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Date: 09.08.2024

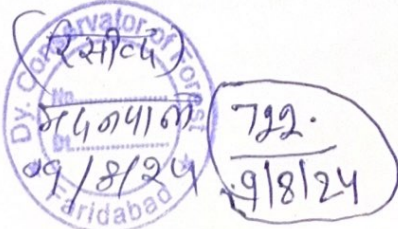
To,

The Dy. Conservator of Forests, Faridabad
Forest Department, Haryana,
Sector - 14, Bye pass Road near Rose Garden Faridabad.
Email Address - dfobd@gmail.com

SUBJECT: REPLY TO THE ORDER DATED 03.06.2024 BEARING NO.
ENDST. NO. 366-68 PASSED IN RESPECT OF THE PROPOSAL NO.
FP/HR/OTHERS/15190/2015 SUBMITTED BY THE UNDERSIGNED.

Sir,

1. That I, Kanwaljeet Singh, am writing the present reply to the Order bearing No. Endst. No. 366-68 dated 03.06.2024 issued by your Office and received by the undersigned on 06.06.2024. The undersigned is the owner in possession of the Marriage Farm namely "Khalsa Garden", situated on land measuring 18 Kanals 7 Marlas, comprised in Khewat No Khata No 832/1034, Rectangle No. 83 in Killa No. 1/3 (0-5), 2/3 (5-1), 9 (8-0), 10/1 (1-4) measuring 15 Kanals 0 Marla and Khewat No. 867/1069, Rectangle No 83, Killa No. 10/2 (3-7), measuring 3 Kanals 7 Marlas (Total 18 Kanals 07 Marlas) situated in the revenue estate of Village Mewla, Maharajpur Tehsil, and District Faridabad.
2. It is respectfully submitted that, upon a bare perusal of the aforesaid Order dated 03.06.2024 under reply, it is evident that the proposal filed by the undersigned vide proposal no. FP/HR/OTHERS/15190/2015, has been rejected on account of alleged non-filing of the approval of the Central Government under Section 2 of FCA, 1980.



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3. At the outset, it is relevant and important to mention that after the coming up of the amendment in the Forest (Conservation) Act, 1980, now known as Van (Sanrankshan Evam Samvardhan) Adhiniyam, 1980, and the issuance of the notification dated 29.12.2023 by the Ministry of Environment, Forest and Climate Change, Forest Conservation Division, the undersigned has already filed a fresh proposal/application dated 02.02.2024 with your office, requesting to consider the proposal/application for *expost-facto* approval in terms of the Notification dated 29.12.2023 and the same is yet to be decided.
4. That prior to responding to the specific contents of your Order under reply, pleased by apprised of the correct facts of the matter at hand, which are set out below: -
 - i. That in exercise of the powers conferred by Section 29(7) of Faridabad Complex Administration (Regulation and Development) Act, 1971, the State of Haryana notified Final Development Plan of Faridabad, Ballabhgarh Controlled Area on 11.12.1991, which was published in the Gazette on 17.12.1991. That as per the Final Plan of Faridabad, Ballabgarh Controlled Area notified by the State of Haryana on 11.12.1991, the land in question falls within the recreational zone. The undersigned established his Marriage Palace/ Banquet Hall over the said land by the name of "Khalsa Garden".
 - ii. The undersigned thereafter applied for Change of Land Use ('CLU') vide an application dated 19.07.2007 with the Municipal Corporation, Faridabad, and deposited the requisite fee of Rs. 92,825. It is imperative to note that no decision whatsoever

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wastaken upon the same.

- iii. That it has been the consistent stand of the undersigned that since the land in question was never recorded as "forest" and doesn't ipso-facto become "forest" merely on account of certain restrictions imposed under Section 4 and 5 of PLPA, thus, there being no need to obtain an NOC from the forest department. However, due to the consistent harassment at the hands of the Authorities, the undersigned as abundant caution and without prejudice to their rights and contentions, had applied for an NOC under application number FP/HR/OTHERS/15190/2015 with your good office.
- iv. That as no decision was taken by the concerned Authority, on the CLU application of the undersigned, the undersigned applied for regularization for his marriage place vide application dated 28.06.2014 with the Office of Municipal Corporation, Faridabad on 30.06.2014 in terms of the policy framed by the State of Haryana for existing Marriage Places vide Endst. No. CTP/TP/ATP-IV/A2/2014/4369-4467 dated 20.08.2014.
- v. That the undersigned after thorough scrutiny were allotted a Letter of Intent "LOI" for regularization of their banquet hall on 16.05.2017 by the Commissioner, Municipal Corporation, Faridabad, vide Memo dated MCF/ STP/ 2018/18. The undersigned in furtherance of the same had deposited the necessary fees and charges and have strictly complied with the conditions mentioned in the LOI. Thereafter, Municipal Corporation, Faridabad, illegally and without any basis, vide its

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Order dated 20.03.2018, cancelled the LOI of the undersigned primary on the ground that NOC was not obtained from the Forest Department. Aggrieved by the same, the undersigned was constrained to file the Civil Writ Petition bearing No. 8319 of 2018 before the Hon'ble High Court of Punjab and Haryana at Chandigarh.

