HPGCL),
Panchkula.

8. The Chief Engineer or any other technical officer
equivalent of the rank of Chief Engineer of
Haryana State Industrial Infrastructure
Development Corporation (HSIIDC), Panchkula.

9. Smt. Renu Bala Gupta, Mayor,
Municipal Corporation, Karnal
39-40, Chaudhary House Colony, Karnal.

10. Shri Sanjay Kumar, Chairman,
Municipal Council,
Charkhi Dadri,
Ward No. 7, Railway Road, Charkhi Dadri.

11. Shri Gurdayal Sunheri, Chairman,
Zila Parishad, Kurukshetra.
VPO Sunheri Khalsa, District Kurukshetra.

12. Shri Kalyan Chauhan, Chairman,
Zila Parishad, Gurugram, VPO Wazirpur,
District Gurugram.

Contd...Page 2

13. Shri Pushpinder Kumar, MC,
Ward No. 8, Municipal Corporation,
Ambala,
708, Durga Nagar, Ambala City.

14. Shri Satish Singhal,
Singhal Industrial Screws Pvt. Ltd.
Near Oil Mill, Link Road,
Faridabad Old.

15. Shri Dinesh Arora,
Plot No. 55-56, Industrial Estate, Phase-I,
Panchkula.

16. Professor Narsi R. Bishnoi,
Department of Environmental Sciences & Engineering,
Guru Jambheshwar University of Science and Technology,
Hisar.

17. The Member Secretary,
Haryana State Pollution Control Board,
Panchkula.

Subject: **185th meeting of the Haryana State Pollution Control Board to be held on 28.08.2019 at 11.00 A.M.**

Kindly refer to this office letter No. HSPCB/Estt./2019/EG-36/6249-6265 dated 06.08.2019 and this office letter No. HSPCB/Estt./2019/EG-36/6396-6412 dated 16.08.2019 on the subject cited above.

Please find enclosed herewith the Agenda Notes for the 185th meeting of the Board to be held on **28.08.2019 at 11.00 A.M** under the Chairmanship of Sh. Ashok Khetarpal, Chairman of the Board in the Conference Room of the Haryana State Pollution Control Board, C-11, Sector-6, Panchkula.

It is also intimated that the Haryana State Pollution Control Board is a statutory Board and its members have been nominated either by name or designation. It is, therefore, requested that their substitute may not be sent.

DA/As above.

S. Narayana 21/8
MEMBER SECRETARY

Endst. No. HSPCB/Estt./2019/EG-36/ 6560 Dated: 21/8/2019

A copy of the above is forwarded to the Additional Chief Secretary to Government of Haryana, Environment & Climate Change Department, Chandigarh for information with reference to this office letter Endst. No. HSPCB/Estt./2019/EG-36/6266 dated 06.08.2019 and No. HSPCB/Estt./2019/EG-36/6413 dated 16.08.2019.

S. Narayana 21/8
MEMBER SECRETARY

Endst. No. HSPCB/Estt./2019/EG-36/ 6561 Dated: 21/8/2019

A copy of the above is forwarded to the Sh. Jagdeep Singh, IAS, Special Secretary Finance, Finance Department Haryana, Chandigarh for information.

S. Narayana 21/8
MEMBER SECRETARY

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA.
Ph. No. 0172-2577870-873

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Agenda Items for the 185th meeting of the Board to be held on **28.08.2019** at **11.00 AM** under the Chairmanship of Sh. Ashok Khetarpal, Chairman of the Board in the Conference Room of the Haryana State Pollution Control Board, C-11, Sector-6, Panchkula are as under:-

Item No.	Subject	Page
185.1	Confirmation of the Minutes of the 184th meeting of the Haryana State Pollution Control Board.	1/1/1 – 1/7/7
185.2	Action taken on the Minutes of the 184th meeting of the Haryana State Pollution Control Board held on 30.05.2019.	2/1/8 – 2/3/10
185.3	Estt. Sh. Rajesh Kumar Garhia, Senior Scientist (HQ)-Retention in service beyond the age of 55 years.	3/1/11
185.4	Outsourcing of study on the levels and sources of pollution in Haryana-Reg.	4/1/12 – 4/57/68
185.5	Outsourcing of preparation of action plan regarding noise mapping, identifying hot spots and mitigation plan for control of noise pollution of Faridabad and Gurugram cities of Haryana-Reg.	5/1/69 - 5/17/85
185.6	Amendment in the category of industrial sector categorized as "Floor Mills/Atta Chakki" in the categorization of industrial sectors/projects issued vide order Endst. dated 26.02.2018 for consent management under Water Act, 1974 and Air Act, 1981.	6/1/86 – 6/57/142
185.7	Creation of Sub-Region No. 4 District Charkhi Dadri in Regional office, HSPCB, Bhiwani.	7/1/143
185.8	Remote Sensing study for the monitoring of burning cases of Wheat Stubble and Paddy Straw in Haryana for the year 2019.	8/1/144 – 8/15/158
185.9	Amendment in the notification dated 11.05.2016 for extending the relaxation to the stone crushing units w.r.t. distance from educational institution which are under relaxation w.r.t. some other criteria.	9/1/159 – 9/26/184

Agenda Item No. 185.1

Confirmation of the Minutes of the 184th meeting of the Haryana State Pollution Control Board.

The minutes of the 184th meeting were circulated to all the Members of the Board vide this office Memo No. HSPCB/Estt./2019/EG-38/4571-4588 dated 31.05.2019 (copy of the same enclosed).

No observations from any Member have been received. The Board may confirm the Minutes of the 184th Meeting.

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR 6, PANCHKULA.
Ph. No. 0172-2577870-873

No. HSPCB/Estt./2019/EG-36/ 4571-4587 Dated: 31/5/2019

To

1. The Chairman,
   Haryana State Pollution Control Board,
   C-11, Sectort-6, Panchkula.

2. The Director,
   Environment & Climate Change Department, Haryana,
   SCO No. 1-3, Sector 17-D, Chandigarh.

3. The Director General,
   Urban Local Bodies Department, Haryana,
   Bays No. 11-14, Sector-4, Panchkula.

4. The Principal Chief Conservator of Forests,
   Forest Department, Haryana,
   Van Bhawan, C-18, Sector-6, Panchkula.

5. The Transport Commissioner, Haryana,
   30-Bays Building, Chandigarh.

6. The Engineer-in-Chief,
   Public Health Engineering Department, Haryana,
   Bays No. 13-18, Sector-4, Panchkula.

7. The Director Technical,
   Haryana Powers Generation Corporation Limited (HPGCL),
   Urja Bhawan, C-7, Sector-6, Panchkual.

8. The Chief Engineer or any other technical officer
   equivalent of the rank of Chief Engineer of
   Haryana State Industrial Infrastructure
   Development Corporation (HSIIDC),
   Plot No. C-13-14, Sector-6, Panchkula.

9. Smt. Renu Bala Gupta, Mayor,
   Municipal Corporation, Karnal
   # 39-40, Chaudhary House Colony, Karnal.

10. Shri Sanjay Kumar, Chairman,
    Municipal Council,
    Charkhi Dadri,
    Ward No. 7, Railway Road, Charkhi Dadri.

11. Shri Gurdayal Sunheri, Chairman,
    Zila Parishad, Kurukshetra.
    VPO Sunheri Khalsa, District Kurukshetra.

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12. Shri Kalyan Chauhan, Chairman,
Zila Parishad, Gurugram, VPO Wazirpur,
District Gurugram.

13. Shri Pushpinder Kumar, MC,
Ward No. 8, Municipal Corporation,
Ambala.
706, Durga Nagar, Ambala City.

14. Shri Satish Singhal,
Singhal Industrial Screws Pvt. Ltd.
Near Oil Mill, Link Road,
Faridabad Old.

15. Shri Dinesh Arora,
Plot No. 55-56, Industrial Estate, Phase-I,
Panchkula.

16. Professor Narsi R. Bishnoi,
Department of Environmental Sciences & Engineering,
Guru Jambheshwar University of Science and Technology,
Hisar.

17. The Member Secretary,
Haryana State Pollution Control Board,
Panchkula.

Subject: **Minutes of the 184th meeting of the Haryana State Pollution Control Board held on 30.05.2019.**

Kindly refer to this office letter No. HSPCB/Estt./2019/EG-36/4481-4497 dated 27.05.2019 on the subject cited above.

Please find enclosed the Minutes of the 184th meeting of the Board held on 30.05.2019 for information and necessary action.

DA/As above.

S. Narayanan 30/5
MEMBER SECRETARY

Endst. No. HSPCB/Estt./2019/EG-36/ 4588 **Dated:** 31/5/2019

A copy of the above is forwarded to the Additional Chief Secretary to Government of Haryana, Environment & Climate Change Department, Chandigarh for information with reference to this office letter Endst. No. HSPCB/Estt./2019/EG-36/4498 dated 27.05.2019.

S. Narayanan 30/5
MEMBER SECRETARY

Minutes of 184th meeting of the Haryana State Pollution Control Board, Panchkula, held at 11.00 A.M. on 30.05.2019 under the Chairmanship of Sh. Ashok Khetarpal, Chairman, Haryana State Pollution Control Board, Panchkula.

The 184th meeting of the Haryana State Pollution Control Board was convened at 11:00 A.M. on 30.05.2019 in its Conference Room under the Chairmanship of Sh. Ashok Khetarpal, Chairman, HSPCB. The list of participants is at **Annexure-I.** Leave of absence was granted to the Members who could not attend the meeting. The Member Secretary of the Board welcomed all the participants and presented the agenda items before the Board. A detailed discussion was held on all the agenda items and the minutes of the meeting are presented as below.

Agenda Item No. 184.1
Confirmation of the Minutes of 183rd meeting of the Haryana State Pollution Control Board.

Minutes of 183rd meeting were confirmed.

Agenda Item No. 184.2
Action taken on the minutes of the 183rd meeting of the Haryana State Pollution Control Board held on 11.01.2019.

The Board members were apprised of the action taken on the decisions taken in the 183rd meeting and the same were noted.

Agenda Item No. 184.3
Appointment of Board's Analyst in Haryana State Pollution Control Board.

The proposal contained in Agenda Note was deferred.

Agenda Item No. 184.4
Regarding providing Limited Cashless Medical Facility to Regular Haryana Government Employees and Pensioners w.e.f. 30.11.2017.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.5
Change of Regional Office, Jind to Regional Office, Bhiwani.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.6
Grant of Fixed Medical Allowance instead of reimbursement of OPD medical expenses to the employees of the Board.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.7
Withdrawal of provisions regarding curtailment of production and non operation of the unit till they comply even after they have deposited the performance security.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.8
Amendment in Appendix B of the Haryana State Pollution Control Board (Group A, B, C and D) Service Regulations, 2004 in Group D Serial No. 30, 31, 32, 33 and 34.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.9
Amendment in regulation 5 of the Haryana State Pollution Control Board (Group A, B, C and D) Service Regulations, 2004.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.10
Framing of modalities and methodology for assessment and levy of Environmental Compensation against non complying polluting units and its utilization based on CPCB report.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.11
Delegation of power to engage Advocate by the Regional Officers for Special Environment Courts and other District Courts.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.12 (S)
Conduct of inventorisation of E-waste generation in the State.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.13 (S)
Conduct of profile studies for specific type of industries for identification, verification and quantification of Hazardous waste based on scientific principles.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.14 (S)
Remote sensing study for the monitoring of burning cases of Wheat Stubble and Paddy Straw in Haryana for the year 2019.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.15 (S)
Relaxation in experience for promotion from Senior Scientific Assistant to Scientist 'B'-Reg.

The proposal contained in Agenda Note was approved to be forwarded for consideration of the Government.

Agenda Item No. 184.16 (S)
Amendment in the procedure for auto renewal of Consent to Operate (CTO) under Water Act, 1974 & Air Act, 1981.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.17 (S)
Celebration of World Environment Day on 05th June, 2019.

The proposal contained in Agenda Note was approved.

Agenda Item No. 184.18 (S)
Strengthening of the Scientist & Engineering cadres of the Haryana State Pollution Control Board (HSPCB) with a revised proposal for 12 additional Regional Offices at the district level, and 1 Sub-Headquarters at Gurgaon (NCR).

The proposal contained in Agenda Note was approved.

ANNEXURE-I

LIST OF PARTICIPANTS

1. Sh. Ashok Khetarpal,
Chairman,
Haryana State Pollution Control Board,
C-11, Sector-6, Panchkula.

2. Sh. Manpal Singh,
Engineer-in-Chief,
Public Health Engineering Department, Haryana,
Bays No. 13-18, Sector-4, Panchkula.

3. Sh. V.K. Sethi,
Director Technical,
Haryana Power Generation Corporation Limited (HPGCL),
Urja Bhawan, C-7, Sector-6, Panchkula.

4. Smt. Renu Bala Gupta, Mayor,
Municipal Corporation, Karnal
39-40, Chaudhary House Colony, Karnal.

5. Shri Sanjay Kumar, Chairman,
Municipal Council,
Charkhi Dadri,
Ward No. 7, Railway Road, Charkhi Dadri.

6. Shri Gurdayal Sunheri, Chairman,
Zila Parishad, Kurukshetra.
VPO Sunheri Khalsa, District Kurukshetra.

7. Shri Pushpinder Kumar, MC,
Ward No. 8, Municipal Corporation,
Ambala.
708, Durga Nagar, Ambala City.

8. Shri Dinesh Arora,
Plot No. 55-56, Industrial Estate, Phase-I,
Panchkula.

9. Professor Narsi R. Bishnoi,
Department of Environmental Sciences & Engineering,
Guru Jambheshwar University of Science and Technology,
Hisar.

10. Sh. S. Narayanan, IFS,
Member Secretary,
Haryana State Pollution Control Board,
C-11, Sector-6, Panchkula.

Agenda Item No. 185.2

Action taken on the Minutes of the 184th meeting of the Haryana State Pollution Control Board held on 30.05.2019.

The action taken report on the minutes of 184th meeting of the Board held on 30.05.2019 is as under:-

Agenda Item No. 184.1

Confirmation of Minutes of 183rd meeting of the Haryana State Pollution Control Board.

Minutes of 183rd meeting were confirmed.

Agenda Item No. 184.3

Appointment of Board's Analyst in Haryana State Pollution Control Board.

No action is required to be taken.

Agenda Item No. 184.4

Regarding providing Limited Cashless Medical Facility to Regular Haryana Government Employees and Pensioners w.e.f. 20.11.2017.

Action has been taken and circulated to all concerned vide this office letter No. 5171-5205 dated 20.04.2019.

Agenda Item No. 184.5

Change of Regional Office, Jind to Regional Office, Bhiwani.

No action is required to be taken.

Agenda Item No. 184.6

Grant of Fixed Medical Allowance instead of reimbursement of OPD medical expenses to the employees of the Board.

Action has been taken. No action is required.

Agenda Item No. 184.7

Withdrawal of provisions regarding curtailment of production and non operation of the unit till they comply even after they have deposited the performance security.

Action has been taken vide letter No. 5520-43 dated 25.02.2019.

Agenda Item No. 184.8

Amendment in Appendix B of the Haryana State Pollution Control Board (Group A, B, C and D) Service Regulations, 2004 in Group D Serial No. 30, 31, 32, 33 and 34.

Action has been taken vide letter No. 5308 dated 26.06.2019.

Agenda Item No. 184.9

Amendment in regulation 5 of the Haryana State Pollution Control Board (Group A, B, C and D) Service Regulations, 2004.

Action has been taken vide letter No. 5308 dated 26.06.2019.

Agenda Item No. 184.10

Framing of modalities and methodology for assessment and levy of Environmental Compensation against non complying polluting units and its utilization based on CPCB report.

Action has already been taken vide letter No. 6043-50 dated 29.04.2019.

Agenda Item No. 184.11

Delegation of power to engage Advocate by the Regional Officers for Special Environment Courts and other District Courts.

Delegation of power to engage Advocate by Regional Officers has been granted vide this office letter No. 2416-17 dated 11.06.2019 for compliance of Agenda Item No. 184.11.

Agenda Item No. 184.12 (S)

Conduct of Inventorisation of E-waste generation in the State.

Matter is under process.

Agenda Item No. 184.13 (S)

Conduct of profile studies for specific type of industries for identification, verification and qualification of Hazardous waste based on scientific principles.

Letter has been issued to National Productivity Council vide letter No. 6698 dated 07.08.2019.

Agenda Item No. 184.14 (S)

Remote sensing study for the monitoring of burning cases of Wheat Stubble and Paddy Straw in Haryana for the year 2019.

Action has already been taken vide letter No. Air Cell/2019/339 dated 25.04.2019. No further action is required.

Agenda Item No. 184.15 (S)

Relaxation in experience for promotion from Senior Scientific Assistant to Scientist 'B'-Reg.

Action has already been taken i.e. relaxation given by the Government vide Memo No. 2/6/2019-1 Env. dated 24.06.2019.

Agenda Item No. 184.16 (S)
Amendment in the procedure for auto renewal of Consent to Operator (CTO) under Water Act, 1974 & Air Act, 1981.

Action has already been taken vide letter No. 6286 dated 30.05.2019.

Agenda Item No. 184.17 (S)
Celebration of World Environment Day on 05th June, 2019.

Action has already been taken vide No. HSPCB/PC/2019/1188-1191 dated 18.06.2019 and HSPCB/PC/2019/1192-1195 dated 18.06.2019.

Agenda Item No. 184.18 (S)
Strengthening of the Scientist & Engineering cadres of the Haryana State Pollution Control Board (HSPCB) with a revised proposal for 12 additional Regional Offices at the district level, and 1 Sub-Headquarters at Gurgaon (NCR).

Action has been taken through single file.

Agenda Item No. 165.3

Estt. Sh. Rajesh Kumar Garhia, Senior Scientist (HQ)- Retention in service beyond the age of 55 years.

It is submitted that Sh. Rajesh Kumar Garhia was appointed as Scientist 'B' in the Board on 23.06.1997. He joined his services as such on 23.06.1997 (F.N.) He was promoted as Scientist 'C' on 14.06.2013, then Senior Scientist on 17.10.2018. As per record, the date of birth of the officer is 04.01.1964. He attained the 55 years on 03.01.2019.

As per Government Instructions, extension beyond 55 years, employee on the basis of their confidential record and whose integrity has not been doubted, the Appointing Authority will take a decision at his own level & retain them in service beyond the age of 55 years.

As per record of the officer, no charge-sheet or contemplated disciplinary proceeding is pending against him and nothing is adverse. The ACRs of the officer for the last 10 years are good and more than good.

As per Appendix 'C' of Haryana State Pollution Control Board (Group A, B, C & D) Service Regulations, 2004 the Appointing Authority to appoint Group A & B Employees in Haryana State Pollution Control Board is the Board. The Board of Director in its 144th meeting vide Resolution No. 144.7 regarding appointment, promotion, confirmation, punishment under Rule 7 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987 in respect of Class-I & II Officers i.e. Assistant Environmental Engineer and Scientist 'B', delegated these powers to its Chairman and desired that decisions on administrative ground taken by the Chairman in respect of Group 'A' Services be put up in the ensuing meeting of the Board for information of the Members. In exercise of above powers, Sh. Rajesh Kumar Garhia, Environmental Engineer has been retained in service beyond the age of 55 years by Chairman.

The matter is placed before the Board for information of Hon'ble Members as per Agenda Item No. 144.7 of 144th meeting, please.

Agenda item no:- 185.4

Outsourcing of study on the levels and sources of pollution in Haryana– Reg.

The State level committee in its 9th meeting in the matter of Vardhman Kaushik Vs Union of India & Ors constituted by the Hon'ble NGT held on 16.03.2018 under the chairmanship of Worthy Chief secretary, Haryana, has decided that the Board may conduct a specific study on the levels and sources of pollution in Haryana through a reputed university and PS (Higher Education) may be requested to coordinate the task. The copy of minutes of the meeting circulated vide letter no. HSPCB/Sc-C/2018/73-88 dated 04.04.2018 is given at Annexure-1.

Accordingly, a communication with the proposal was sent to the State Government Environment Department vide this office letter no. HSPCB/Sc-C/2018/97 dated 05.04.2018 (Annexure-2) to get the study conducted through Director, Environment Department from a reputed university conversant with such studies for which the Board will bear the expenses.

The Environment department Directorate had made a reference to the Higher Education Haryana for seeking proposal from the universities for conducting the study vide memo endst. No. DEH/2018/Study/678 dated 29.05.2018 (Annexure-3) and subsequently vide memo endst. No. DEH/2018/Study/890 dated 04.07.2018 (Annexure-4) and memo endst. No. DEH/2018/Study/2087 dated 30.10.2018 (Annexure-5).

The Director, Environment vide memo no. DEH/2019/2748 dated 02.01.2019 (Annexure-6) has forwarded the copy of research proposal for Monitoring Air Quality at Sonipat and Panipat District of Haryana submitted by Sh. Bhupinder Singh Assistant Professor in Environmental Sciences, Department of Basic and Applied Sciences, BPSMV, Khanpur Kalan, Sonipat. The time period has been given 03 years and Budget estimates Rs. 1.15 Cr.

The Director, Environment vide memo no. DEH/2019/3113 dated 28.02.2019 (Annexure-7) has forwarded the proposal for Monitoring Air Quality in selected four cities adjoining to Delhi submitted by Co-ordinator & Principal Investigator, Department of Environmental Sciences, Maharishi Dayanand University, Rohtak. The time period has been given 02 years and Budget estimates Rs. 21.88 lakhs.

The Director, Environment vide memo no. DEH/2019/3307 dated 02.04.2019 (Annexure-8) has forwarded the proposal for Assessment of Ambient Air Quality in different sites of Kurukshetra submitted by Director, Institute of Environmental Studies, Kurukshetra University, Kurukshetra. The time period has been given 06 months and Budget estimates Rs. 9.16 lakhs.

Only, Maharishi Dayanand University, Rohtak has submitted the proposal for conducting study in four selected cities namely Gurugram, Faridabad, Panipat and Sonipat.

The matter was placed before the Technical Advisory Committee (TAC) in its meeting held on 30.07.2019 and it was decided that since the cost of study would be more than Rs. 1 Lac, the study may be got conducted by adopting tender process. However, the minutes of TAC meeting has not been circulated.

The matter is placed before the Board for approval of outsourcing the study on the levels and sources of pollution in Gurugram, Faridabad, Panipat and Sonipat cities of Haryana by inviting tenders please.

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph-2577870-73 E-mail: hspcbc4@gmail.com

4/2/13

No. HSPCB/Sc-C/2018/ 73-88 Dated: 4.4.18

To,

1. Additional Chief Secretary to Govt. Haryana, Home Department.
2. Additional Chief Secretary to Govt. Haryana, Food, Civil Supplies and Consumers Affairs Department, Haryana.
3. Additional Chief Secretary to Govt. Haryana, PWD (B&R) and Architecture Department.
4. Additional Chief Secretary to Govt. Haryana, Transport Department.
5. Additional Chief Secretary to Govt. Haryana, Environment Department.
6. Principal Secretary, Industry & Commerce Department, Haryana.
7. Principal Secretary, Haryana Renewable Energy Department, Haryana.
8. Principal Secretary, Urban Local Bodies Department, Haryana.
9. Principal Secretary, Agriculture & Farmer's Welfare Department, Haryana.
10. Principal Secretary, Town & Country Planning Department, Haryana.
11. Director, Environment Department, Haryana.
12. Director General, Health Department, Haryana, Panchkula.
13. Chief Administrator, HUDA, Panchkula.
14. The General Manager, National Highways Authority of India, G 5&6, Sector-10, Dwarka, New Delhi.
15. The General Manager, Indian Oil Corporation Ltd. 3079/3, JB Tito Marg, Sadiq Nagar, New Delhi-110049.
16. The General Manager, Bharat Petroleum ECE House, Post Box No. 7, Connaught Circus, New Delhi, (110049).

Sub:- Minutes of the 9th Meeting of the State Level Committee in the matter of Vardhmaan Kaushik Vs. Union of India & Ors constituted by the Hon'ble NGT held on 16.03.2018 at 03:30 PM under the Chairmanship of Chief Secretary, Govt. of Haryana.

Kindly refer to the subject cited above.

In this connection, I have been directed to enclose herewith the minutes of the 9th meeting of the State Level Committee meeting held on 16.03.2018 at 03:30 PM under the Chairmanship of Chief Secretary, Govt. of Haryana in Chief Secretary Committee Room, Civil Secretariat, Chandigarh, for further necessary action please.

DA/as above.

Scientist 'C' (HQ)
For Chairman

Endst No. HSPCB/Sc.C/2018/ 89-91 Dated:- 4.4.18

A copy of the above is forwarded to the following for information:-

1. P.S. to Chief Secretary, Govt. of Haryana.
2. P.S to Chairman/P.A to Member Secretary.

DA/as above.

Scientist 'C' (HQ)
For Chairman

4/3/14

Endst No. HSPCB/Sc.C/2018/ 92-93 Dated:- 4.4.18.

A copy of the above is forwarded to the following for information:-

1. Secretary MOEF -cum-Chairman, Central Monitoring Committee.
2. Chairman, CPCB.

DA/as above.

Scientist 'C' (HQ)
For Chairman

4/4/18

Minutes of the 9th meeting of State Level Monitoring Committee (SMC) constituted by NGT, held under the Chairmanship of Shri. D. S. Dhesi, IAS, Chief Secretary, Government of Haryana at 1530 Hrs on 16.03.2018 at Haryana Civil Secretariat, Chandigarh.

The 9th meeting of State Level Monitoring Committee (SMC) constituted by Hon'ble National Green Tribunal (NGT) in the case of Vardhaman Kaushik Vs Union of India and Others in the matter of 'Control and Prevention of Air Pollution in Delhi and NCR Districts' was held under the Chairmanship of Shri. D. S. Dhesi, IAS, Chief Secretary, Government of Haryana at 1530 Hrs on 16.03.2018 in the Main Committee Room of Haryana Civil Secretariat Chandigarh. The list of participants is enclosed at **Annexure 'A'**. The minutes of the meeting are as below.

At the outset Principal Secretary, (Environment) welcomed the Chairman, Members of the Committee and other participants and briefed different directions of NGT in its different orders in the matter of Vardhman Kaushik Vs Union of India & Ors. He further briefed the agenda items to be taken up during this meeting and Member Secretary, HSPCB made a brief presentation on the main agenda items for discussion.

Item 1: Confirmation of the minutes of the 8th meeting of the State Level Committee held on 15.01.2018.

The minutes of the 8th meeting of SMC held on 15.01.2018, which were circulated on 18.01.2018, were confirmed.

Item 2: Review of compliance status of the decisions taken during the 8th meeting of the State Level Committee.

A detailed discussion was held on the status of compliance of various decisions taken during the previous meetings including the 8th meeting and their compliance by respective departments along with the pending actions of each Department. The Committee was informed that no weekly report was every submitted by any of the stakeholder department, as decided during the last meeting and Chairman advised all Departments to send the details in the prescribed format at the earliest. It was further decided that the monthly report be taken from the Departments concerned, instead of the weekly report procedure, as decided earlier. Following are the other details discussed in the meeting.

Chairman advised the Board to have a consultation with State counsel to finalize exact action plan to be followed in this case, as a number of directions have already been issued, superseding the previous ones. The matter be taken up by the State Pollution Control Board with AAG, Government of Haryana, it was decided.

Police Department

The Committee was informed that the reports from Police Department have been received. Representatives of Police Department required certain clarifications with reference to powers and procedures for imposing penalties in the form of environmental compensation, its deposition as well as utilization. PS (Env) assured that the Board will look into the issue and clarify the same after ascertaining the procedures adopted in other States too. Police Department also wanted a clarification on imposing of penalties / impounding of vehicles which are more than 10 years old, in violation of NGT directions. Member Secretary, HSPCB was asked to clarify the same within 15 days after studying best practices of other state.

Transport Department

ACS, Transport informed that the task of networking of PUCs is already assigned to NIC and likely to be completed within next 3 months. It was further informed that the study conducted on number of vehicles being diverted from Panipat has been shared with Chairman. Chairman desired that the Transport Department may segregate the total number of buses entering through the toll plazas, from trucks, both of which are classified as 'heavy category' vehicles thereby making it difficult to distinguish the number of trucks entering into Delhi, as all buses are anyway destined to Delhi. Transport Department agreed to take up the exercise to arrive at a logical figure of trucks.

While reviewing the progress on establishment of PUC centres in all petrol pumps, ACS, Food and Supply Department informed that directions have been issued to all Deputy Commissioners in this regard and progress is yet to be ascertained. Transport Department was requested to provide the details of total number of petrol pumps and those having PUC centres as of now so that the progress can be monitored. Chairman desired that Transport Department may study the PUC networking model adopted in Chandigarh and adopt the same, if feasible. Transport Department, while reviewing the progress on the proposed plan for phasing out the diesel autos in NCR

ULB Department

Director, Urban Local Body informed that Swachh Mobile App is being used for reporting the complaints against any air pollution violations too, by Municipal Corporation of Gurugram. Since all violations are reported in a similar manner, it is difficult to segregate the waste burning violations and other pollution related violations from others, he informed. He was advised to modify the app accordingly to suit to the requirement and to generate reports accordingly. Director, ULBD further informed that one sweeping machine is operational in Faridabad, two in Gurugram and 23 machines are under the process of procurement. These are being introduced only in corporations in the first phase he clarified. He was requested to forward the details of district wise number of machines operating, planned to be procured and the time frame for the same, so that monitoring and review of progress can be done effectively by the committee.

While reviewing the progress of plantation activities and the proposal for the coming season by ULB Department, Chairman further desired that a special drive be conducted by HSPCB involving officials of ULB, Forest and any other Departments concerned, to check the compliance status of conditions imposed by the State Environment Impact Assessment Authority (SEIAA) while granting Environmental Clearance. He advised that 50 such projects which have become operational now be taken as target and the exercise be completed within 15 days. This will give an idea on how far the project proponents comply with the 'green plan' conditions imposed, he expressed. ULB Department was requested to forward the details of its plantation proposal for the forthcoming season.

ULB Department was again requested to forward the details of all teams constituted, inspections conducted, violations identified against garbage burning, construction site norms, transportation of construction material norms along with the challans issued and penal amount collected.

Agriculture and Farmers' Welfare Department

Agriculuture Department was advised to share the details of plans prepared for tackling the problems of wheat stubble burning expected in April and May 2018. PS Agriculture was also requested to finalize the State's policy on crop residue management at the earliest and inform the Committee.

Food and Civil Supplies Department

Environment Pollution (Prevention and Control) Authority (EPCA) has informed that Brick Kilns which have not converted to zig-zag technology but have submitted affidavit to EPCA with an undertaking that they will convert to the zig-zag kiln in next season will be allowed to operate for one last season i.e. from 01.03.2018 to 30.06.2018. Further it was informed that no brick kiln without zig-zag technology will be allowed to operate in the winter season commencing from October-November.

HSVP, TCP & Forest Department.

A detailed discussion was held on the plantation activities undertaken and proposed to be undertaken under the jurisdiction of HUDA. It was informed that plantations and green strips in the sector dividing roads are being done and maintained by HUDA. Chairman observed that since GMDA has also been entrusted with the plantation activities in Gurugram, it may be advised to submit its overall plan as well as the immediate for the coming season. It was also decided to include GMDA as a Member of this Committee from the next meeting.

It was further decided that Forest Department may be requested to consider undertaking plantation activities in Kundli Manesar Palwal (KMP) Express way and along the Gurugram-Faridabad Road.

Item 3: Compliance of NGT orders dated 18.12.2017.

A detailed discussion was held on the directions of NGT vide its order dated 18.12.2017. The Committee was informed that the Board has been monitoring the pollution levels in all NCR Districts of Haryana and since January 2018, there is considerable improvement in the quality of the air. The Board further informed that no compliance report has been received from any of the concerned Department, as decided in the earlier meeting. It was again reiterated to all departments that in the absence of these reports, it would be difficult for the State to file the quarterly reply in NGT, as mandated.

After detailed discussion it was decided that as earlier decided, the weekly action taken report be replaced with monthly report. Chairman directed all the Departments to submit the complete information on all actions taken as per the format circulated and also to inform the details of progress of action plans already circulated latest by 23.03.2018. In case

of any clarification, the Departments may contact the Board and no delay be advisable as the affidavit has to be filed before 31.03.2018.

The Committee was further apprised of EPCA's decision that the State of Haryana shall implement the measures under the 'Moderate to Poor' category of GRAP from 01.03.2018.

Item 4: Status regarding installation of CAAQMS Stations.

The Board is in the process of installation of 19 additional Continuous Ambient Air Quality Monitoring Station at Panipat, Sonipat, Rewari (Dharuhera), Bahadurgarh, Kaithal, Karnal, Yamuna Nagar, Gurgaon (Manesar), Faridabad (sector 55 & 56), Ambala, Bhiwani, Fatehabad, Hisar, Jind, Kurukshetra, Mahendragarh, Mewat, Palwal and Sirsa, out of which twelve are in the NCR region. It was informed that the case has been sent to the DGS & D for placing the case for purchase of CAAQMS in the High Power Purchase Committee. Chairman advised that the Board may take note that the stations are installed in representative places as has been done in Delhi.

Chairman advised the Environment Department to establish additional Monitoring Stations through the funds allotted by Government of India under the Global Environment Facility funds, allotted to the State. It was further decided that NHAI and PWD (B & R) be invited for the State level meetings to get their inputs as well.

Item 5 : Status of Brick Kiln Units

It was informed Food and Civil Supply Department that there are 1961 Brick kiln units in NCR Districts of Haryana, out of which 545 have already converted to improved emission technology. The Committee was further apprised of the decision of EPCA to allow the brick kilns, which have not converted to improved emission technology yet, but have undertaken (through an affidavit) to complete the process before the next winter season, to operate from March 2018 to June 2018. It was further clarified that no unit shall be allowed to operate in NCR Districts of Haryana from 01.10.2018 if they have not been converted to improved emission technology, as decided by EPCA.

4/9/20

Item 6: Status regarding use of Pet coke and Furnace oil in compliance of Hon'ble Supreme Court order.

The Committee was apprised of the orders of Hon'ble Supreme Court on the use of Pet coke and furnace oil in Haryana and the recent notification of MoEF & CC prescribing the procedure for registration of industries producing and using pet coke. Chairman desired that the Board may take a stock of affairs through Regional Offices on the compliance of SC's orders.

It was further decided that the Board may conduct a specific study on the levels and sources of pollution in Haryana through a reputed univers and PS (Higher Education) may be requested to coordinate the task. Chairman also desired to know the details of policy decision of Uttar Pradesh Government, on the compulsory use of certain quantity of briquettes as fuel in kilns and power plants and advised Agriculture Department to collect the same.

Meeting ended with thanks to all the participants.

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HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph-2577870-73 E-mail: hspcbc4@gmail.com

4/10/21

No. HSPCB/Sc-C/2018/97 Dated: 05/04/2018

To

The Additional Chief Secretary to Govt. Haryana,
Environment Department.

Sub: - To conduct a study on the level and source of pollution in Haryana.

Kindly refer to the subject noted above and in this connection, it is intimated that in the 9th meeting of State Level Committee held on 16.03.2018 in the matter of Vardhaman Kaushik Vs Union of India & Ors. conducted under the Chairmanship of Chief Secretary Govt. of Haryana, it was decided that a specific study on the level and source of pollution in Haryana may be got conducted through a reputed university for which Principal Secretary of Higher Education may be requested to coordinate the task.

In view of above, it is proposed that Director, Environment Department may be advised to get the study conducted through a reputed university conversant with such studies for which the Board will bear the expenses.

Scientist 'C' (HQ)
For Chairman

Endst No. HSPCB/Sc.C/2018/98-101 Dated:- 05/04/2018

A copy of the above is forwarded to the following for information and necessary action please:-

1. Director, Environment Department
2. P.S. to Chief Secretary Govt. of Haryana.
3. P.S to Chairman.
4. P.A to Member Secretary.

Scientist 'C' (HQ)
For Chairman

4/11/22

PL-2-6448
31/5/18

From

Director,
Department of Environment
& Climate Change, Haryana
SCO 1-3, 2nd Floor, Sector 17 D, Chandigarh

To

Director General,
Higher Education Haryana,
Shiksha Sadan, Ground & 1st Floor,
Sec -5, Panchkula, Haryana (134105)

CHAIRMAN
1.6.18

Memo No.DEH/2018/Study/ Dated:

Subject: - Conducting of Study-Level and Source of Pollution in Haryana

Kindly refer to the subject cited above.

It is to inform that in the of State Level Committee held on 16.05.2018, in the matter of Vardhman Kaushik Vs. Union of India and Others it was decided that a specific study shall be conducted on the source of pollution and its level in Haryana through Universities. The Haryana State Pollution (HSPCB) vide its letter no. HSPCB/Sc-C/2018/661, dated 16.05.2018 (copy enclosed) has informed about identified points on which the studies to be conducted are as follows:

i) To identify the level and source of pollution
ii) Chemical specification and life cycle analysis of various air pollutants
iii) Monitoring of air pollutants in terms of elements, ions and carbons (organic & in-organic)
iv) Interpretation of the data and behaviours of air in terms of humidity, temperature and velocity
v) Identification of source of green house gases and its loses through various sinks
vi) Comparative analysis of the results with previous studies from other geographical regions
vii) Conclusion and suggestions for improvement of air quality

It is further intimated that as per direction of Chief Secretary the study shall be done in two Phases. In First Phase, districts adjoining to Delhi i.e. Gurugram, Faridabad, Sonipat and Panipat shall be covered, however, the remaining area of Haryana shall be covered in Second Phase.

Therefore, it is requested that proposal be sought from the Universities for conducting the studies on the above mentioned parameters/scope of the study. The expenses will be borne by HSPCB.

DA: As above

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

Endst. No. DEH/2018/Study/ 576 Dated: 31/5/18

Copy forwarded to Chairman, Haryana State Pollution Control Board, C-11, Sector 6, Panchkula for information, please.

