

BEFORE THE CENTRAL EMPOWERED COMMITTEE

Room No. 106, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003

(CONSTITUTED BY THE HON'BLE SUPREME COURT OF INDIA)

Application No _____ of 2008

Hemant Goswami ...Petitioner/Applicant

Versus

Chandigarh Administration & Ors.Respondents

INDEX

Sr. No.	Particulars	Date	Page No.
1.	Application for exemption	23/03/2008	1
2.	List of Dates & Events	23/03/2008	2-3
3.	Petition/Application (& List of Parties)	23/03/2008	4-12
4.	Affidavit	23/03/2008	13
5.	Annexure P-1 (Photographs)	23/03/2008	14-15
6.	Annexure P-2 (Newspaper Reports)	23/03/2008	16-17
7.	Annexure P-3 (Newspaper Reports)	23/03/2008	18
8.	Annexure P-4 (Newspaper Reports)	23/03/2008	19
9.	Annexure P-5 (Video Movie)	23/03/2008	In CD

Place:- Chandigarh

Date:- March 25, 2008

Applicant/Petitioner

LIST & DATES OF EVENTS

- June 13, 1952 The Chandigarh Tree Preservation Order 1952 notified
- 2003 to till date The incident of felling of trees see a rise and unabated and illegal felling continues. Authorities fail to take any responsible action and/or book the culprits and the officials responsible under the relevant provisions of the Indian Penal Code, the Indian Forests Act, Wildlife Act, and/or other relevant laws.
- March 19, 2008 The Applicant came to know that some trees were being cut within the campus of Panjab University and visited the campus. The applicant saw the location, met some of the students, saw the information culled through RTI application and also saw the video footage of the incidents.
- March 20, 2008 The applicant was informed by the students on telephone that some people were trying to remove trees illegally and also cut trees in PU campus which were wrongly numbered and not in the list. The applicant requested them to inform the police and the University Authorities.
- March 20, 2008 Police arrives in the campus, inspects the scene and asks the complainants and witness to accompany them to police station for registering the FIR. In the police station the police arrests the person, Anurag Chauhan who had sought information under RTI and who had exposed the whole nexus. FIR is registered against the person for threatening the University employees. No FIR for wrongfully removing/stealing the trees and cutting trees for which there was no permission is

- registered.
- March 21, 2008 The student who exposed the illegality is put in jail and later on sent to judicial custody. Some old cases where he was not earlier named is also slapped on him.
- March 21, 2008 Reports of similar illegalities and cutting of tree in the PGIMR and PEC also received by the applicant.
- March 22, 2008 The cutting and felling of trees in PGIMR and PEC (Commonwealth Youth Programme Asia Centre) continues despite the administration of Chandigarh made aware about it by various sections of people and by the media.
- March 22, 2008 Media reports wide scale cutting of trees by various organizations and government bodies. Most of the trees cut are without permission but still no action is taken.
- March 23, 2008 The applicant along with Dr. Gaurav Chabra arrives at PGIMR and finds tree being felled. Human life and property also endangered by such felling. No one from authorities is present during the felling operation.
- March 25, 2008 The Central Empowered Committee petitioned
- March 25, 2008 Copy of application to Central Empowered Committee handed over to the respondents from 1 to 6 and requested to stop the cutting of trees.

Hence, this application is being filed before this Hon'ble Commission for necessary orders from this Hon'ble commission and the Hon'ble Supreme Court.

(Hemant Goswami)

Petitioner/Applicant

BEFORE THE CENTRAL EMPOWERED COMMITTEE
(CONSTITUTED BY THE HON'BLE SUPREME COURT OF INDIA)

Application No of 2008

Hemant Goswami, S/o Sh B. M. Goswami, Chairperson, Burning
Brain Society, #3, Glass office, Shivalikview Business Arcade,
Sector 17-E, Chandigarh 160017

.....Petitioner

Versus

1. Chandigarh Administration through Administrator, UT
Secretariat, Sector 9, Chandigarh 160 009
2. Punjab University through Vice Chancellor, PU Campus,
Sector 14, Chandigarh 160 014
3. P.G.I.M.R. through its Director, PGI, Sector 12, Chandigarh
160 012
4. Commonwealth Youth Programme Asia Centre, th. Regional
Director, PEC Campus, Sec 12, Chandigarh 160 012
5. Punjab Engineering College through its Director, PEC, Sector
12, Chandigarh 160 012
6. Chandigarh Police through I.G. Police, Police Headquarters,
Sector 9, Chandigarh 160 009

..... Respondents

Application for restraining the respondent number
1 to 5 from unmindful cutting of trees and direction
to restraint respondent number 1 from giving
permission or deemed permission to cut trees to
anyone. And also application for seeking suitable

directions from the Hon'ble Supreme Court of India for initiating criminal action against respondent number 6 and respondent number 2 for abusing the process of law and thereby facilitating, filing and registering false police cases against people opposing irrational felling of trees. And request for cost of this application and damages to all person who suffered in the hands of respondent number 1 to 6.