- vi. That in the meanwhile, the Forest (Conservation) Act, 1980, now known as Van (Sanrankshan Evam Samvardhan) Adhiniyam, 1980, was amended with effect from 01.12.2023, vide which Section 1A was inserted to exclude certain land from the purview of the Act and the definition of forest. The relevant portion of the said amendment is reproduced as under: -

'1A. (1) The following land shall be covered under the provisions of this Act, namely:— (a) the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force; (b) the land that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980: Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.'

- vii. In furtherance of the aforesaid said amendment in the Forest (Conservation) Act, 1980, now known as Van (Sanrankshan Evam

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Samvardhan) Adhiniyam, 1980 (Hereinafter referred to as "Act of 1980"), the Advisory Committee being helmed by officials and non-official members of the Ministry of Environment, Forest and Climate Change, held a detailed meeting on 18.12.2023 wherein the Advisory Committee recommended ex-post facto approval for the construction of an institute on the forest land for non-forestry use.

- viii. That as a consequence to the said amendment and recommendations granted to similar situated persons, the Ministry of Environment, Forest and Climate Change, Forest Conservation Division, has passed a notification dated 29.12.2023 in respect of processing of the proposals involving non-forestry use of lands closed under PLPA and clarification on the applicability of the provisions of the Act of 1980.

".....Based on the recommendation of the Advisory Committee and approval of the same by the competent authority in the MoEF&CC, New Delhi, the Central Government that in light of provisions of Van (Sanrakshan Evam Samvardhan) Rules, 2023 and directions contained in the Hon'ble Supreme Court order dated 21.07.2022 passed in the matter of Narinder Singh and Other vs. Union of India and Others, the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam will be applicable in the lands covered under section 4 of the PLP Act, lands covered under court cases, as referred above; and proposal relating to non-forestry activities, already undertaken in such lands, shall be submitted to the MoEF&CC, New Delhi by the States/Union territory concerned for ex-post facto approval which shall be considered by the MoEF&CC in the following manner:

(6)

- i. Cases where non-forestry use has been done prior to 25.10.1980, with the approval of the competent authority, needs not be referred to the Central Government for prior approval under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. However, Details of all projects falling under this category along with copies of relevant supporting documents be submitted to MoEF&CC within next 120 days.
- ii. Proposals related to competent authority lands where the approval/sanction by the for the project has been granted by the competent authority in conformity with the applicable land and/or housing laws and/or master/development plan of the said area either before or after issuance of special order under Section 4 of the PLPA but prior to Hon'ble Supreme Court's order dated 18.03.2004 (when for the first time PLPA lands were directed to be treated as forest for the purposes of FC Act) shall be considered for ex-post facto approval subject to payment of normal NPV and compensatory afforestation and other relevant conditions.
- iii. Proposal where the approval/sanction by the competent authority for the project has been granted by the competent authority in conformity with the applicable land and/or housing laws and/or master/development plan of the said land after the Hon'ble Supreme Court's order dated 18.03.2004 (when for the first time PLPA lands were directed to be treated as forest for the purposes of FC Act) shall be considered for ex-post facto approval subject to payment of normal NPV, compensatory afforestation, penal NPV, penal CA and other relevant conditions.

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- iv. The MoEF&CC, New Delhi will examine such proposals on case to case basis and ex-post facto approval wherever considered, shall be subject payment of Net Present Value and Compensatory Afforestation or penal compensatory' levies, as mentioned under clause (ii) & (iii) above.
- v. In cases, the lands covered under section 4 of the PLP Act but located within the Protected Areas such as National Park, Wildlife Sanctuaries and Tiger Corridor, prior approval of the Standing Committee of the NBWL, as applicable, in accordance with the relevant provisions of the Wild Life (Protection) Act. 1972 and relevant guidelines issued thereunder, shall be obtained before submission of the proposal for ex-post facto approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
- vi. In cases where any part of the project area falls in any notified eco sensitive zone, the proposal under the Van Sanrakshan Evam Samvardhan Adhiniyam shall be submitted/considered only after excluding such part and such part of the project land falling in notified ESZ shall be used strictly in accordance with the notification of such eco sensitive zone.

This issue with the approval of Competent Authority."

- ix. Pertinently, the undersigned herein, after the issuance of the aforesaid notification, filed an application dated 02.02.2024 with your good office, requesting to consider the proposal/application for *expost-facto* approval in terms of the Notification dated 29.12.2023 issued by the Ministry of Environment, Forest and

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Climate Change, Forest Conservation Division and the same is pending.