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

4/12/23

FTHS-34403
5/07/18

Reminder-I

From

Director,
Department of Environment
& Climate Change, Haryana
SCO 1-3, 2nd Floor, Sector 17 D, Chandigarh

To

Director General,
Higher Education Haryana,
Shiksha Sadan, Ground & 1st Floor,
Sec -5, Panchkula, Haryana (134105)

CHAIRMAN
5-7-18

Memo No.DEH/2018/Study/ Dated:

Subject: - Conducting of Study-Level and Source of Pollution in Haryana

Kindly refer to this office letter no.575, dated 29.05.2018 on the subject cited above.

Vide above said letter, it was informed that in the meeting of State Level Committee held on 16.05.2018, in the matter of Vardhman Kaushik Vs. Union of India and Others it was decided that a specific study shall be conducted on the source of pollution and its level in Haryana through Universities. The Haryana State Pollution (HSPCB) vide its letter no. HSPCB/Sc-C/2018/661, dated 16.05.2018 (copy enclosed) has informed about identified points on which the studies to be conducted are as follows:

i) To identify the level and source of pollution
ii) Chemical specification and life cycle analysis of various air pollutants
iii) Monitoring of air pollutants in terms of elements, ions and carbons (organic & in-organic)
iv) Interpretation of the data and behaviours of air in terms of humidity, temperature and velocity
v) Identification of source of green house gases and its loses through various sinks
vi) Comparative analysis of the results with previous studies from other geographical regions
vii) Conclusion and suggestions for improvement of air quality

It is further intimated that as per direction of Chief Secretary the study shall be done in two Phases. In First Phase, districts adjoining to Delhi i.e. Gurugram, Faridabad, Sonipat and Panipat shall be covered, however, the remaining area of Haryana shall be covered in Second Phase.

Therefore, it is again requested that proposal be sought from the Universities for conducting the studies on the above mentioned parameters/scope of the study. The expenses will be borne by HSPCB.

DA: As above

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

Endst. No. DEH/2018/Study/ 846 Dated: 4/7/18

Copy forwarded to Chairman, Haryana State Pollution Control Board, C-11, Sector 6, Panchkula for information, please.

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

4/13/24

PHS-62959

5/1/18

(259) hl

Reminder-II

From

Director,
Department of Environment
& Climate Change, Haryana
SCO 1-3, 2nd Floor, Sector 17 D, Chandigarh

To

Director General,
Higher Education Haryana,
Shiksha Sadan, Ground & 1st Floor,
Sec -5, Panchkula, Haryana (134105)

CHAIRMAN 1/1/18

Memo No.DEH/2018/Study/ Dated:

Subject:- Conducting of Study-Level and Source of Pollution in Haryana

Kindly refer to this office letter no.575, dated 29.05.2018 and reminder letter no. 889, dated 04.07.2018 on the subject cited above.

Vide above said letter, it was informed that in the meeting of State Level Committee held on 16.03.2018, in the matter of Vardhman Kaushik Vs. Union of India and Others it was decided that a specific study shall be conducted on the source of pollution and its level in Haryana through Universities. The Haryana State Pollution (HSPCB) vide its letter no. HSPCB/Sc-C/2018/661, dated 16.05.2018, has informed about identified points on which the studies to be conducted are as follows:

i) To identify the level and source of pollution
ii) Chemical specification and life cycle analysis of various air pollutants
iii) Monitoring of air pollutants in terms of elements, ions and carbons (organic & in-organic)
iv) Interpretation of the data and behaviours of air in terms of humidity, temperature and velocity
v) Identification of source of green house gases and its loses through various sinks
vi) Comparative analysis of the results with previous studies from other geographical regions
vii) Conclusion and suggestions for improvement of air quality

It is further intimated that as per direction of Chief Secretary the study shall be done in two Phases. In First Phase, districts adjoining to Delhi i.e. Gurugram, Faridabad, Sonipat and Panipat shall be covered, however, the remaining area of Haryana shall be covered in Second Phase.

Therefore, it is again requested that proposal be sought from the Universities for conducting the studies on the above mentioned parameters/scope of the study. The expenses will be borne by HSPCB.

DA: As above

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

Endst. No. DEH/2018/Study/ 8087 Dated: 30/10/18

Copy forwarded to Chairman, Haryana State Pollution Control Board, C-11, Sector 6, Panchkula for information, please.

30/10/18

Scientist Grade-I,
for Director, Environment & Climate Change
Department, Haryana

FINS-1221
3-1-19

From

Director,
Environment & Climate Change Department, Haryana
SCO 1-3, 2nd Floor, Sector 17-D,
Chandigarh.

To

Chairman
Haryana State Pollution Control Board, Haryana
C-11, Sec-6 Panchkula

Memo No.DEH/2019/ 2748 Dated 02.01.2019

Subject: Conducting of Study-Level and Source of Pollution in Haryana.

Kindly refer to your office letter No.HSPCB/Sc-C/2018/661, dated 16.05.2018,

Please find enclosed herewith the copy of research proposal for Monitoring Air quality at Sonipat and Panipat District of Haryana submitted by Dr. Bhupinder Singh Assistant Professor in Environmental Sciences, Department of Basic and Applied Sciences, BPSMV, Kharpur Kalan Sonipat for your information and necessary action.

DA: Copy of Research Proposal

Scientist Grade-I,
for Env & CC Department, Haryana
Chandigarh

put up in file.

4/15/26

RESEARCH PROPOSAL FOR MONITORING AIR QUALITY AT SONEPAT AND PANIPAT DISTRICTS OF HARYANA

Dr. BhupinderSingh)
Assistant Professor in Environmental Sciences
Department of Basic and Applied Sciences
BPSMV, Khanpur Kalan, Sonepat

BHAGAT PHOOL SINGH MAHILA VISHWAVIDYALAYA, KHANPUR KALAN, SONEPAT

RESEARCH PROPOSAL FOR MONITORING AIR QUALITY AT SONEPAT AND PANIPAT DISTRICTS OF HARYANA

1. Name of Principal Investigator.	: Dr. Bhupinder Singh
2. Broad Subject	: Environmental Science
3. Duration	: Three Years
4. Principal Investigator	
i. Name	: Dr Bhupinder Singh
ii. Sex: M/F	: Male
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8. Project Title:	: "Air Quality Status at Sonepat and Panipat District of Haryana"

PROPOSAL FOR MONITORING AIR QUALITY STATUS AT SONEPAT AND PANIPAT DISTRICT OF HARYANA

Introduction:

Air pollution is becoming serious environmental issue throughout the world including India. The four main reasons behind increased air pollution are: increasing traffic, growing cities, rapid economic development and industries. According to Environmental Protection Act-1986- change in physical, chemical and biological characteristics of atmosphere is known as air pollution or air pollution is the introduction of unwanted materials such as chemicals, particulate matter, or biological materials that is harmful for humans, plants, other living organisms and to the environment. The ambient air quality of an area is mainly a function of (1) the background levels of air pollutants, (2) the sources of air pollution in the area, and (2) the assimilative capacity of the environment to neutralize air pollution. The problem of air pollution is accelerated in magnitude with increasing urbanization. Thus polluted atmosphere has become as a part of urban life. Urbanization, industrialization and economic growth resulted in a profound deterioration of urban air quality (Wahid, 2006). Poor air quality has both acute and chronic effects on human health (Afroz et al., 2003). The WHO has estimated that 1.4 billion urban residents in developing countries breathe air in which pollutant concentrations exceed WHO air quality guidelines (WHO-UNEP, 1992) and urban air pollution is responsible for approximately 800,000 deaths and 4.6 million lost life-years annually around the globe (WHO, 2002).

Some of the Indian cities such as New Delhi, Calcutta and Mumbai are among the world's most polluted cities because of poor air quality. In Delhi alone, about 80% of the children are estimated to be suffering from respiratory disorders as they are forced to breathe polluted air. The situation is really serious in hundreds of other Class I and II cities of India. According to Mayer '(1999) urban air pollution incidences are associated with sudden incidences of high concentrations of pollutants, which are generally governed by local meteorology, emissions and dispersion conditions. Hence, meteorology plays a crucial role in air pollution studies. The various meteorological conditions prevailing in an urban area having influence on air pollution are wind speed & direction, temperature, relative humidity, rain fall and its duration. The prevailing atmospheric conditions may increase or decrease the severity of air pollution in an area. Strong wind helps in dispersion of air pollutants while calm conditions increase the severity at a particular area. Therefore, monitoring of meteorological parameters is also one of the crucial steps while planning air quality monitoring of an area.

The World Health Organization listed six major substances which are termed "Classic" air pollutants- namely Lead (Pb), Total Suspended Particles (TSP), Ozone (O_3), Carbon Monoxide (CO), Sulphur Dioxide (SO_2), Nitrogen Dioxide (NO_2) and other air toxic elements. Human health effects of air pollutants are describe below:

Sulphur Dioxide and Human Health Effects

Sulphur Dioxide (SO_2) is formed when fuel containing sulphur is burned. Sulphur is prevalent in raw materials such as crude oil, coal, and ore that contain common metals like

aluminium, copper, zinc, lead etc. SO_2 reacts with other gases in the atmosphere to form sulphates that can cause harm to human health. Effects of SO_2 include respiratory illness, visibility impairment, acid rain and aesthetic damage. Sulphur oxides are emitted in significant quantities from thermal power plants, smelting process of sulphide ores to produce copper, lead and zinc and also from petroleum refining processes. The diesel driven vehicles are specific source of sulphur dioxide generated during combustion process. Sulphate particles can be transported over long distances and deposited far from the sources. SO_2 can result in decreased lung functioning for children and increased respiratory symptoms for adults (WHO, 2011), asthma crisis and ocular rash (Pierre Lecoq, 2009).

Nitrogen Dioxide and Human Health Effects

Oxides of nitrogen is a generic term for a group of highly reactive gases that contain nitrogen and oxygen in varying amounts. Nitrogen Dioxide (NO_2) along with particulates is seen as a reddish brown layer over urbain areas. Nitrogen oxides are formed when fuel is burned at high temperature. Sources of nitrogen oxides includes vehicles, industrial processes that burn fuel. Oxides of nitrogen react with Volatile Organic Compounds (VOCs) to form ground level ozone. They also react to form nitrates and acid aerosols. They also contribute to nutrient overload that deteriorates water quality. Nitrogen dioxide irritates the nose and throat, and it appears to increase susceptibility to respiratory infections (CPCB, 2007).

Particulate Matter and Human Health Effects

Particulate Matter is a mixture of many sub-classes of pollutants that contain many different chemical species. The particle size is often described by aerodynamic diameter. Aerodynamic diameter depends on particle density and is defined as- "the diameter of a particle with the same settling velocity as spherical particle with unit density i.e. 1 g/cm3" (USEPA, 1996). PM10 are the particles with upper size limited by a 50% cut at 10 μm aerodynamic diameter (USEPA, 1996). PM_{10} can be formed by physical processes of crushing, grinding and abrasion of surfaces. Mining and agricultural activities are some of the sources of large size particles. $PM_{2.5}$ are the particles with upper size limited by a 50% cut at 2.5 μm aerodynamic diameter (USEPA, 1996). Particulate matter is called primary if it is in the same chemical form in which it is emitted into the atmosphere. The primary Particulate Matter includes windblown dust such as road dust, fly ash, soot, etc. Particulate Matter is called secondary if it is formed by chemical reactions in the atmosphere. Secondary Particulate Matter includes sulphates, nitrates, etc.

The size of particles is directly linked to their potential for causing health problems. Small particles less than 2.5 micrometers in diameter pose the greatest problems because they can get deep into the lungs and some may even get into the bloodstream. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including increased respiratory symptoms, such as irritation of the airways, coughing, difficulty in breathing, decreased lung function, aggravated asthma, development of chronic bronchitis, irregular heartbeat, nonfatal heart attacks and premature death in people with heart or lung disease (USEPA, 2008). People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure (USEPA, 2008). Environmental effects of particulate matter include visibility reduction, aesthetic damage, etc.

Review of Literature:

Air pollution is becoming one of the serious environmental concerns of the urban cities in India, where majority of the population is exposed to poor air quality. The 2016 Environmental Performance Index ranked India 141 out of 180 countries. In India, over the past two decades there has been a rapid increase in urbanization and industrialization in many cities. Increase in technological, industrial and agricultural advancement, coupled with increases in population growth, has triggered the deterioration of environmental quality throughout the world. Rapidly growing cities, more traffic on roads, growing energy consumption and waste production, and lack of strict implementation of environmental regulation are increasing the discharge of pollutants into air, water, and soil (Agrawal, 2005).

In yesteryears various studies have been carried out to investigate the causes of air pollution and the remedial measures to cope with the problems of public health. The studies have shown that air pollution has a strong bearing on human health revealed as acute respiratory infection, asthma, bronchitis, cardiovascular diseases, lung cancer and nervous system disorders and thus increases mortality and morbidity (Morgan et al., 1998; Jones, 1999; Pope, 2000; Pope et al., 2006). Most air quality studies have focused on ambient air quality monitoring and have been limited on assessment of Air Quality Index. In India most of the studies have been conducted in metropolitan cities, Delhi, Kolkata, Chennai and Mumbai. Some major studies all over the world have been summarized here.

Sarangi and Mishra (1997) studied the Ambient Air Quality of Jyoti vihar in Orissa during December 1994 to November 1995. Air Pollutant concentration, minimum and maximum, for Jyotivihar were reported as 4.62 µg/m3 and 25.74 µg/m3 for SO2, 4.39 µg/m3 and 16.89 µg/m3 for NOx and 82.995 µg/m3 and 182.7 µg/m3 for SPM respectively. Study showed that SPM exceeding the prescribed standards for residential and commercial Areas.

Alam et al. (1999) studied the ambient air quality at road side in Dhaka City and calculated the Air Quality Index at several locations of the city of which 70% were under the category of severely polluted and rest of the locations were under highly polluted category. It was reported that environmental condition had very serious effects on the health of the citizens of the city, causing acute respiratory infection, skin, eye irritation, headache, etc.

Mandal (2000) monitored Ambient Air Quality in respect to Suspended Particulate Matter (SPM), Oxides of Nitrogen (NOx), Sulphur Dioxide (SO_2) and Carbon Monoxide (CO) over various parts of Kolkata. In this study, air quality of urbanized areas of the western part of Calcutta to areas which are highly urbanized, closed to the Howrah Industrial Sector were compared and it was found that concentration of air pollutant was greater in area close to Howrah which may be due to high density of population in that area.

Liu (2002) studied Air Quality Index at four locations, namely LinYuan, KuTin, FonSan and ChungMing from July 1997 to December 1999 (30 months). Calculation of air quality was done on the basis of newly modified Air Quality Index as USEPA had included sub-indices of 8-hour average O_3 concentration and 24-hour average $PM_{2.5}$ level into it. It was found that more than 50% of unhealthy days were dominated by $PM_{2.5}$ sub-index, followed by 8-hrs average ozone sub-index. Result indicates that fine particulate matter in urban smog had been exaggerated in AQI system. With change in category, AQI does pose as a better descriptor in comparison to PSI to warn of air pollution for the highly sensitive group of people.

Chelani et al. (2002) represents air quality status in the form of Air Quality Index (AQI) of major metropolitan cities where different types of industrial, residential and commercial activities were in progress. Air quality status was represented in more informative way by categorising it into five different categories viz. Clean, Moderate, Poor, Bad and Dangerous. Long term air quality indices were then calculated for four metropolitan cities and one city, which was fast developing each representing the different climatological features in India viz. Mumbai, Delhi, Calcutta, Chennai and Nagpur. The air quality index was calculated according to national standards stipulated for different pollutants and zones.

Sharma et al. (2003) interpreted air quality data using air quality index of Kanpur city for simplified public information and data interpretation. A segmented linear equation has been used for the sub index-calculation and a maximum operator concept was used to determine the overall AQI; the maximum value of sub-indices (of each pollutant) was taken as overall AQI. Results showed that air quality become severe from very poor condition in winters and during early summer months. Overall 95% of the time, sub-index values corresponding to SPM levels were responsible for overall AQI.

Chandrasekar et al. (2002) measured air quality parameters viz. SO_2, NOx and SPM in and around Tuticorin City at three different locations for a year at weekly intervals. The concentration of SPM was found to be high in the commercial cum Residential Area during summer. Concentration of SO2 and NOx was found to be high in winter season. AQI varies from 9.0 (Clean) to 27.9 (Fairly clean).

Bishoi et al. (2009) made an attempt to calculate Air Quality Index (AQI) Index based on Factor Analysis (NAQI) which incorporates the deficiencies of USEPA method. The daily, monthly and seasonal air quality indexes were calculated by using both these methods. It is observed that a significant difference exists between NAQI and EPAQI. However, NAQI followed the trends of EPAQI when plotted against time. Further, the indexes were used to rank various seasons in terms of air pollution. The higher index value indicates more pollution in relative terms. Moreover, the index may be used for comparing the daily and seasonal pollution levels in different sites.

Cheng et al. (2004) proposed a revised EPA air quality index (RAQI) by introducing an entropy function to include effect of the concentrations of the rest of pollutants other than the pollutant with maximum AQI. Further the application of RAQI in Taiwan has showed that the suspended particulates have significantly greater impact on $PM_{2.5}/PM_{10}$ ratio in southern parts than central and northern area; and these ratios are higher as a whole compared to many other countries.

Krykilis et al. (2007) tried to develop an aggregate Air Quality Index (AQI) taking into account the European standards based on combined effect of CO, SO_2, NO_2, O_3 and PM10. The proposed index is developed by using hourly data of air pollutants from four monitoring stations during 1983 to 1999. Thereafter, comparison was made with a modified version of Environmental Protection Agency, USA (USEPA) maximum value AQI model adjusted for European conditions. In comparison to modified USEPA maximum value model, the proposed aggregate model was more effective in measuring the exposure of general public.

Prakash and Bassin (2011) analysed the ambient air quality of Delhi city on the basis of Indian Air quality Index (IND-AQI), measuring RSPM, SPM, NO_2 and SO_2 for the year

2009 at three different locations (Mayapuri, Town Hall and Sarojini Nagar) in Delhi. High value of AQI was found which fall under "Very Poor" category. It was found that SPM was mainly responsible for high AQI whereas SO_2 and NO_2 fall under "Good" to "Moderate" categories.

Chattopadhyay et al. (2010) investigated Burdwan town for the seasonal variation of ambient air quality status using GIS approach. Post monsoon concentration of ambient SO_2 and NO_2 were observed to be higher than pre-monsoon. Stagnant conditions and low mixing height results in longer residence times of these pollutants in the atmosphere. On the basis of Air Quality Index (AQI), a GIS based air pollution surface model was generated in both the seasons by means of Inverse Distance Interpolation (IDINT) technique. From the output of surface model, it was found that in comparison to pre monsoon there was a significant increase of clean and fairly clean area and decrease of moderately polluted area of the town during post monsoon.

Upadhyaya and Dashore (2010) applied a real time Fuzzy Logic System with Simulink to calculate AQI instead of Conventional method that uses Linear Interpolation for calculating Indian Air Quality Index (IND-AQI). This proposed methodology showed gives satisfactory result and it was efficient to work under continuous working mode.

Hosseinibalam and Hejazi (2012) studied the relationship between monitored ambient air quality data and meteorological factors, such as wind speed, temperature, air pressure and sunshine hours was investigated. The results were obtained by the linear and stepwise regression analysis, it was found that there is a strong relation between SO_2 and O_3 in Lale station, and the coefficients of determination (R2) for the regression models range from 0.51 to 0.89.

Dominick et al. (2012) discussed about an assessment of influence of meteorological factors on PM_{10} and NO_2. The Pearson Correlation analysis indicates significant correlations between air pollutants (PM_{10} and NO_2) and meteorological factors (ambient temperature, relative humidity and wind speed) at the studied locations. A three-year (2007-2009) database was statistically analyzed using the Pearson Correlation and Multiple Linear Regression methods.

Dayal and Nandini (2000) studied the Ambient Air Quality at Bangalore City for 10 congested areas. Results indicate out that the Suspended Particulate Matter values in six out of ten congested areas were above the permissible limits, while Oxides of Nitrogen (NO_X) and SO_2 were within the permissible limits in all the areas. It was reported that Air Quality Index for one out of ten locations was clean, 3 out of 10 were classified as moderately polluted and remaining 6 was light air pollution.

Ontario (1991) provided an AQI with a continuous measure of the quality of the air on a real-time basis considering 6 common air contaminants namely: CO, SPM, Total Reduced Sulphur Compounds (TRS), NO_2, O_3 and SO_2. The Air Quality Index values are reported in whole numbers from zero upwards and increase with deteriorating air quality. The values are divided into 5 descriptive categories such as Very Good (0-15), Good (15-31), Moderate (32-49), Poor (50-99) and Very Poor (>100). Since 1988, Air Quality Index forecasts released 4 times per day and valid up to the following day constantly keep the public informed on any expected changes in AQI values and allows the government (Ministry of the Ontario Environment) to continue to control local emissions of SO_2 and SPM when

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adverse AQI levels occur. It has been reported that air quality in Ontario continues to improve between 1987 and 1996 such that TRS were reduced by 67%, CO by 27%, and NO by 5%. In 1996, 95.3% of the time AQI was in the range of "Good" to "Very Good". Three air quality advisories were called in 1996, covering 5 days and which is down from 6 advisories called in 1995 that covered for 11 days. The major components of smog such as O_3 and inhalable particles were most often exceeded the provincial criteria and is more than 50% caused by air pollution from the U.S. (Sterling et al., 1996).

Significance of the study

Air is utmost necessity for all living being including men, animals and plants. Air pollutants may host harmful particulates, biological materials and other harmful material into the Earth's atmosphere. There exist strong correlations between air pollutants agents and human disease or ecosystem. In present study, analysis of air pollutants namely Lead (Pb), Respirable Particulate Matter (RSPM), Total Suspended Particles (TSP), Ozone (O_3), Carbon Monoxide (CO), Sulphur Dioxide (SO_2), Nitrogen Dioxide (NO_2) and other air toxic elements will be done from Sonepat and Panipat district of Haryana. To present the overall air quality in the form of Air Quality Index (AQI) and air quality trend is evaluated on monthly, yearly and seasonal basis, which presents in depth analysis of trends of air pollution in residential, commercial, sensitive and industrial areas of these two districts. For effective protection, setting of abatement strategy and successive revitalization of ecosystems, it is necessary to know the quality of air. Maintenance of air quality is of paramount importance, thus assessing the air quality after regular interval is necessary for the decision makers to take remedial action and to solve the problem well in time. The result of the study would be beneficial for policy maker for maintenance of air quality and to implement remedial measures.

About the Study Area

The State of Haryana is situated between 27039" to 30"56"N latitude and 740 27" to 770 36"E longitude, covering an area of 44, 212 sq. km. It occupies 1.40% of the total area of the country. The state has natural geographical boundaries of the Shivalik hills in the north, the river Yamuna in the east and the river Ghaggar in the west. The southwest boundary is provided by a range of Arnvalli hills which runs through southern Delhi and Gurgaon district upto Alwar in Rajasthan. The State is bounded by Uttar Pradesh on the east, Punjab on the west, Himachal Pradesh on the north and Rajasthan in the south. Administratively, the state has been divided into 21 districts. There are number of sources of air pollution that contribute to the state of air quality in the urban areas. These including vehicles exhaust, emissions from large industrial plants, medium and small scale industries, thermal power plants, households and commercial establishments through burning cattle waste, wood, coal and coke etc. for cooking and heating, suspended road dust migrating from other regions and naturally occurring dust.

Air pollution has been aggravated by developments in the industrial and the progressive growth of transport sectors. Currently in Haryana air pollution is widespread in urban areas and the vehicles are the major contributors. Vehicular emissions are of particular concern because they release air pollutants in the air. The study would be carried out in two districts namely Panipat and Sonepat of Haryana.

Panipat is located geographically between 29°23'N 76°58'E and 29.39°N 76.97°E at an average altitude of 219 Metres from the Sea Level. It is located 90 KM away from the National Capital, New Delhi on NH - 1 and falls under the National Capital Region of Delhi. Panipat District is spread in an area of 1300.38 KM^2. Panipat is an ancient and historic city in Panipat district, Haryana State, India. It is well known city for textiles and carpets. The climate of Panipat being Gangetic Type is hot in summer and cold in winter. The coldest month is January and the hottest is June. Most of the annual rainfall about 80% occurs between July and September. Annual rainfall in the study area is 500 mm to 1000 mm. Heavy industries with national importance viz. Refinery of the Indian Oil Corporation Limited, Power Plant of Haryana Power Generation Corporation Limited, Urea Manufacturing Facility of National Fertilizers Limited, Sugar Mill and Distillery of Panipat Co-operative Sugar Mills are located in Panipat

The district of Sonipat is bounded by 28048'15" to 29017'10" north latitude and 76028'40" to 77012'45" east longitude. Sonipat is one of the smallest districts in Haryana State and covers 5.11 % area of the state. The district is surrounded by Panipat district in the north, Jind district in the west, Rohtak district in the S.W direction and Delhi in the South. The district headquarter, Sonipat is connected by metalled roads with important cities of the state and to Delhi. It is also connected by broad gauge railway line with Delhi and Chandigarh. Gohana, Ganaur, Rai & Kundli are the other important towns in the district.

Objectives of the Study

India has one of the largest proportions of population in the younger age groups in the world. 30.8% of the population of the country has been in the age group 0 to 14 years. That means a large portion of population, the future citizens of nation are under the risk of health impairment by air pollution in urban areas. There are very few or limited studies on air pollution monitoring from Haryana. The two district of Haryana namely Panipat and Sonepat is selected for air pollution study. The rapid industrialization and urbanization of both the district has result in increase in population along with air pollution. Panipat is having an oil refinery and thermal power plant along with a lot of textile units while Sonepat consist of cluster of industries on the border of National Capital Region. Hence, in the light of above discussion the main objectives of the study would be:

1. To monitor ambient air quality status on the basis of criteria air pollutants viz. PM_{10} (RSPM), TSPM, SO_2, NO2, in residential, industrial sensitive zone and at traffic intersections of Sonepat and Panipat districts of Haryana.
2. To evaluate the heavy metal concentration viz. Pb, Cd, Mn, Cr and water soluble inorganic ions (K^+, Na^+, F^-, Cl^-, SO_4^{2-}) present in particulate matter (PM_{10}) in study area.
3. Physical and chemical characterization of particulate matter collected from different sites of study area.
4. To monitor secondary pollutant like ground level ozone (O_3) and its precursor like CO along with meteorological parameters in study area.
5. To monitor ambient air quality status on the basis of criteria air pollutants viz. PM_{10} (RSPM), TSPM, SO_2, NO_2 from rural area for comparison with urban area.

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6. To monitor the concentration of gaseous and particulate air pollutants from stacks from industrial area.
7. To study the meteorology parameters to investigate its influence in dispersion of air pollutants in study area.
8. To evaluate air quality status in all the three zones of study area by comparing with National Ambient Air Quality standards.
9. To make out zonation of high, medium and low air polluted areas.
10. To use the multivariate statistical analysis of experimental data.
11. To calculate the Air Quality Index (AQI) of study area.
12. Assessment of possible sources of air pollutants.

Methodology

Air pollution monitoring/sampling would be done at fifty locations covering the residential, industrial, sensitive zone and traffic intersections across the Sonepat and Panipat district in three seasons i.e. pre-monsoon (March to May), post monsoon (June, July, August, September) and winter (January and February) consecutively two years. Sampling duration would be twenty-four hours at each monitoring site and at three seasons except O_3 and CO where diurnal variation would be taken into account. Respiratory particulate matter which is also known as PM_{10} and TSPM would be monitored by High volume sampler (HVS) method using glass fibre filter paper. From these collected filter papers the water soluble inorganic ions and heavy metals will be extracted. Subsequently heavy metals would be analyzed through Atomic absorption spectrometric (AAS) method. Gaseous pollutants like SO_2 and NO_2 would be collected and analyzed by standard method. Concentration of O_3 and CO would be recorded by the portable analyzer. The Gas Chromatograph, FTIR and SEM-EDX spectroscopy would be used for elemental analysis and characterization of particulate matter. Meteorology of each site during monitoring is also taken into consideration in order to find out its role in dispersion and dilution of pollutants. The meteorology parameters such as wind speed and direction, humidity, temperature and rainfall would also be recorded at each monitoring site during each sampling time. Meteorological data of India Meteorological Department (Panipat and Sonepat Region) may also be used.

(a)The following available instruments would be used to generate data:

(1) Fluoride ion selective electrode meter
(2) UV-Visible Spectrophotometer
(3) Flame Photometer
(4) Refrigerator
(5) pH meter
(6) Hot Air Oven
(7) Statistical Analysis

Year-wise Plan of work

First Year

1. Survey would be done to collect preliminary data i.e. population, number and types of industries, no. and make of vehicles.
2. Identification of locations would be done for residential, industrial, sensitive areas and vehicular intersection and other preliminary data would be collected.
3. Selection of sites in rural areas for comparison with urban area would be done.

4. Laboratory would be established by procurement of chemicals, glassware, apparatus and required equipments.

Second Year

1. Sampling and analysis of particulate and gaseous air pollutants from different locations of study area would be done.
2. Physical and chemical characterization of respirable particulate matter collected from study area.
3. Heavy metal concentration viz. Pb, Cd, Mn, Cr and water soluble inorganic ions (K^+, Na^+, F^-, Cl^-, SO_4^{2-}) present in particulate matter (PM_{10}) in study area would be analyzed.
4. Sampling and analysis of gaseous and particulate air pollutants from the stacks of selected industries of study area.

Third Year

1. Evaluating air quality status in different zones by comparing with NAAQS.
2. Calculating the Air Quality Index (AQI) of study area.
3. Compilation and statistical analysis of data collected.
4. Remedial measures and suggestions.

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Details of collaboration, if any Intended: Yes (Mentioned above)

Financial Assistance required: The details are given below as

Item		Estimated Expenditure (Rs.)
i.	Research Personnel (For three year)	
	Project Associate @25,000/- p.m. + HRA	: 1000000/-
ii.	Field Services	: 200000/-
iii.	Field Work and Travel	: 200000/-
iv.	Chemicals and glassware	: 150000/-
v.	Contingency (including special needs)	: 125000/-
vi	Books, Journals and Manuals	: 25000/-
vii.	Equipment, needed	
	1. Atomic Absorption Spectrophotometer	: 2000000/-
	2. Fourier Transform Infra Red Spectrometer	: 2000000/-
	3. Scanning Electron Microscope coupled with Energy Dispersive X-ray Spectrometer	: 2500000/-
	4. High Volume Sampler	: 100000/-
	5. Fine particulate Sampler	: 200000/-
	6. Gaseous Sampling Attachment	: 50000/-
	7. Water Distillation Assembly	: 50000/-
	8. Gas Chromatograph	: 2000000/-
	9. CO and O_3 Analyzer	: 500000/-
	10. Exhaust Gas Analyzer	: 200000/-
	11. Miscellaneous	: 200000/-
		: 11500000/-

Name & Signature 7/9/13 Dr. Bhupinder Singh

Dr. H. S. Bath

BOSMV

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WHO (2002). The World Health Report World Health Organization, Geneva, http://www.who.int/whr/2002/en/whr02_en.pdf.

WHO-UNEP (1992). Urban air pollution in mega cities of the world. Blackwell Publishers, Oxford.

CURRICULUM VITAE

Bhupinder Singh
Email: bhupinder.singhmehta@gmail.com, bsingh.bps@rediffmail.com
Phone: 91-9416243755 (M).

Present Status:

Working as Assistant Professor (Environmental Sciences) in Department of Basic & Applied Sciences at BPS Mahila Vishwavidyalaya, Khanpur Kalan, Sonepat, Haryana since August, 2009.

Academic Qualifications:

- Ph D on "Fluoride in Underground Water: Its Effects, Toxicity and Removal" from Department of Environmental Science and Engineering, Guru Jambheshwar University of Science & Technology, Hisar.
- Master of Technology in Environmental Science and Engineering from Guru Jambheshwar University of Science & Technology, Hisar with 1st division.
- Master of Science in Environmental Science from Guru Jambheshwar University of Science & Technology, Hisar with 1st division.
- Qualified National Eligibility Test-2004 (Roll. No. 120748)

Thesis and Dissertations:

- During Ph. D: "Fluoride in Underground Water: Its Effects and Removal" under the guidance of Dr. V.K. Garg, Department of Environmental Science and Engineering, Guru Jambheshwar University of Science & Technology, Hisar.
- During M. Tech.: "Air Quality Status& Particle Size Characterization of Ambient Dust in Delhi", Central Pollution Control Board, New Delhi.
- During M.Sc.: "Ground Water Contamination in Haryana" under the guidance of Dr. Anubha Kaushik, Department of Environmental Science and Engineering, Guru Jambheshwar University of Science & Technology, Hisar funded by the Directorate of Environment, Government of Haryana.

Academic and Research Experience:

- More than fifteen years including teaching (UG and PG level) and research.
- Worked as Lecturer (Sr.Scale.) at BRCM College of Engineering & Technology, Bahal, (Bhiwani) affiliated to M.D. University, Rohtak for B.E. Programme from 1st September, 2008 to 22nd August 2009.
- Worked Lecturer at BRCM College of Engineering & Technology, Bahal, (Bhiwani) affiliated to M.D. University, Rohtak for B.E. Programme from 10th August 2007 to 31st August, 2008.
- Worked as Lecturer to teach Post-Graduate (PG) classes in the Deptt. Of Energy and Env. Sc., Ch. Devi Lal University, Sirsa for the session August 2005-April 2006 and August 2006-April 2007.
- Worked as Lecturer to teach Under-Graduate (UG) classes at CRM Jat College Hisar for the session August 2004-February 2005.

- Taught the Post-Graduate (PG) classes in the Deptt. Of Env. Sc. & Engg., G.J. University, Hisar for the session February 2004–June 2004.
- Taught the Post-Graduate (PG) classes in the Deptt. Of Env. Sc. & Engg., G.J. University, Hisar for the session July 2002-December 2002.
- Worked as Project Fellow in Major Research Project "Fluoride in Underground Water: Its Effects and Removal" from Haryana, sanctioned to Principal Investigator Dr. V.K. Garg by University Grant Commission, Delhi.(October 2001- September 2004)

- Convener, various departmental committees
- Convener, HRM Course of CSUIR Program
- Member of various departmental committees
- Member, UGBOS in Environmental Sciences
- Member, PGBOS in Fashion Technology
- Member, Advisory Committee for CSUIR Program
- Incharge, Engineering Chemistry Laboratory
- Principal Investigator, UGC Major Research Project
- Incharge Library, Faculty of Engineering & Technology

- Singh, Bhupinder, Kaushik, P. and Garg, V.K. (2005) Effect of textile effluents on growth performance of wheat cultivars. Bioresource Technology 96: 1189-1193. [Elsevier]
- Singh, Bhupinder, Gaur, Shalini and Garg, V. K. (2007). Fluoride in drinking water and human urine in Southern Haryana, India. J. Hazardous Materials 144: 147-151 [Elsevier]
- Dahiya, S., Singh, Bhupinder, Gaur Shalini, Garg, V. K. and Kushwaha, H.S. (2007). Analysis of groundwater quality using fuzzy synthetic evaluation. Journal of Hazardous Materials 147: 938-946 [Elsevier]
- Singh, Bhupinder, Dahiya, S., Jain, S. and Garg, V.K. (2008). Use of Fuzzy synthetic evaluation for assessment of groundwater quality for drinking usage: a case study of Southern Haryana, India. Environmental Geology 54: 249-255 [Springer]
- Singh, Bhupinder and Garg, V. K. (2012). Fluoride Quantification in Groundwater of Rural Habitations of Faridabad, Haryana, India. International Journal of Environmental Protection 2(1): 8-17.
- Singh, Bhupinder and Garg, V. K. (2013). Fluoride Signatures in Groundwater and Dental Fluorosis in Permanent Teeth of School Children in Rural Areas of Haryana State, India. International Journal of Occupational and Environmental Medicine 4(2): 107-108.
- Singh Bhupinder & Lalit Jajpura (2015). Impact of Agricultural Technologies Employed for Food and Textile Fibres Production on Environment and Human Health. Environ. We Int. J. Sci. Tech. 10:101-116.
- Singh Bhupinder & Lalit Jajpura (2016). Sustainable Agriculture: A Key to the Healthy Food and Better Environment, Economic Prosperity for Farmers and a Step towards Sustainable Development International Journal of Current Microbiology and Applied Sciences 5(1): 148-156.

- A. K. Haritash, Ankur Aggarwal, Jigyasa Soni, Khyati Sharma, Muhnish Sapra and Bhupinder Singh (2018). Assessment of fluoride in groundwater and brine, and prevalence of fluorosis among school children in Haryana, India. Journal of Applied Water Science, 8:52 [Springer].

Manuals

- Singh,Bhupinder et.al.(2000)Variability in the Groundwater Quality of Two Industrial Towns of Haryana in Relation to Anthropogenic Activities. Indian Journal of Environment Protection 20(3): 209-216.
- Singh, Bhupinder et.al. (2000)Groundwater Quality of Ambala and Nilokheri Cities in Haryana in Relation to Land Use. Journal of Environment and Ecology 18 (3): 616-623.
- Singh, Bhupinder and Garg V. K. (2007). Deadly Disease-Fluoride in drinking water and fluorosis. In Wastelands News (Quarterly Newsletter) 23(1): 31-33
- Singh, Bhupinder et al. (2008) Assessment of Groundwater Quality Parameters and correlation analysis of Tehsil Mandi Dabawali, Sirsa, Haryana, India. Pollution Research 27(3): 579-586.
- Singh, Bhupinder (2011) Assessment of Groundwater Quality With Respect to Fluoride. Universal Journal of Environmental Research and Technology 1:45-50.
- Bhupinder Singh and Anoop Yadav (2012) Effect of Distillery Effluent on Different Wheat Cultivars. World Journal of Environmental Biosciences 1: 38-41

Book Chapter Published

- Co-author for book chapter entitled "Groundwater quality assessment with respect to fluoride in different blocks of Sirsa district" published in edited book Energy-Water-Waste Nexus for Environmental Management edited by Dr. Rani et al. (2012) published by Narosa Publication House, Daryaganj, New Delhi, ISBN: 978-81-8487-206-4
- Co-author for book chapter entitled "Environmental Fluorides: Risk Assessment and Remediation" published in edited book Human and Animal Health: Environmental Perspectives edited by Dr. Sudhi Ranjan Garg (2013) published by Satish Serial Publishing House. ISBN: 978-93-81222-630-8.
- Co-author for book chapter entitled "Environmental Impacts of Power Generation by Thermal Power Plants & its Solutions" published in edited book Energy and Sustainable Development in India edited by Dr Pardeep Chauhan (2016) published by21st Century Publisher, Patiala, India, ISBN: 978-93-8014-573-2.
- Co-author for book chapter entitled "Vermicomposting: A way towards organic agriculture" published in edited book Indian Economy at the Crossroads Challenges and Opportunities edited by Dr. Sunil Phougat & Dr. Pushp Deep Dagar (2016) published by Savera Publishing House, New Delhi, ISBN: 978-93-81-771-42-6.