And

Any other appropriate writ, order or direction this Hon'ble Commission and/or the Hon'ble Supreme Court may deem fit and proper in the circumstances of this present peculiar case be also kindly be made to meet the ends of justice and ensure rule, supremacy of law.

RESPECTIVELY SHOWETH:

That the Applicant/Petitioner is a social activist associated with many civil society organizations and actively engaged in public welfare work including works and is associated with many national and international organizations. The Applicant/Petitioner is engaged in various social, public interest and civil rights activities concerning the youngsters and the public in general. Applicant/Petitioner is also heading a civil society organization called "Burning Brain Society" and also works for providing guidance to the young people and to help them find a positive and healthy direction in life. The works against Tobacco & Substance abuse has been widely recognized nationally and globally. The circumstances of the present case entitles the petitioner to invoke the powers of this commission and the extraordinary jurisdiction of the Hon'ble Supreme Court by way of this application as to prevent the

unmindful and unplanned felling of trees which also amounts to contempt of this Hon'ble Supreme Court and destroys the very basic foundations on which the laws relating to conservation of forest, the protection of environment and the policies relating to it rests.

1. That on March 19, 2008, the applicant came to know through some students of Punjab University and through Dr. Gaurav Chabra (An Independent Filmmaker) that Punjab University was felling hundreds of trees without any proper reasoning and have sought permission from Respondent Number 1 by furnishing false and incorrect information. The students also informed that there was no need to cut any tree and the rationale provided/approved by the Punjab University Vice Chancellor was factually incorrect. One student Mr. Anurag had obtained the relevant information by using the RTI Act.
2. The applicant visited some of the sites in Punjab University on the same day and found that many of the trees which were not in the list were also being felled, apparently for the commercial value of the trees. The applicant also found that the felling operation was going on without any supervision and the officials on the spot were absolutely ignorant about the trees to be cut so there existed a design to cut more trees than those initially planned and for which approval was sought. Most trees which were being cut were absolutely healthy and did not pose any kind of threat to any building or any person. None of the trees obstructed the public pathway and/or was a hindrance to any construction project. The applicant was told that according to the sanction sought, the university authorities had mentioned that only 3 Pine trees were coming in the way of a proposed construction. Rationale for cutting rest of the 156 trees was not at all satisfactory.

3. That on March 20, 2008, one Mr. Vivek Aditya (A Social Worker) talked to the Dy. Forest Conservator, Mr. Ishwar Singh of Respondent No. 1 for stopping the illegal felling of trees and cutting of trees on flimsy and irrational ground. The Dy. Conservator expressed his inability to pass any written orders or to take any action in this regard. However he said that he shall call the University authorities telephonically.
4. That the Dy. Forest Conservator admitted that he had given permission to Punjab University to cut 159 trees without himself verifying the facts that whether the reasons claimed in the application for cutting of trees was valid or not. He admitted that he or any of his officials did not visit the site.
5. That on March 20, 2008 the applicant got a call from one student of Punjab University, Mr. Anurag Chauhan and Dr. Gaurav Chabra that some people were trying to remove wood of an illegally felled tree and were also cutting a tree which did not exist in the list. The applicant advised the student to call the police and also inform the Punjab University authorities in this regard.
6. That Dr. Gaurav and Anurag informed the police on telephone number 100 and also informed the SDO (Horticulture – PU). The police visited the site, did a visual inspection and then asked both Dr. Gaurav and Mr. Anurag to accompany them to the police station for necessary formalities for registration of the FIR. (Some photographs of the sequence of events annexed as Annexure P-1)
7. On reaching the police station, the police (Respondent No. 6) immediately arrested the prime witness (being the person who procured all the information through Right to Information Act), Mr. Anurag on the charges of threatening the SDO, and also on some old cases against some unidentified students. Without any independent identification parade and/or unmindful of the fact

that the old complaint did not mention the name of Mr. Anurag, the police arrested him and ensured that non-bailable offenses are mentioned in the FIR so that he is not released from the police station. The police and the University authorities also threatened the other students that more accomplices are mentioned in some old cases (regarding some unruly action in the university campus) and the students are still not identified in the said complaint, so anyone protesting can be booked on those charges.

8. That the respondent number 6 and 1 appears to have acted in conspiracy and with common intention with respondent no 2 to facilitate felling of trees and registering false cases against students who exposed the illegality and were witness to the event. That this is abuse of authority and law besides being a criminal action deserving severest penal punishment. That a significant portion of the whole activity and evidence has been recorded and captured in Video. That a video film produced by Dr. Gaurav Chabra has been annexed in the form of a CD as Annexure P-5.
9. That on March 21 and 22, 2008 the applicant came to know that a similar felling operation is also going on in Post Graduate Institute of Medical Research (PGIMR) (Respondent No. 3), Commonwealth Centre in PEC (Respondent No. 4) and Punjab Engineering College (Respondent No. 5). The applicant visited PGIMR and found the trees were being cut. The applicant clicked some photographs and found that during the cutting operation human life and property was also put to great risk. (Annexed at Annexure P-1: Newspaper reports annexed as Annexure P-2 to P-4)
10. That the applicant found that in all the cases, while granting permission, the respondent number 1 had not done independent verification of the facts and the respondent number 2 to 5 had

obtained permission to cut trees by misrepresenting and by furnishing false reasons.