5. Further, the undersigned had filed a Civil Writ Petition being CWP No. 8319 of 2018, titled "*Kanwaljeet Singh and Another versus State of Haryana & Others*" before the Hon'ble High Court of Punjab and Haryana at Chandigarh inter alia seeking issuance of a Writ in the nature of Certiorari against the Order dated 20.03.2018 passed by Commissioner, Municipal Corporation, Faridabad, withdrawing the letter of Intent dated 16.05.2017 of the undersigned. The prayer portion of the aforesaid Writ Petition is reproduced as under: -

"CIVIL WRIT PETITION under Article 226/227 of the Constitution of India for issuance of a Writ in the nature of Certiorari quashing the Order dated 20.03.2018 (Annexure P15) passed by the Respondent No.4, whereby he has withdrawn Letter of Intent LOI dated 16.05.2017 (Annexure P9) for of the Marriage Palace/Banquet Hall under the name of "Khalsa Garden" as the same is illegal and arbitrary.

FURTHER to issue a Writ in the nature of Certiorari quashing the Condition No 1 stipulated in the Letter of Intent dated 16th May 2017 (Annexure P9) whereby No 4 insisted upon No obtaining Objection Certificate NOC from Forest Haryana for the purpose of regularization of existing Marriage/Palace Banquet Hall despite the fact that the land in question upon which the Marriage Palace Banquet Hall of the petitioner namely "Khalsa Garden" is constructed is nonforest land.

FURTHER to issue a Writ in the nature of Prohibition No 4 from insisting upon obtaining No Objection Certificate NOC from Forest Haryana for the purpose of regularization of existing Marriage/Palace Banquet Hall of the petitioners namely "Khalsa Garden" despite the fact that the same is constructed upon a non-forest land.

Any other appropriate Writ Order or Direction as this Hon'ble Court may deem just and proper keeping in view the peculiar facts and circumstances of the present case may also kindly be passed."

6. That the Hon'ble High Court of Punjab and Haryana at Chandigarh, while hearing the aforesaid Writ Petition, vide Order dated 06.04.2018 was pleased to pass an interim stay directing all the Parties in the aforesaid Writ Petition not to proceed further till next date of hearing. The relevant portion of the Order dated 06.04.2024 is reproduced as under:

"Learned counsel for the respondents are directed to file reply within a period of two weeks, especially by considering the reasons mentioned in the impugned order as well as instances relating to similarly situated persons mentioned in para No. 8 at page Nos. 48 and 49 of the writ petition.

To come up on 30.4.2018.

Meanwhile, respondents are directed not to proceed further till the next of hearing."

7. Consequently, due to issuance of demolition notices by your Office, the undersigned preferred an appropriate application in the aforesaid Writ Petitions, seeking urgent directions refraining the Respondents from taking any coercive action and demolishing the Marriage Palace/ Banquet Hall belonging to the Applicants in those Petitions, wherein the Hon'ble High Court while hearing those applications, vide its Order dated 07.02.2024, continued the interim protection granted vide its earlier Order dated 06.04.2018. The undersigned had also preferred an impleadment application seeking impleadment of your Office as one of

(10)

the parties in the aforesaid Writ Petition and you have been appearing ever since in the above captioned Writ Petition. The relevant portion of the said Order dated 07.02.2024:

"Learned Senior counsel for the petitioners has submitted that this Court vide order dated 06.04.2018 granted interim protection to the petitioners, whereby, the respondents were directed not to proceed further. He submits that now the respondents have issued notice for demolition. He has also apprised the Court that the petitioners have already filed an application for ex postfacto sanction for the redressal of their grievances, however, the same is pending consideration before the competent authority till date.

Learned counsel for respondents No.3 and 4 prays for some time on the ground that the arguing counsel is not available.

On his request, adjourned to 21.05.2024.

Interim order to continue till then.

A copy of this order be placed on the files of other connected cases."

8. Therefore, in view of the above-admitted facts, and the pendency of the Writ Petition before the Hon'ble High Court, the issuance of the present order dated 03.06.2024 under reply is in willful disobedience of the Order passed by the Hon'ble High Court and also tantamount to Contempt of Court. Hence, you are requested to withdraw the present order dated 03.06.2024 under reply immediately and refrain from any further actions that may contravene the directions of the Hon'ble High Court.
9. That further the present Order under reply passed for not recommending the case of the Petitioner for approval under the Forest Conservation Act has been passed in complete disregard of the

(11)

recommendation dated 18.01.2018 passed by the Principal Chief Conservator of Forest. That the Principal Chief Conservation of Forest, vide recommendation 18.01.2018 had recommended the very proposal bearing No. FP/HR/OTHERS/15190/2015 of the undersigned to the Central Government for issuance of No Objection Certificate. That it is respectfully submitted that the Principal Chief Conservation of Forest of Haryana, is at a higher authority / post than the office of your goodself and outranks the same. Therefore, once the case of the undersigned has been recommended for approval by a higher authority, the order under reply passed by your goodself, is without jurisdiction and without any authority, therefore the same should be withdrawn immediately.