Scientific Articles on Website

- Garg, V.K. and Singh, Bhupinder (2007). Fluoride in Drinking Water and Fluorosis. Editorial in Eco-Web. Article available at the below given link:http://www.eco-web.com/editorial/070207.html

Papers Presented & Published in Proceedings of Conference/Seminars

- Presented and published paper entitle "Distribution of fluoride in groundwater and its impacts on dental health of school children in some villages of Haryana" in the proceeding of National Symposium on Limnology (NSL-07) organized by Maharana Pratap University of Agriculture and Technology, Udaipur (Rajasthan) on 19-21st February, 2007.
- Published a paper entitled "Probabilistic approach for assessment of chemical risk due to fluoride and nitrate in drinking water" in the proceedings of Fifteenth National Symposium on Environment (NSE-15) organized by Department of Physics, Bharathiar University, Coimbatore on 5-7th June, 2007.
- Presented and published paper entitle "Fluoride content in bottled and public supply drinking water of Gurgaon, NCR, India" in the Sixteenth National Symposium on Environment (NSE-07) organized by Department of Env. Sc. & Engg., G.J.University of Science & Technology, Hisar and Health, Safety & Environment Group, BARC, Mumbai on 16-18th July, 2008.
- Presented and published paper entitle "Drinking water quality assessment with reference to fluoride: a case study of Haryana" in International Conference on Innovative Technologies on Research and Development in Science, Technology and Management (ICIT-09) Organized by PDM College Of Engineering in collaboration with IEEE-IMS/EMBS (Delhi) on 18-19 June 2009.
- Published a paper entitle "Respirable particulate matter in ambient air due to vehicular exhaust and loss of fuel at different traffic intersection in Hisar City" in International Conference on Innovative Technologies on Research and Development in Science, Technology and Management (ICIT-09) Organized by PDM College Of Engineering in collaboration with IEEE-IMS/EMBS (Delhi) on 18-19 June 2009.
- Presented and published paper entitled "Assessment of drinking water quality with respect to fluoride" in National Conference on Recent Development in Mechanical Engineering (RDME-2010) organized by Department of Mechanical Engineering, BRCM, CET Bahal (Bhiwani), Haryana on 19-20th February, 2010.
- Presented and published paper entitled "Assessment of drinking water quality with respect to fluoride in Faridabad" in the AICTE sponsored National Conference on Environmental Degradation: Effects, Challenges & Remedies (EDECR-2010) organized by JCD College of Engineering, Sirsa on 25-27th February, 2010.
- Presented and published paper entitled "Drinking water and health" in the National Conference on Emerging Trends in Electronics & Communication (NCETEC-2010) organized by Department of Electronics & Communication Engineering, BRCM, CET Bahal (Bhiwani), Haryana on 24-25th December, 2010.
- Presented and published paper entitled "Environmental Education & Information Technology" in the National Conference on Emerging Trends in Electronics & Communication (NCETEC-2010) organized by Department of Electronics & Communication Engineering, BRCM, CET Bahal (Bhiwani), Haryana on 24-25th December, 2010.
- Presented and published paper entitled "Fluoride in drinking water of Southern Haryana, India" at International Conference on Science & Engineering organized by RC Education Society, Rohtak on 21-23rd January, 2011. (ISBN: 978-981-08-7931-0).
- Presented and published paper entitled "Groundwater quality assessment with respect to fluoride in different blocks of Sirsa district" in International Conference on Energy-Water-Waste Nexus for Environmental Management organized by department of Energy and Environmental Science, CDLU, Sirsa from 28th-30th January, 2012.

- Presented and published paper entitled "Fluoride Content in the Groundwater of Dabwali, Haryana, India" in the proceedings of National Symposium on Water Resources Management in Changing Environment (WARMICE-2012) held at National Institute of Hydrology, Roorkee, India on 8-9th February, 2012.
- Published a paper entitled "Role of ICT in Education" in the proceedings of AICTE sponsored two days International Conference on "Recent Trends in Computing, Mechatronics and Communication" organized by Om Institute of Technology & Management, Hisar on 25-26th February, 2012.
- Published a paper entitled "Vermicomposting- The Eco-technology for Sustainable Organic Waste Management" in the proceedings of National Conference on Innovative Challenges in Civil Engineering (ICCE 2012) organized Department of Civil Engineering, Punjab Technical University Giani Zail Singh Campus Bathinda (Punjab) on 15-16 March, 2012.
- Published a paper entitled "The Role of Environmental Education and Awareness in Achieving Sustainable Development" in the proceedings of National Seminar on Strategies for Mitigation of Environmental Degradation and Climate Change (SMEDCC-2012) at G. J. University of Science & Technology Hisar on March 2-3rd, 2012.
- Published a paper entitled "Solid Waste and Its Management" in the proceedings of National Conference on Green Technologies: Smart and Efficient Management (GTSEM—2012) at Sant Longowal Institute of Engineering and Technology, Longowal, Sangrour Punjab on February, 2012.
- Published paper entitled "Nantotechnology: The Environmental Applications" in the proceedings of International Conference on Advancement and Futuristic Trends in Mechnical Engineering organized by PTU, Kapurthala, Punjab on 5-7th October, 2012.
- Published paper entitled "Fluoride contamination in the groundwater of Gohana Town (NCR), Sonepat, Haryana, India" in the proceedings of National Seminar on Next Generation Sciences: Vision 2020 and Beyond (NGSV) organized by Department of Zoology, M.D University, Rohtak on 08th March, 2014 (ISBN: 978-81-920945-4-0).
- Presented and published paper entitled "Electronic Waste, Its impacts and Management: A Challenge for Global Survival" in the proceedings of National Conference on Machine Intelligence and Research Advancement (NCMIRA-2015) organized by Department of Electronics & Communication Engineering, BPS Mahila Vishwavidyalaya Khanpur Kalan on 19-20th March, 2015.
- Presented and published paper entitled " Need of IPR in Present Scenario of Globalization" the proceedings of National Conference on Machine Intelligence and Research Advancement (NCMIRA-2015) organized by Department of Electronics & Communication Engineering, BPS Mahila Vishwavidyalaya Khanpur Kalan on 19-20th March, 2015.
- Presented and published paper entitled "Fluoride content in the groundwater of some villages of Kathura block, Sonepat, Haryana" in the proceedings of National Conference on Latest Development in Civil and Environmental Engineering organized by the Department of Civil Engineering, Giani Zail Singh Campus of Engg. & Tech, MRSSTU, Bhatinda on 15-16th October, 2015 (ISBN: 978-93-5254-071-6).
- Presented and published paper entitled "Sustainable and organic fibres:Sustainable solution for textile Industry" in the proceedings of International Conference on Textile and Clothing Present and Future Trends organized by Department of Jute and Fibre Technology, University of Calcutta on 3rd -5th January, 2017(ISBN:978-93-84923-15-0).

- Presented paper in the AICTE sponsored National Seminar on "Emerging Environmental Issues and Technological Challenges" organized by Department of Env. Sc. & Engg., G.J.University, Hisar on 01-02nd September, 2003.
- Presented a paper in the National Symposium on Green Chemistry, Applications in Science & Engineering (GCSE-07) organized by Sant Longowal Institute of Engineering and Technology, Longowal, Punjab (India) on 29-30th March, 2007.
- Presented a paper in one day Seminar on 'Emerging Trends in Engineering & Technology' under ISTE Chapter of BRCM College of Engineering & Technology, at BRCM CET, Bahal (Bhiwani), Haryana on 07th January, 2008.
- Presented a paper entitled "Drinking water quality with respect to fluoride" in the National Seminar on Biodiversity, Ecosystems and Climate Change: The Challenge Ahead at NBPGR, Lucknow from 4-6th December, 2010.
- Presented a paper entitled "Fluoride in drinking water" at National Seminar on Water Resource Management organized by BPSM Girls College, Khanpur Kalan on 21-23rd February, 2011.
- Presented a paper entitled "Fluoride distribution in water: A case study from Narnaul, district, Mohindergarh, Haryana" at National Conference on Multidisciplinary Approach in Frontier Areas of Environmental Science and Engineering (MAFAESE-2011) organized by GJUS&T, Hisar on 4-5th March, 2011.
- Presented paper entitled "Fluoride contamination in the groundwater of Faridabad town (NCR), India". In: National Seminar on Green Technologies for Sustainable Environmental Management organized by School of Environment & Natural Resources, Doon University, Dehradoon, Uttrakhand on 22-23rd March, 2013.
- Presented paper entitled "Fluoride contamination in the groundwater of Kathura block of Sonepat district of Haryana" in National Conference on Pollution Mitigation for Sustainable Future organized by M D University, Rohtak on 26th March, 2014.
- Presented paper entitled "Renewable Energy Potential of India: A Review" at International conference on Green Initiatives in Science & Technology (GIST-2015) organized by Manav Rachna College of Engineering, Faridabad on 15th January, 2015.
- Presented a paper entitled "Sustainable Agriculture: A Key to Healthy Food Better Environment" in two days ICSSR sponsored International Conference on Crop Technology Led Agriculture Development and Sustainability of Eco-System in India organized by department of Economics, University College, KUK from 26-27th March, 2015.
- Presented a paper entitled " Environmental issues and sustainable development" in National Seminar on Re-envisioning Social Justice in the Era of Globalization: Issues and Dilemmas organized by Department of Law, BPSMV, Khanpur Kalan on 26th march, 2016.
- Presented a paper entitled "Fluoride and drinking water" in National Symposium on Geogenic Contamination of Groudwater (GCG-2016 organized by department of Regional Water Studies, TERI University, New Delhi on 26th April, 2016.
- Presented a paper entitled "Fluoride and Its Impacts" in National Conference on Genetic Diversity and Therapeutic Potential of Natural Products organised by department of Genetics, MDU, Rohtak on 17th September, 2016.
- Presented a paper entitle "Sustainable agriculture and environment" in National Seminar on Climate Change and Agriculture, Impacts and Adaptation Strategies in Haryana organized by Department of Economics, MD University, Rohtak on 6-7th February, 2017.

- Presented a paper entitle "Groundwater quality with reference to fluoride in NCR region of India" in International Conference on Emerging Areas of Environmental Science and Engineering (EAESE-2017) organised by department of Env. Sc. & Engg., GJUS &T, Hisar from 16-18th Feb. 2017.
- Presented a paper entitle "Fluoride content in groundwater of Panipat Town of Haryana" National Conference on New Horizons in Technology for Sustainable Energy and Environment organised by YMCA University, Faridabad on 9-10th March, 2017.
- Presented a paper entitle "Fluoride content in groundwater of Ganaur Town of Sonepat district of Haryana, India" in National Conference on Climate Change, Resource Conservation and sustainability Strategies organised by USEM, GGSI University, New Delki on 16-17th. March, 2017.

- Invited Lectures:

- Delivered expert talk on "Role of Biotechnology in Environment" at four days Workshop and Conference on "Nanosciences and Nanobiotechnology: Present and Future Prospective" from 22-26th November, 2011 at Meerut Institute of Engineering and Technology, Meerut.
- Delivered extension lecturer on "Role of Environmental Education in Sustainable Development" at Government College, Meham, Rohtak on 15th October, 2013.
- Delivered expert talk on "Textile Industry & Environmental Issues" in UGC sponsored National Level Workshop on "Recent Development in Fashion & Textiles" conducted by the Department of Fashion Technology, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan held from 3rd March, 2014 to 9th March, 2014.
- Delivered extension lecturer on "Environmental Awareness" at Mahila Polytechnique, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 28th March, 2014.
- Delivered extension lecturer on "Environmental Education" at Mahila Polytechnique, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 30th August, 2014.
- Delivered extension lecturer on "Sustainable Development" at Mahila Polytechnique, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 30th August, 2014.
- Delivered two guest lectures on the topic "Use of Mathematical Statistic in Research" in 3rd Refresher Course in Mathematics at Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 28th November, 2014.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Environmental Issues & Solutions" on 11th June, 2015 in 23rd Orientation Program organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 03-30th June, 2015.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Environmental Education and Sustainable Development" on 11th June, 2015 in 23rd Orientation Program organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 03-30th June, 2015.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Sustainable Development" on 13th July, 2016 in 2nd Refresher Course in Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22th July, 2016.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Environmental Pollution" on 13th July, 2016 in 2nd Refresher Course in Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22th July, 2016.

- Invited as a Resource Person and delivered guest lecturer on the topic namely "Role of Environmental Education in Environmental Awareness" on 14th July, 2016 in 2nd Refresher Course in Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22nd July, 2016.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Biodiversity and its Conservation" on 14th July, 2016 in 2nd Refresher Course in Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22nd July, 2016.
- Invited as a Resource Person and delivered two guest lecturers on the topic namely "Role of an Individual in Conservation of Natural Resources" on 08th December, 2016 in Special School (Tourism/Hotel/Hospitality/Gastronomy/Home Science/Journalism/Economics/Management/Commerce) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 19th November-10th December, 2016.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Disaster and its Management" on 10th July, 2017 in Refresher Course on Disaster Management organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22nd July, 2016.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Environmental issues, education and sustainable development" on 10th July, 2017 in Refresher Course on Disaster Management organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 01-22nd July, 2016.
- Invited as a Resource Person and delivered guest lecturer on the topic namely "Environmental Issues and Education" on 11th August, 2015 in Orientation Programme organized by Department of Social Work, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan.
- Delivered extension lecturer on "An introduction to environmental pollution" at Mahila Polytechnique, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 30th March, 2015.
- Delivered extension lecturer on "Role of Poly House Technology in Modern Agriculture" at Mahila Polytechnique, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 13th May, 2015.
- Invited as a Resource Person and delivered two guest lecturer on the topic namely "Environmental issues and sustainable development" on 11th August, 2018 in Refresher Course on Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 10th-31st August, 2018.
- Invited as a Resource Person and delivered two guest lecturer on the topic namely "Environmental Pollution and Solutions" on 21st August, 2018 in Refresher Course on Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 10th-31st August, 2018.

Major Research Project:

- Major Research Project "Fluoride in Groundwater: Its Effects & Removal" sanctioned by UGC on August 2012 is successfully completed.

Orientation & refresher courses attended/organized:

- Participated in AICTE sponsored workshop on "Biotechnological Methods in Pollution Control" organized by N. C. College of Engineering, Israna, Panipat on 1st August, 2004.
- Member, organizing committee for National Workshop on "Water Conservation: Need of the Hour" organized by department of Energy and Environmental Science, CDLU, Sirsa on 17th February, 2006.
- Participated in World Bank sponsored, TEQIP workshop on "Nuclear Energy and Environment", organized by Department of Env. Sc. & Engg., G. J. University of Science & Technology, Hisar on 15th December, 2007.
- Attended two days orientation workshop on "Application of S.P.S.S. in Educational Research" organized by Department of Education, BPSMV, Khanpur Kalan on 12-13th April,2010.
- Attended four weeks Orientation programme organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 1-30th July, 2010.
- Attended One week National workshop on "Analytical Skills for Research" at School of Management Studies, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 24-30th March, 2011.
- Attended NAAC sponsored One day State Level Sensitizing workshop on "Process of Accreditation" at B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 18th November, 2011.
- Attended One day "User Awareness Programme for Access to E-Resources" jointly organized by BPS Mahila Vishwavidyalaya, Khanpur Kalan and INFLIBNET on 31st January, 2012.
- Member Organizing Committee to organize 1st Athletic Meet at School of Engineering & Sciences, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan on 11-12th April, 2012.
- Attended 1st Refresher Course in Environmental Studies (ID) organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 17th December, 2012 to 7th January, 2013.
- Attended one week UGC sponsored Workshop on "Computer Application" at UGC-ASC, BPS Mahila Vishwavidyalaya Khanpur Kalan from 7th Oct. 2013 to 14th Oct. 2013.
- Actively involved as Member in 1st Women Youth Parliament organized by BPS Mahila Vishwavidyalaya Khanpur Kalan on January 29-30, 2014.
- Attended one week UGC sponsored Workshop on "Computational Tools in Research" organized by Department of Electronics & Communication Engineering, BPS Mahila Vishwavidyalaya Khanpur Kalan from 17th Feb. 2014 to 22nd Feb. 2014.
- Attended two weeks UGC sponsored Workshop on "FOSS Tools in Higher Education" organized by Department of Electronics & Communication Engineering, BPS Mahila Vishwavidyalaya Khanpur Kalan from 24th Feb. 2014 to 8th March 2014.
- Worked as Coordinator in one week UGC sponsored National Level Workshop on "Recent Development in Fashion & Textiles" organized by the Department of Fashion Technology, BPSMV, Khanpur Kalan from 3rd March, 2014 to 9th March, 2014.
- Attended two days workshop on Cultural and Social Synthesis as a solution to Global Problems organized by Vishwa Guru at Gurgaon on 13-14th December, 2014.
- Worked as Co-coordinator in 3rd Refresher Course in Mathematics organized by UGC Academic Staff College, B.P.S.Mahila Vishwavidyalaya Khanpur Kalan from 18th November, 2014 to 8th December, 2014.
- One month training in Analysis of Water, Air, Soil and Waste at Shri Ram Institute of Industrial Research, New Delhi (August 1997-September1997)

- Attended A Short Course on Air Quality Monitoring and Management, from 11-13 December organized by Envirotech Centre for Research and Development, New Delhi (December 11-13, 1997)
- Six months training in Sampling and Analysis of Ambient and Stack Air at Envirotech Centre for Research and Development, Delhi(October 1997 to April 1998)

Personal Details:

Bhupinder Singh S/o Subhash Chander
Village & Post Office Kuleri-125047
Tehsil & District Hisar, Haryana (India)
Date of Birth: 15th May, 1971
Passport No.:G4607183
Nationality: Indian

Date: 4/3/18
Place: Khanpur Kalan

4/9/18

Dr. BhupinderSingh
Asstt. Prof. (Env. Sc.)
Deptt. of Basic and Applied Sciences
BPSMV, Khanpur Kalan, Sonepat

4/39/50

fpms-15801
28/2/19

From

Director,
Environment & Climate Change Department, Haryana
SCO 1-3, 2nd Floor, Sector 17 D,
Chandigarh.

To

plz discuss.
CHAIRMAN
28/2/19

Chairman,
Haryana State Pollution Control Board, Haryana
C-11, Sector-6 Panchkula

Memo No.DEH/2019/ 313 Dated 26.02.2019

Subject: To conduct a study on the level and source of Pollution in Haryana.

Kindly refer to the subject mentioned above.

Please find enclosed herewith, the proposal received from Bhagat Phool Singh, Mahila Vishwavidyalaya, Khanpur Kalan, Sonipat and Maharshi Dayanand, University, Rohtak on the subject mentioned above.

This is for consideration and action, as required.

Joint Director
for Director, Env. & CC Department,
Haryana, Chandigarh

DA : Copy of proposals

4/40/51

LEVEL AND SOURCE OF POLLUTION IN SELECTED FOUR CITIES ADJOINING TO DELHI

To be submitted to
Government of Haryana

By
1. Co-ordinator & Principal Investigator
Prof. Rajesh Dhankhar
Department of Environmental Sciences
MaharshiDayanand University
Rohtak-124001

2. Principal Investigator
Dr. Sunil kumar
Department of Environmental Sciences
MaharshiDayanand University
Rohtak-124001

3. Principal Investigator
Dr.RachnaBhateria
Department of Environmental Sciences
MaharshiDayanand University
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2018

Introduction

With rapid increase in industrialization and urbanization global climate change is of utmost importance. There are various causes of this change such as water pollution, air pollution, global warming and ever increasing population. Among all, air pollution is found to be more prominent and dynamic. As air pollution has a number of detrimental effects on human health hence it is considered a major threat for both adults and children (Franchini et al., 2016; Mannucci et al., 2015; Franchini et al., 2015; Newby et al., 2015; Franchini et al., 2011; Franchini and Mannucci, 2012; Mannucci and Franchini, 2017; Landrigan et al., 2015). The World Health Organization (WHO) estimated that one of nine deaths is the result of air pollution-related conditions (WHO, 2018). The Global Burden of Disease report (Lim et al., 2012) identified air pollution among the leading risk factors for disease burden, being globally responsible alone for 3.1% of all Disability-Adjusted Life Years (DALYs). Air pollution represents one of the world's largest avoidable causes of premature deaths, mostly caused by ischemic heart disease, stroke and chronic obstructive pulmonary disease (Lelieveld et al., 2015).The air quality guidelines of the World Health Organization (WHO) and national regulatory policies are based on exposure response functions that rely on $PM_{2.5}$ mass concentrations, implicitly treating all fine particles as equally toxic without regard to their source and chemical composition. However, expert elicitation suggests that carbonaceous particles are more toxic than crustal material, nitrates and sulfates (Tuomisto et al., 2008). Interest in assessing exposure to ambient air pollution at the intra urban scale (i.e., within-city scale) has increased for a variety of reasons. First, the contribution of traffic pollution has grown, and most studies agree that the demand for transportation will exceed improvements to emission reduction technologies (Faiz, 1993; Deluchi, 2000). Regardless of regulatory interventions, higher exposure to traffic pollution with distinct intra urban gradients may be seen around major roads and highways (Gilbert et al., 2002). Second, while results remain far from conclusive (English et al., 1999), sufficient number of studies have uncovered positive health effects to suggest that the exposure experience within cities may exert significant health effects. Accordingly, household air pollution has become a serious threat for health and is estimated to be one of the top five major risk factors for the global burden of diseases (4.3% of global DALYs), accounting for 3.9 million premature deaths in 2010 (Smith et al., 2014).

Most of the developed and developing countries suffer from air pollution. The growing population, increasing number of vehicles and industries, improper maintenance of

heating and cooking), and also waste disposal and diesel-generators. In China it contributes about 32%, in India, Bangladesh, Indonesia and Vietnam 50–60%, while in Nepal it is highest with nearly 70%.In western countries it is typically 5–10%, although in France and Poland it contributes about 15%.RCO increases from 31% to 59% of global air pollution mortality. Agriculture (AGR) has a remarkably large impact on $PM_{2.5}$, and is the leading source category in Europe, Russia, Turkey, Korea, Japan and the Eastern USA. In many European countries, its contribution is 40% or higher. Agricultural releases of ammonia (NH_3) from fertilizer use and domesticated animals affect air quality through several multiphase chemical pathways, forming ammonium sulphate and nitrate. Since NH_3 abundance is often limiting in $PM_{2.5}$ formation, reduction of its emissions can make an important contribution to air quality control. As agricultural emissions mostly form inorganic $PM_{2.5}$, the impact on mortality diminishes under the assumption that carbonaceous $PM_{2.5}$ is five times more toxic (Magnitis et al., 2013). Industry (IND) is among the smaller source categories, with a global fraction of about 7% ; nevertheless, it contributes about twice this percentage in most of the western world. It includes iron and steel, chemical, pulp and paper, food, solvent and other manufacturing sectors, oil refineries and fuel production. This source of air pollution is generally significant in industrialized countries and emerging economies, but rarely the leading cause of premature mortality. Under the differential toxicity assumption, its contribution to mortality would reduce by more than a factor of 2. NOx are the dominant source of traffic-related $PM_{2.5}$ in the form of nitrate, together with carbonaceous $PM_{2.5}$ (Unger et al., 2010).

The development of models to assess air pollution exposures within cities for assignment to subjects in health studies has been identified as a priority area for future research. Models used for assessing intra urban exposure under six classes, including: (i) proximity-based assessments, (ii) statistical interpolation, (iii) land use regression models,(iv) line dispersion models, (v) integrated emission-meteorological models, and (vi) hybrid models combining personal or household exposure monitoring with one of the preceding methods. Recent investigations have also indicated the potential positive relationship between greenness exposure, maternal health and birth outcomes (Banay et al., 2017; Landrigan et al., 2018; Ebisu et al., 2016; James et al., 2015; Dzhambov et al., 2014) . As outlined by WHO (WHO, 2010), there are several methods to reduce the level of indoor pollutants, including the use of low-emission materials, more efficient air filters, and increasing ventilation. An alternative way to reduce the levels of indoor air pollution is the use of plants (Dela et al., 2014). Several ornamental potted plant species do absorb volatile organic compounds from

National Status

Air pollution is a problem for much of the developing world and is believed to kill more people worldwide than AIDS, malaria, breast cancer, or tuberculosis (WHO, 2012a; WHO 2012b; O'Keefe, 2013; Yang et al., 2013). Airborne particulate matter (PM) is especially detrimental to health (Hoek et al., 2012,Beelen et al., 2013), and has previously been estimated to cause between 3 and 7 million deaths every year, primarily by creating or worsening cardio-respiratory disease (WHO 2012b; Yang et al., 2013; Pope et al., 2002; Hoek et al., 2012). Particulate sources include electric power plants, industrial facilities, automobiles, biomass burning, and fossil fuels used in homes and factories for heating.

Pozo et al., (2011) surveyed persistent organic pollutant (POP) concentrations in air across several Indian agricultural regions was conducted in 2006c2007. Passive samplers comprising polyurethane foam (PUF) disks were deployed on a quarterly basis at seven stations in agricultural regions, one urban site and one background site. The project was conducted as a sub-project of the Global Atmospheric Passive Sampling (GAPS) Network. In addition to revealing new information on air concentrations of several organochlorine pesticides (OCPs) and polychlorinated biphenyls (PCBs), the study has demonstrated the feasibility of conducting regional-scale monitoring for POPs in India using PUF disk samplers. The following analytes were detected with relatively high concentrations in air (mean for 2006 and 2007, pg/ 3): a- and g-hexachlorocyclohexane (HCH) (292 and 812, respectively); endosulfah I and II (2770 and 902, respectively); p,p0-DDE and p,p0-DDT (247 and 931, respectively); and for the sum of 48 PCBs, 12,100 (including a site with extremely high air concentrations in 2007) and 972 (when excluding data for this site).

Haritash and Kaushik, (2007) analyzed heavy metals in respirable suspended particulate matter (RSPM) for different seasons, from July 2002 to December 2002, at different locations in Hisar (Haryana, India). The samples were analyzed for Pb, As, Ni, Cu, Mn, Fe andMgonatomicabsorptionspectrophotometer (AAS) in air-acetylene flame. The concentration of heavy metals was more in the studied residential area followed by industrial area and commercial area. The concentrations of Fe, As, Ni and Mn were found to be more compared to other metals. Further, the concentrations of all the heavy metals were higher in pre-monsoon (extended summer) and monsoon followed by post-monsoon, autumn and winter. Meteorology played an important role in concentration of heavy metals in RSPM. Turbulent conditions resulted in higher concentration owing to re-suspension and external

subsequent planting. A key question is to what extent the large quantity of smoke emitted by these fires contributes to the already severe pollution in Delhi and across other parts of the heavily populated Indo-Gangetic Plain located downwind of the fires. Using a combination of observed and modeled variables, including surface measurements of $PM_{2.5}$, we quantify the magnitude of the influence of agricultural fire emissions on surface air pollution in Delhi. With surface measurements, we first derive the signal of regional $PM_{2.5}$ enhancements (i.e. the pollution above an anthropogenic baseline) during each post-monsoon burning season for 2012–2016. We next use the Stochastic Time-Inverted Lagrangian Transport model (STILT) to simulate surface $PM_{2.5}$ using five fire emission inventories. We reproduce up to 25% of the weekly variability in total observed $PM_{2.5}$ using STILT. Depending on year and emission inventory, our method attributes 7.0%–78% of the maximum observed $PM_{2.5}$ enhancements in Delhi to fires. The large range in these attribution estimates points to the uncertainties in fire emission parameterizations, especially in regions where thick smoke may interfere with hotspots of fire radiative power. Although our model can generally reproduce the largest $PM_{2.5}$ enhancements in Delhi air quality for 1–3 consecutive days each fire season, it fails to capture many smaller daily enhancements, which we attribute to the challenge of detecting small fires in the satellite retrieval. By quantifying the influence of upwind agricultural fire emissions on Delhi air pollution, our work underscores the potential health benefits of changes in farming practices to reduce fires.

Liu et al., (2018) Air pollution in many of India's cities exceeds national and international standards, and effective pollution control strategies require knowledge of the sources that contribute to air pollution and their spatiotemporal variability. In this study, we examine the influence of a single pollution source, outdoor biomass burning, on particulate matter (PM) concentrations, surface visibility, and aerosol optical depth (AOD) from 2007 to 2013 in three of the most populous Indian cities. We define the upwind regions, or "airsheds," for the cities by using atmospheric back trajectories from the HYSPLIT model. Using satellite fire radiative power (FRP) observations as a measure of fire activity, we target pre-monsoon and post-monsoon fires upwind of the Delhi National Capital Region and pre-monsoon fires surrounding Bengaluru and Pune. We find varying contributions of outdoor fires to different air quality metrics. For the post-monsoon burning season, we find that a subset of local meteorological variables (air temperature, humidity, sea level pressure, wind speed and direction) and FRP as the only pollution source explained 39% of variance in Delhi station PM_{10} anomalies, 77% in visibility, and 30% in satellite AOD; additionally, per unit

was examined that air pollutant concentrations and interrelationships at the intra urban scale to obtain insight into the nature of the urban mixture of air pollutants. They observed variability in pollution levels and in the statistical correlations between different pollutants according to season and neighborhood. Nitrogen oxide species (nitric oxide, NO_2, nitrogen oxides, and total oxidized nitrogen species) had the highest overall spatial correlations with the suite of pollutants measured. Ultrafine particles and hydrocarbon-like organic aerosol concentration, a derived measure used as a specific indicator of traffic particles, also had very high correlations. Their findings indicate that the multi-pollutant mix varies considerably throughout the city, both in time and in space, and thus, no single pollutant would be a perfect proxy measure for the entire mix under all circumstances. However, based on overall average spatial correlations with the suite of pollutants measured, nitrogen oxide species appeared to be the best available indicators of spatial variation in exposure to the outdoor urban air pollutant mixture (Levy et al., 2014).

Long-term air pollution data with high temporal and spatial resolutions are needed to support the research of physical and chemical processes that affect the air quality, and the corresponding health risks. However, such datasets were not available in China until recently. For the first time, this study examines the spatial and temporal variations of $PM_{2.5}$, PM_{10}, CO, SO_2, NO_2, and 8 h O_3 in 31 capital cities in China between March 2013 and February 2014 using hourly data released by the Ministry of Environmental Protection (MEP) of China. The annual mean concentrations of $PM_{2.5}$ and PM_{10} exceeded the Chinese Ambient Air Quality Standards (CAAQS), Grade I standards (15 and 40 $\mu g/m^3$ for $PM_{2.5}$ and PM_{10}, respectively) for all cities, and only Haikou, Fuzhou and Lasa met the CAAQS Grade II standards (35 and 70 $\mu g/m^3$ for $PM_{2.5}$ and PM_{10}, respectively). Observed $PM_{2.5}$, PM_{10}, CO and SO_2 concentrations were higher in cities located in the North region than those in the West and the South-East regions. The number of non-attainment days was highest in the winter, but high pollution days were also frequently observed in the South-East region during the fall and in the West region during the spring. $PM_{2.5}$ was the largest contributor to the air pollution in China based on the number of non-attainment days, followed by PM_{10}, and O_3. Strong correlation was found between different pollutants except for O_3. These results suggest great impacts of coal combustion and biomass burning in the winter, long range transport of windblown dust in the spring, and secondary aerosol formation throughout the year. Current air pollution in China is caused by multiple pollutants, with great variations among different regions and different seasons. Future studies should focus on improving the understanding of

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personal exposure to $PM_{2.5}$ differed by season. In winter, our results show that primary heating with a low-polluting fuel (i.e., electric stove or wood-charcoal) and more frequent kitchen ventilation could reduce personal $PM_{2.5}$ exposures. In summer, primary use of a gaseous fuel or electricity for cooking and reducing exposure to outdoor $PM_{2.5}$ would likely have the greatest impacts on personal $PM_{2.5}$ exposure (Ni et al., 2016).

Particulate matter pollution is a serious environmental issue mainly due to the presence of toxic substances and trace metals in the atmosphere from a variety of pollution emission sources. Information about aerosol composition and their sources especially during pollution events can be further used to establish strategies for the reduction of particulate matter concentration. The objective in the present study was to analyze variations in total suspended particle (TSP) mass concentration and heavy metal components for evaluating the atmospheric loadings of substances with different sources as well as to further examine the relationship between the occurrence of African dust intrusions and metallic species concentrations at our coastal station located in South Spain. Non-destructive Wavelength-Dispersive X-Ray Fluorescence (WDXRF) analysis has been applied for the determination of multi-element contents of atmospheric particulate matter (Lyer et al., 2018).

Iron and steel smelting facilities generate large quantities of airborne particulate matter (PM) through their various activities and production processes. The resulting PM that contains a variety of heavy metals has potentially detrimental impacts on human health and the environment. This study was conducted to assess the potential health effects of the pollution from the heavy metals in the airborne PM sampled in the vicinity of secondary smelting operations in Ile-Ife, Nigeria. X-ray fluorescence (XRF) was used to determine the elemental concentration of Pb, Cr, Cd, Zn, Mn, As, Fe, Cu, and Ni in the size-segregated PM samples. Pollution Indices (PI) consisting of Contamination Factor (CF), Degree of Contamination (DC) and Pollution Index Load (PLI) and Target Hazard Quotient (THQ) were employed to assess the pollution risk associated with the heavy metals in the PM. CF, DC and PLI values were $3< CF <5$, >32 and >1, respectively for the three sites, indicating deterioration of the ambient air quality in the vicinity of the smelter. The heavy metals in the airborne PM pose a severe health risk to people living in vicinity of the facility and to its workers. The diminished air quality with the associated health risks directly depends on the industrial emissions from steel production and control measures are recommended to mitigate the likely risks (Ogundele et al., 2017).

Measurement of sulphur dioxide

The most common manual colourimetry method used for sulphur dioxide is Modified West & Gaeke Method (West and Gaeke, 1956). In this method sulphur dioxide from air is absorbed in a solution of potassium tetrachloromercurate (TCM). A stable complex name dichlorosulphitomercurate is formed. In the method High Volume Sampler (HVS) and Respirable Dust Sampler (RDS) are effectively used for sampling of sulphur dioxide from air in absorbing media in the impingers. For sampling fill the impingers with the absorbing solution and run the instrument for twenty four hours at the flow rate of 1 L/min. After sampling measure the volume of sample and transfer to a sample storage bottle. In the laboratory replace any water lost by evaporation during sampling by adding distilled water up to the calibration mark on the absorber. Mix thoroughly then pipette out 10 ml of the collected sample into a 25 ml volumetric flask. Add 1 ml 0.6% sulphamic acid and allow reacting for 10 minutes to destroy the nitrite resulting from oxides of nitrogen. Add 2 ml of 0.2% formaldehyde solution and 2 ml pararosaniline solution and make up to 25 ml with distilled water. Prepare a blank in the same manner using 10 ml of unexposed absorbing reagent. After a 30 min colour development interval and before 60 minutes, measure and record the absorbance of samples and reagent blank at 560 nm. Use distilled water not the reagent blank, as the optical reference.

Measurement of Nitrogen dioxide

Modified Jacobs & Hochheiser Method manually will be used for detection of nitrogen dioxide. Sodium hydroxide and sodium arsenite solution used as absorbing medium for ambient nitrogen dioxide (NO_2) and bubbling air passed through the solution. This results in production of sodium nitrite due to chemical reaction between nitrogen dioxide and sodium hydroxide. The concentration of nitrite ion (NO_2) produced during sampling is determined colorimetrically by reacting the nitrite ion with phosphoric acid, sulfanilamide, and N-(1-

benzene is measured by using a photo ionization detector. The sampling tube is used to draw the sampling gas at regulated flow. The gas sample is concentrated in this tube. The sample is then desorbed by heated and ventilated by carrier gas. The transfer of desorbed compound from sampling tube to pre concentration tube with the help of a carrier gas. The sample in column is introduced by nitrogen gas from the inlet of pre concentration tube. The column separates the each compound. The concentration is measured by a PID detector and given by the instrument.

Measurement of Carbon Monoxide

Nondispersive infrared spectrophotometry (NDIR) is the standard and most appropriate method for measuring atmospheric carbon monoxide concentration. The different part of the NDIR analyzer includes a sample cell and a reference cell, infrared sources, and a detector cell. A non-absorbing nitrogen gas is filled in the reference cell, while the sample cell is continuously flushed with the sample containing carbon monoxide which absorbs infrared radiation at 4.6 micrometer. Two compartment separated by a thin metal diaphragm filled with carbon monoxide present in the detector. This instrument can detect carbon monoxide concentration from 0.1 ppm to 100 ppm. At the time of the analysis the reference and the sample cells alternatively exposed to the infrared sources. All the infrared energy past through the reference cell and reaches to the one compartment of the detector cell, while in the sample cell infrared radiations absorbed by carbon monoxide present in the sample and varying amount of the infrared energy or less than reference cell reaches to the other detector compartment. Since more radiations enters the references cell side of the detector compartment. These radiations expands the carbon monoxide causing a pressure difference across the compartment, resulting in the movement in diaphragm in the form of pulse back and forth in phase with the chopper action. The magnitude of the diaphragm is the directly

(PTFE) filter. The concentration of $PM_{2.5}$ is determined by the net weight of dust on filter paper, which is calculated by filter paper weight before and after sampling. The total concentration of $PM_{2.5}$ in the ambient air is determined by total weigh of collected particles in the PM2.5 size ranges divided by the actual volume of air sampled, and is expressed in $\mu g/m_3$ (CPCB, 2011).

Measurement of Metal in Particulate Matter

This method is based on acid digestion and atomic absorption spectrophotometer for trace metals in atmospheric air collected on the filters. The samples are collected on 0.45 micrometer membrane filters and then digest with nitric acid to destroy the organic matrix and to dissolve the metal present in particulate matter. The exposed glass filters are cut into the pieces and transferred to beaker. Add 6ml of concentrated HNO_3, 4ml of H_2O_2 (30%) and 50ml distilled water in this beaker. Cover the beaker with a watch glass and heated with a hot plate until most of acid has evaporated. Repeat the addition of HNO_3, H_2O_2 (30%) and distilled water followed by evaporation, atleast two time, then continue to heat until the residue is dry and a white ash appears. Dissolve the residue in 5ml HNO_3 filter the solution and make it upto 25ml, prepare blank solution with same procedure mentioned above with an explose filter. Then the analysis is subsequently made by atomic absorption spectrophotometer (AAS).

Financial Assistance required: BUDGET

BUDGET				
Items		1st Year	2nd Year	Total (in Rupees)
Recurring				
1. Salaries/Wage	Research Scholar (one) (12000/- per month)	144000/-	144000/-	288000/-
2. Consumable	Chemicals	125000/-	125000/-	250000/-
	Glasswares	125000/-	125000/-	250000/-
3. Travel	Field survey	150000/-	150000/-	300000/-
4. Equipment		1000000/-	-	1000000/-
5. Other costs	Contigency	50000/-	50000/-	100000/-
Total		1594000/-	594000/-	2188000/-

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ETMS-23095
Dated: 3/4/2019

From

Director General,
Environment & Climate Change Department, Haryana
SCO 1-3, 2nd Floor, Sector 17 D,
Chandigarh

To

Chairman,
Haryana State Pollution Control Board, Haryana
C-11, Sector-6 Panchkula

CHAIRMAN 2/4/19

Memo No.DEE/2019/ 3107 Dated 02.04.2019

Subject: Regarding Proposal of Study-Level and Source of Pollution in Haryana.

Kindly refer to the subject mentioned above.

MS Cell

Please find enclosed herewith, the proposal received from Kurukshetra University on the subject "Assessment of Ambient Air Quality in different sites of Kurukshetra, Haryana".

This is for your consideration and action.

Encl: Copy of proposal

Joint Director
for Director General, Env. & CC Department,
Haryana, Chandigarh 2/4/19

4/4/19

04/04

INSTITUTE OF ENVIRONMENTAL STUDIES
KURUKSHETRA UNIVERSITY KURUKSHETRA
(Estd. by the State Legislature vide Act XXII of 1956)
("A+" Grade Accredited by NAAC)

KUK/IES/IW/1634
Dated: 01.02.2019

To

The Director General,
Higher Education Haryana,
Shiksha Sadan, Ground & 1st Floor,
Sec-5, Panchkula, Haryana (134105)

Subject: Regarding Proposal of Study-Level and Source of Pollution in Haryana.

Respected Sir/Madam,

With reference to office letter no. DEH/2018/Study/975, dated 29.05.2018 from Director, Department of Environment and Climate Change, Haryana, Chandigarh for conducting specific studies on the identified hotspots; received from Registrar, Kurukshetra University Kurukshetra vide Diary No. 2065-R dated 05.12.2018 on the subject cited above.

Please find enclosed herewith the proposal entitled:-"Assessment of Ambient Air Quality in different sites of Kurukshetra, Haryana" for Study on Source of Pollution in Haryana for a period of six months.

This is for your information and necessary action, please.
Thanking you,

Yours Faithfully,

(Prof. Smita Chaudhry)
Director

Endst No. IES/IW/ dated 01.02.2019

Copy to :

1 The Registrar, K.U.K. for information only.
2 The Chairman, Haryana Pollution Control Board, C-11, Sector-6, Panchkula-134109, Haryana for information.

(Prof. Smita Chaudhry)
Director

COUNTERSIGNED
Registrar

E-Mail: ies@kuchon.edu

4/56/67

Project Title:
Assessment of Ambient Air Quality in different sites of Kurukshetra, Haryana

Principal Investigator: Prof. Sunita Chaudhary, Director, Institute of Environmental Studies, Kurukshetra University, Kurukshetra

Co-PI: Dr. Pooja Arora, Assistant Professor, Institute of Environmental Studies, Kurukshetra University, Kurukshetra

Introduction

Ambient-Air pollution has become an environmental problem of concern worldwide. Air pollution has many adverse impacts on economic and biological systems (human health, plants, and animals). According to WHO, India is among the world's most polluted countries. Out of the 20 most polluted cities in the world, 15 are in India. Air pollution is a major and growing risk factor for ill health in India, and has been associated with a multitude of health effects, including mortality, respiratory and cardiovascular hospitalizations, and changes in lung function and asthma attacks. The highest annual population-weighted mean $PM_{2.5}$ in India in 2017 has been reported in Delhi (209.0 µg/m³ [95% UI 120.9–339.5]), followed by Uttar Pradesh, Bihar, and Haryana in north India (range 125.7–174.7 µg/m³). Haryana also had a higher number of deaths attributable to ambient particulate matter pollution than attributable to household air pollution (GBD, 2017).

The air we breathe contains emissions from many different sources: industry, motor vehicles, crop residue burning, heating and commercial sources, household fuels as well as tobacco smoke. $PM_{2.5}$, PM_{10} and TSPM are the chief air pollutants in most of the cities of Haryana and pose various health risks. Kurukshetra is experiencing increase in the air pollution levels since last decade due to increase in transportation, industrial activities and crop residue burning. Tourism is also playing a crucial role in contributing towards air pollution.

Considering the past evidences of the effects of air pollution on health, the present study will assess the ambient air quality status in and around Kurukshetra city, Haryana.

Objectives

1. Identification of sources of air pollution in and around Kurukshetra City
2. Determination the level of pollutant concentrations (SO_2, NO_2, $PM_{2.5}$, PM_{10}) at selected sites.
3. Determination of Air Quality Index of selected sites.
4. Comparative analysis of obtained data with previous studies

Plan of Action

Site selection on the basis of sources of Air Pollutants

Setup of High Volume Air Sampler at selected sites.

Director
Institute of Environmental Studies
Kurukshetra University
Kurukshetra-136119

Particulate matter in ambient air will be collected on standard filter paper and gaseous sampling will be conducted in respective absorbing media for 8 hrs.

Samples data collected will be analysed in laboratory for (SO_2, NO_2, $PM_{2.5}$, PM_{10})

Data collected will be analysed statistically and will be processed to determine the Air Quality Index for Kurukshetra City

Methodology:

Pollutant	Methodology
Sulphur Dioxide (SO_2) µg/m³	Improved West and Gecko method
Nitrogen Dioxide (NO_2) µg/m³	Modified Jacob & Hochheiser (Na-Arsenite) Method
PM_{10} µg/m³	Gravimetric Method
$PM_{2.5}$ µg/m³	Gravimetric Method

Time Period: 6 Months

Budget Estimates

	Item	Rs. (Amount in lakhs)
A.	Recurring	
1.	Salaries/Wages (approx)	
	2 Project Fellow @ 18000/month (for 6 months)	2.16
2.	Consumable (Chemicals & Glassware)	2.0
3.	Equipment (High Volume Air Samplers- 2 nos)	4.0
4.	Travel	0.5
5.	Other costs/ Contingencies	0.5
	TOTAL	Rs. 9.16 lakhs

Director
Institute of Env... Management
Kurukshetra

Agenda Item no:- 185.5 Outsourcing of preparation of action plan regarding noise mapping, identifying hot spots and mitigation plan for control of noise pollution of Faridabad and Gurugram cities of Haryana –Reg.

The Hon'ble NGT vide order dated 15.03.2018 in the matter of OA no. 681 /2018 titled "Times of India" Authored by Shri Vishwas Mohan Titled "NCAP with multiple timelines to clean air in 10 cities to be released around August 15" has directed as follows;

> *We also direct CPCB to prepare noise pollution map and identify hotspots and categories the cities with specified hotspots and propose a remedial action plan. Such report may be furnished within three months by e-mail at ngt.filing@gmail.com. We are informed that in 7 cities noise monitoring mechanism has already been established by the CPCB which is functioning on continuous basis and is connected to the server of CPCB. The CPCB may consider setting up such mechanism in all the cities which are found to be having noise level above approved the threshold.*

The CPCB has identified 46 metropolitan cities for noise mapping and subsequently identification of hot spots. The Faridabad city has been identified by the CPCB pertaining to Haryana.

The CPCB has developed a methodology for formulation of noise mapping in consultation with NPL, NEERI and CRRI and a copy of the same is annexed at **Annexure-1.**

Accordingly the Chairman, CPCB has issued following directions under section 18 (1) (b) of the Air (Prevention and Control of Pollution) Act, 1981 to the Chairman, HSPCB vide file no. A-14011/I/2015-MON/3662 dated 21.06.2019 **(Annexure-2)** regarding noise mapping, identifying hotspots and mitigation plan for control of noise pollution:-

1. Action plan for preparation of Noise Mapping for the metropolitan city(ies) under your jurisdiction be prepared and executed by 30.11.2019 as per methodology formulated by CPCB.
2. Hot spots having violation of prescribed norms be identified and mitigation plans be prepared by 31.12.2019 so as to ensure compliance of Noise Pollution (Regulation and Control) Rules, 2000.
3. Reports on Noise Map(s) and Noise Mitigation action plan(s) be provided to CPCB by 31.12.2019 for submission to Hon'ble NGT.

In preparation of action plan for noise mapping, other departments like Municipal Corporation, State Police, Research and Academic Institutes, Non-Government Organisation and other departments are to be involved.

The cost of action plan for noise mapping may be more than Rs. 1 Lac for which tendering procedure is required to be adopted for outsourcing.

The matter is placed before the Board for approval of outsourcing the preparation of action plan regarding noise mapping, identifying hot spots and mitigation plan for control of noise pollution of Faridabad and Gurugram cities of Haryana by inviting tenders please.

Annexure-1 19

5/2/20

METHODOLOGY FOR FORMULATION OF NOISE MAPPING IN INDIA

1. BACKGROUND

Hon'ble NGT vide order dated 15.03.2019 in the matter of OA no. 681/2018 titled "Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" has issued numerous directions related to noise pollution. Hon'ble NGT in para 12 directed CPCB as:

> *We also direct CPCB to prepare noise pollution map and identify hotspots and categorize the cities with specified hotspots and propose a remedial action plan. Such report may be furnished within three months by e-mail at ngt.filing@gmail.com. We are informed that in 7 cities noise monitoring mechanism has already been established by the CPCB which is functioning on continuous basis and is connected to the server of CPCB. The CPCB may consider setting up such mechanism in all the cities which are found to be having noise level above approved the threshold.*

2. INTRODUCTION TO NOISE MAPPING

Noise map is a graphic representation of the sound Level distribution existing in a given region, for a defined period. It is similar to a contour map indicating the noise levels at different boundaries in an area. It is normally generated using computer software that calculates noise levels from input data such as traffic volume, speed, characteristics of road surface and nearby buildings as well as topography. Mapping can be made about individual noise sources i.e. road traffic, railway traffic, aircraft in flight or industry.

Noise maps are created not only to assess the environmental impact of traffic noise, but also for preliminary assessments of the effectiveness of noise control alternatives that can be adopted. Thus, the noise maps created are helpful for the management of environmental noise. The concept of noise mapping is a model shift from traditional methods of noise monitoring and control as it simulates the noise scenario and can be helpful in deciding noise control measures for reducing noise pollution in urban cities. In recent years, it has become an important and useful tool for environmental noise assessment and control.

3. AIMS AND OBJECTIVES

The objective of the Noise Mapping process is to establish country wide approach to avoid, prevent or reduce environmental noise where necessary and particularly

where exposure levels can induce harmful effects on human health, and to preserve existing good quality environmental noise levels. Noise pollution (Regulation and Control) Rules, 2000 are notified by MoEF & CC and responsibilities and restrictions are defined with authorities for further implementation. Under Noise Pollution (Regulation and Control) Rules, 2000, responsibilities are vested with State Governments, District Magistrate, Police Commissioner, or any other officer not below the rank of Deputy Superintendent of Police, as per detail given below:

1. Restriction on the use of Loud Speakers/Public Address system.
2. Restriction on the use of Horns, Sound emitting construction equipment and bursting of Fire crackers.
3. Prohibition of continuance Music Sound or Noise.

The Regulations identify and assign responsibilities to the particular organizations required to produce strategic noise mapping, and to those organizations responsible for the development of action plans. The Action Plan will endeavor to manage the existing noise environment and protect the future noise environment within the action planning area. Management of the existing noise environment may be achieved by prioritizing areas for which further assessment and possible noise mitigation may be required. Protection of the future noise environment may be achieved by acoustical planning, which further incorporates noise into the planning process via measures such as land-use planning, development planning, sound insulation measures, traffic planning and control of environmental noise sources. The benefits of noise mapping are as follows:

- To integrate Noise Action Plans into the City and Country Development Plan.
- To ensure compliance of Noise Rules, 2000 and mitigation are considered during the planning process.
- To ensure compliance with current and future policy and guidelines relating to environmental noise.
- To identify hot spots in the city and incorporation of noise mitigation measures.

4. LEGAL FRAMEWORK: EXISTING LEGAL PROVISIONS

1) Regulations

Standards have been fixed for most of the major sources of noise, as well as ambient level of noise in different category areas such as Silence Zone, Commercial, and Industrial & Residential Area.

The maximum permissible levels of Noise in Indian Cities notified by Ministry of Environment & Forests vide its notification no. S.O. 123 (E), (14-02-2000), Noise Pollution (Regulation & Control) Rules, 2000 is as follows:

Area Code	Category of Area/Zone	Limit in dB (A) Leq	
		Day	Night
A	Industrial Area	75	70
B	Commercial Area	65	55
C	Residential Area	55	45
D	Silence Zone	50	40

Note:

1. Day time shall mean from 6 AM to 10 PM
2. Night time shall mean from 10 PM to 6 AM
3. Silence Zone is defined as areas up to 100 meters around such premises as hospitals, educational institutes and courts. The Silence Zones are to be declared by competent authority. Use of Vehicular horns, loudspeaker and bursting of crackers shall be banned in these zones.
4. Mixed categories of areas may be declared as one of the four above mentioned categories by the competent authority.
5. Leq: It is an energy mean of the noise level over a specific period.

2. Noise limits for vehicles at manufacturing stage is attached at Annexure-I.

3. Rule 5A (1) of the Noise Pollution (Regulation and Control) Rules, 2000
Use of sirens and multi-toned horns on vehicles should be continued to be prohibited in the silence zone and during night time in the residential zone as prescribed under the Noise Pollution (Regulation and Control) Rules, 2000 except during a public emergency

4. Rule 119 (1) and (3) of the Motor Vehicles Rules, 1989
The sirens and multi tone horns shall be continued to be banned except for Police Van, Ambulance and Fire Brigades

5. Status of Vehicular Noise Standards w.r.t Horns & Sirens is attached at Annexure-II.

5. METHODOLOGY

The concept of noise mapping involves the use of the validated noise model and a GIS software [10, 14] for developing noise maps [9, 13]. In Indian scenario, there is no authorized model that can be used for noise predictions. In such a case, the simulation

process is sometimes difficult as the foreign models like CoRTN, RLS 90, FHWA TNM, HARMONOISE, Nord 2000 etc. may not predict the exact results [1]. Thus, in such case, it is vital to calibrate these models in Indian scenario or to develop noise prediction model based on Indian heterogeneous traffic conditions including honking for using them for noise mapping process [2, 3, 4, 6, 11, 12].

Thus, in Indian scenario, the following aspects pertaining to developing of noise maps for cities is recommended as follows:

a) Noise monitoring will be carried out as per Noise Pollution (Regulation & Control) Rules, 2000 and Amended in 2017.

b) Collection of primary data comprising of Traffic volume data, Vehicular Speed, road details (type, number of lane, surface material etc.)[5], Building Layout, metrological data and topographical data [7, 9].

c) Honking incidence should also be taken under consideration for manifest of hotspot of respective cities.

d) Sound level data for selected site shall include day equivalent level, L_{day} and night equivalent level, L_{night} as per the ambient noise standards. Other Noise indicators viz. L_{max}, L_{min}, L_{10}, L_{50}, L_{90} shall be considered. Traffic Noise Index (TNI) and Noise pollution Level (N_{LP}) shall also be measured [8]. Measurements will be made with a Type 1 integrating sound level meter with free-field microphone which meets the Accuracy of noise measurement as per IEC 804 (BS 6698) Grade I or ANSI Type I or equivalent IEC 61672-1(2002-05) Class-I.

e) A combined approach involving the use of noise monitoring terminals for noise monitoring of various sites and prediction of ambient noise levels for some points using interpolation algorithms may be exercised. The Nose Monitoring Terminals (NMTs) should be calibrated and traceable to the national-standards for accurate and precise results.

f) The sampling of the number of points for mapping the city may be decided on the basis of various aspects such as identification of the sensitive receptors and noise generating sources; dividing the area into suitable hot spots, grid based sampling and considering etc. In any case, the agency involved in noise mapping should present the selection of number of points in consultation with Municipal Corporations, State Police and State Pollution Control Boards, Research and Academic Institutes and Non-Government Organization.

g) Site in a city shall be selected such that each category (Industrial Commercial/ Residential/ Silence zone), of zone covered. At locations close to the major site activities (construction/vehicular traffics/industrial/trains/crackers) which are likely to have noise impacts. Close to the any domestic premises, hotel, hostel, temporary housing accommodation, hospital, medical clinic, educational institution, place of public worship, library, court of law, performing arts center etc. shall be considered for monitoring.

h) The development of noise maps should be helpful in deciding the noise control measures for reducing the ambient noise levels within the prescribed limits.

i) The use of foreign models needs to be validated as per Indian Scenarios for developing noise maps. In such scenario, the simulated results or noise map must be verified with actual measurements for at least some sites.

j) An assessment point is a physical location at which noise levels need to be calculated or measured for the purpose of producing data to comply with the requirements of the ambient noise standards of India. Such assessment points should reasonably provide a basis for noise scenario for all the four different zones in a particular city of India identified in ambient noise standards.

Exercise of Noise mapping is being carried out first time in such scale and therefore, it is recommended that maps shall be created considering above aspects and accordingly mitigation plan shall be devised.

After implementation of mitigation plan, noise map shall be revised with more precise scaling. This exercise shall be repeat every after 02 years to check the effectiveness of mitigation plan.

6. MAPPING AREA

Each time the Transport Agency initiates strategic noise mapping, the first decision will be the extent of the area to be mapped. There is not a set process for this, but relevant considerations may include:

a) Strategic importance: Areas of high strategic importance may warrant mapping.

b) Availability of data: Areas with high-quality geospatial data available may be better to group together.

c) Source of data: Minimizing the number of data sources may reduce the amount of pre-processing. (e.g. avoid crossing territorial authority boundaries).

d) Type of area: Urban areas defined by statistics or national census will include the areas of highest population density where strategic noise mapping might provide the most benefit. In other countries where strategic noise maps have been developed, they have primarily been for urban areas. This is because the greatest noise exposures and need for noise management generally occur in those areas.

e) Grid based sampling of area into equal sub-units

f) Area segmentation based on both source and sensitive receptors especially the silence zone and residential zone areas

g) Division of area based on road size/traffic flow/highway road/residential and other zones etc.

The strategy adopted can be either of the above approaches depending upon the city, site-specific conditions, economic, political and infrastructural constraints.

7. NOISE CONTROL MEASURES

The noise maps should be helpful in deciding the optimum noise control measures for reducing the ambient noise levels within the recommended ambient noise standards of India. The control measures could be: erection of noise barriers, application of poroelastic road surfaces, management of road traffic volume, prohibition of honking noise etc.

8. DELIVERABLES AND ENVISAGED BENEFITS

The agency involved in noise mapping should present the noise map of complete city in terms of the day and night equivalent noise levels. Also, a comprehensive report mentioning the hot spots identified, the range of ambient day and night levels and their compliance with the recommended ambient noise standards of India should be clearly pointed out.

The control measures should also be clearly identified and effect of such measures on the ambient noise levels using a simulated noise scenario should be presented so that suitable remedial measures can be planned by authorities. The control measures can be helpful in controlling the noise pollution in Indian cities and serve truly the purpose of noise mapping as directed by National Green Tribunal in orders dated 15.03.2019.

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5/10/18

ANNEXURE-I

Noise limits for vehicles applicable at manufacturing stage from year 2003

S.No.	Type of vehicle	Noise Limits from 1st January, 2003, dB(A)	Date of implementation
(1)	(2)	(3)	(4)
1.	Two wheeler		
	Displacement upto 80 cm³	75	1st January, 2003
	Displacement more than 80 cm³ but upto 175 cm³	77	
	Displacement more than 175 cm³	80	
2.	Three wheeler		
	Displacement up 175 cm³	77	1st January, 2003
	Displacement more than 175 cm³	80	
3.	Passenger car	75	1st January, 2003
4.	Passenger or commercial vehicle		
	Gross vehicle weight upto 4 tonne	80	1st July, 2003
	Gross vehicle weight more than 4 tonne but upto to 12 tonne	83	
	Gross vehicle weight more than 12 tonne	85	

Noise Limits for vehicles applicable at manufacturing stage applicable from 1st April, 2005

S.No.	Type of vehicle	Noise Limits from 1st January, 2003, dB(A)
1.0	Two wheeler	
1.1	Displacement more than 80 cc	75
1.2	Displacement more than 80 cc but upto 175 cc	77
1.3	Displacement more than 175 cc	80
2.0	Three wheeler	
2.1	Displacement upto 175 cc	77
2.2	Displacement more than 175 cc	80

3.0	Vehicles used for carriage of passengers and capable of having not more than nine seats, including the driver's seat	74
4.0	Vehicles used for carriage of passengers having more than nine seats, including the driver's seat, and a maximum gross Vehicle Weight (GVW) of more than 3.5 tonnes	
4.1	With an engine power less than 15 KW	78
4.2	With an engine power of 150 kW or above	80
5.0	Vehicles used for carriage of passengers having more than nine seats, including the driver's seat: Vehicles used for carriage goods.	
5.1	With maximum GVW not exceeding 2 tonnes	76
5.2	With maximum GVW greater than 3 tonnes but not exceeding 3.5 tonnes	77
6.0	Vehicles used for transport of goods with a maximum GVW exceeding 3.5 tonners.	
6.1	With an engine power less than 75 KW	77
6.2	With an engine power of 75 kW or above but less than 150 KW	78
6.3	With an engine power of 150 KW or above,	80"

ANNEXURE-II

STANDARDS FOR HORNS

Vehicular Noise Sources	VEHICULAR NOISE STANDARDS		Standard Code	Noise Limits/Standard
	Norms notified by	To be Implemented & complied by		
Horn as a component	Specification for horns etc (manufacturing & installation) by MoRTH	MoRTH (Traffic Police)	IS 1884-1992	85 dB for Type 1 horns 90 dB for Type 2A horns 100 dB for Type 2B horns and 105 dB for Type 3 horns
Horn installation			IS 15796-2008 (AIS 014)	Maximum sound pressure level when determined in accordance with method of test shall meet the following: a) between 83 dB(A) for horns fitted on 2 wheelers or 3 wheelers of a power less than or equal to 7 kW and b)between 93 dB(A) to 112 dB(A) for the horn fitted on all other motor vehicles including tractor, 2 wheelers and 3 wheelers of a power greater than 7 kW
Sirens			AIS 125 (National Ambulance Code)	Noise limits for sirens fitted on Ambulance are in the range of 110 dB (A) to 120 dB (A).

Annexure- 2

5/13/01

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

SPEED- POST

File No. A-14011/1/2015-MON 3682 FTMS-47924 Date: 21-06-2019

12/7/19

To,
The Chairman,
Haryana Pollution Control Board,
C-11, Sector 6, Panchkula,
Haryana

CHAIRMAN
15/7/2019

Arch. Air Cell

DIRECTIONS UNDER SECTION 18 (1) B OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT,1981 REGARDING NOISE MAPPING, IDENTIFYING HOT SPOTS AND MITIGATION PLAN FOR CONTROL OF NOISE POLLUTION.

WHEREAS, Under Section 17 (1) (a) of the Air (Prevention and Control of Pollution) Act, 1981, one of the functions of the State Pollution Control Boards (SPCBs)/Pollution Control Committees (PCCs) is to plan a comprehensive programme for prevention, control or abatement of air pollution in the State and to secure the execution thereof; and

WHEREAS, Under section 2(a) of Air (Prevention and Control of Pollution) Act, 1981 noise is defined as air pollutant; and

WHEREAS, as per the Noise Pollution (Regulation and Control) Rules, 2000 notified under Environment (Protection) Act, 1986, following responsibilities are vested with CPCB and SPCBs:

1. The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule, and
2. The respective State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs) in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.

3. The designated authority shall be responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise.

WHEREAS, Hon'ble NGT vide order dated 15.03.2019 in the matter of OA no. 681/2018 titled "Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" has directed as follows:

> *We also direct CPCB to prepare noise pollution map and identify hotspots and categorize the cities with specified hotspots and propose a remedial action plan. Such report may be furnished within three months by e-mail at ngt.filing@gmail.com. We are informed that in 7 cities noise monitoring mechanism has already been established by the CPCB which is functioning on continuous basis and is connected to the server of CPCB. The CPCB may consider setting up such mechanism in all the cities which are found to be having noise level above approved the threshold.*

WHEREAS, CPCB has identified 46 metropolitan cities for noise mapping and subsequently identification of hot spots. List of such 46 cities is annexed; and

WHEREAS, CPCB has developed a methodology for formulation of noise mapping in consultation with NPL, NEERI and CRRI and a copy of the same is annexed. This methodology be adopted for noise mapping for further execution.

NOW, THEREFORE, in view of the above stated facts and compliance of Hon'ble NGT directions, following directions are hereby issued to the Chairman, Haryana Pollution Control Board in exercise of the powers delegated to the Chairman, CPCB under Section 18 1(b) of Air (Prevention and Control of Pollution) Act, 1981:

1. Action plan for preparation of Noise Mapping for the metropolitan city(ies) under your jurisdiction be prepared and executed by 30.11.2019 as per methodology formulated by CPCB.
2. Hot spots having violation of prescribed norms be identified and mitigation plans be prepared by 31.12.2019 so as to ensure compliance of Noise Pollution (Regulation and Control) Rules, 2000.

3. Reports on Noise Map(s) and Noise Mitigation action plan(s) be provided to CPCB by 31.12.2019 for submission to Hon'ble NGT.

Haryana Pollution Control Board shall acknowledge the receipt of this direction within 15 days and shall communicate the action plan in the matter by 30.06.2019.

(S P Singh Parihar)
Chairman

5/16/84

LIST OF 46 METROPOLITAN CITIES

Sl. No. (City)	City	Sl. No. (State)	State
1.	Vishakapatnam	1	Andhra Pradesh
2.	Vijaywada		
3.	Patna	2	Bihar
4.	Raipur	3	Chhattisgarh
5.	Delhi	4	Delhi
6.	Ahmedabad	5	Gujrat
7.	Rajkot		
8.	Surat		
9.	Vadodra		
10.	Faridabad	6	Haryana
11.	Dhanbad	7	Jharkhand
12.	Ranchi		
13.	Srinagar	8	Jammu & Kashmir
14.	Bengaluru	9	Karnataka
15.	Bhopal	10	Madhya Pradesh
16.	Gwalior		
17.	Indore		
18.	Jabalpur		
19.	Thane	11	Maharashtra
20.	Mumbai		
21.	Navi Mumbai		
22.	Pimpri-Chinchwad		
23.	Kalyan Doubivali		
24.	Aurangabad		
25.	Nagpur		

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Sl. No. (City)	City	Sl. No. (State)	State
26.	Nashik		
27.	Pune		
28.	Vasai-Virar		
29.	Amritsar	12	Punjab
30.	Ludhiana		
31.	Jaipur	13	Rajasthan
32.	Jodhpur		
33.	Kota		
34.	Hyderabad	14	Telangana
35.	Coimbatore	15	Tamil Nadu
36.	Chennai		
37.	Madurai		
38.	Agra	16	Uttar Pradesh
39.	Allahabad		
40.	Ghaziabad		
41.	Kanpur		
42.	Lucknow		
43.	Meerut		
44.	Varanasi		
45.	Kolkata	17	West Bengal
46.	Howrah		

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Agenda Item 185.6

Amendment in the category of industrial sector categorized as "Floor Mills / Atta Chakki" in the categorization of industrial sectors/projects issued vide order Endst. dated 26.02.2018 for consent management under Water Act, 1974 and Air Act, 1981.

The Board in its 178th meeting held on 30.01.2018, vide agenda item no. 178.22 has approved the revised procedure for grant and refusal of consent to establish and consent to operate under Water Act, 1974 and Air Act, 1981 alongwith the list of industrial sectors/projects covered under Red, Orange, Green and White categories based upon the range of pollution index, for the purpose of consent management as per the revised criteria issued by the CPCB for the same through its modified directions issued under section 18 (1) (b) of Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 vide letter no. B29012/ESS(CPA)/2015-16/8571 dated 07.03.2016.

The Board vide Head Office order Endst. No. HSPCB/2018/517-546 dated 26.02.2018 **(Annexure-I)** has issued consent procedure for grant of consent to establish and consent to operate under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 in supersession of earlier procedure issued vide Head Office order Endst. No. HSPCB/2014/10195-10218 dated 07.03.2014.

The consent management branch dealing with Ballabgarh Region in Head Office sought the clarification regarding categorization of Atta Chakki, as same does not find mention under any of the categories of industrial sectors/projects categorized under Red, Orange, Green and White Category.

The matter was examined by the committee constituted for categorization of industrial sectors/projects for consent management, in its meeting held on 01.07.2019 and based upon the recommendation of the committee, it has been decided that in the categorization of industrial sectors/projects issued vide order Endst. No. HSPCB/2018/517-546 dated 26.02.2018 (Annexure-I) the industrial sector"Floor Mills (dry process) at Sr. No. 20 under Green Category of industrial sectors/projects may be replaced with"Floor Mills / Atta Chakki (dry process) for commercial use (having wheat cleaning process and fugitive dust)" and Atta Chakki used for personal use with dry process without involving wheat cleaning process and fugitive dust emission may be added under white category at sr.no.44.

The matter is placed before the Board for consideration and approval for replacing"Floor Mills (dry process) at Sr. No. 20 under Green Category of industrial sectors/projects with"Floor Mills / Atta Chakki (dry process) for commercial use (having wheat cleaning process and fugitive dust)" and Atta Chakki used for personal use with dry process without involving wheat cleaning process and fugitive dust emission may be added under white category at sr.no. 44' in the categorization of industrial sectors/projects issued vide order Endst. No. HSPCB/2018/517-546 dated 26.02.2018, so that necessary orders can be issued for implementation of the same.

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Annexure-5

6/2/87

HARYANA STATE POLLUTION CONTROL BOARD
C-11 Sector-6, Panchkula
Ph – 0172 577870-72, Fax No. 2561201
E-mail- hspchq@gmail.com

Office Order

Whereas, procedure for grant and refusal of consent to establish and consent to operate under Water Act, 1974 & Air Act, 1981 was issued vide Head Office order Endst. No. HSPCB/2014/10193-10218 dated 07.03.2014 which was notified in the Haryana Government Gazette on 15.04.2014;

Whereas, Industries and Commerce Department Haryana has Notified Haryana Enterprise Promotion Policy 2015 vide Notification No. 49/43/2015-4IB1 dated 14.08.2015 which envisages for simplification of procedure for obtaining the clearances from various Departments by the Industries. Further Department of Industrial Policy and Promotion, Ministry of Commerce and Industries, Government of India has also laid emphasis on "Ease of Doing Business" for providing efficient, convenient, transparent and integrated electronic services to the applicants seeking clearances from various Govt. Departments and the Business Reform Action Plan 2016 and 2017 has been issued by Industries and Commerce Department;

Whereas, in compliance of the above said Haryana Enterprise Promotion Policy 2015 and Business Reform Action Plans 2016 and 2017 for ease of doing business in the State, the Board has altered and amended the policy for dealing with the applications of entrepreneurs for grant of clearances under various Environmental Acts/Rules and accordingly issued the various policy orders from time to time;

Whereas, further Central Pollution Control Board (CPCB) has superseded the earlier directions issued in June, 2012 in context to categorization of industrial sectors and revised the categorization of industrial sectors under Red, Orange, Green and White categories based upon the range of pollution index, through modified directions issued under section 18 (1) (b) of Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 vide letter no. B-29012/ESS(CPA)/2015-16/8571 dated 07.03.2016 for the purpose of consent management under these Acts;

Whereas, based on the revised criteria of categorization of industrial sectors and revised lists of Red, Orange, Green and White categories of industrial sectors as mentioned in the final report attached with the above said modified directions of the CPCB and further based on report and recommendations submitted from time to time by the committee constituted by this Board on 01.07.2016 as per provisions of the said CPCB directions, consolidated list of industrial sectors/ projects covered under Red, Orange, Green and White categories, was finalized for the purpose of consent management under Water Act, 1974 and Air Act, 1981 which has been adopted and implemented by the Board vide order Endst. No. HSPCB/PLG-136/2016/546-572 dated 14.07.2016 in supersession of earlier categorization of industrial sectors/projects notified by the Board vide notification dated 15.04.2014 and further amendments issued thereafter from time to time in the categorization of industrial sector;

Whereas, in view of the above and various decisions taken by the Board from time to time after issue of the procedure for consent management through notification dated 15.04.2014 as mentioned above, it has become expedient to issue a comprehensive procedure for processing the applications for grant of consent to establish and consent to operate under Water Act, 1974 and Air Act, 1981 in supersession of earlier procedure issued through the said notification dated 15.04.2014;

Whereas, the Technical Advisory Committee (TAC) of the Board in its meetings held on 10.08.2017, 09.10.2017 and 16.11.2017 examined and finalized the revised comprehensive procedure for grant and refusal of the consent to establish and consent to operate under Water Act, 1974 and Air Act, 1981, after incorporating all the policy orders and instructions and new categorization of industrial sectors issued by the Board from time to time and the recommendations of TAC were accepted by the competent authority of the Board;

Whereas, the Board in its 175th meeting held on 30.01.2018, vide agenda item no. 178.22 has approved the above procedure for grant and refusal of consent to establish and consent to operate

under Water Act, 1974 and Air Act, 1981, finalized by the TAC of the Board which is enclosed as Annexure-P.

In view of above and in pursuance of the provisions of section 25, 26 and 27 of Water (Prevention and Control of Pollution) Act, 1974 read with Rule-22 of the Haryana Water (Prevention and Control of Pollution) Rules, 1978 and section 21 of the Air (Prevention and Control of Pollution) Act, 1981 read with Rule 15 of the Haryana Air (Prevention and Control of Pollution) Rules, 1983 as amended from time to time, it is hereby ordered that in supersession of earlier procedure for grant of consent to establish and consent to operate under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 issued vide Head Office order Endst. No. HSPCB/2014/10195-10218 dated 07.03.2014 notified in the Haryana Government Gazette on 15.04.2014 and all other orders issued in this regard before issue of this procedure, the revised procedure attached herewith as Annexure-P shall be applicable in the Board for grant and refusal of consent to establish and consent to operate under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

These orders shall come in to force with immediate effect.

Ashok Khetarpal,
Chairman

Dated Panchkula, the
22nd February, 2018

Dated: 26.02.2018

Endst. No. HSPCB/2018/517-519

A copy of the above is forwarded to the following for information please:-

1. The Principal Secretary to Govt. Haryana, Industries & Commerce Department Chandigarh.
2. The Principal Secretary to Govt. Haryana, Environment Department, Chandigarh.
3. The Director, Environment Department, Chandigarh.

-Sd/-
Sr. EE-I (HQ)
For Chairman

Dated: 26.02.2018

Endst. No. HSPCB/2018/520-544

A copy of the above is forwarded to the following for information and further necessary action:-

1. All section Incharges dealing with consent management in Head Office of the Board.
2. All Regional Officers of the Board in the field.
3. Environmental Engineer -cum- Nodal Officer of the HSPCB, Haryana Enterprises Promotion Centre (HEPC) Bay No. 63-64-65-66, Sector 2, Panchkula.
4. Nodal Officer (IT) for uploading the orders on the website of the Board for the notice of all concerned.

-Sd/-
Sr. EE-I (HQ)
For Chairman

Dated: 26.02.2018

Endst. No. HSPCB/2018/545-546

A copy of the above is forwarded to the following for information of the officers:-

1. PS to Chairman
2. PA to Member Secretary

-Sd/-
Sr. EE-I (HQ)
For Chairman

Annexure-P

Haryana State Pollution Control Board

Procedure for obtaining consent to establish and consent to operate under Water Act, 1974 & Air Act, 1981.