A true copy of the recommendation dated 18.01.2018 is hereto annexed and marked as ANNEXURE - A.

10. That further without prejudice to the rights and contentions of the undersigned it is submitted that the proposal/application dated 02.02.2024 submitted for ex-post-facto approval in terms of the Notification dated 29.12.2023 is still pending. Therefore, firstly, while the said application is still pending the Order under reply could not have been passed. Secondly, according to the Notification dated 29.12.2023, the power to grant ex-post facto approval resides with the Ministry of Environment, Forest and Climate Change, New Delhi, and not with your office. Therefore, the present order under reply is without jurisdiction, illegal and arbitrary.

11. The undersigned reserves the right to file a detailed reply to the present order/reply dated 03.06.2024.

A Copy forward

APCCF FCA

Panchkula, (Haryana)



Thank You

Kanwaljeet Singh
Khalsa Garden
Surj Kumar Rao of
Faridabad

Kanwaljeet Singh,

9811 283758

Details and comments on the impact of Project on such areas : The site adjoin Asola Bhatti wild life sanctuary of Delhi Government and falls within 5 Km of the boundary of wildlife sanctuary.

(iii) Whether the forest land proposed for diversion is located within eco-sensitive zone(ESZ) of the Protected Area notified under Wildlife(Protection) Act, 1972 (Note: In case, ESZ of a Protected Area is not notified, then, 10kms distance from boundary of the Protected Area should be treated as ESZ): No

(iv) Whether any national park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, wildlife migration corridor etc., is located within 1 Km. from boundary of the forest land proposed for diversion : No

(v) Whether any rare/endangered/unique species of flora and fauna found in the area : No

9.

Details of any protected archaeological/heritage site/defence establishment or any other important monument located in the area, if any

(i) Whether any protected archaeological/heritage site/defence establishment or any other important monument is located in the area : No

10.

Comment as to the reasonability of the extent of the forest land proposed for diversion

(i) Whether the requirement of forest land as proposed by the user agency is unavoidable and bare minimum for the project : Yes

11. Details of violation(s), if any, committed

(i) Whether any work in violation of the Act or guidelines issued under the Act has been carried out : Yes

(a) Details of violation(s): Running a marriage banquet hall.

(b) Period of Work done(year) : 7

(c) Area of forest land involved in violation (In ha.) : 0.9505

No.	Name of person responsible for violation	Designation & Address of person responsible for violation	Action taken against the person responsible for violation
1	Narender	narender khalsa garden	PC seven B of two thousand and seven and eight

Division	Circle	Recommendation By	Recommendation	Reason	Letter	Whether CF agreed
Faridabad	South Circle Gurgaon	DFO	Not Recommended	The area is notified under section 4 & 5 of PLPA which is as per order of Honble SC dated 16/12/2002, 18/03/2004 and 14/05/2008 in matter titled MC Mehta vs UOI and ors is to be treated as forest for the purpose of FC act. the user agency has established a marriage banquet hall in the forest area illegally and is running the same within hte forest area. it is hereby informed that a matter pertaining to marriage banquet halls being run in forest notified under PLPA 1900 is already pending before		
	South Circle Gurgaon	CF	Not Recommended	Not recommended		No
		Nodal Officer	Recommended			

Specific recommendation of the State Government (Part V)

itsclearance.nic.in/ParIIIReport_A.aspx?pid=FP/HR/Others/15190/2015

3.6

r acceptance or otherwise of the

in, _____ Signing _____ Recommendation _____

17.

Specific recommendation of the State Government for acceptance or otherwise of the proposal with reason (Part V)

State	Recommendation By	Recommendation	Recommendation Date	Remarks	Signing Authority	Notification	Recommendation Letter
Haryana	State Secretary	Recommended	24/01/2018	Recommended with heavy penalty	State Govt. Officer	No Data	

[Print](#)

File No. :
Date of Proposal:

division and Distt. Faridabad.
FP/HR/Others/15190/2015

PART - V

(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under - Secretary)

18.	Recommendation of the State Government : (Adverse comments made by any officer or authority in Part - B or Part - C or Part - D above should be specifically commented upon)	Recommended For Approval Henry Palmito
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Principal Chief Conservator of Forests
Signature
Name & Designation:

(Official Seal)

Dated :- 18-01-2018

Place :- P.K.