In pursuance of the provisions of section 25, 26 and 27 of Water (Prevention and Control of Pollution) Act, 1974 read with Rule 22 of the Haryana Water (Prevention and Control of Pollution) Rules, 1978 and section 21 of the Air (Prevention and Control of Pollution) Act, 1981 read with Rule 15 of the Haryana Air (Prevention and Control of Pollution) Rules, 1983 as amended from time to time and approval of the Board in its 178th meeting held on 30.01.2018, vide agenda item no. 178.22, the following revised comprehensive procedure for grant and refusal of the consent to establish and consent to operate under Water Act, 1974 and Air Act, 1981 after incorporating all the policy orders and instructions and new categorization of industrial sectors issued by the Board from time to time, is laid down in supersession of earlier procedure for grant of consent to establish and consent to operate under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 issued vide Head Office order Endst. No. HSPCB/2014/10195-10218 dated 07.03.2014 notified in the Haryana Government Gazette on 15.04.2014 and all other orders issued in this regard before issue of this procedure:-

1. General Provisions.

1.1 All the industrial sectors/projects have been categorized under Red, Orange, Green and White categories based upon their pollution potential and range of pollution index for the purpose of consent management under Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of pollution) Act, 1981 on the direction of CPCB issued under section 18 (1) (b) of Water Act, 1974 and Air Act, 1981 vide letter no. B-29012/ESS(CPA)/2015-16 /8571 dated 07.03.2016 in supersession of earlier categorization of industrial sectors/projects issued vide notification dated 15.04.2014 and amended from time to time. The revised list of industrial sectors/projects categorized under Red, Orange, Green and White categories for the purpose of consent management and inventrization of industries under these categories under Water Act, 1974 and Air Act, 1981, has already been adopted by this Board and implemented vide Head Office order Endst. No. HSPCB/PLG-135/2016/546-572 dated 14.07.2016 and subsequently vide order Endst. No. HSPCB/PLG-171/2017/4081-4106 dated 19.05.2017 and Endst. No. HSPCB/PLG-171/2017/4295-4320 dated 08.06.2017 and consolidated lists of industrial sectors/projects covered under Red, Orange, Green and White categories, are given at Annexure-I to IV respectively.

1.2 The industries/projects categorized as Red, Orange and Green, have been covered under consent management for obtaining prior consent to

establish (CTE) and consent to operate (CTO) under section 25/26 of the Water Act, 1974 and under section 21 of the Air Act, 1981.

1.3 The industrial units/projects falling under white Category as per **Annexure-IV**, are exempted from Consent Management for the purpose of obtaining CTE and CTO under Water Act, 1974 and Air Act, 1981 and there is no necessity for obtaining the CTE and CTO by the industries covered under white category and other units not covered under Red, Orange and Green categories and intimation to the Board in this regard shall suffice.

However, this type of units will have to provide required pollution control devices to meet the prescribed standards for discharge of environmental pollutants, where ever required, depending upon their process and activities and these industrial units/projects shall be governed by self regulatory regime and are not permitted to pollute the environment.

No inspection of White category of industries will be carried out by the Board officials except in the cases where any complaint is received against such type of industries for causing pollution.

1.4 The industries/ projects already existing and not covered previously under consent management as per notification dated 15.04.2014 or earlier but have been covered under consent management now as per new categorization of industrial sectors appended with this procedure, shall obtain only CTO and will not require to obtain the CTE.

1.5 Siting of the industries / projects shall be only in confirming areas and no industry/project shall be permitted to establish or operate in the ecologically fragile area / protected area or in any non confirming areas or in the residential areas of MCs / HUDA / villages and in any other approved residential colonies / areas.

1.6 The units covered under Environment Impact Assessment (EIA) Notification dated 14.09.2006, as amended from time to time, shall apply for Consent to Establish to the Board only after obtaining prior Environmental Clearance from the Competent Authority.

1.7 The industrial units/projects falling in the area prescribed in the Aravali Notification dated 7th May, 1992 issued by MoEF & CC, shall require prior clearance from competent authority prescribed under the Aravali Notification, before applying to the Board for CTE or 1st CTO in case of new units covered under consent management as per new categorization of projects listed in this procedure.

1.8 The report regarding siting of the projects outside the Aravali area in the Districts of Gurgaon & Mewat, shall also be taken for the purpose of Consent to Establish (CTE) or first CTO in case of new units covered under consent management as per new categorization of projects listed in this procedure, from Tehsildar and District Forest Officer through the concerned Deputy Commissioner, to ensure the compliance of the provisions of Aravali Notification dated 7th May, 1992 in addition to other prescribed documents.

However, in case of industrial units/projects located in approved industrial estates/approved HUDA sectors of District Gurgaon and Mewat, verification report in this regard would be required from Regional Officer concerned.

1.9 The projects falling in the revenue estates, covered in ambit of the Notification no. 191(E) dated 27.08.2010 issued by Ministry of Environment, and Forest, Government of India regarding protected area of Sultanpur National Park in District Gurgaon, shall comply with the provisions of said Notification and will obtain the prior permission/clearance of the Monitoring Committee and the Prescribed Authority constituted under the said Notification before submitting the application for CTE to the Board.

Prior permission/clearance from competent authority shall also be required in case of other similar protected areas declared by the MoEF & CC, Government of India or any prescribed authority from time to time.

1.10 For obtaining CTE in case of the Hot Mix Plants, Screening Plants, Grinding/pulverizing units, poultry farms and Stone crushers, the project proponents will also submit the distance report regarding the siting parameters prescribed by the Government of Haryana, Environment Department for these projects, provided by the concerned authorities prescribed in the respective notifications, in addition to other prescribed documents for obtaining CTE, to ensure the compliance of the prescribed siting parameters before grant of the CTE.

1.11 The units proposed to be setup outside approved industrial areas/estates, will necessarily provide the information in the application form regarding detail of land i.e. Khasra/Kila nos. of the land where the unit has to be established. In case of approved industrial area/estates, the plot no. allotted by the concerned authority will have to be mentioned in the application. The detail of land or plot no. of the unit will be mentioned in the CTE to be granted by the Board.

1.12 CTE will be granted only for the product (s) or activities for which the plot has been allotted or CLU permission has been given by the concerned authorities.

1.13 All the units shall provide all necessary facilities for sampling of air or emission from any of their chimney, flue or duct, plant or Vessel of any other sources and outlets, stationery are mobile including necessary facilities for access to the sampling places, as specified by the Board before applying for first CTO as per provisions of Rule 18 of Haryana Air (Prevention and Control of Pollution) Rules, 1983 as amended from time to time.

1.14 The performance security deposited along with the application for CTE, shall be refunded / retired on the recommendation of concerned Regional Officer automatically without taking any request from the units in this regard, after installation of the required and adequate pollution control devices, compliance of all the conditions of CTE & first CTO and submission of

satisfactory analysis reports of effluent/ air emissions/ noise levels, as applicable, from all sources within the stipulated time period prescribed in first CTO, showing all the results complying with the standards prescribed for discharge of pollutants under EP Rules, 1986 and/or laid down by the HSPCB if any.

The performance security so deposited will be forfeited in case the unit fails to comply with any of the conditions of CTE or first CTO or the standards prescribed by the Board / under EP Rules, 1986 for discharge of Environmental Pollutants or if 1st CTO is refused.

1.15 The consent to operate can be granted even to those units which have past violation of their establishment without obtaining CTE provided these type of units are complying with all the relevant provisions of Environmental Acts/Rules and standards for discharge of environmental pollutants prescribed under EP Rules, 1986 as applicable, subject to the legal action is taken against such units by filing the prosecution case in Special Environment Court for such past violations under relevant Acts before granting of CTO and subject to imposing a specific condition that CTO so granted is without prejudice to the action taken for prosecution in respect of past violation committed by the unit and CTO so granted will have no effect on the persecution case filed by the Board against such units for past violation in the Court under the relevant provisions of the Water Act, 1974 and/or Air Act, 1981.

No ex-post facto CTE will be given in such cases of past violation as no such provisions is available in Water Act, 1974 and/or Air Act, 1981.

1.16 In case the unit is covered under Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016, E-Waste (Management) Rules, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016, it shall simultaneously apply for the grant of authorization/registration under the relevant provisions of these Rules.

1.17 The units which intend to increase in quantity of effluent or no. of outlets or no. of stacks/ source of emissions, as compared with the quantity for which consent to establish and consent to operate was previously granted or intend to make any expansion in the existing project or change in manufacturing process, such units will obtain the fresh prior consent to establish, for such change.

In case of change of machinery of latest technology in existing units without increase in production or without any change in the manufacturing process, there will be no need to obtain fresh CTE.

1.18 All the applications for CTE and CTO shall be processed within time period prescribed by the Board for all the concerned officers dealing with the consent management at Regional as well as at Head Office level and it will

be ensured by all the concerned officers that the applications are decided within the time limit prescribed by the Board.

1.19 Thrust will be given that all units obtain CTO for 5 years in case of Red category, 10 year in case of Orange category and 15 years in case of Green Category of industries.

1.20 In case any unit changes its nomenclature (name) only, then such unit will apply on the prescribed performa given at Annexure-A, through the concerned Regional Office of the Board for grant of permission for change of its name in CTE/CTO and in other records of the Board, alongwith the documents as given in the Checklist of the documents given at serial no. 1 of Annexure-1.

Regional Officer will submit the details and his recommendation to Head Office for approval on the prescribed performa given at Annexure-B.

In case there is only change in the ownership of the unit without change in its nomenclature (name), the copy of fresh memorandum of article & association or partnership deed or proof of proprietorship, as the case may be, shall be submitted through the concerned Regional Office who in turn will forward a copy of the same to Head Office alongwith his comments.

1.21 Where a unit, to whom consent has been granted by the Board, transfers his interest in the industry to any other person/unit, by its sale or otherwise, such consent shall be deemed to have been granted to such other person/unit after grant of permission by the Board for the same and such other person/unit shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to such other person/unit originally.

In such cases the unit transferring his interest in the industry to any other person/unit, will intimate the Board for the same through concerned Regional Office and request to allow transfer of his interest in the industry on the prescribed format given at Annexure-C alongwith the documents as given in the Checklist of the documents given at serial no. 2 of Annexure-1.

Regional Officer will submit the details and his recommendation to Head Office for approval on prescribed performa given at Annexure-D.

1.22 Where an existing unit is purchased or taken on lease by another unit and the new unit apply to the Board for grant or renewal of CTE/CTO in his name such units will first obtain the permission for change of name and other details of the existing unit, purchased or taken on lease by such units, in the record of the Board including transfer of interest of such industry in their name for which an application for the same on the prescribed performa given at Annexure-C, alongwith the documents as given in the Checklist of the documents given at serial no. 2 of Annexure-1, through concerned Regional Office.

Regional Officer will submit the details and his recommendation to Head Office for approval on the prescribed performa given at **Annexure-D.**

1.23 Applications for change of name of the unit or transfer of interest in the industry to any other person/unit, will be decided at the level of Head Office on the recommendation of concerned Regional Officer.

The concerned Branch in Head Office dealing with consent management, will submit the proposal to the authorities on the format on the prescribed performa given at **Annexure-E** for approval.

1.24 First CTO for expansion of projects, shall be valid for a period up to which the CTO for their existing project already stand granted and in case 1st CTO for expansion project is applied alongwith the application for renewal of CTO for existing project then validity of such CTO shall be the same for both expended and existing projects.

1.25 The provisions of inspection policy issued by the Board shall be strictly complied.

1.26 No unit shall be established and operated by any person without obtaining prior CTE and CTO respectively under Water Act, 1974/ Act, 1981 from the Board. If the unit after grant of CTE/CTO, intends to shift to another site/location then it will take the fresh CTE for the establishment at the new site/location.

2. Procedure for grant of consent to establish (CTE) for new units

2.1 Consent to Establish for new units

2.1.1 The new industrial units/projects falling under Red, Orange and Green Categories listed as **Annexure-I, II & III** respectively, shall apply for Consent to Establish of the Board through the on-line portal of Haryana Enterprises Promotion Centre (HEPC), in the prescribed form alongwith requisite NOC/CTE fee as prescribed by the Board from time to time and will be deposited through online payment gateway as per fees schedule available on the website of the Board i.e. hspcb.gov.in

2.1.2 Application shall be submitted by the authorized official of the industry/project, duly authorized by the owner/Board of directors / partners of the unit.

2.1.3 All documents applicable for respective industrial units/ projects mentioned in the checklist given at **Annexure-V**, will be submitted by the units while applying for CTE, by uploading the same on the online portal.

2.1.4 The units while submitting the application for obtaining CTE, shall also submit a performance security through online payment gateway as per the slab given at **Annexure-VI** or revised from time to time,

alongwith undertaking by the applicant as per specimen given at Annexure-VII, signifying adherence to the prescribed standards, all the conditions of CTE and indicating awareness about the provisions of the Water Act, 1974/Air Act, 1981 and applicable Rules and self certification regarding not starting of any construction or installation work at site.

2.1.5 No inspection is required for the purpose of dealing the cases of CTE unless any violation come to the notice of the Board and undertaking/self certification submitted by the unit, will be considered sufficient to decide the CTE applications, subject to submission of complete application alongwith prescribed documents, consent fee and performance security.

2.1.6 If at any stage it is found that the work at the site of the unit was/has been started for construction of plant and installation of machinery before obtaining the consent to establish under Water Act, 1974 and Air Act, 1981 from the Board, legal action will be taken in that case against such units by filing the prosecution case in Special Environment Court for such violations under relevant provisions of the said Acts before or even after grant of CTE, as the case may be.

2.1.7 The validity period of CTE so granted by the Board will be as under:-

(I). The CTE for the projects requiring Environmental Clearance, shall be granted for a period upto 07 years subject to the validity of Environmental Clearance or the date of commissioning of the project, whichever is earlier.

(II). The CTE, for the projects not requiring Environmental Clearance, shall be granted for a period upto 05 years including stone crushers, hot mix plants, screening plants, brick kilns etc. or the date of commissioning of the project, whichever is earlier.

2.2 Renewal/Extension of Consent to Establish

2.2.1 The units intending for auto renewal of their CTE from the Board, shall apply through online portal of HEPC at least 90 days prior to the date of expiry of the period of previous CTE, in prescribed Performa with declaration and undertaking as per Annexure-VIII alongwith the prescribed CTE/NOC fees and documents prescribed for extension of CTE as per checklist given in Annexure-V.

2.2.3 This application shall be submitted by the authorized official of the industry/project, duly authorized by the owner/board of directors / partners of the unit.

2.2.4 The consent to establish will be renewed on the basis of self certification only in those cases where there is no change in the raw

material, process, product, increase in overall capital investment cost on land, building, plant and machinery, production capacity and also in pollution load of the unit and will remain the same as declared by the unit in its original application submitted earlier to the Board for obtaining first CTE.

2.2.5 The CTE will be renewed only once and for a period of maximum 02 years from the date of expiry of the period of first CTE granted subject to validity of EC if applicable.

2.2.6 The units where the CTE has earlier been granted as per provisions of policy notification dated 15.04.2014 and/ or extended upto the eligible period as prescribed in the said notification or less, these units will apply for renewal of CTE for remaining period as applicable as per provisions prescribed in this procedure in Para no. 2.1.5 plus another 02 years (Subject to validity of EC if applicable.

2.2.7 The facility for renewal of CTE can be availed for one term only subject to payment of requisite NOC/CTE fees. Such units will deposit requisite NOC/CTE fees for renewal of consent to establish only applicable for one time alongwith the application for auto renewal.

2.2.8 In case the unit fails to apply for renewal of CTE before 90 days of expiry of CTE and apply there after upto the date of expiry of CTE then 50% performance security deposited by the unit at the time of obtaining the first CTE, will be forfeited and such units will be required to deposit the forfeited amount of performance security along with application for renewal of CTE. In case of the units which fail to apply for renewal of CTE within the validity period of previous CTE, 100% performance security will be forfeited and direction will be issued to such units by the Board to stop the further construction and installation work of their project.

The units which fail to apply for renewal of CTE within validity period of previous CTE, shall apply afresh along with all relevant documents, NOC/CTE fees and fresh performance security required for grant of fresh CTE with documentary proof that they have not done any work for construction or installation of machinery after expiry of validity period of CTE.

Where ever it come to the notice of the Board at any stage that any unit, applied for extension of CTE or has been extended the CTE, has done any construction or machinery installation work after expiry of validity of CTE, legal action under the relevant provisions of Water Act, 1974 and/or Air Act, 1981 will be taken against such units in that case for such violation.

2.2.9 Inspection will not be carried out by the Board's officers for processing the applications for extension/renewal of CTE, except in the cases where any complaint or report has been received in the Board regarding any violation made by the unit.

2.2.10 Those units which have been granted CTE but do not want to continue the work for construction and installation of their project beyond the validity period of their CTE, shall submit an undertaking in this regard to the Board, at least 30 days prior to the date of expiry of previous CTE, on prescribed format given at Annexure IX, giving the detail about the status of their project constructed and established till the date of submission of such undertaking.

Such units will not start the work for further construction/ installation of their project, without obtaining prior CTE for remaining work of establishment of their project and shall apply for extension as per policy, as and when it is intended to resume the remaining construction/installation work of this project, alongwith the required documents prescribed for extension of CTE, CTE/NOC fees as applicable and self declaration to the effect that they have not done any work at site or construction or installation of machinery after expiry of validity of previous CTE granted by the Board. In case any violation in this regard come to the notice of the Board at any stage then CTE will be refused/cancelled beside taking legal action.

No fresh performance security will be required for such type of cases.

2.2.11 In case of building & construction projects or township and area development projects, where the validity period of license issued by Town & Country Planning Department expired after grant of CTE and applied for renewal/extension of CTE without renewal of such license, the CTE for such projects will be extended till the validity of Environmental Clearances of such projects, subject to submission of all required documents prescribed for renewal of CTE and subject to submission of proof regarding submission of their application to Town and Country Planning Department for renewal of their license, with one of the specific condition that the unit will not do any construction work of their project till the renewal of license from Town & Country Planning Department and the extension of CTE so granted will become null & void if such units fail to renew their license for their project from Town & Country Planning Department. The copy of extension of CTE so granted will also be forwarded to Director, Town & Country Planning Department for their information and necessary action.

2.3 Consent to Establish for Expansion of the industries/projects

2.3.1 No expansion in the existing industries/projects covered under consent management will be done without prior CTE of the Board.

2.3.2 For expansion of the existing industrial units/projects falling under Red, Orange and Green Categories, the application shall be submitted

for Consent to Establish of the Board under Water Act, 1974 and Air Act, 1981 through the on-line portal of the HPPC in the prescribed form alongwith documents related to CTE for expansion projects as per checklist given in **Annexure-V**, applicable performance security as per the slab given at **Annexure-VI** and requisite NOC/CTE fee prescribed by the Board as per fees schedule available on the website of the Board. The performance security and NOC/CTE fees should be deposited through online payment gateway.

2.3.3 The performance security and CTE fees for expansion projects shall be charged based on the cost of the expansion project.

In case the project proponent proposes to increase the production capacity within the existing plant without adding any investment cost, then the performance security and CTE fees shall be charged on the basis of capital investment cost of the existing plant.

2.3.4 Application shall be submitted by the authorized official of the industry/project, duly authorized by the owner/Board of directors / partners of the unit.

2.3.5 Inspection will not be carried out for processing the cases of CTE for Expansion of the Industries/projects and cases of CTE for expansion will be decided on the basis of status of compliance of standards for discharge of Environmental Pollutants prescribed under EP Rules, 1986, for the existing plant of the unit supported with the latest analysis reports and valid consent to operate.

2.3.6 Period of CTE for expansion projects, shall be same as applicable for establishment of new units at the time of Ist CTE as well as renewal of CTE as prescribed in para no. 2.1 and 2.2 respectively.

2.3.7 For extension/renewal of CTE granted for expansion projects, the procedure prescribed in para no. 2.2, shall be applicable.

3. Procedure for Grant of Consent to Operate

3.1 First Consent to operate

3.1.1 The industrial units/projects falling under Red, Orange and Green Categories listed in Annexure-I, II & III respectively, after completing the construction and installation of their project with valid CTE, shall apply for 1st consent to operate of the Board before commissioning their proposed production/activities and even before starting the trial run of such activities/trial production, through the online portal of the HSPC in the prescribed form alongwith all documents, applicable for respective industrial sectors/projects, mentioned in the checklist given at Annexure-X and report on compliance of conditions of CTE and Environmental Clearance (if applicable) by uploading the same on the online portal. No documents are allowed to be submitted manually.

3.1.2 Application shall be submitted by the authorized official of the industry/project, duly authorized by the owner/Board of directors / partners of the unit.

3.1.3 Requisite consent fee, as prescribed by the Board from time to time, shall also be deposited by the units while applying for CTO, through online payment gateway, as per schedule available on the website of the Board i.e. www.hspcb.gov.in.

3.1.4 The application shall be submitted for grant of CTO for a period, based upon the category of the project, as prescribed by the Board. However the units shall be at liberty to apply for consent to operate for lesser period also, by giving the justification for the same.

3.1.5 No separate trial consent will be granted and 1st consent to operate will include trail consent. The units can operate their projects only after obtaining prior CTO from Board.

3.1.6 At the time of obtaining 1st CTO, the industries will deposit the prescribed testing fees with the Board through online payment gateway for analyzing their samples of effluent/air emission/noise, as applicable, from the Board's laboratories. Analysis reports issued from the authorized laboratories will not be accepted for grant of first CTO.

3.1.7 Inspection of the industry will be carried out by the authorized officer/ officers of the Board before commissioning of the production in the unit and before giving the 1st CTO, after approval from the Competent Authority, to ascertain the status regarding installation of pollution control measures/ devices undertaken at the time of obtaining the CTE, as well to assess their structural adequacy and to check the compliance of the other conditions of CTE and Environmental Clearance (if applicable), before deciding the cases of

1st CTO. The application for first CTO will be decided on the merits of the case and according to the compliance status ascertained by the Regional Officers after inspection of the unit.

3.1.8 In case the first CTO is refused then the performance security deposited by the unit at the time of obtaining the CTE will be forfeited and the unit will also not start its production or any of its activities at site.

3.1.9 The inspection of the unit will be carried out again, after grant of the 1st CTO, by the authorized officer (s) of the Board with prior approval of competent authority as per inspection policy within a period of 03 months after grant of 1st CTO for collection of samples of effluent/ air emissions/ noise, as applicable, to get the samples analyzed from the Board's Laboratories as per policy of the Board, in case sampling from the unit is required depending upon the process of the unit.

3.1.10 In case the analysis report of samples of Air/ effluent/ noise so collected, are found complying the standards prescribed by the Board or under EP Rules, 1986, the 1st CTO granted, will remain valid for the period for which it has been granted based upon the category of the project or as was demanded by the unit whichever is less but in case of failure of sample (s), the 1st CTO so granted will be revoked/ cancelled after following the due procedure, beside taking legal action against the unit and forfeiture of performance security deposited by the unit at the time of obtaining the CTE, as per policy of the Board.

3.2 Period for consent to operate

3.2.1 Validity of period of consent to operate for different category of industrial sectors/projects under Water Act, 1974 and Air Act, 1981, will be as under:-

Industry/Project Category	Validity Period
Red Category	5 Years
Orange Category	10 Years
Green Category	15 Years

3.2.2 The units will be at liberty to deposit the full applicable consent fee for the whole prescribed period depending upon their category. However the units shall be at liberty to apply for consent to operate for lesser period also by giving justification for the same. The fees for consent to operate can also be deposited by the industries in installments as per time schedule given below :-

Sr. No.	Category	Validity period of consent	Time schedule
1	Red	05 years	For the First 03 years, at the time of filing of application and for the remaining 02 years before ending the 3rd year.
2	Orange	10 Years	For the First 04 years, at the time of filing of application, for next 03 years before ending the 4th year and for the remaining 03 years before ending the 7th year.
3	Green	15 Years	For the first 05 years at the time of filing the application, for next 05 year before ending the 5th year and for the remaining 05 year before ending the 10th years.

3.2.3 In case of the units, who opted to pay consent fee in installments for obtaining CTO for longer period and fails to deposit the installment of consent fees within prescribed time limit, the CTO so granted will be revoked/cancelled for the remaining period for which consent fees will not be deposited, after following the due procedure.

3.2.4 In case the rates of consent fees are revised during the period of consent to operate and the unit has opted to deposit the consent fees in the installments then such units will have to deposit the consent fee at the revised / enhanced rates for the remaining period from the date of revision of the consent fees. However, the units which have opted to deposit the full consent fees at the time of filing the application for consent to operate, will not be liable to pay the revised / enhanced consent fees in case the consent fee is enhanced during the period of consent to operate granted to those units.

3.2.5 The consent to operate granted shall have the validity ending as indicated in the table below:-

Sr. No.	Category	Validity month (up to)
1	Red	End of September
2	Orange	End of March
3	Green	End of December

3.3 Renewal of Consent to Operate

3.3.2 The industrial units/projects falling under Red, Orange and Green Categories listed in **Annexure-I, II & III** respectively, intending for renewal of the CTO from the Board, shall apply through the online portal of the HPPC, atleast 90 days before expiry of the validity

period of previous CTO granted by the Board under Water Act, 1974 and Air Act, 1981, on prescribed Performa as per Annexure-XI, self certification and undertaking on compliance of conditions of previous consent to operate granted to the unit alongwith the requisite consent fees to be deposited through online payment gateway and the documents as mentioned in the checklist given at Annexure-X.

3.3.3 No documents are allowed to be submitted manually.

3.3.4 Application shall be submitted by the authorized official of the industry/project, duly authorized by the owner/Board of directors / partners of the unit.

3.3.5 The consent to operate will be renewed only in those cases where there is no change in the raw material, process, product, increase in overall capital investment cost on land, building, plant and machinery, production capacity and also in pollution load of the unit and will remain the same as declared in the original application for obtaining previous CTO.

3.3.6 The CTO will be renewed only for those units which are complying the standards prescribed for discharge of pollutants prescribed under EP Rules, 1986 and submitted all required documents and prescribed consent fees.

3.3.7 Renewal of CTO will not prevent the Board from taking appropriate action against the defaulting units including revoking the CTO, which will fail to comply with any of the conditions of the CTO or any relevant provisions of the Water Act, 1974 and Air Act, 1981.

3.3.8 If the industrial units / projects fails to apply before 90 days of the expiry of previous consent and applies 60 days before the expiry of previous consent, the unit shall have to pay additional consent fee @ 50% of the consent fee notified under the Rules. Subsequently, if the unit fails to apply before 60 days of the expiry of previous consent and applies 30 days before the expiry of previous consent, then the unit will have to pay additional consent fee @ 100% of the consent fee applicable. If the unit fails to apply 30 days before the expiry of the previous consent, the unit will have to pay additional consent fee @ 200% of the consent fee applicable. Thereafter, the Board will take closure action under the provisions of Water Act, 1974/ Air Act, 1981 against such units for not having the valid consent to operate.

3.3.9 In, case the unit apply for renewal of CTO after the date of expiry of consent period or after taking the penal action as prescribed above then such applications will be entertained only if such units deposit consent fees for the longer period as per the policy of the Board depending upon the category of the unit alongwith the additional fees @ 300% of the consent fees prescribed for one year alongwith normal consent fees for subsequent years.

3.3.10 There will be no requirement of inspection of industries at the time of renewal of CTO. However such units will be required to submit the analysis reports of effluent, air emissions and noise levels, as applicable, from all sources issued from any of the recognized laboratories or from any of the Board's Laboratory, not more than 03 months old, showing the compliance of prescribed standards, with self certification and undertaking for compliance of the relevant provisions of Acts/Rules as applicable and adherence to the prescribed standards alongwith latest Mandatory Inspection report / analysis reports conducted by the team of officer of the Board and required documents.

3.3.11 The unit will be at liberty to get their samples of effluent/air emissions/noise, analyzed from Board's laboratories, for the purpose of renewal of consent to operate. In that case, the inspection will be carried out for the purpose of this sampling by the authorized officer (s) of the Board only after taking prior permission from the Competent Authority as per inspection policy of the Board.

3.4 **Procedure for obtaining Consent to Operate (CTO) by the industries/ projects already existing and operating before 14.07.2016 which were not covered previously under consent management as per notification dated 15.04.2014 amended from time to time or earlier but have been covered under consent management first time w.e.f. 14.07.2016 as per revised categorization of industrial sectors for consent management.**

3.4.1 The industries/ projects already existing and operating before 14.07.2016 which were not covered previously under consent management as per notification dated 15.04.2014 amended from time to time or earlier but have been covered under consent management first time w.e.f. 14.07.2016 in view of revised categorization of industrial sectors for consent management as per order issued vide Endst. No. HSPCB/PLG-135/2016/546-572 dated 14.07.2016, vide order Endst. No. HSPCB/PLG-171/2017/4081-4106 dated 19.05.2017 and Endst. No. HSPCB/PLG-171/2017/4295-4320 dated 08.06.2017, shall not require CTE and will obtain CTO directly and apply for the same to the Board through online portal of HSPC in the prescribed form alongwith documents as mentioned in the check list given at **Annexure-XII** and requisite consent fee prescribed by the Board to be deposited through online payment gateway as per fees schedule available on the website of the Board i.e. hspcb.gov.in.

3.4.2 The application shall be submitted for grant of CTO for a period based upon the category of the project as prescribed by the Board. However the units shall be at liberty to apply for consent to operate for lesser period also, by giving the justification for the same.

3.4.3 These units will also be at liberty to deposit the applicable fee for consent to operate as per provisions given in Para No. 3.2.2 of this procedure.

3.4.4 These units will deposit the prescribed testing fees with the Board for analyzing their samples of effluent/air emission/noise, as applicable, only from the Board's laboratories, for obtaining the first CTO.

3.4.5 Inspection of these units applying for CTO will be carried out by the authorized officers of the Board after obtaining prior permission from the competent authority to verify and process the applications for CTO and for collection of the samples of effluent/air emissions/noise, as required.

3.4.6 Consent to operate shall be granted only in those cases where all the applicable documents as mentioned in the checklist are submitted and have installed the required and adequate pollution control measures and the standards prescribed by the HSPCB or under EP Rules, 1986 for discharge of environmental pollutants has been complied with.

4. Competent Authority for deciding the applications for CTE & CTO.

4.1 The CTE and CTO shall be granted or refused on the merits of the case after examination, by the competent authority as per powers delegated by the Board from time to time and the approval certificates bearing digital signatures of the authorized officer, shall be issued through online system which can be downloaded by the applicants from the online portal.

4.2 Chairman of the Board has over all and full powers for deciding the application for CTE as well as CTO.

4.3 All Regional Officers of the Board have been delegated powers for grant/refusal of CTE and CTO under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, in their respective area of jurisdiction, vide order Endst. No. HSPCB/PLG-139/2016/5814-5839 dated 02.03.2016 and vide order Endst. No. HSPCB/2017/2657-2681 dated 25.01.2017 for Red, Orange and Green category of Industrial sectors/projects having investment cost upto Rs. 10 crore or CLU cases upto 1 acre in conforming area.

4.4 All the cases of the industries/projects of Red, Orange and Green category, having investment cost more than Rs. 10 crore or CLU cases more than 1 acre in conforming area, which are submitted through the online portal of HEPC for grant of consent to establish and consent to operate of the Board under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, shall be decided by the officer of the Board on deputation with EEC/HEPC and delegated with such powers by the HSPCB for grant/refusal of CTE/CTO.

5. Requirement of Sampling and submission of analysis reports

5.1 The industries/projects covered under consent management, will submit analysis reports of effluent/air emissions/noise levels of DG sets, as applicable, only from the Board's laboratories at the time of obtaining 1st CTO and thereafter the industries will be at liberty to get their samples analyzed from other Govt./Semi Govt./Private laboratories recognized by Board for the purpose of renewal of CTO.

5.2 In the case of Mandatory Inspections, court matters, re-sampling and complaints, the samples will be analyzed from Board Laboratories.

5.3 The Ambient Air Quality reports will be required only in the cases of specific complaints or where there are specific directions from CPCB/MoEF&CC or from any other competent authority or where any court of law has issued direction in this regard.

5.4 In case water is used only for cooling purpose and being circulated completely, there would be no requirement of analysis reports of such cooling water.

5.5 The units which have installed Effluent Treatment Plants/ Sewage Treatment Plants and utilizing the treated effluent for agriculture/horticulture purpose within their premises or recycling/reusing in their process of manufacturing, shall also submit the analysis reports of the samples of effluent from inlet and outlet of their ETPs/STPs and from final outlet (s) of the units, if these are different.

6. Action against Violators

6.1 In case the industry is found creating such conditions that generate any type of pollution in excess of the prescribed standards or if there is any objection/ complaint received from the surrounding community & if on verification it is found that such objection/ complaint has some substance even after grant of CTE/CTO by the Board, the Board shall be at liberty to revoke/withdrew/cancel the CTE/CTO issued to such units & take legal action against such units under the provisions of the Water Act 1974, Air Act 1981 and the Environment (protection) Act, 1986, as considered appropriate.

6.2 Grant or renewal of CTE and CTO does not prevent the Board from revoking of those CTE and CTO including taking appropriate action against those defaulting units, where CTE or CTO has been obtained or got extended on the basis of wrong declaration or false documents and also who fail to comply with any of the conditions of CTE granted to such units or any relevant provisions of Water Act, 1974 and Air Act, 1981 beside forfeiture of performance security deposited by the unit for obtaining CTE.

This consent procedure shall come in to force with immediate effect.

Chairman

Dated: _____

Annexure-I

List of Red Category of Industrial Sectors/Projects

1.	Isolated storage of hazardous chemicals (as per schedule of manufacturing, storage of hazardous chemicals rules ,1989 as amended)
2.	Automobile Manufacturing (Integrated facilities)
3.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Spent cleared metal catalyst containing copper,, Spent cleared metal catalyst containing zinc,,
4.	Manufacturing of lubricating oils ,Grease and petroleum based products
5.	DG Set of capacity > 5 MVA
6.	Industrial carbon including electrodes and graphite blocks, activated carbon, carbon black
7.	Lead acid battery manufacturing(excluding assembling and charging of lead-acid battery in micro scale)
8.	Phosphate rock processing plant
9.	Power generation plant (except Wind and Solar renewable power plants of all capacities and Mini Hydel power plant of capacity <25MW)
10.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Spent catalyst containing nickel, cadmium, Zinc, copper, arsenic, vanadium and cobalt,
11.	Processes involving chlorinated hydrocarbons
12.	Sugar (excluding Khandsari)
13.	Fibre glass production and processing (excluding moulding)
14.	Fire crackers manufacturing and bulk storage facilities
15.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Dismantlers Recycling Plants --Components of waste electrical and electronic assemblies comprising accumulators and other batteries included on list A, mercury-switches, activated glass cullets from cathode-ray tubes and other activated glass and PCB-capacitors, or any other component contaminated with Schedule 2 constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they exhibit hazard chamcteristics indicated in part C of this Schedule,
16.	Milk processes and dairy products (large, medium scale and integrated projects)
17.	Phosphorous and its compounds
18.	Pulp & Paper (waste paper based without bleaching process to manufacture Kraft paper)
19.	Coke making , liquefaction, coal tar distillation or fuel gas making
20.	Manufacturing of explosives, detonators, fuses including management and handling activities
21.	Manufacturing of paints varnishes, pigments and intermediate (excluding

	blending/mixing)
22.	Organic Chemicals manufacturing
23.	Airports and Commercial Air Strips having discharge of 100 KLD or more
24.	Asbestos and asbestos based industries
25.	Basic chemicals and electro chemicals and its derivatives including manufacturing of acid
26.	Cement
27.	Chlorates, per-chlorates & peroxides
28.	Chlorine, fluorine, bromine, iodine and their compounds
29.	Dyes and Dye- Intermediates
30.	Health-care Establishment as defined in BMW Rules, having discharge of 100 KLD or more with or without incinerator
31.	Hotels having overall waste-water generation @ 100 KLD and more or having 3 star and above or having 100 rooms and above
32.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Lead acid battery plates and other lead scrap/ashes/residues not covered under Batteries (Management and Handling) Rules, 2001. [* Battery scrap, namely: Lead battery plates covered by ISRI, Code word "Rails" Battery lugs covered by ISRI, Code word "Rakes". Scrap drained/dry while intact, lead batteries covered by ISRI, Code word "rains".
33.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Integrated Recycling Plants --Components of waste electrical and electronic assemblies comprising accumulators and other batteries included on list A, mercury-switches, activated glass cullets from cathode-ray tubes and other activated glass and PCB-capacitors, or any other component contaminated with Schedule 2 constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they exhibit hazard characteristics indicated in part C of this Schedule.
34.	Manufacturing of glue and gelatin
35.	Mining and ore beneficiation
36.	Nuclear power plant
37.	Pesticides (technical) (excluding formulation)
38.	Photographic film and its chemicals
39.	Railway locomotive work shop/Integrated road transport workshop/Authorized service centers having discharge of 100 KLD or more
40.	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring
41.	Chlor Alkali
42.	Ship Breaking Industries
43.	Oil and gas extraction including CBM (offshore & on-shore extraction through drilling wells)
44.	Industry or process involving metal surface treatment or process such as pickling/ electroplating/paint stripping/ heat treatment using cyanide bath/

	phosphating or finishing and anodising / enamellings/ galvanizing
45.	Tanneries
46.	Ports and harbour, jetties and dredging operations
47.	Synthetic fibers including rayon ,tyre cord, polyester filament yarn
48.	Thermal Power Plants
49.	Slaughter house (as per notification S.O.270(E)dated 26.03.2001)and meat processing industries, bone mill, processing of animal horn, hoofs and other body parts
50.	Aluminium Smelter
51.	Copper Smelter
52.	Fertilizer (basic) (excluding formulation)
53.	Iron & Steel (involving processing from ore/ integrated steel plants) and or Sponge Iron units
54.	Pulp & Paper (waste paper based units with bleaching process to manufacture writing & printing paper)
55.	Zinc Smelter
56.	Oil Refinery (mineral Oil or Petro Refineries)
57.	Petrochemicals Manufacturing (including processing of Emulsions of oil and water)
58.	Pharmaceuticals including basis drugs
59.	Pulp & Paper (Large-Agro + wood) , Small Pulp & Paper (agro based-wheat straw/rice husk)
60.	Distillery (molasses / grain / yeast based)
61.	Induction Furnace clubbed with AOD Furnace
62.	Synthetic detergents and soaps having waste water generation more than 100 KLD (excluding formulation)
63.	Automobile servicing, repairing and painting having waste water generation more than 100 KLD (excluding only fuel dispensing)
64.	Building and construction project more than 20,000 sq. m built up area having waste water generation more than 100 KLD
65.	Ceramics and Refractories having coal consumption more than 12 MT per day
66.	Fermentation Industry including manufacture of yeast, beer, distillation of alcohol (Extra Neutral Alcohol) having discharge > 100 KLD
67.	Lead metal extraction involving different furnaces through melting, refining, re-processing, casting and alloy-making
68.	Industry or processes involving foundry operations having capacity of 5 MT/hr. and more.
69.	Manufacturing of lead glass
70.	Non-alcoholic beverages (soft drink) & bottling of alcohol/non alcoholic products having waste-water generation > 100 KLD.
71.	Vegetable oil manufacturing including solvent extraction and refinery /hydrogenated oils having waste-water generation more than 100 KLD
72.	Parboiled Rice Mills having waste-water generation > 100 KLD or fuel consumption > 12 MTD or both.

73.	Common treatment and disposal facilities (CETP, TSDF, E-waste recycling, CBMWTF, effluent conveyance project, incinerator, solvent/acid recovery plant, MSW sanitary land fill site
74.	Sewage treatment plants having capacity 100 KLD or more
75.	Industrial estates/ parks / complexes/ areas/ export processing zones/ SEZs/ Biotech parks/ leather complex
76.	Units engaged in the activities of handling and management of Hazardous Waste as defined in Hazardous and other Wastes (M & TM) Rules, 2016, other than those covered under any of the category of industrial sectors, such as use, treatment, processing, recovery, pre-processing, co-processing, utilization etc. of the hazardous and other wastes
77.	Recycling of used lead acid batteries

Annexure-II

List of Orange Category of Industrial Sectors/Projects

1.	Dismantling of rolling stocks (wagons/ coaches)
2.	Bakery and confectionery units with production capacity > 1 TPD. (With ovens / furnaces)
3.	Chanachur and ladoo from puffed and beaten rice(muri and shira) using husk fired oven
4.	Coated electrode manufacturing
5.	Compact disc computer floppy and cassette manufacturing / Reel manufacturing
6.	Flakes from rejected PET bottle
7.	Food and food processing including fruits and vegetable processing
8.	Jute processing without dyeing
9.	Manufacturing of silica gel
10.	Manufacturing of tooth powder, toothpaste, talcum powder and other cosmetic items
11.	Printing or etching of glass sheet using hydrofluoric acid
12.	Silk screen printing, sari printing by wooden blocks
13.	Synthetic detergents and soaps(excluding formulation)
14.	Thermometer manufacturing
15.	Cotton spinning and weaving (medium and large scale)
16.	Almirah, Grill Manufacturing (Dry Mechanical Process)
17.	Aluminium & copper extraction from scrap using oil fired furnace (dry process only)
18.	Automobile servicing, repairing and painting having quantity of waste water generation up to 100 KLD (excluding only fuel dispensing)
19.	Ayurvedic and homeopathic medicine
20.	Brickfields (excluding fly ash brick manufacturing using lime process)
21.	Building and construction projects more than 20,000 sq. m built up area having quantity of waste water generation 10 KLD to 100 KLD
22.	Ceramics and Refractories having coal consumption upto 12 MT per day
23.	Coal washeries
24.	Dairy and dairy products (small scale)
25.	DG set of capacity >1MVA but < 5MVA
26.	Dry coal processing, mineral processing, industries involving ore sintering, pelletisating, grinding & pulverization
27.	Fermentation industry including manufacture of yeast, beer, distillation of alcohol having quantity of waste water discharge upto 100 KLD (Extra Neutral Alcohol)
28.	Ferrous and Non- ferrous metal extraction involving different furnaces through melting, refining, re-processing, casting and alloy-making
29.	Fertilizer (granulation / formulation / blending only)
30.	Fish feed, poultry feed and cattle feed

Sr. No.	Industrial sector/activity
31.	Fish processing and packing (excluding chilling of fishes)
32.	Forging of ferrous and non- ferrous metals (using oil and gas fired furnaces)
33.	Formulation/pelletization of camphor tablets, naphthalene balls from camphor/ naphthalene powders.
34.	Glass ceramics, earthen potteries and tile manufacturing using oil and gas fired kilns, coating on glasses using cerium fluorides and magnesium fluoride etc.
35.	Gravure printing, digital printing on flex, vinyl
36.	Heat treatment using oil fired furnace (without cyaniding)
37.	Hot mix plants
38.	Hotels (< 3 star) or hotels having > 20 rooms and less than 100 rooms or having quantity of waste water discharge less than 100 KLD.
39.	Ice cream
40.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Paint and ink Sludge/residues
41.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Brass Dross ,, Copper Dross,, Copper Oxide Mill Scale,, Copper Reverts, Cake & Residues,, Waste Copper and copper alloys in dispersible form,, Slags from copper processing for further processing or refining ,, Insulated Copper Wire,, Scrap/copper with PVC sheathing including ISRI-code material namely "Druid" ,, Jelly filled Copper cables ,, Zinc Dross-Hot dip Galvanizers SLAB,, Zinc Dross-Bottom Dross,, Zinc ash/Skimming arising from galvanizing and die casting operations,, Zinc ash/Skimming/other zinc bearing wastes arising from smelting and refining,, Zinc ash and residues including zinc alloy residues in dispersible from ,,
42.	Industry or processes involving foundry operations having capacity of foundry operations less than 5 MT per hr.
43.	Lime manufacturing (using lime kiln)
44.	Liquid floor cleaner, black phenyl, liquid soap, glycerol mono-stearate manufacturing
45.	Manufacturing of glass
46.	Manufacturing of iodized salt from crude/ raw salt
47.	Manufacturing of mirror from sheet glass
48.	Manufacturing of mosquito repellent coil
49.	Manufacturing of Starch/Sago
50.	Mechanized laundry using oil fired boiler
51.	Modular wooden furniture from particle board, MDF< swan timber etc, Ceiling tiles/ partition board from saw dust, wood chips etc., and other agricultural waste using synthetic adhesive resin, wooden box making (With boiler)
52.	New highway construction project
53.	Non-alcoholic beverages(soft drink) & bottling of alcohol/non alcoholic products having quantity of waste water generation up to 100 KLD
54.	Paint blending and mixing (Ball mill)
55.	Paints and varnishes (mixing and blending)

56.	Ply wood manufacturing (including Veneer and laminate) using the fuel such as wood or coal or any other authorized fuel with or without resin plant
57.	Potable alcohol (IMFL) by blending, bottling of alcohol products
58.	Printing ink manufacturing
59.	Printing press
60.	Reprocessing of waste plastic including PVC
61.	Rolling mill (oil or coal fired) and cold rolling mill
62.	Spray painting, paint baking, paint shipping
63.	Steel and steel products using various furnaces like blast furnace /open hearth furnace/induction furnace/arc furnace/submerged arc furnace /basic oxygen furnace /hot rolling reheated furnace
64.	Stone crushers
65.	Surgical and medical products including prophylactics and latex
66.	Tephlon based products
67.	Thermocol manufacturing (with boiler)
68.	Tobacco products including cigarettes and tobacco/opium processes
69.	Transformer repairing/ manufacturing (dry process only)
70.	Tyres and tubes vulcanization/ hot retreating
71.	Vegetable oil manufacturing including solvent extraction and refinery /hydrogenated oils without waste water generation or having quantity of waste water generation up to 100 KLD
72.	Wire drawing and wire netting
73.	Dry cell battery (excluding manufacturing of electrodes) and assembling & charging of acid lead battery on micro scale
74.	Pharmaceutical formulation and for R & D purpose (For sustained release/ extended release of drugs only and not for commercial purpose)
75.	Synthetic resins
76.	Synthetic rubber excluding molding
77.	Cashew nut processing
78.	Coffee seed processing
79.	Parboiled Rice Mills having quantity of waste water generation up to 100 KLD or fuel consumption up to 12 MTD or both
80.	Foam manufacturing
81.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Used Oil – As per specifications prescribed from time to time.
82.	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule iv of HW(M, H& TBM) rules, 2008 - Items namely - Waste Oil ---As per specifications prescribed from time to time.
83.	Producer gas plant using conventional up drift coal gasification (linked to rolling mills glass and ceramic industry refectories for dedicated fuel supply)
84.	Health care establishments (As defined in BMW Rules) having waste water generation less than 100 KLD without incinerator
85.	Airport and commercial air strips having discharge less than 100 KLD

86.	Railway locomotive workshop/Integrated road transport workshop/Authorized service centers (having waste-water generation < 100 KLD)
87.	Manufacturing of pasted veneers using coal/wood scrap boiler or thermic fluid heater and by sun drying
88.	Cardboards and Millboards
89.	Strawboards
90.	Formulation of pesticides/ Insecticides
91.	Recycling / Pyrolysis plants of waste pneumatic tyres/tyre scrap
92.	Screening plants
93.	Surgical cotton Industries
94.	Inorganic Chemical Compounds such as Chlorides/Sulphates/Sulphites/Nitrates/Oxides/Flourides/ Stearates of metals/Cations
95.	Sodium and other silicates manufacturing
96.	Cotton coated fabrics including printing and lamination (Rexene)
97.	Friction dust
98.	Brake lining/ Disc brake pad
99.	Chlorinated paraffin wax/plasticizers
100.	Sewage treatment plants having capacity 10 KLD or more but less than 100 KLD
101.	Infrastructure development projects having overall liquid Waste generation 100 KLD or more
102.	Dismantling of E-Waste
103.	Flour mills generating trade effluent
104.	Distilled water units using boiler or furnace as heating source
105.	Construction and Demolition (C&D) Waste processing and recycling units
106.	Garment/ Apparel manufacturing units having only garment washing, with or without boiler except bleaching, dyeing, printing, coloring

Annexure-III

List of Green Category of Industriel Sectors/Profects

1.	Aluminium utensils from aluminium circles by pressing only (dry mechanical operation)
2.	Ayurvedic and homeopathic medicines (without boiler)
3.	Bakery /confectionery /sweets products (with production capacity <1tpd (with gas or electrical oven)
4.	Bi-axially oriented PP film along with metalizing operations
5.	Biomass briquettes (sun drying) without using toxic hazardous wastes
6.	Blending of melamine resins & different powder, additives by physical mixing
7.	Brass and bell metal utensils manufacturing from circles(dry mechanical operation without re-rolling facility)
8.	Candy
9.	Cardboard or corrugated box and paper products (excluding paper or pulp manufacturing and without using boilers)
10.	Carpentry & wooden furniture manufacturing (excluding saw mill) with the help of electrical (motorized) machines such as electrical wood planner, steel saw cutting circular blade, etc.
11.	Cement products (without using asbestos / boiler / steam curing) like pipe ,piller, jafri, well ring, block/tiles etc.(should be done in closed covered shed to control fugitive emissions)
12.	Ceramic colour manufacturing by mixing & blending only (not using boiler and wastewater recycling process)
13.	Chilling plant, cold storage and ice making
14.	Coke briquetting (sun drying)
15.	Cotton spinning and weaving (small scale)
16.	Dal Mills
17.	Decoration of ceramic cups and plates by electric furnace
18.	Digital printing on PVC clothes
19.	Facility of handling, storage and transportation of food grains in bulk
20.	Flour mills (dry process)
21.	Glass , ceramic, earthen potteries, tile and tile manufacturing using electrical kiln or not involving fossil fuel kiln
22.	Glue from starch (physical mixing) with gas / electrically operated oven /boiler.
23.	Gold and silver smithy (purification with acid smelting operation and sulphuric acid polishing operation) (using less or equal to 1 litre of sulphuric acid/ nitric acid per month)
24.	Heat treatment with any of the new technology like ultrasound probe , induction hardening , ionization beam, gas carburizing etc.
25.	Insulation and other coated papers (excluding paper or pipe manufacturing)
26.	Leather foot wear and leather products (excluding tanning and hide processing except cottage scale)

S. No.	Industry
27.	Lubricating oil, greases or petroleum based products (only blending at normal temperature)
28.	Manufacturing of pasted veneers using gas fired boiler or thermic fluid heater and by sun drying
29.	Oil mill Ghani and extraction (no hydrogenation / refining)
30.	Packing materials manufacturing from non asbestos fibre, vegetable fibre yarn
31.	Phenyl/toilet cleaner formulation and bottling
32.	Polythene and plastic processed products manufacturing (virgin plastic)
33.	Poultry Farms handling one lac or more birds at a given time in single location and Hatchery & Piggery irrespective of no. of birds/animals
34.	Power looms (without dye and bleaching)
35.	Puffed rice (muri) (using gas or electrical heating system)
36.	Pulverization of bamboo and scrap wood
37.	Ready mix cement concrete irrespective of investment cost
38.	Reprocessing of waste cotton
39.	Rice mill (Rice hullers only)
40.	Rolling mill (gas fired) and cold rolling mill
41.	Rubber goods industry (with gas operated baby boiler)
42.	Saw mills
43.	Soap manufacturing (hand made without steam boiling / boiler)
44.	Spice grinding (20 HP motor)
45.	Spice grinding (20 hp motor)
46.	Steel furniture without spray painting
47.	Steeping and processing of grains
48.	Tyres and tube retreating (without boilers)
49.	CO2 recovery
50.	Distilled water (without boiler) with electricity as source of heat
51.	Hotels (up to 20 rooms and without boilers)
52.	Manufacturing of optical lenses (using electrical furnace)
53.	Mineralized water
54.	Tamarind powder manufacturing
55.	Cutting, sizing and polishing of marble stone
56.	Emery powder (fine dust of sand) manufacturing
57.	Flyash export, transport & disposal facilities
58.	Mineral stack yard / Railway sidings
59.	Oil and gas transportation pipeline
60.	Seasoning of wood in steam heated chamber
61.	Synthetic detergent formulation
62.	Tea processing (with boiler)
63.	Modular wooden furniture from particle board, MDF< swan timber etc, Ceiling tiles/ partition board from saw dust, wood chips etc., and other agricultural waste using synthetic adhesive resin, wooden box making (Without boiler)
64.	LPG bottling plants

65.	Sewage treatment plants having capacity less than 10 KLD
66.	Infrastructure development projects having overall liquid Waste generation less than 100 KLD
67.	Industrial inorganic gases namely- a) Chemical gas- Acetylene, hydrogen, chlorine, fluorine, ammonia, sulphur dioxide, ethylene, hydrogen-sulphide, phosphine b) Hydrocarbon gases- Methane, ethane, propane
68.	Automobiles manufacturing outsourcing all of the polluting activities.
69.	Refurbishing of used electrical and electronic equipments

Annexure-IV

List of White Category of Industrial Sectors/Projects

Sr. No.	Industrial Sector/Project
1.	Assembly of air coolers /conditioners ,repairing and servicing
2.	Assembly of bicycles ,baby carriages and other small non motorizing vehicles
3.	Balling (hydraulic press)of waste papers
4.	Bio fertilizer and bio-pesticides without using inorganic chemicals
5.	Biscuits trays etc from rolled PVC sheet (using automatic vacuum forming machines)
6.	Blending and packing of tea
7.	Block making of printing without foundry (excluding wooden block making)
8.	Chalk making from plaster of Paris (only casting without boilers etc. (sun drying / electrical oven)
9.	Compressed oxygen gas from crude liquid oxygen (without use of any solvents and by maintaining pressure & temperature only for separation of other gases)
10.	Cotton and woolen hosiers making (Dry process only without any dying / washing operation)
11.	Diesel pump repairing and servicing (complete mechanical dry process)
12.	Electric lamp (bulb) and CFL manufacturing by assembling only
13.	Electrical and electronic item assembling (completely dry process)
14.	Engineering and fabrication units (dry process without any heat treatment / metal surface finishing operations / painting)
15.	Flavoured betel nuts production/ grinding (completely dry mechanical operations)
16.	Fly ash bricks/ block manufacturing
17.	Fountain pen manufacturing by assembling only
18.	Glass Slydelsles and vials making from glass tubes
19.	Glass putty and sealant (by mixing with machine only)
20.	Ground nut decorticating
21.	Handloom/ carpet weaving (without dying and bleaching operation)
22.	Leather cutting and stitching (more than 10 machine and using motor)
23.	Manufacturing of coir items from coconut husks
24.	Manufacturing of metal caps containers etc
25.	Manufacturing of shoe brush and wire brush
26.	Medical oxygen
27.	Organic and Inorganic nutrients (by physical mixing)
28.	Organic manure (manual mixing)
29.	Packing of powdered milk
30.	Paper pins and u clips
31.	Repairing of electric motors and generators (dry mechanical process)
32.	Rope (plastic and cotton)
33.	Scientific and mathematical instrument manufacturing

Sr. No.	Industrial Sector/Project
34.	Solar module non conventional energy apparatus manufacturing unit
35.	Solar power generation through solar photovoltaic cell, wind power and mini hydel power (less than 25 MW)
36.	Surgical and medical products assembling only (not involving effluent / emission generating processes)
37.	Automobile fuel outlets (only dispensing)
38.	Diesel generator sets having total capacity 1 MVA or less and equipped with acoustic enclosures alongwith adequate stack height
39.	Almirah, Grill Manufacturing without painting operation (Dry Mechanical Process)
40.	Health care Establishments i.e hospitals/clinics without indoor facilities and having only OPD consultancy
41.	Printing presses without involving water polluting process
42.	Garment / Apparel units involving only stitching process, without discharge of effluent and Air emissions from process
43.	Poultry Farms handling less than one lac birds. (Environmental guidelines issued by Haryana Government/CPCB for poultry farms shall be applicable)

Annexure-V

Check List of documents for obtaining consent to establish (CTE) under Water Act, 1974 / Air Act, 1981

I. 1st Consent to Establish

1. Online application
2. Proof of deposit of NOC/CTE fee and performance security.
3. C.A. Certificate regarding capital investment cost w.r.t. land, building, plant and machinery of the proposed project.
4. Fard Jamabandi and Intkal of land of the unit, in case unit is located outside approved industrial area/estate.
5. Power of attorney/authority letter to sign the application.
6. Allotment letter of the plot issued from the concerned authority in case of approved industrial area.
7. Manufacturing process and process Flow Chart.
8. Design Scheme of Effluent Treatment Plant/ Sewage treatment Plant, Air Pollution Control Devices / Hazardous Waste Management as applicable, with Hydraulic Design and design calculations based upon the Pollution load and prescribed standards.
   In case of Brick kilns, design and drawing of high draft Zig Zag technology based Kiln and stack.
9. Report of Tehsildar and District Forest Officer regarding Kisam of land through Deputy Commissioner, for areas covered under Aravali Notification, if applicable. In case the land falls in the industrial estate / area and HUDA sectors, the report of Regional Officers will be taken regarding applicability of Aravali Notification (only for District Gurugram and Nuh).
10. Clearance/ permission in case of the projects falling in the revenue estates covered in the Notification no. 191(E) dt. 27.08.2010 issued by Ministry of Environment, and Forest, Government of India regarding protected area of Sultanpur National Park in District Gurgaon.
11. Proof of receipt of application submitted to the Forest Department for clearance / permission /NOC, of Forest Department.
12. Report of Revenue Department / Forest Department & other concerned departments regarding sitting parameters in respect of Stone Crushers, Hot Mix Plants, Screening Plants, Pulverizes, Poultry Farms and License of DFSC in Case of brick Kilns.
13. Change of land use permission/license/NOC certificate from the Town & Country Planning Department or respective Municipal or other Authority or village Panchayat, as the case may be.
14. Lease deed/ Rent Agreement in case land is taken on rent or lease, Collaboration deed in case of construction projects, if applicable (duly registered with revenue authorities).
15. Copy of Environmental Clearance in case of the projects covered under, EIA Notification dated 14.09.2006.
16. Copy of MOA / partnership Deed / Trust Deed, as applicable having

the name and address of Directors/Partners.

17. Declaration by the unit regarding awareness about pollution control related standards and law and undertaking for their compliance, as per Annexure-VII.
18. Site plan of the unit in case it is located outside approved industrial area.
19. Layout plan showing the details of all manufacturing processes, location of stacks/ chimneys, ETP/ STP, APCM, Hazardous Waste storage and treatment facilities, tube wells, Water supply lines, Effluent drains and final outlets for the disposal of the effluent.

II. Renewal/Extension of Consent to Establish

1. Online application for renewal of CTE with declaration on prescribed Performa (Annexure-VIII).
2. Proof of deposit of NOC/CTE fees (as per schedule available on the web-site of the Board i.e. www.hspcb.gov.in)
3. Copy of 1st CTE & previous renewed CTE (if any).
4. Power of Attorney/authority letter to sign the application.
5. Progress report regarding construction of project and installation of pollution control measures/devices, as per scheme submitted while obtaining 1st CTE.
6. Valid license or proof of submission of application for renewal of license to Town and Country Planning Department or any other concerned authority, in case of Building and construction projects and Township and Area Development projects.

III. Consent to Establish for expansion of the existing project

Apart from the documents required for obtaining 1st CTE and NOC/fee, following additional documents are required to be submitted along with application for CTE for expansion of projects:-

1. Copy of valid CTO under Water Act, 1974/ Air Act, 1981 and Authorization under Hazardous Waste Management Rules (if applicable) for the existing project.
2. Latest inspection report and analysis reports of effluent/ air emissions/ noise (as applicable), conducted by Board officers for the mandatory inspection, if conducted.
3. Copy of fresh analysis reports of effluent/air emissions/ noise, analyzed from Board's lab/recognized lab. (not more than 03 month old)
4. Declaration regarding compliance of prescribed standards for discharge of environmental pollutants in the existing operating project of the unit as per Annexure -XIII.

Annexure-VI

Performance Security prescribed for obtaining the Consent to Establish.

a) Performance Security as per investment cost of the projects (other than mentioned at Sr. No. b).

Sr. No.	Capital Investment Cost of the project (Cost of land, building, Plant and Machinery)	Red Category (in Rs.)	Orange Category (in Rs.)	Green Category (in Rs.)
1.	Upto 0.5 crore	25,000/-	12,500/-	5,000/-
2.	Above 0.5 crore upto 1.00 crore	50,000/-	25,000/-	10,000/-
3.	Above 1.0 crore upto 5.00 crore	1,00,000/-	75,000/-	25,000/-
4.	Above 5.0 crore upto 10.00 crore	2,00,000/-	1,50,000/-	50,000/-
5.	Above 10.00 crore upto 50.00 crore	3,00,000/-	2,00,000/-	1,00,000/-
6.	Above 50.00 crore upto 100.00 crore	4,00,000/-	2,50,000/-	1,25,000/-
7.	Above 100.00 crore	5,00,000/-	3,00,000/-	1,50,000/-

b) Performance Security for specific projects irrespective of investment cost

1. Hot Mix Plants/ Stone Crushers/ Screening Plants : 50,000/-
2. Brick Kilns : 25,000/-
3. Mining Projects:-
   a) More than ten Hectares : 5.0 lac
   b) Five to ten Hectares : 2.5 lac
   c) Less than five Hectares : 1.0 lac

Annexure-VII

Declaration by the applicant for obtaining Ist CTE

I, _____ S/o/D/o/W/o _____ resident of _____ declare and affirm as under:-

1. That I am the Partner/Director/Manager/Occupier/Proprietor of the unit M/s _____.
2. That I am aware of the provisions of Water Act, 1974, Air Act, 1981 and HOWM Rules, 2015, Rules and procedure framed there under and standards/norms prescribed for discharge of pollutants under EPA Rules, 1986 and shall comply with the same.
3. That we shall comply with all the provisions of Water Act, 1974, Air Act, 1981 and Rules framed there under HOWM Rules, 2016 and standards/norms prescribed for discharge of pollutants under EP Rules, 1986 after commissioning of our unit.
4. That we have not started the work at the site for construction of plant and installation of machinery of our project and will also not start the same before obtaining the consent to establish under Water Act, 1974 and Air Act, 1981 form the Haryana State Pollution Control Board.
5. That the work for construction and installation of pollution control measures will be done side by side while doing the construction and installation of the main plant of the unit and will not start the production without installing proper and adequate pollution control measure as per scheme enclosed and without obtaining prior consent to operate from the Board.
6. In case of the non compliance of the above undertaking or false declaration found at any stage, the Board will be at liberty to forfeit the performance security amounting to Rs. _____ deposited along with the CTE application through online payment gateway or in the form of Demand Draft no. _____ dated _____ Issued by _____ (Bank) besides taking any other legal action under the provision of Water Act, 1974 & Air Act, 1981.
7. That we shall comply with all the terms & conditions of consent to establish to be issued by the Board.

Deponent/Applicant

Dated:

Annexure-VIII

Format of the application for auto renewal of the consent to establish under Water Act, 1974 / Air Act, 1981.

To

The Chairman,
Haryana State Pollution Control Board,
C-11, Sector 6, Panchkula.

Sub: Application for auto-renewal of the consent to establish under Water Act, 1974 / Air Act, 1981- Self certification.

Ref: Consent to establish issued by the Board vide letter no. _____ dated _____ valid up to _____.

Sir,

We are submitting herewith application for auto renewal of our consent to establish under Water Act, 1974 / Air Act, 1981 granted by your Board vide letter under reference, along with the prescribed NOC fees for the same and the following declaration and undertaking as per policy of your Board :-

1. That we have a valid consent to establish under Water Act, 1974 / Air Act, 1981 issued by HSPCB vide above referred letter validity upto _____, copy of which is enclosed herewith.
2. That the present details of the manufacturing process and other informations /data of our unit are same as submitted / provided to the Board earlier with original application for obtaining original Consent to Establish referred above and therefore the same may be considered for present application for renewal of consent to establish for another period w.e.f. _____ to _____.
3. That the proposed capital investment cost of our industry/ project, as per documents submitted with earlier application for consent to establish granted by HSPCB vide above referred letter, was Rs. _____ lacs, which will remain the same and will not be increased in terms of land, building and plant and machinery, without prior information / permission of the HSPCB.
4. That there will be no change in the raw material, process, products, quantity of effluent, source of air emissions, scheme of pollution control measures and increase in production or pollution load and will remain same as submitted in original application for consent to establish.
5. That we shall deposit the balance NOC fees if found due at any later stage due to increase in capital investment cost on land, building, plant and machinery.
6. That we are complying with the conditions of consent to establish granted earlier vide letter under reference and further undertake to comply with further conditions if any imposed by HSPCB in future.
7. That we shall install all the required pollution control measures and devices as per scheme / proposal already submitted by us with our original

application for consent to establish upto the satisfaction of the Board side by side in proportionate to the construction of the project and before the commissioning of the unit failing which Board will be at liberty to forfeit the performance security deposited by us with the Board in this regard beside taking legal action under the provisions of relevant Acts/Rules applicable to our unit.

8. That we shall not start even trial production without obtaining prior consent to operate for trial production from the HSPCB.
9. That we shall provide all the arrangements for sampling of air emissions and effluent as prescribed by the Board and online monitoring systems as directed by the HSPCB/CPCB from time to time, in our unit before starting even trial production.
10. That in case our unit is not fully established within the validity period of extension of CTE, then we shall apply afresh for obtaining new CTE, 90 days before the expiry of the renewed CTE.
11. That we are complying and shall comply with all the conditions of Environmental Clearance (in case unit is covered under EIA notification dated 14.09.2006.)
12. That we shall comply with all the relevant provisions of water Act, 1974, Air Act, 1981, EPA, 1986 and Rules made their under including Hazardous Waste (MH&TM) Rules, 2008 applicable to our unit.
13. That we undertake that auto renewal of consent to establish will not prevent the HSPCB for taking coercive action against us if our unit fails to comply the prescribed standards or conditions of consent to establish granted and renewed to our unit or only applicable provision of Water Act, 1974, Air Act, 1981 and EPA, 1986 and Rule made their under.
14. That the declaration and undertaking given above has the approval of all the partners / Board of Directors / owners of the Industry / project and copy of resolution of the Board / power of attorney in the regard is attached herewith.

It is therefore requested that the consent to establish may kindly be renewed/extended further for another period w.e.f. _____ to _____.

Dated: _____

Authorized Signatory

Name and Designation
with phone no., email address
and seal of the company

Annexure-IX

Undertaking by those units which have been granted CTE but do not want to continue the work for construction and installation of their project beyond the validity period of their CTE.

I, _____ S/o/D/o/W/o _____ in the capacity of _____ of M/s _____ undertake as under:-

1. That I am the Partner/Director/Manager/Occupier/Proprietor of the unit M/s _____.
2. That our unit have been granted consent to establish by the Board under Water Act, 1974 /Air Act, 1981 vide Letter no. _____ dated _____ valid up to _____.
3. That the detail about the status of our project constructed and established till date is attached herewith.
4. That we do not want to continue the work for construction and installation of our project beyond the validity period of consent to establish granted by the Board at this stage.
5. That we shall apply for extension of consent to establish as and when the remaining work for construction and installation of the project is proposed to be started well in advance and will not start the construction and installation work of the project without further extension of the consent to establish from the Board.

Authorized Signatory

Dated: _____

Name and Designation
with phone no., email address
and seal of the company

Annexure-X

Check list of documents for obtaining Ist consent to operate (CTO)

I. 1st Consent to Operate

1. Online consent application.
2. Power of attorney/authority letter to sign the application.
3. Proof or deposit of required and applicable consent fee, as per schedule available on the web-site www.hspcb.gov.in.
4. Collection and testing fee prescribed by the Board as per schedule available on the web-site of the Board, for analysing the samples of effluent/ Air emissions/ Noise level of DG sets, as applicable, for all sources. (Analysis report of air emissions from all sources including diesel engines of capacity more than 0.8MW (800kW) for power plants and generator sets will be required).
5. Copy of balance sheet duly attested by CA or CA certificate w.r.t. capital investment cost of the unit for the preceding year. (Capital investment cost should include the original cost of land, building, plant & machinery without depreciation but with upto date additions. The cost of land and building should be included in the capital investment cost even if it is on lease or rent or mortgage).
6. MOA / partnership Deed / Trust Deed (if changed).
7. Layout plan showing the details of all manufacturing processes, location of stacks/ chimneys, ETP/ STP, APCM, Hazardous Waste storage and treatment facilities, tube wells, Water supply lines, Effluent drains and final outlets for the disposal of the effluent.
8. Permission of the concerned authorities for disposal of the effluent in to sewer/drain etc.
9. Detail of land in case the effluent is discharged on land for percolation or for irrigation along with copy of registered agreement made with the land owners in case the land belong to the persons other then the land of the applicant unit.
10. Detail of ETP/STP, APCM, acoustic enclosure, Hazardous Waste Management Facilities installed in the unit along with their size, specification and capacity.
11. In case of industries/projects/establishments handling Hazardous Chemicals having threshold quantities mentioned in schedule II and III of MSIHC, Rules, 1989 and covered under rule 10 & 13 of these Rules, proof of submission of safety audit report duly audited with the help of an expert, atleast 90 days before commencing the activity and onsite emergency plan alongwith report of the mock drill of the same to Chief Inspector of Factories alongwith copy of the same. (Required as per instructions of MOEF & CC issued vide letter No. 14-7(382)/2010-HSMD dated 09.03.2016).
12. Occupation certificate issued by Town & Country Planning Department, in case of Building & construction projects/area development projects.

II. Renewal of consent to operate

1. Online application for renewal of CTO on prescribed Performa (Annexure-XI).
2. Proof of deposit of required and applicable consent fee (as per schedule available on the web-site www.hspcb.gov.in).
3. Copy of previous CTO.
4. Power of attorney/authority letter to sign the application.
5. Copy of balance sheet duly attested by CA or CA certificate w.r.t. capital investment cost of the unit for the preceding year. (Capital investment cost should include the original cost of land, building, plant & machinery without depreciation but with upto date additions. The cost of land and building should be included in the capital investment cost even if it is on lease or rent or mortgage).
6. Latest inspection report and analysis reports of effluent/ air emissions/ noise conducted by Board officer (s) for the mandatory inspection, if conducted.
7. Copy of fresh analysis reports of effluent/air emissions/ noise analyzed from Board's lab/recognized lab. (not more than 03 months old)
8. Environment Statement in Form V for the financial year ending on 31st March (required in compliance of Rule 14 of EP Rules, 1986).
9. In case of industries/projects/establishments handling Hazardous Chemicals having threshold quantities mentioned in schedule II and III of MSIHC, Rules, 1989 and covered under rule 10 & 13 of these Rules, proof of submission of updated safety audit report duly audited with the help of an expert, annually and up to date onsite emergency plan alongwith report of the mock drill of the same to Chief Inspector of Factories alongwith copy of the same, (Required as per instructions of MOEF & CC issued vide letter No. 14-7(382)/2010-HSMD dated 09.03.2016).
10. Permission of the concerned authorities for disposal of the effluent in to sewer/drains etc (in case not submitted earlier).
11. Detail of land in case the effluent is discharged on land for percolation or for irrigation along with copy of registered agreement made with the land owners in case the land belong to the persons other then the land of the applicant unit (in case not submitted earlier).
12. Copy of logbook for last 03 months maintained for operation of ETP/STP/APCM for the record of energy and chemical consumption, quantity of effluent at inlet and outlet of ETP/STP supported with readings of magnetic flow meters alongwith quantity of treated effluent recycled/reused in the process, utilized in the premises and discharged, mode of disposal.

Annexure-XI

Format of the application for auto renewal of the consent to operate under Water Act, 1974 / Air Act, 1981.

To

The Member Secretary,
Haryana State Pollution Control Board,
C-11, Sector 6, Panchkula.

Sub: Application for auto-renewal of the consent to operate for the period _____under Water Act, 1974 / Air Act, 1981.

Sir,

It is submitted that we had been granted the consent to operate under Water Act, 1974 / Air Act, 1981 upto _____ by the Board vide letter No. _____ dt._____ and No. _____ dt. _____ respectively. Now we are submitting our application for auto renewal of the consent to operate under Water Act, 1974 / Air Act, 1981 for the period _____to _____, along with the prescribed consent fees for the same and with the following declaration and undertaking as per policy of your Board :-

1. That we have valid consent to operate under Water Act, 1974 / Air Act, 1981 upto_____ issued by HSPCB vide above referred letters, copies of which are enclosed herewith.
2. That the present details of the manufacturing process and other informations /data of our unit are same as submitted / provided by the Board earlier with original application for obtaining previous Consent to operate referred above and therefore the same may be considered for present application for renewal of consent to operate for further period w.e.f. _____ to _____.
3. That the capital investment cost on land, building, plant and machinery of our industry/ project without charging depreciation and with upto date additions as on _____ is Rs. _____ lacs and the consent fees has been deposited according to the said capital investment cost of our unit. We undertake to deposit the balance consent fees if any found due at any stage due to increase in the investment cost on Land, Building, Plant and Machinery of our unit at any later stage.
4. That we are complying with the conditions of previous consent to operate granted to our unit by the Board valid upto____ and also complying with all the standards / norms prescribed under EP Rules, 1986 for discharge of environmental pollutants, by operating our pollution control devices regularly and effectively.
5. That there will be no change in the raw material, process, products, quantity of effluent, source of air emissions, technology of pollution control measures

and increase in production or pollution load and will remain same as submitted in the previous application for consent to operate.

5. That we shall keep on operating and maintaining our pollution control measures / devices regularly and effectively and will maintain and keep all the parameters within standards / norms prescribed under EP Rules, 1986.
7. That we are submitting herewith the copy of the latest inspection report and analysis report of effluent/ air emissions/ noise conducted by the Board's officers on _____ alongwith copy of fresh analysis reports of effluent/ air emissions/ noise analyzed from Board's laboratory/ recognized laboratory, showing the compliance of prescribed standards.
8. We undertake to comply with all the conditions of renewal of consent to operate to be imposed by the Board if any.
9. That we shall comply with all the relevant provisions of water Act, 1974 and Air Act, 1981.
10. We undertake that auto renewal of consent to operate will not prevent the Board for taking coercive action against us if our unit fails to comply with the prescribed standards or conditions of consent granted during auto renewal of the same.
11. The undertaking has the approval of the Board of Directors/ Partner/Owner of the industry/project and copy of the resolution of the Board/ Power of Attorney is attached herewith.

It is therefore requested that the consent to operate under Water Act, 1974/ Air Act, 1981 may kindly be renewed further for another period w.e.f. _____ to _____.

Authorized Signatory

Dated: _____

Name and Designation
with phone no., email address
and seal of the company

Annexure – XII

Checklist of documents for obtaining Consent to Operate (CTO) by the industries/ projects already existing and operating before 14.07.2016 which were not covered previously under consent management as per notification dated 15.04.2014 amended from time to time or earlier but have been covered under consent management first time w.e.f. 14.07.2016 as per revised categorization of industrial sectors for consent management.

1. Online consent application.
2. Power of attorney/authority letter to sign the application.
3. Proof of deposit of required and applicable consent fee, as per schedule available on the web-site www.hspcb.gov.in.
4. Collection and testing fee prescribed by the Board as per schedule available on the web-site of the Board, for analysing the samples of effluent/ Air emissions/ Noise level of DG sets, as applicable, for all sources. (Analysis report of air emissions from all sources including diesel engines of capacity more than 0.8MW (800kW) for power plants and generator sets will be required).
5. Copy of balance sheet duly attested by CA or CA certificate w.r.t. capital investment cost of the unit for the preceding year. (Capital investment cost should include the original cost of land, building, plant & machinery without depreciation but with upto-date additions. The cost of land and building should be included in the capital investment cost even if it is on lease or rent or mortgage).
6. MOA / partnership Deed / Trust Deed (if changed).
7. Layout plan showing the details of all manufacturing processes, location of stacks/ chimneys, ETP/ STP, APCM, Hazardous Waste storage and treatment facilities, tube wells, Water supply lines, Effluent drains and final outlets for the disposal of the effluent.
8. Permission of the concerned authorities for disposal of the effluent in to sewer/drain etc.
9. Detail of land in case the effluent is discharged on land for percolation or for irrigation along with copy of registered agreement made with the land owners in case the land belong to the persons other then the land of the applicant unit.
10. Detail of ETP/STP, APCM, acoustic enclosure, Hazardous Waste Management Facilities, installed in the unit along with their size, specification and capacity.
11. Fard Jamabandi and Intkal of land of the unit in case unit is located outside approved industrial area/estate.
12. Allotment letter of the plot issued from the concerned authority in case of approved industrial area/estate.
13. Manufacturing process and process Flow Chart.
14. Report of Tehsildar and District Forest Officers regarding Kisam of land through Deputy Commissioner for areas covered under Aravali Notification, if applicable. In case the land falls in the industrial estate / area and HUDA sectors, the report of Regional Officers will be taken regarding applicability

of Aravali Notification (only for Gurugram and Nuh District).

15. Clearance/ permission in case of the projects falling in the revenue estates covered in the Notification no. 191(E) dt. 27.08.2010 issued by Ministry of Environment, and Forest, Government of India regarding protected area of Sultanpur National Park in District Gurgaon.
16. Change of land use permission/license/NOC certificate from the Town & Country Planning Department or respective Municipal or other Authority or Panchayat as the case may be.
17. Lease deed/ Rent Agreement duly registered with revenue authorities, in case land is taken on lease/rent.
18. Site plan of the unit in case it is located outside approved industrial area.
19. Environment Statement in Form V for the financial year ending on 31st March. (required in compliance of Rule 14 of EP Rules, 1986).
20. Proof of submission of updated safety audit report duly audited with the help of an expert, annually and up to date onsite emergency plan alongwith report of the mock drill of the same to Chief Inspector of Factories alongwith copy of the same, in case of Industries/projects/establishments handling Hazardous Chemicals having threshold quantities mentioned in schedule II and III of MSIHC, Rules, 1989 and covered under rule 10 & 13 of these Rules. (Required as per instructions of MOEF & CC issued vide letter No. 14-7(382)/2010-HSMD dated 09.03.2015).
21. Copy of logbook for last 03 months maintained for operation of ETP/STP/APCM for the record of energy and chemical consumption, quantity of effluent at inlet and outlet of ETP/STP supported with readings of magnetic flow meters alongwith quantity of treated effluent recycled/reused in the process, utilized in the premises and discharged, mode of disposal.

Annexure-XIII

Declaration by the applicant for obtaining CTE for expansion of the project.

I, _____ S/o/D/o/W/o _____ resident of _____ declare and affirm as under:-

1. That I am the Partner/Director/Manager/Occupier/Proprietor of the unit M/s _____.
2. That we are operating pollution control devices in our industry regularly and effectively and meeting the standards prescribed under Environment (Protection) Rules, 1986 for discharge of pollutants into the atmosphere, which will be maintained in future also.
3. That we shall install the required and adequate pollution control devices for the expansion project in our industry before commissioning the production and will also obtain prior consent to operate before starting trial production in our expansion project.
4. In case of the non compliance of the above undertaking or false declaration found at any stage, the Board will be at liberty to forfeit the performance security amounting to Rs. _____ deposited along with the CTE application through online payment gateway or in the form of Demand Draft no. _____ dated _____ issued by _____ (Bank) besides taking any other legal action under the provision of Water Act, 1974 & Air Act, 1981.
5. That we shall comply with all the terms & conditions of consent to establish to be issued by the Board.

Deponent/Applicant

Dated:

Annexure-A

Performa for submission of application by the units for change of their name in the record of HSPCB as per the change in the permission granted by the competent authority.

(In case of change of name of unit without change in ownership/process/raw material/products)

1.	Name & address of the unit registered with the Board	:	
2.	New name of the unit after change as per registration certificate issued from the registration authority i.e. Deptt. of Industries & Commerce/Registrar of companies/Societies etc.	:	
3.	Name and designation of authorized signatory of the applicant unit.	:	
4.	Reasons for the change in the name of the unit	:	
5.	Competent authority for change of name of the unit	:	
6.	Date and authority granted the permission for change of name	:	
7.	Status of CTO/authorization of the old unit with validity if granted; (a) Under Water Act, 1974 (b) Under Air Act, 1981 (c) Under HOWM Rules, 2008/2016 (d) Any other applicable Rules	:	
8.	In case CTO/authorization applied and not decided then name of the unit (existing or new) applied CTO.	:	
9.	Capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit.	:	
10.	Detail of CTE/NOC fees; (I) Applicable (in Rs.) (II) Deposited amount with detail of DD No., date and Bank/online transaction no./date. (III) Balance amount, if any	: : :	
11.	Manufacturing process, raw materials and products of the unit.	:	
12.	Detail of change in name, ownership or transfer of interest of the unit, if any done in the past	:	
13.	Detail of supporting documents attached (as	:	

	per checklist)		
14.	Declaration; (i). That I am the authorized signatory of my unit to submit this application. (ii). That there is/will be no change in the ownership/ manufacturing process /raw materials/ products of the industry and in case of any such change is proposed in future, prior consent to establish and/or other required permissions will be taken from the HSPCB. (iii). That we shall comply with all the terms and conditions what so ever imposed by the Board while giving permission for change of name of the unit in the record of HSPCB.	:	

Date:
Place:

(Signature)
Authorized Signatory
(as per column no. 3

Checklist of supporting documents to be submitted by the unit

1. Power of attorney/authorization letter
2. Copy of latest CTO/Authorization
3. Copy of fresh registration certificate issued from Industries & Commerce Department or from Registrar of Companies/societies or from any other concerned authority, as the case may be, with changed name of the unit.
4. Proof of NOC/CTE fees deposited.
5. Proof of capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit, attested by CA.

Annexure-B

Performa for recommendation of Regional Officer regarding grant of permission for change of name of unit in record of HSPCB as per the change in the permission granted by the competent authority.

(In case of change of name of unit without change in ownership/process/raw material/products)

1.	Name & address of the unit registered with the Board	
2.	New name of the unit after change as per registration certificate submitted by the unit issued from the registration authority.	
3.	Competent authority for change of name of unit	
4.	Reasons for the change in the name of the unit.	
5.	Status of Consent to establish/operate and authorization (as applicable) with validity if granted.	
6.	Date and authority granted the permission for change of name	
7.	In case CTO/authorization applied and not decided then name of the unit (existing or new) applied CTO.	
8.	Whether deposited the required and applicable CTE/NOC fees (Yes/No)	
9.	Amount of CTE/NOC fees deposited and mode of payment alongwith balance NOC fee if any.	
10.	Date of receipt of application and subsequent clarification submitted (if any) in Regional Office.	
11.	Date of submission of recommendation to Head Office.	
12.	Status of Registration of new name of unit with concerned authorities.	
13.	Detail of supporting documents submitted by the unit and attached with recommendation.	
14.	Whether submitted all the required documents by the unit as per checklist. If not then submit the detail of such documents not submitted.	
15.	Manufacturing process / raw materials /products of the unit.	
16.	Whether there is any change in the ownership, manufacturing process, raw material and products of the unit.	
17.	Recommendation of Regional Officer.	

Dated: _____

Regional Officer
_____Region

Annexure-C

Performa for submission of application for transfer of consent and interest from one industry to another industry due to sale or other reasons and replacement of their name and ownership in the record of HSPCB

(Without change in process/raw material/products)

1.	Name & address of the existing unit registered with the Board	:	
2.	Name of the new unit transferred interest of the existing unit as per registration certificate issued from the registration authority i.e. Deptt. of Industries & Commerce/Registrar of companies/Societies etc.	:	
3.	Name and designation of authorized signatory of the applicant unit.	:	
4.	Competent authority for registration of name of unit.	:	
5.	Date and authority where the unit registered its name.	:	
6.	Status of CTO/authorization of the existing unit with validity if granted; (a) Under Water Act, 1974 (b) Under Air Act, 1981 (c) Under HOWM Rules, 2008/2016 (d) Any other applicable Rules	:	
7.	In case CTO/authorization applied and not decided then name of the unit (existing or new) applied CTO.		
8.	Capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit, in case unit is taken on lease/ rent/mortgaged or based upon sale deed registered with revenue authorities, in case the existing unit has been sold.	:	
9.	Detail of CTE/NOC fees; (I) Applicable (in Rs.) (II) Deposited amount with detail of DD No., date and Bank/online transaction no./date. (III) Balance amount, if any	: : :	
10.	Detail of change in ownership	:	
11.	Manufacturing process/raw materials/products of the unit.	:	
12.	Detail of change in name, ownership or transfer of interest of the unit, if any done in the past	:	
13.	Detail of supporting documents attached (as per checklist)	:	

14.	Declaration; (I). That I am the authorized signatory of my unit to submit this application. (II). That there is/will be no change in the manufacturing process / raw materials /products of the industry and in case of any such change is proposed in future, prior consent to establish and/or other required permissions will be taken from the HSPCB. (III). That we shall comply with all the terms and conditions what so ever imposed by the Board while transferring the consent/other clearances and giving permission for replacement of name of the unit in the record of HSPCB.		

Date:
Place:

(Signature)
Authorized Signatory
(as per column no. 3)

Name & address of
applicant unit:

Checklist of supporting documents to be submitted by the unit

a) Power of attorney/authorization letter
b) Copy of latest CTO/Authorization
c) Copy of fresh registration certificate issued from Industries & Commerce Department or from Registrar of Companies/societies or from any other concerned authority, as the case may be, in favour of the new unit.
d) Proof of NOC/CTE fees deposited.
e) Proof of capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit, in case unit is taken on lease/rent/mortgaged or based upon sale deed registered with revenue authorities, in case the existing unit has been sold.
f) Copy of sale deed/rent deed/mortgaged deed/lease deed etc. as applicable registered from revenue authorities.
g) Copy of fresh memorandum of article & association or partnership deed or proof of proprietorship, as the case may be of the new unit, transferred the interest of the industry.

Annexure-D

Performa for recommendation of Regional Officer regarding grant of permission for transfer of consent and interest from one industry to another industry due to sale or other reasons and replacement of their name and ownership in the record of HSPCB

(Without change in process/raw material/products)

1.	Name & address of the applicant unit	
2.	Name & address of the existing unit registered with the Board	
3.	Name of the new unit transferred interest of the existing unit as per registration certificate issued from the registration authority.	
4.	Competent authority for registration of name of unit.	
5.	Date and authority where the unit registered its name.	
6.	Status of Consent to establish/operate and authorization (as applicable) with validity if granted.	
7.	In case CTO/authorization applied and not decided then name of the unit (existing or new) applied CTO.	
8.	Whether deposited the required and applicable CTE/NOC fees (Yes/No)	
9.	Amount of CTE/NOC fees deposited and mode of payment alongwith balance NOC fee if any.	
10.	Date of receipt of application and subsequent clarification submitted (if any) in Regional Office.	
11.	Date of submission of recommendation to Head Office.	
12.	Status of Registration of name of new unit with concerned authorities.	
13.	Detail of supporting documents submitted by the unit and attached with recommendation.	
14.	Whether submitted all the required documents by the unit as per checklist. If not then submit the detail of such documents not submitted.	
15.	Manufacturing process / raw materials /products of the unit.	
16.	Whether there is any change in the manufacturing process / raw material /products of the unit.	
17.	Recommendation of Regional Officer.	

Dated: _____

Regional Officer

_____Region

Annexure-E

Performa for submission of proposal by the concerned Branch in Head Office dealing with consent management for the cases of permission for change of name of the units or for transfer of consent and interest from one Industry to another Industry due to sale or other reasons and replacement of their name and ownership in the record of HSPCB.

1.	Subject:- (Type of case; Whether for grant of permission for change of nomenclature (name) of the unit without other changes or for transfer of consent and interest from one industry to another industry due to sale or other reasons and replacement of their name and ownership in the record of HSPCB.)	
2.	Regional Officer submitting the recommendation alongwith recommendation.	
3.	No. and date of letter vide which recommendation submitted	
4.	Date of receipt of application in Regional Office	
5.	Date of receipt of the case in Head Office	
6.	Name & address of the applicant unit	
7.	Name of the existing unit already registered with HSPCB	
8.	New name of the unit after change as per registration certificate submitted by the unit issued from the registration authority. (In case of change of name without other changes) Or Name of the new unit transferred interest of the existing unit as per registration certificate issued from the registration authority.	
9.	Whether deposited required and applicable NOC fee as per report of RO.	
10.	Status of CTO under Water Act/Air Act and authorization with validity if granted.	
11.	In case CTO/authorization applied and not decided then name of the unit (existing or new) applied CTO.	
12.	Whether submitted all the required documents as per checklist.	
13.	In case of shortcomings in the documents, detail of such documents	
14.	Status of Registration of new name/ new unit's name with competent authority with date	
15.	Competent authority for registration of name of unit.	

16.	Detail of change in name, ownership or transfer of interest of the unit, if any done in the past	
17.	Manufacturing process/raw materials/products of the unit.	
18.	Observation of the Branch.	
19.	Proposal of the Branch.	

Annexure-1

Checklist of documents

1. For only change of nomenclature (name) of the unit in the record of the Board:

   (a) Power of attorney/authorization letter
   (b) Copy of latest CTO/Authorization
   (c) Self declaration regarding no change in the ownership process/raw material/products of the unit.
   (d) Copy of fresh registration certificate issued from Industries & Commerce Department or from Registrar of Companies/societies or from any other concerned authority, as the case may be, with changed name of the unit.
   (e) Proof of NOC/CTE fees deposited.
   (f) Proof of capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit, attested by CA.

2. For transfer of interest of a person in his industry to any other person or Where an existing unit is purchased or taken on lease by another unit and the new unit apply to the Board for grant or renewal of CTE/CTO in his name:

   (a) Power of attorney/authorization letter
   (b) Copy of latest CTO/Authorization
   (c) Copy of fresh registration certificate issued from Industries & Commerce Department or from Registrar of Companies/societies or from any other concerned authority, as the case may be, in favour of the new unit.
   (d) Proof of NOC/CTE fees deposited.
   (e) Proof of capital investment cost of the unit on land, building, plant & machinery (without depreciation) based upon latest balance sheet of the unit, in case unit is taken on lease/rent/mortgaged or based upon sale deed registered with revenue authorities, in case the existing unit has been sold.
   (f) Copy of sale deed/rent deed/mortgaged deed/lease deed etc. as applicable registered from revenue authorities.

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Agenda Item No. 185.7

Creation of Sub-Region No. 4 District Charkhi Dadri in Regional office, HSPCB, Bhiwani.

-.-.-

It is submitted that there are four Districts covered under the jurisdiction of Regional Office, HSPCB, Bhiwani. The Sub Regions, Districts along with total No. of units is as under:-

Sr. No.	Sub Region	District	Total no. of units
1.	Sub Region-1	Jind	301
2.	Sub Region-2	Kaithal	296
3.	Sub Region-3	(i)Bhiwani (ii)Charkhi Dadri	1016

To make the survey and Environmental Acts/Laws/Notifications implementation work effectively, there is a need of Sub-Region-4 Charkhi Dadri. The Regional Officer has also requested that in Sub Region-3, there is two Districts Bhiwani and Charkhi Dadri and has requested to create Sub Region-4 named Charkhi Dadri. For the creation of Sub Region-4 Charkhi Dadri, there will be four Sub Regions in Bhiwani Region and the heavy work of Sub Region-3 will be divided in newly created 4th Sub Region Charkhi Dadri.

The matter is placed before the Board of Directors for consideration and approval.

Agenda Item No. 185.0 **Remote Sensing study for the monitoring of burning cases of Wheat Stubble and Paddy Straw in Haryana for the year 2019.**

The HARSAC has been assigned the work of conducting the remote sensing study for the monitoring of burning cases of Wheat Stubble and Paddy Straw in Haryana for the year 2019 vide letter no. HSPCB/Aircell/2019/339 dated 25.04.2019 with cost of Rs. 31.25 Lacs w.r.t. the proposal submitted by HARSAC vide letter no. HARSAC/2019/261 dated 11.01.2019 as per detail given below:-

Sr.No.	Item	Cost (Lacs)
1.	Digital Data Analysis	5.00
2.	Ground Truth Collection and Travel	3.00
3.	Documentation	1.00
4.	Contingency/Miscellaneous Expenses	1.00
5.	Salary for Project Assistant for 10 months (6 No.s)	13.50
6.	**Sub Total**	23.50
7.	Overhead/Institutional Charges	3.52
8.	GST (@18%)	4.23
9.	Total	**31.25**

The Board in its 184th meeting held on 30.05.2019 has accorded ex-post facto approval of the above said proposal vide resolution no. 184.14 (S). The minutes were circulated vide letter no. HSPCB/Estt./2019/EG-36/4571-4587 dated 31.05.2019.

The HARSAC vide letter no. HARSAC/2019/2165 dated 05.08.2019 **(Annexure-1)** has submitted the report of burring incidents of wheat straw for the year 2019.

The report is submitted for information of the members please.

Annexure-1

8/2/145

Haryana Space Applications Centre (HARSAC)
An ISO 9001:2015 Certified Organization
(Dept. of Science & Technology, Haryana)
CCS HAU Campus, Hisar - 125 004
Tel. No.: 01662-232632 E-mail:contact@harsac.org

9-8-19

Dr. V. S. Arya
Director

No./HARSAC/2019/2165
Dated : 5.8.2019

To

The Member Secretary
Haryana State Pollution Control Board,
C-11, Sector-6
Panchkula – 134109 (Haryana)

Subject: Regarding submission of the report of wheat straw for the year 2019.

Please find enclosed herewith a summary report on wheat straw burning for the year 2019. This year area estimation of brunt area is done on sentinel 2A/B satellite data having spatial resolution of 10 Meter wherever previously, it was done on AWiFS satellite data with a spatial resolution of 56 Meter. So, the results are more precise than the previous year.

Director, HARSAC

428

B/3/146-

Summary Report

On

Monitoring Stubble Burnt Area and Stubble Fire Incidences for Wheat in Haryana for the Year 2019

Submitted

To

Haryana State Pollution Control Board (H-SPCB)

Submitted

By

Haryana Space Applications Centre (HARSAC)
CCS HAU Campus, Hisar-125004

Date: 02/08/2019

On Monitoring stubble burnt area and stubble fire incidences for wheat in Haryana (2019)

Stubble burning (both wheat and rice) is a well know fact for Haryana and Punjab region. It has been identified as key emission source in northwestern India causing serious health problems to a major part of Indian population. Wheat stubble burning areas of Haryana is monitored for all 22 districts in the year 2019 using Sentinel 2A/B satellite data which has a revisit period of 5 days and spatial resolution of 10m. The total wheat stubble burnt area in all the districts of Haryana for the year 2019 is 340.4 thousand ha. This is 13.3% of total cropped area of wheat. Distribution of burnt area of wheat stubble in the state of Haryana is shown in Figure 1. District-wise burnt area is represented in Table 1. The highest percentage burnt area of total cropped wheat is found for Fatehabad district i.e. 23.9 % followed by Jind (22.8 %), Panipat (22.3 %), Kaithal (21.1 %), Karnal (21.1 %) and so on. The lowest percentage of burnt area is found for Mahendergarh district i.e. (0.1 %) (Table 1). The percent of cropped area is computed using Tentative Wheat area estimates of Dept. of Agriculture, Haryana for the year 2019. Tentative value will be replaced with actual value for the year 2019 when actual figures related to the cropped area of Wheat will be received from Agriculture Department.

Similar analysis of Wheat stubble burning was done in the year 2018 for all 22 districts using Resourcesat AWiFS satellite data having spatial resolution of 56m and temporal resolution of 5 days. The total wheat stubble burnt area in all the districts of Haryana for the year 2018 was 308.5 thousand ha. which, was 12 % of total cropped area of Wheat. Distribution of Wheat stubble burnt area in Haryana for the year 2018 is represented in Figure 2. District-wise Wheat

stubble burnt area for the year 2018 and its comparison with the Wheat stubble burnt area for the year 2019 is represented in Table 2. The highest percentage burnt area of total cropped area for the year 2018 was found for Fatehabad district i.e. 23.9 % followed by Kaithal (23.1 %), Rohtak (22.7 %), Jind (21.8 %), Karnal (19.6 %) and so on. The lowest percentage burnt area was found for Mahendergarh district i.e. (0.1 %) (Table 2). Analysis showed that the burning of Wheat stubble is highest in Fatehabad district and lowest in Mahendergarh district for both the year 2018 and 2019. Comparison of burnt area statistics for the year 2018 and 2019 showed a total of 1.3 % increase in the year 2019 which may be due to minor increase in the burning activities, change in satellite data and its improved capability in terms of spatial resolution.

This year Sentinel-2A/B satellite data (fine spatial resolution of 10m) have been used for better results instead of AWiFS data (spatial resolution 56m) due to following two reasons:

- Small burnt patches on the ground may be classified using fine spatial resolution of Sentinel data i.e. 10m.
- Sentinel-2 can detect burnt area patches with size more than 0.04 ha (0.09884215 acers) while AWiFS can only detect burnt area patches more that 0.3 ha (0.741316 acers). This property of Sentinel has enabled us to detect small patches of the stubble burnt area which is a unique characteristic of stubble burning in Haryana especially for small farmers.

The SMS alert system (Figure 3 a & b) developed by HARSAC for providing active crop fire incidences based on satellite data from Moderate Resolution Imaging Spectroradiometer (MODIS) and Suomi National Polar-orbiting

Partnership-Visible Infrared Imaging Radiometer Suite (Suomi NPP-VIIRS) is used for delivering daily report regarding burning incidences. The crop stubble fire location map indicates district, block and village name along with the latitude and longitudes of the point. The application helps in the navigation of desired location by indicating the shortest/ optimum route (Figure 4 a & b) from the current location of the official. This property of the application may be used for any fire location in the state to enable enforcement agencies to reach at the exact location. Mobile based application developed by HARSAC through which the fire incidences were reported has also been used to verify the fire incidences.

A total of 543 fire incidences have been verified by our ground staff through ground survey and their distribution is represented in Figure 5. A comparison of crop residue burning incidences for the year 2018 and 2019 is provided in Table 3. Date and district-wise active fire locations of crop stubble burning from April 15 to May 31 for the year 2018 and 2019 is given in Table 4. It was observed that a total of 7383 crop stubble fire incidences occurred during the wheat harvesting season in the year 2019 as compared to 5914 crop stubble fire incidences for the year 2018 (Table 3).

About 20.4% increase in crop stubble fire locations was observed for the year 2019 as compared to the year 2018. Maximum number of 811 and 1055 crop stubble active fire points were recorded in Karnal district for the year 2018 and 2019 respectively followed by Sonipat 576 & 747, Jind 736 and 734, Panipat 420 and 605 and Rohtak 427 & 570 (Table 3). The number of fire points in the state started increasing from the third week of April, reached to a maximum during May first and second week and then started decreasing gradually as

represented in Figure 6. The Peak day of fire incidence is found to be 10 May 2019 as obtained by fitting a forth order polynomial trend line on temporal fire incidences.

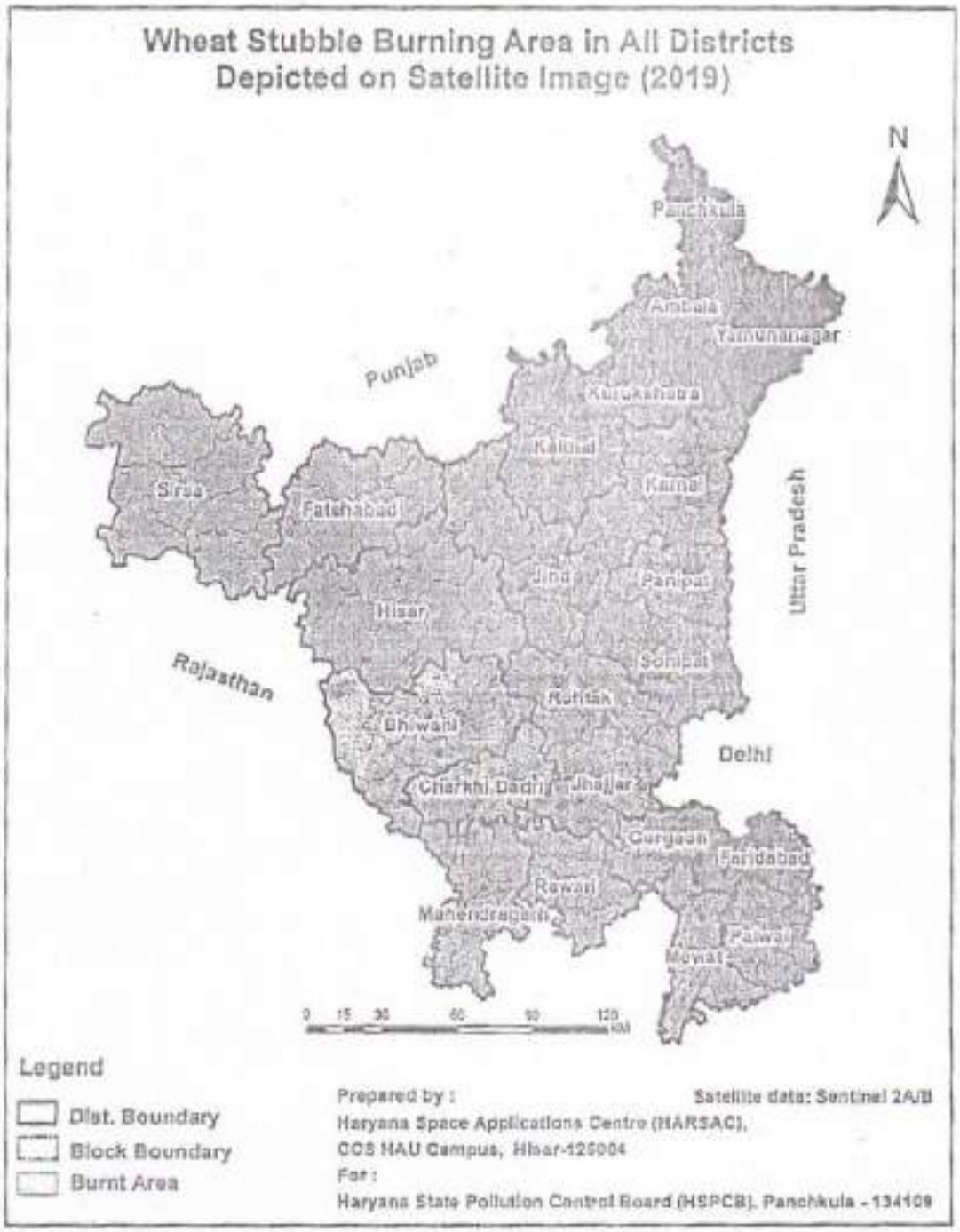


Figure 1: Wheat stubble burnt area in districts of Haryana depicted on Sentinel image with spatial resolution of 10m for the year 2019

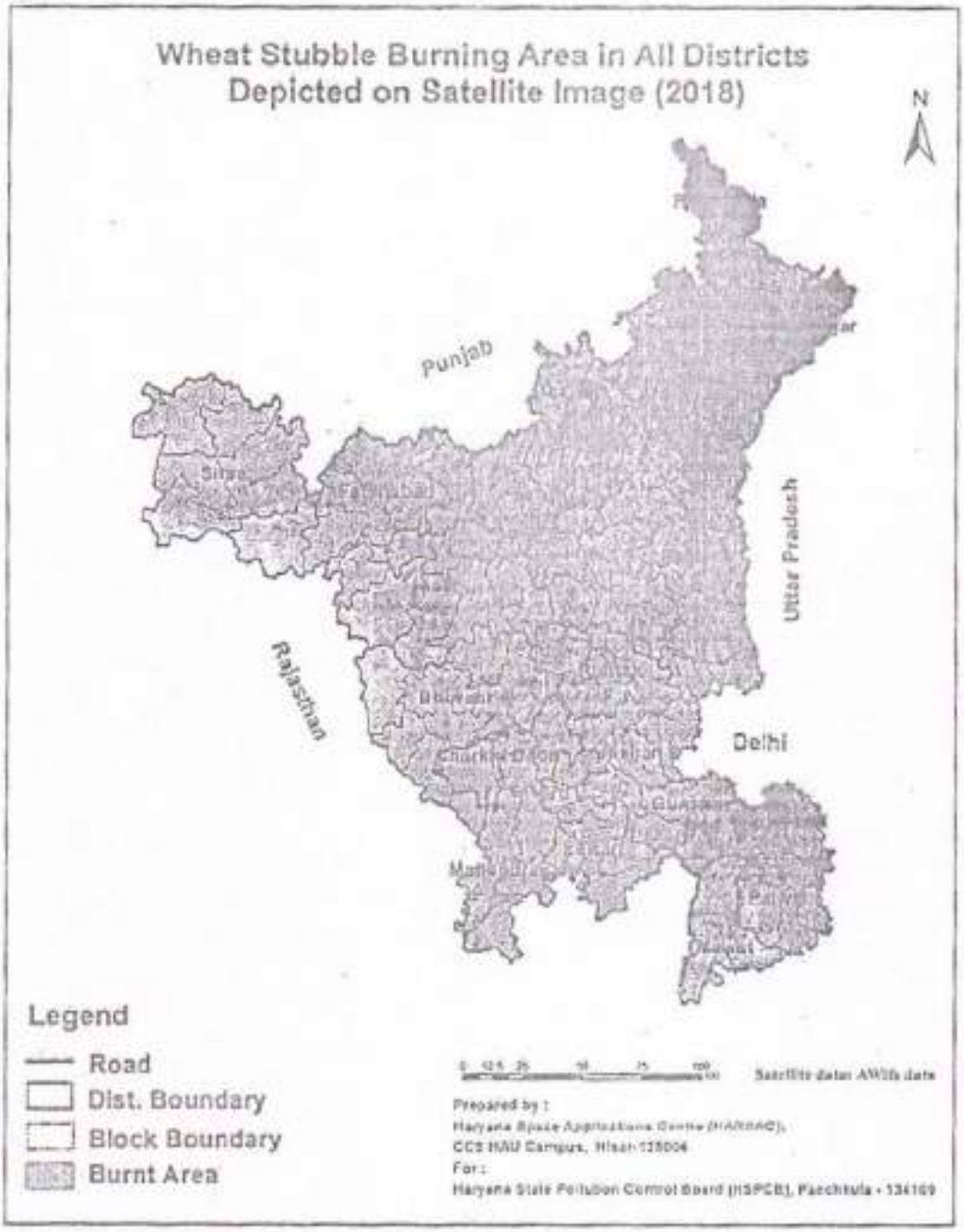
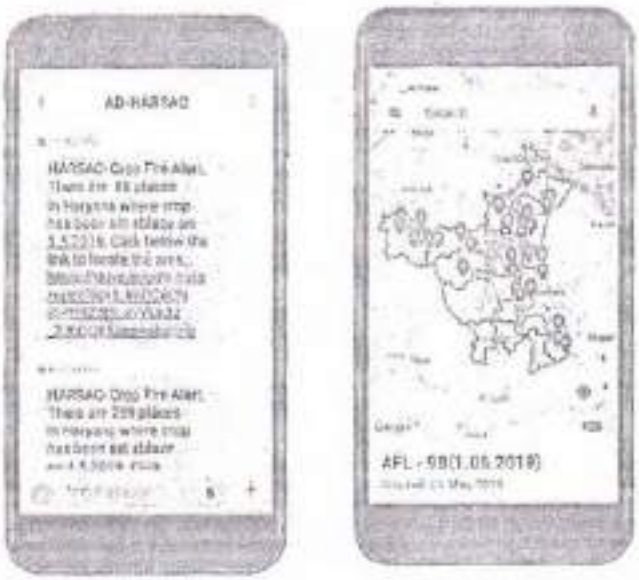


Figure 2: Wheat stubble burnt area in districts of Haryana depicted on AWiFS image with spatial resolution of 56m for the year 2018



(a) (b)

Figure 3: (a) SMS Alert for crop fire locations (b) locations on Google map

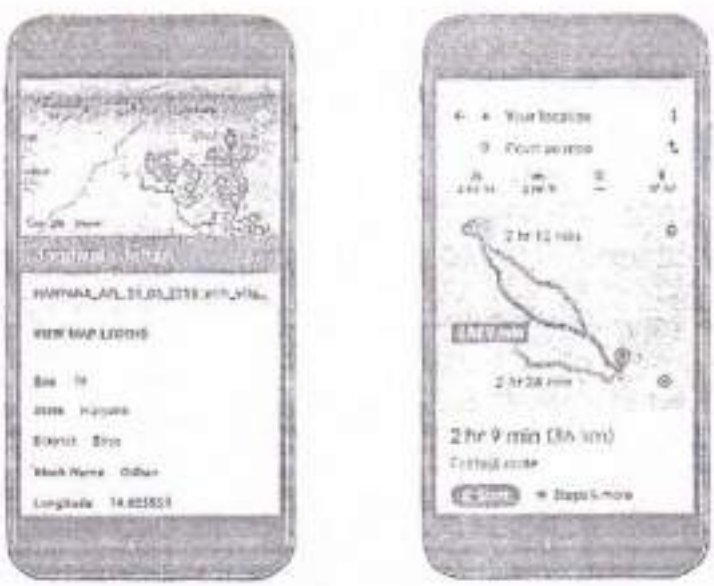


Figure 4: (a) Detail information of the location and (b) Shortest /optimum rout from the current location to crop fire location

Figure 5: Ground verification of Active Fire Location (AFL)

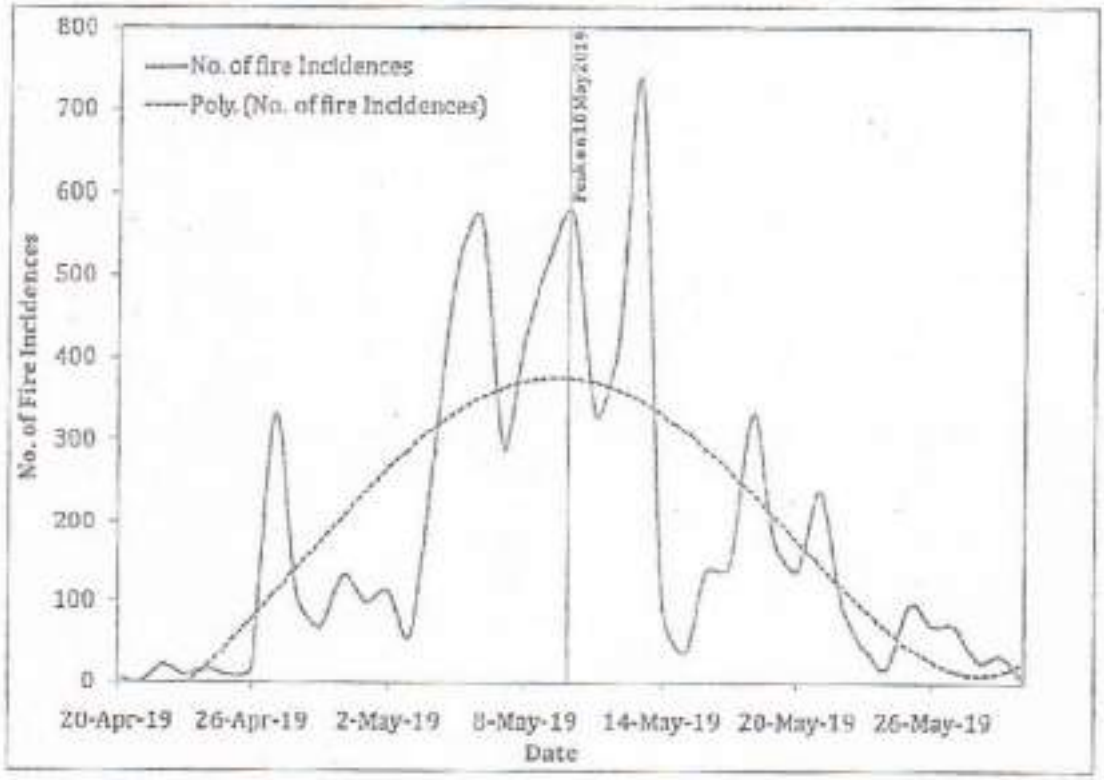


Figure 6: Temporal variations in active fire incidences since 20 April, 2019 to 30 may 2019. The peak day of fire incidence is obtained by fitting a forth order polynomial trend line on temporal fire incidences.

Table 1: Wheat stubble burnt area as estimated from Sentinel data (10 m spatial resolution) in all the 22 Districts of Haryana for the year 2019

Sr. No.	District/ Parameter	Wheat Area (2019)* ('000 hectares)	Stubble Burnt Area (2019) ('000 hectares)	% of Wheat crop Area
1	Ambala	87	7.1	8.2
2	Bhiwani	120	7.5	6.3
3	Charkhi	58	2.3	4.0
4	Faridabad	30	1.8	6.0
5	Fatehabad	187	44.6	23.9
6	Gurugram	50	1.9	3.8
7	Hisar	227	24.2	10.6
8	Jhajjar	113	12.6	11.2
9	Jind	217	49.4	22.8
10	Kaithal	174	36.8	21.1
11	Karnal	178	37.5	21.1
12	Kurukshetra	110	15.0	13.7
13	Mahendergar	48	0.0	0.1
14	Nuh	75	0.6	0.8
15	Palwal	110	8.1	7.3
16	Rohtak	106	22.0	20.8
17	Panchkula	17	0.2	1.4
18	Panipat	82	18.3	22.3
19	Rewari	46	0.6	1.4
20	Sirsa	302	23.8	7.9
21	Sonipat	143	20.5	14.3
22	Yamunanagar	85	5.0	5.9
	State	2565	340.0	13.3

*Dept of Agriculture Wheat Area Tentative

Table 2: Districts-wise Wheat stubble burnt area (Comparison for the year 2018 and 2019)

Sr. No.	District	Wheat Stubble Burning Area ('000 hectares)		Wheat Area ('000 hectares)		% of Wheat Area	
		2018	2019	2018*	2019+	2018	2019
1	Ambala	5.4	7.1	87	87	6.2	8.2
2	Bhiwani	6.8	7.5	120	120	5.7	6.3
3	Charkhi Dadri	1.1	2.3	58	58	1.9	4
4	Faridabad	0.8	1.8	30	30	2.6	6
5	Fatehabad	44.6	44.6	187	187	23.9	23.9
6	Gurugram	1.5	1.9	50	50	3	3.8
7	Hisar	21.3	24.2	227	227	9.4	10.6
8	Jhajjar	10.9	12.6	113	113	9.7	11.2
9	Jind	47.3	49.4	217	217	21.8	22.8
10	Kaithal	40.2	36.8	174	174	23.1	21.1
11	Karnal	34.9	37.5	178	178	19.6	21.1
12	Kurukshetra	15.4	15	110	110	14	13.7
13	Mahendergarh	0	0	48	48	0.1	0.1
14	Nuh	0.1	0.6	75	75	0.2	0.8
15	Palwal	4.5	8.1	110	110	4.1	7.3
16	Rohtak	24.1	22	106	106	22.7	20.8
17	Panchkula	0.1	0.2	17	17	0.6	1.4
18	Panipat	9.5	18.3	82	82	11.6	22.3
19	Rewari	0.2	0.6	46	46	0.4	1.4
20	Sirsa	17.5	23.8	302	302	5.8	7.9
21	Sonipat	21.1	20.5	143	143	14.8	14.3
22	Yamunanagar	1.3	5	85	85	1.5	5.9
	Total	308.61[1]	340.02[2]	2565	2565	12	13.3

*Dept of Agriculture Wheat Area Final

+ Dept of Agriculture Wheat Area Tentative

1 Estimation based on AWIFS Data having spatial resolution of 56m.

2 Estimation based on Sentinel 2A/B satellite data having spatial resolution of 10m.

Table 3: District-wise Wheat stubble fire Locations during April 01 to May 30 for the year 2018 & 2019 as obtained from MODIS and Suomi-NPP satellite

Active Wheat Crop Stubble Fire Locations District wise 15 April to 31-May 2018 and 2019

Sr. No.	Districts	2018	2019
1	Ambala	205	325
2	Bhiwani	154	177
3	Charkhi Dadri	41	79
4	Faridabad	34	33
5	Fatehabad	333	471
6	Gurugram	33	71
7	Hisar	377	354
8	Jhajjar	322	558
9	Jind	733	730
10	Kaithal	514	580
11	Karnal	812	1051
12	Kurukshetra	257	302
13	Mahendergarh	2	3
14	Nuh	5	4
15	Palwal	62	90
16	Rohtak	426	569
17	Panchkula	62	19
18	Panipat	412	603
19	Rewari	3	14
20	Sirsa	372	494
21	Sonipat	574	740
22	Yamunanagar	147	116
Total		5880	7383

Table 4: Date and District wise active crop stubble fire locations

Number of Active Wheat Crop Stubble Fire locations in Different Districts of Haryana (April 15, 2015 to till Date)

Date	Ambala	Bhiwani	Chakhi Dadri	Fatehabad	Faridabad	Gurgaon	Hisar	Jhajjar	Jind	Kaithal	Karnal	Kurukshetra	Mahendergarh	Mewat	Palwal	Panchkula	Panipat	Rewari	Rohtak	Sirsa	Sonipat	Yamunanagar	State
15-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
17-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-Apr-2015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
22-Apr-2015	0	0	0	1	0	0	0	2	1	0	10	0	0	0	0	0	0	0	0	1	0	0	14
23-Apr-2015	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	1
24-Apr-2015	0	1	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
25-Apr-2015	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3
26-Apr-2015	0	1	0	0	0	1	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0	0	4
27-Apr-2015	0	3	0	3	0	2	5	14	6	7	178	0	0	0	0	0	0	14	0	0	28	0	256
28-Apr-2015	2	4	0	1	3	0	2	0	2	21	17	16	0	0	4	3	5	17	0	0	3	0	97
29-Apr-2015	0	5	1	2	0	1	4	6	4	1	16	0	0	0	6	6	0	3	0	0	3	0	57
30-Apr-2015	4	0	2	0	2	0	23	0	12	2	0	4	0	0	2	0	0	4	0	7	21	1	100
1-May-2015	2	0	2	1	4	0	4	0	17	1	15	4	0	0	2	3	0	7	0	5	6	1	73
2-May-2015	0	0	0	0	2	5	16	22	7	1	2	0	0	0	0	0	0	0	0	12	6	2	74
3-May-2015	0	1	2	1	4	0	7	6	3	2	2	0	0	0	1	3	2	4	0	7	2	0	43
4-May-2015	0	0	0	0	0	2	23	59	25	1	3	0	0	1	4	13	0	0	0	22	23	2	177
5-May-2015	7	0	17	0	22	5	30	53	74	12	10	12	0	0	17	14	0	48	2	48	59	4	346
6-May-2015	2	7	6	0	43	4	7	74	150	0	25	9	0	1	1	15	0	65	1	31	103	10	566
7-May-2015	4	1	3	1	21	4	15	59	29	1	11	5	0	1	3	14	1	37	0	15	35	3	219
8-May-2015	16	3	1	3	29	4	9	52	44	29	52	6	0	1	5	10	1	23	1	4	69	1	310
9-May-2015	9	23	1	5	30	1	25	62	73	65	57	14	0	1	6	16	2	24	0	23	59	4	406
10-May-2015	22	23	5	2	38	1	15	67	72	45	30	19	0	0	4	42	0	24	0	27	55	1	472
11-May-2015	12	3	3	3	6	0	4	36	23	24	15	23	0	0	6	25	1	24	0	9	47	11	276
12-May-2015	14	3	4	5	32	1	28	8	25	37	14	14	0	0	2	23	0	28	0	25	24	2	291
13-May-2015	13	22	8	1	15	1	47	32	65	103	84	22	0	1	1	28	5	55	1	24	63	11	525
14-May-2015	1	0	0	0	28	0	7	2	4	1	6	4	0	0	0	4	0	2	0	18	5	2	76
15-May-2015	4	0	2	0	6	0	2	0	0	1	0	2	1	0	2	3	0	0	0	6	0	10	39
16-May-2015	10	0	1	0	23	1	4	1	15	21	18	3	1	0	0	4	0	5	0	0	1	0	109
17-May-2015	10	0	5	1	0	0	17	0	13	24	13	5	0	0	1	28	0	0	0	1	22	5	145
18-May-2015	28	4	0	1	10	0	0	1	26	78	54	22	0	0	0	2	0	25	0	53	32	7	343
19-May-2015	11	1	1	0	2	0	1	4	3	15	13	11	0	0	2	1	2	14	1	1	16	12	130
20-May-2015	8	1	4	3	18	1	3	4	23	5	34	8	0	0	0	28	0	7	1	29	18	9	196
21-May-2015	11	1	3	1	17	0	7	0	18	12	53	16	0	0	0	0	0	15	0	37	18	2	225
22-May-2015	12	0	0	0	0	0	0	0	7	3	30	6	0	0	0	1	0	7	0	1	4	6	87
23-May-2015	2	1	0	0	1	0	4	1	0	5	3	2	0	0	2	2	0	1	0	0	11	9	42
24-May-2015	1	0	0	0	2	0	5	0	1	1	3	2	0	0	0	0	0	0	0	0	1	1	16
25-May-2015	2	0	0	2	7	0	16	0	2	2	15	9	0	0	0	1	0	2	0	12	16	2	90
26-May-2015	2	2	0	0	2	0	3	1	0	5	0	2	0	0	0	1	0	1	0	10	3	0	69
27-May-2015	1	2	1	0	3	0	5	0	0	3	6	0	0	0	0	1	0	0	0	4	4	1	87
28-May-2015	1	2	1	0	4	0	3	1	1	3	1	1	0	0	1	1	0	1	1	5	2	0	29
29-May-2015	1	2	0	0	3	1	0	2	2	2	10	1	0	0	0	1	0	3	0	2	2	0	31
30-May-2015	0	0	0	0	0	0	1	0	0	2	1	1	0	0	0	1	0	0	0	1	0	0	6
31-May-2015	0	0	0	1	0	0	2	0	0	0	1	0	0	0	0	1	0	0	0	0	1	1	6
Total	375	172	25	75	431	38	364	553	736	588	1,001	362	12	6	56	325	21	610	20	474	740	98	7,061

8/15/158

Agenda item no.:- 185.9

Amendment in the notification dated 11.05.2016 for extending the relaxation to the stone crushing units w.r.t distance from educational institution which are under relaxation w.r.t. some other criteria.

A notification had been issued by Environment Department, Haryana vide no. SO 12/C.A./29/1986/Ss.5 and 7/2016 dated 11.05.2016 whereby, siting criteria norms for stone crushing units were provided and 3 year time was granted to the stone crushing unit to shift their stone crusher unit at any site meeting the siting criteria or in an existing stone crusher zone. Further, the above mentioned notification has been amended vide notification no. SO 24/C.A./29/1986/Ss.5 and 7/2019 dated 04.04.2019 (Annexure-1) in compliance of the order dated 19.02.2019 (Annexure-2) of Hon'ble National Green Tribunal passed in OA No. 843/2018 (I.A. No. 106/2019) titled as Sardar Patel Jan Chetna Education Society Vs State of Haryana & Ors. whereby, minimum distance required from educational institution for stone crusher is prescribed 0.5 KM.

It is also pertinent to mention here that CWP No. 12107 of 2018 titled as Ambala Stone Crusher & others Vs State of Haryana & others and some other writ petitions have been filed seeking relief against the above mentioned notifications. The Hon'ble Punjab and Haryana High Court has restrained the respondents/authorities to interfere in the running of the stone crushing unit by an interim order.

The Environment Department Government of Haryana has issued an order dated 10.06.2019 vide endst no. 16/19/2015-3Env. Dated 11.06.2019, whereby one more year period has been granted to enable non complying units to comply with the siting norms to avoid multiple litigations. The copy of order dated 11.06.2019 is annexed at **Annexure-3.**

The Hon'ble NGT vide order dated 21.05.2019 has sought the siting parameter report w.r.t. the distance from educational institution in view of the notification dated 04.04.2019. Accordingly, report has been collected from the Field offices and 58 stone crushers were found not complying with the siting parameter (Distance 0.5 KM) from educational institution. The list of the stone crusher units is annexed as **Annexure-4.**

Out of these 58 stone crusher units, 46 stone crusher units are operating under the relaxation provided as per notification dated 11.05.2016 and 12 stone crusher units are operating regularly without relaxation as per notification dated 11.05.2016. Further action against remaining 12 stone crushing units is being initiated after following the due procedure.

The matter was referred to the State Government for considering to extend the relaxation provision w.r.t. distance from educational institution which are under relaxation w.r.t. some other criteria and the copy of the said reference is given at **Annexure-5**.

The above proposal is submitted for ex-post facto approval of the Board please.

9/3/161

Annexure-2 1250

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[Authorised English Translation]

HARYANA GOVERNMENT

ENVIRONMENT DEPARTMENT

Notification

The 4th April, 2019

No. S.O. 14/C.A.29/1986/Ss. 5 and 7/2019.— Whereas as per Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016, directions were given for stone crushing units in regard to safety criteria norms as per Schedule I, emission norms and pollution control measures requirements as per Schedule II, identification of areas and availability of sites as per Schedule III and procedure for establishment and operation in identified zones as per Schedule IV;

And, whereas the State Government is of the opinion that it is necessary and expedient to make amendment in the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016,

Now, therefore, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), read with Government of India, Ministry of Environment and Forest, Department of Environment, Forest and Wild Life, notification No. S.O. 152 (E), dated the 10th February, 1988, and sub-rule (3) of rule 4 of permittance of the provision of section 7 of the said Act, and the Environment (Protection) Rules, 1986, the Governor of Haryana hereby makes the following amendment in the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016 namely:

AMENDMENT

In the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016, in Schedule I, under columns 1, 2 and 3, after serial number 11, the following serial number and entries there against shall be added, namely:-

1	2	3
"12	Minimum distance required from educational institutions	0.5"

DEBEEA KHANDELWAL,
Additional Chief Secretary to Government Haryana,
Environment Department.

27000—I. S.—H.G.P., Chd.

Annexure-11

9/4/162

Item No. 16 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Execution Application No. 07/2019
IN
Original Application No. 843/2018
(I.A. No. 105/2019)

Sardar Patel Jan Chetna Education Society Applicant(s)

Versus

State of Haryana & Ors. Respondent(s)

Date of hearing: 19.02.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Rajkumar, Advocate

For Respondent (s): Mr. Rahul Khurana, Advocate for State of Haryana and HSPCB

ORDER

This application seeks enforcement of order dated 31.10.2018, in Original Application No. 843/2018, *Sardar Patel Jan Chetna Education Society Vs. State of Haryana & Ors.* directing the Director of Environment Haryana to take steps to specify the distance of stone crushers from educational institutions.

Learned counsel for the State of Haryana submits that necessary steps are being taken in the matter.

We direct the Chief Secretary, Haryana to finalize the matter expeditiously within two months from today and furnish a report to this Tribunal by e-mail at ngt.filing@gmail.com. The distance which may be specified must be based on scientific and environment rational.

The applicant is at liberty to furnish his representation in the matter to the Chief Secretary, Haryana within one week from today.

List for consideration of the report on 21.05.2019

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 19, 2019
Execution Application No. 07/2019

NATIONAL GREEN TRIBUNAL NEW DELHI

Annexure - 3
9/6/19

RJN3-40699
14-6-19

GOVERNMENT OF HARYANA
ENVIRONMENT DEPARTMENT
ORDER

Whereas, Haryana Government, Environment department issued a Notification regarding stone crushers(vide No. S.O.12/C.A. 29/1986/Ss. 5 and 7/2016 dated 11.05.2016.) siting parameters to establish a stone crusher unit in Haryana are defined in schedule –I of above said Notification.

Whereas, a time period of 3 years was given to the stone crushers(under the Rules) which were not meeting the siting criteria as per Notification dated 11.05.2016 to shift their stone crushers at any site meeting the siting criteria or in an existing stone crusher zone. This time period has expired on 10.05.2019.

Whereas, Hon'ble High court of Punjab and Haryana in CWP No. 12107 of 2018 titled as Ambala stone crusher and Ors Vs State of Haryana and Ors vide its order dated 02.05.2019 has restrained the respondent – authorities till the next date of listing from interfering in the running of the petitioners- stone crushing units by their respective proprietors at the place where they are established and also from taking any other coercive measures or refusing to grant necessary consent as and when required on the ground that they are not entitled to continue the operation at the present site in view of the Notification which is impugned in this writ petition. Some other stone crushers have also approached the Hon'ble High court and Hon'ble court has ordered in all these cases that "There shall be an interim order in the same terms as in CWP No. 12107 of 2018".

In view of above said orders of Hon'ble High Court and considering the probability of multiple litigations, the Government has taken the decision that the time period of 3 years given to the stone crushers not meeting the siting parameter as per notification dated 11.05.2016 is extended further for a period of one year to enable non complying units to comply with the siting norms.

Dated : 10.06.2019

Dheera Khandelwal
Additional Chief Secretary to Govt. Haryana,
Environment Department

Endst. No. 16/19/2015-3 Env.

Dated:- 11-6-2019

A copy is forwarded to the Chairman, Haryana State Pollution Control Board, with the request to take further necessary action under intimation to the Government.

Superintendent, Environment,
for Additional Chief Secretary to Govt. Haryana,
Environment Department.

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Annexure-4

list of stone crushers not meeting the siting criteria distance from educational institution as per notification dated 04.04.2019.

Sr. No.	Name and address of Stone Crusher	Remarks
1.	Roop Kamal Stone Industries, Vill Doiwala, P.O. Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
2.	Shiv Shankar Stone Crusher, Vill Kohliwala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
3.	Wala Stone Crushing Co., VPO Devdhar, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
4.	Super Stone Crusher, Vill Ballewala, Tehsil Chhechhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
5.	Jagat Stone Crusher, Vill Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
6.	Keshav Stone Crusher, Village Doiwala, Tehsil Chhechhrauli, Yamuna Nagar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
7.	United Contractors and engineers, Village Ballewala, Tehsil chhachrauli, District Yamuna nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
8.	Kamboj Gram Udyog Mandal, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
9.	Gayatri Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
10.	Bala Sundri Stone Crusher, Village Ballewala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
11.	Gaurav Stone Crusher, Village Ballewala, Tehsil Chhechhrauli,	Established before the notification dated 04.04.2019 and operating under relaxation

8

	District Yamuna Nagar	provided by Govt for siting parameter as per notification dated 11.05.2016.
12.	Haryana Stone Crusher, Village Ballewala, Tehsil Chhachrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
13.	Jai Ganesh Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
14.	Shyam Stone Crushing Co., Village Dolwala, Tehsil Chhachrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
15.	Balram Stone Crushing Co, Village Ballewala, Tehsil Chhachrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
16.	Ambey Stone Crusher, Village Dolwala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
17.	Shri Ram Stone Crusher, Village Dolwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
18.	Bhagwati StoneCrusher, Village Dolwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
19.	Balaji Stone Crusher, Dolwala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
20.	Mittal Stone Crusher, Ballewala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
21.	Mahindra Stone Crusher, Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
22.	Haryana Stone Mills Pvt Ltd, Dolwala Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
23.	Hum Stone Crusher, Village Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
24.	Jamna Gram Udyog Mandal, Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.

25.	Sohi Stone Crushing Industry, Village Ballewala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
26	New Markanda Stone Crusher, Village Ballowala, PO Devdhar, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
27.	Aggarwal Stone Crusher, Village Doiwala, Tehsil KHIZRZBAD, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
28.	Jagdamba Stone Crusher, Village Doiwala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
29.	Neelkanth Stone Crushing Co. (Old name Surindra Stone Crusher Industries), Village Doiwala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
30.	Vishkarma Stone CrushingCo., Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
31.	Parkash Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
32.	Gosi Spintex Pvt Ltd, Unit-I, Doiwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
33.	Mohit Stone Crusher, Village Kohliwala, P.O. Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
34.	Arya Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
35.	M/s Jai Maa Durga Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
36.	M/s Rani & Sons Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
37.	M/s Mahadev Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
38.	M/s Shiv Shakti Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
39.	M/s Shree Ram Chander Stone Crusher (Old Name Galaxy Enterprises) Village Bagwala, Panchkula	Running regularly
40.	M/s Mahadev Stone Crusher Village Pyarewala, Raipur Rani, District Panchkula	Running under relaxation provided vide notification dated 11.05.2016.

41.	M/s A.K.Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
42.	M/s Kakkar Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notifiestion dated 11.05.2016.
43.	M/s Anoop Stone Crusher Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
44.	M/s Chandimandir Stone Crusher Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
45.	M/s Durga Stone Crusher, Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
46.	M/S JANTA STONE CRUSHER Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
47.	M/s K.K. Stone Crusher Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
48.	M/s Krishana Stone Crusher Village Tenda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
49.	M/s Shakti Stone Crusher.	Running under relaxation provided vide notification dated 11.05.2016.
50.	SHREE VINAYAK STONE CRUSHER Khewat No. 8, Khata No. 8, M.No. 42, Kila No. 19/2(5-6), 20/1 (4-12), 21/2 (4-11) 22/1 (4-11) At Village-Kultajpur, Tehsil-Narnaul, District-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
51.	Hycel Construction Pvt. Ltd & Mobile Drill Master (Joint Venture) -HMJV Khewat No. 171, Khatoni No. 232 & 235, Musil No. 43/1/1 (8-10), 44/1(7-11) 5 (7-11), 7/2 total 25 kanal Village-Kultajpur Narnaul Distt-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
52.	Shree Shyam Stone Crusher Khewat No. 177, Khatoni No. 243, M.No. 43, Kila No. 9 (5-2) & 12 (3-16) at Vill-Kultajpur, Tehsil-Narnaul Distt-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
53.	Shiv Sunder Grit Udyog, Kila No. 71/6, Vill-Lutafpur, Narnaul, Mohindergarh	Operational and Time grant as per notification dated 11.05.2016.
54.	Bajrang Stone Crusher, Khewat No. 121, Khatoni No. 148, Khasra No. 53 total 200 kanal 15 marla Vill.-Faizabad, Narnaul	Operational and Time grant as per notification dated 11.05.2016.
55.	Karota Stone Grinding, Khewat no. 32, khatoni no. 64, kila no. 12//20 (9-0), khewat no. 33, Khatoni no. 65, kila no. 13//16(6-12) Vill-Karota, Narnaul, Distt Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
56.	DEV SHRI KRISHNA STONE CRUSHER Khewat No. 45, Khatoni No. 53, M.No.12, Kila No. 25/2 (3-13) M.No. 15, Kila NO. 5 min East (7-0) Total 10 Kanal 13 Marla, Village-Karota, Tehsil-Narnaul, DisttMohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
57.	Unique Stone Crusher, Khewat No. 15,	Not covered under relaxation as per

	Khatoni No. 15, M.No. 11, Kila No. 11/2 (2-15,) 20 (7-12)& 21/1 (8-9) Total 16 Kanal 16 Marla, Vill-Karota, Narnaul, Distt-Mohindergarh	notification dated 11.05.2016 (Not operational)
58	Deepak Construction Co., Khasra No. 211, Vill.Raghunathpura, Distt. Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)

Annexure - 5

9/12/170

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
HSPCB Ph-2577870-73 E-mail: hspcbsrscientist@gmail.com

No. HSPCB/Aircell/2019/1066 Dated: 12.08.2019

To

The Additional Chief Secretary to Govt. of Haryana,
Environment and Climate Change Department,
Chandigarh.

Sub:- Amendment in the notification dated 11.05.2016 to relax the parameter w.r.t. distance from educational institution as per notification dated 04.04.2019.

Kindly refer to the subject noted above.

In this connection, it is intimated that a notification had been issued by Environment Department, Haryana vide no. SO 12/C.A./29/1986/Ss.5 and 7/2016 dated 11.05.2016 whereby, siting criteria norms for stone crushing units were provided and 3 year time was granted to the stone crushing unit to shift their stone crusher unit at any site meeting the siting criteria or in an existing stone crusher zone. Further, the above mentioned notification has been amended vide notification no. SO 24/C.A./29/1986/Ss.5 and 7/2019 dated 04.04.2019 (Annexure-1) in compliance of the order dated 19.02.2019 (Annexure-2) of Hon'ble National Green Tribunal passed in OA No. 843/2018 (I.A. No. 106/2019) titled as Sardar Patel Jan Chetna Education Society Vs State of Haryana & Ors. whereby, minimum distance required from educational institution for stone crusher is prescribed 0.5 KM.

It is also pertinent to mention here that CWP No. 12107 of 2018 titled as Ambala Stone Crusher & others Vs State of Haryana & others and some other writ petitions have been filed seeking relief against the above mentioned notifications. The Hon'ble Punjab and Haryana High Court has restrained the respondents/authorities to interfere in the running of the stone crushing unit by an interim order. Resultantly Environment Department Government of Haryana has issued an order dated 10.06.2019 vide endst no. 16/19/2015-3Env. Dated 11.06.2019, whereby one more year period has been granted to enable non complying units to comply with the siting norms to avoid multiple litigations. The copy of order dated 11.06.2019 is annexed at Annexure-3.

The Hon'ble NGT vide order dated 21.05.2019 has sought the siting parameter report w.r.t. the distance from educational institution in view of the notification dated 04.04.2019. Accordingly, report has been collected from the Field offices and 58 stone crushers were found not complying with the siting parameter (Distance 0.5 KM) from educational institution. Out of those 58 stone crusher units, 46 stone crusher units are

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operating under the relaxation provided as per notification dated 11.05.2016 and 12 stone crusher units are operating regularly without relaxation as per notification dated 11.05.2016. The list of the stone crusher units is annexed as **Annexure-4.**

In view of above, it is proposed that the Government may consider extending the relaxation for 46 Stone crushing units for distance from educational institution criteria also as there are under relaxation w.r.t. some other criteria as per notification dated 11.05.2016. The list of 46 stone crushing units is annexed as **Annexure-5.** Further action against remaining 12 stone crushing units is being initiated after following the due procedure.

DA/ As above.

22.08.19

Sr. Scientist (HQ)
For Chairman

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9/14/172

Annexure-2

(Authorised English Translation)

HARYANA GOVERNMENT

ENVIRONMENT DEPARTMENT

Notification

The 4th April, 2019

No. S.O. 34/CA/29/1986/Ss. 5 and 7/2019.— Whereas as per Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016, directions were given for stone crushing units in regard to siting criteria norms as per Schedule I, emission norms and pollution control measure requirements as per Schedule II, identification of zones and availability of sites as per Schedule III and procedure for establishment and operation in identified zones as per Schedule IV;

And, whereas the State Government is of the opinion that it is necessary and expedient to make amendment in the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016.

Now, therefore, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), read with Government of India, Ministry of Environment and Forest, Department of Environment, Forest and Wild Life, notification No. S.O. 152 (E), dated the 10th February, 1989, and sub rule (5) of rule 4 of pursuance of the provision of section 7 of the said Act, and the Environment (Protection) Rules, 1986, the Governor of Haryana hereby makes the following amendment in the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016, dated the 11th May, 2016 namely:

AMENDMENT

In the Haryana Government, Environment Department, notification No. S.O. 12/C.A. 29/1986/Ss.5 and 7/2016 dated the 11th May, 2016, in Schedule I, under columns 1, 2 and 3, after serial number 11, the following serial number and entries there against shall be added, namely:-

1	2	3
"12	Minimum distance required from educational institutions	0.5"

DHEERA KHANDELWAL,
Additional Chief Secretary to Government Haryana,
Environment Department.

3700—I.B.—HGP, Chd.

9/15/173

Annexure-2 129

Item No. 16 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Execution Application No. 07/2019
IN
Original Application No. 843/2018
(I.A. No. 105/2019)

Sardar Patel Jan Chetna Education Society Applicant(s)

Versus

State of Haryana & Ors. Respondent(s)

Date of hearing: 19.02.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Rajkumar, Advocate

For Respondent (s): Ms. Rahul Khurana, Advocate for State of Haryana and HSPCB

ORDER

This application seeks enforcement of order dated 31.10.2018, in Original Application No. 843/2018 Sardar Patel Jan Chetna Education Society Vs. State of Haryana & Ors., directing the Director of Environment Haryana to take steps to specify the distance of stone crushers from educational institutions.

Learned counsel for the State of Haryana submits that necessary steps are being taken in the matter.

We direct the Chief Secretary, Haryana to finalize the matter expeditiously within two months from today and furnish a report to this Tribunal by e-mail at ngt.filing@gmail.com. The distance which may be specified must be based on scientific and environmental rational.

The applicant is at liberty to furnish his representation in the matter to the Chief Secretary, Haryana within one week from today.

List for consideration of the report on 21.05.2019

A.K. Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 19, 2019
Execution Application No. 07/2019

RHS-40629
14-6-19

Annexure -3
1119
9/17/175

GOVERNMENT OF HARYANA
ENVIRONMENT DEPARTMENT
ORDER

Whereas, Haryana Government, Environment department issued a Notification regarding stone crushers(vide No. S.O.12/C.A. 29/1986/Sec. 5 and 7/2016 dated 11.05.2016.) siting parameters to establish a stone crusher unit in Haryana are defined in schedule –I of above said Notification.

Whereas, a time period of 3 years was given to the stone crushers(under the Rules) which were not meeting the siting criteria as per Notification dated 11.05.2016 to shift their stone crushers at any site meeting the siting criteria or in an existing stone crusher zone. This time period has expired on 10.05.2019.

Whereas, Hon'ble High court of Punjab and Haryana in CWP No. 12107 of 2018 titled as Ambala stone crusher and Ors Vs State of Haryana and Ors vide its order dated 02.05.2019 has restrained the respondent – authorities till the next date of listing from interfering in the running of the petitioners- stone crushing units by their respective proprietors at the place where they are established and also from taking any other coercive measures or refusing to grant necessary CHAIRMAN consent as and when required on the ground that they are not entitled to continue the operation at the present site in view of the Notification which is impugned in this writ petition. Some other stone crushers have also approached the Hon'ble High court and Hon'ble court has ordered in all these cases that "There shall be an interim order in the same terms as in CWP No. 12107 of 2018".

In view of above said orders of Hon'ble High Court and considering the probability of multiple litigations,the Government has taken the decision that the time period of 3 years given to the stone crushers not meeting the siting parameter as per notification dated 11.05.2016 is extended further for a period of one year to enable non complying units to comply with the siting norms.

Dated : 10.06.2019

Dheera Khandelwal
Additional Chief Secretary to Govt. Haryana,
Environment Department

Endst. No. 16/19/2015-3 Env. Dated:- 11-6-2019

A copy is forwarded to the Chairman, Haryana State Pollution Control Board,with the request to take further necessary action under intimation to the Government.

Superintending Environment,
for Additional Chief Secretary to Govt. Haryana,
Environment Department

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Annexure-4

list of stone crushers not meeting the siting criteria distance from educational institution as per notification dated 04.04.2019.

Sr. No.	Name and address of Stone Crusher	Remarks
1.	Roop Kamal Stone Industries, Vill Doiwala, P.O. Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
2.	Shiv Shankar Stone Crusher, Vill Kehliwala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
3	Walia Stone Crushing Co., VPO Devdhar Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
4.	Super Stone Crusher, Vill Ballowala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
5	Jagat Stone Crusher, Vill Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
6.	Keshav Stone Crusher, Village Doiwala, Tehsil Chhachhrauli, Yamuna Nagar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
7.	United Contractors and engineers, Village Ballawala, Tehsil chhachrauli, District Yamuna nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
8	Kamboj Gram Udyog Mandal Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
9	Gayatri Stone Crusher, Village Ballawala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
10.	Bala Sundri Stone Crusher, Village Ballowala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
11	Gourav Stone Crusher, Village Ballewala, Tehsil Chhachhrauli,	Established before the notification dated 04.04.2019 and operating under relaxation

	District Yamuna Nagar	provided by Govt for siting parameter as per notification dated 11.05.2016.
12.	Haryana Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
13.	Jai Ganesh Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
14.	Shyam Stone Crushing Co., Village Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
15.	Balram Stone Crushing Co, Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
16.	Ambay Stone Crusher, Village Dolwala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
17.	Shri Ram Stone Crusher, Village Dolwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
18.	Bhagwati StoneCrusher, Village Dolwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
19.	Balaji Stone Crusher, Dolwala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
20.	Mahal Stone Crusher, Ballewala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
21.	Mohindra Stone Crusher, Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
22.	Haryana Stone Mills Pvt Ltd, Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
23.	Hum Stone Crusher, Village Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
24.	Jamna Gram Udyog Mandal, Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.

25.	Sohi Stone Crushing Industry, Village Ballewala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
26.	New Markanda Stone Crusher, Village Ballewala, PO Devdhar, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting perameter as per notification dated 11.05.2016.
27.	Aggarwal Stone Crusher, Village Dolwala, Tehsil KHIZRZBAD, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting perameter as per notification dated 11.05.2016.
28.	Jagdamba Stone Crusher, Village Dolwala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
29.	Neelkanth Stone Crushing Co. (Old name Surindra Stone Crusher Industries), Village Dolwala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
30.	Vishkarma Stone CrushingCo., Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
31.	Parkash Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
32.	Goel Spintex Pvt Ltd, Unit-I, Dolwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
33.	Mohit Stone Crusher, Village Kohliwala, P.O., Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
34.	Arya Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
35.	M/s Jai Maa Durga Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
36.	M/s Ram & Sons Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
37.	M/s Mahadev Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
38.	M/s Shiv Shakti Stone Crusher Village Bar, Tehsil Kalka, Panchkula	Running regularly
39	M/s Shree Ram Chander Stone Crusher (Old Name Galaxy Enterprises) Village Bagwala, Panchkula	Running regularly
40	M/s Mahadev Stone Crusher Village Pyarewala, Raipur Rani, District Panchkula	Running under relaxation provided vide notification dated 11.05.2016.

41.	M/s A.K Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
42.	M/s Kakker Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
43.	M/s Ancop Stone Crusher Village Tanda Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
44.	M/s Chandimandir Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016
45.	M/s Durga Stone Crusher, Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification datet 11.05.2016
46.	M/S JANTA STONE CRUSHER Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
47.	M/s K.K. Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
48.	M/s Krishana Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
49.	M/s Shakti Stone Crusher,	Running under relaxation provided vide notification dated 11.05.2016
50.	SHREE VINAYAK STONE CRUSHER Khewat No. 8, Khata No. 8, M.No. 42, Kila No. 19/2(5-6), 20/1 (4-12), 21/2 (4-11) 22/1 (4-11) At Village-Kultajpur, Tehsil-Narnaul, District-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
51.	Hydel Construction Pvt. Ltd & Mobile Drill Master (Joint Venture) -HMJV Khewat No. 171, Khatoni No. 232 & 235, Mustil No. 43/1/1 (6-16), 44/4(7-11) 5 (7-11), 7/2 total 26 kanal Village-Kultajpur, Narnaul Distt-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
52.	Shree Shyam Stone Crusher Khewat No. 177, Khatoni No. 243, M.No. 43, Kila No. 9 (5-2) & 12 (3-18) at Vill-Kultajpur, Tehsil-Narnaul Distt-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
53.	Shiv Sunder Grit Udyog, Kila No. 71/6, Vill-Kultajpur, Narnaul, Mohindergarh	Operational and Time grant as per notification dated 11.05.2016.
54.	Bajrang Stone Crusher, Khewat No. 121, Khatoni No. 148, Khasra No. 53 total 280 kanal 15 marla Vill.-Faizabad, Narnaul	Operational and Time grant as per notification dated 11.05.2016.
55.	Karota Stone Grinding, Khewat no. 32, khatoni no. 64, kila no. 12//20 (9-0), khewat no. 33, Khatoni no. 65, kila no. 13//16(6-12) Vill-Karota, Narnaul, Distt-Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
56.	DEV SHRI KRISHNA STONE CRUSHER Khewat No. 45, Khatoni No. 53, M.No.12, Kila No. 25/2 (3-13) M.No. 15, Kila NO. 5 min East (7-0) Total 10 Kanal 13 Marla, Village-Karota, Tehsil Narnaul, Distt.Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)
57.	Unique Stone Crusher, Khewat No. 15,	Not covered under relaxation as per

	Khatoni No. 15, M.No. 11, Kila No. 11/2 (2-15,) 20 (7-12)& 21/1 (8-9) Total 18 Kanal 16 Marla, Vill-Karota, Narnaul, Distt-Mohindergarh	notification dated 11.05.2016 (Not operational)
58	Deepak Construction Co., Khasra No 211, Vill Raghunathpura, Distt. Mohindergarh	Not covered under relaxation as per notification dated 11.05.2016 (Not operational)

12.59

Annexure-5

list of stone crushers not meeting the siting criteria distance from educational institution as per notification dated 04.04.2019.

Sr. No.	Name and address of Stone Crusher	Remarks
1	Roop Kamal Stone Industries, Vill Doiwala, P O. Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
2	Shiv Shankar Stone Crusher, Vill Kohliwala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
3	Wala Stone Crushing Co., VPO Devdhar, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
4	Super Stone Crusher, Vill Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
5	Jagat Stone Crusher, Vill Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
6	Keshav Stone Crusher, Village Doiwala, Tehsil Chhachhrauli, Yamuna Nagar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
7	United Contractors and engineers, Village Ballawala, Tehsil chhachrauli, District Yamuna nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
8	Kamboj Gram Udyog Mandal, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
9	Gayatri Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
10	Bala Sundri Stone Crusher, Village Ballewala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
11	Gaurav Stone Crusher, Village Ballewala, Tehsil Chhachhrauli,	Established before the notification dated 04.04.2019 and operating under relaxation

	District Yamuna Nagar	provided by Govt for siting parameter as per notification dated 11.05.2016.
12.	Haryana Stone Crusher, Village Ballewala, Tehsil Chhachrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
13.	Jai Ganesh Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
14.	Shyam Stone Crushing Co., Village Doiwala, Tehsil Chhachrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
15.	Balram Stone Crushing Co, Village Ballewala, Tehsil Chhachrauli, District Yamuna Nager,	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
16.	Ambay Stone Crusher, Village Doiwala, Tehsil Chhachrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
17.	Shri Ram Stone Crusher, Village Doiwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
18.	Bhagwati StoneCrusher, Village Doiwala, Tehsil Chhachhrauli, District Yamuna Nagar.	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
19.	Balaji Stone Crusher, Doiwala , Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
20.	Mehal Stone Crusher, Ballewala , Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
21.	Mohindra Stone Crusher, Doiwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
22.	Haryana Stone Mills Pvt Ltd, Doiwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
23.	Hum Stone Crusher, Village Doiwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
24.	Jamna Gram Udyog Mandal, Ballewala, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.

25.	Sohi Stone Crushing Industry, Village Ballewala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
26	New Markanda Stone Crusher, Village Ballewala, PO Devdhar, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
27.	Aggarwal Stone Crusher, Village Doiwala, Tehsil KHIZRZBAD, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
28	Jegdamba Stone Crusher, Village Doiwala, Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
29.	Neelkanth Stone Crushing Co. (Old name Surindra Stone Crusher Industries), Village Doiwala, Tehsil Chhechhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
30	Vishkarma Stone CrushingCo., Village Ballewala, Tehsil Chhachhrauli, District Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
31.	Parkash Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
32	Goel Spintex Pvt Ltd, Unit-I, Doiwala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
33.	Mohit Stone Crusher, Village Kohliwala, P.O., Devdhar, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
34.	Arya Stone Crusher, Village Ballewala, Tehsil Chhachhrauli, Yamuna Nagar	Established before the notification dated 04.04.2019 and operating under relaxation provided by Govt for siting parameter as per notification dated 11.05.2016.
35	M/s Mahadev Stone Crusher Village Pyarewala, Raipur Rani, District Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
36.	M/s A.K.Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
37.	M/s Kakkar Stone Crusher, Village Rampur Jangi Tehsil Kalka, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
38.	M/s Anoop Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
39.	M/s Chandimandir Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
40.	M/s Durga Stone Crusher, Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.

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41.	M/S JANTA STONE CRUSHER Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
42.	M/s K.K. Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
43.	M/s Krishana Stone Crusher Village Tanda, Chandimandir, Panchkula	Running under relaxation provided vide notification dated 11.05.2016.
44.	M/s Shakti Stone Crusher,	Running under relaxation provided vide notification dated 11.05.2016.
45.	Shiv Sunder Grit Udyog, Killa No. 71/5, Vill-Lutafpur, Narnaul, Mohindergarh	Operational and Time granted as per notification dated 11.05.2016.
46.	Bajrang Stone Crusher, Khewat No. 121, Khatoni No. 148, Khasra No. 53 total 280 kanal 15 marla Vill.-Faizabad, Narnaul	Operational and Time granted as per notification dated 11.05.2016.