11. The applicant also found (through a newspaper report) that respondent number 4 did not even have any permission to cut trees and still went ahead with the felling operation. (Annexure P-3)
12. That such unmindful activity of cutting of trees in large scale is a regularly happening and can not be undertaken by various persons without the connivance with respondent no 1 and 6.
13. That earlier too, hundreds of trees have been cut in Chandigarh from the government land and when the media highlighted the same, the respondent number 1 claimed it to be a handiwork of some miscreants. It's common sense that hundreds of trees can not be cut and stolen from government land without a clear nexus and design.
14. That by following the areas where such removal of trees have been reported, it appears that respondent number 1 and 6 facilitate such felling and theft of trees to make way and clear the land by illegal means and by bypassing the rule of law so as to facilitate unplanned construction, transfer of land and initiation of projects and thereby turning green areas into concrete without following the master plan and national guidelines.
15. That the "Chandigarh Trees Preservation Order 1952" is faulty on many accounts and even provides for deemed approval for cutting of trees which is against the law and the orders of the Hon'ble Supreme Court. That the said order has not been changed despite the orders of the Hon'ble Supreme Court and despite the change in the national policy.
16. That the respondent number 1 and 6 have failed to perform their duty and have disobeyed the direction of law and also

caused contempt of the Hon'ble Supreme Court in terms of interlocutory orders of the Hon'ble Supreme Court in the case of Writ petitions (Civil) Nos. 202/95, 171/96 and other such cases.

17. That respondent number 1 and 6 have also abused the process of law by intimidating and registering false cases against the people who stood up to protect the environment and the law of the land.

RELIEF SOUGHT

18. It is, therefore, respectfully prayed, that an Order, Writ or direction be issued by this Hon'ble commission and/or through the Hon'ble Supreme Court to;

I. Instruct respondent number 1 to 6 to maintain the status as of March 24, 2008 and to not cut any further tree and/or give permission for the felling of any further trees till the disposal of this application and till the time suitable orders in this regard are not passed by this Hon'ble Commission and/or the Hon'ble Supreme Court.

II. Seek information from the respondents for further necessary action, and the respondents be asked to;

a. Provide a complete list of trees cut in the last three years along with the rationale for cutting each and every tree so provided in the list.

b. It be clearly mentioned (for each and every tree at (a) above) if any officer of the approving authority and respondent number 1 physically inspected the tree for which permission was sought, to verify the truthfulness of the application and the reason given for cutting of the tree.

- c. Provide a complete list of trees which were cut without seeking due approvals.
 - d. Provide the action taken/ FIR registered against the highest executive officer under whose control the said property existed.
- III. Order registration of appropriate Criminal Case against the highest executive officer/Director/Vice Chancellor w.r.t. respondents number 2 to 5 who had the complete authority and control over the property from which the trees were cut either illegally or by furnishing false rationale and information to the forest conservator.
- IV. Order registration of cases under Section 166 of the Indian Penal Code against the officials of respondent number 1 to 6 who had disobeyed the directions of law.
- V. Order registration of Criminal Case against the officials (Including the VC and SDO of respondent no. 2; and the SSP and the SHO of respondent number 6) who made false complaint, registered and facilitated registration of false case against the prime witness (Mr. Anurag) and the student who obtained information under the RTI and blew the whistle on the whole racket.
- VI. Order an independent inquiry into the whole incident and order quashing of proceedings in false criminal cases which was clearly a fallout of the protest over the illegal felling of trees.
- VII. Order the necessary changes in "The Chandigarh Tree Preservation Orders, 1952" to ensure that such unmindful and felling of trees can be stopped.

VIII. Order cost of this application, compensation and damages to all people who suffered any kind of loss and damage on account of action by any of the respondent mentioned from Sr. No. 1 to 6.

And the application be also placed before the Hon'ble Supreme Court for further necessary orders, writ and/or directions. Any further order, direction, costs, etc. which the Hon'ble commission and/or the Hon'ble Supreme Court may find fit may also be granted.

The present application may kindly be allowed with costs.

Place: Chandigarh

Date:- March 25, 2008

Applicant/Petitioner

VERIFICATION:-

Verified that the contents of paras No. 1 to 17 are true and correct to my knowledge and also based on the newspaper reports, the first hand information obtained from people mentioned in the application and logical deductions thereof. No part of it is false and nothing has been concealed therein.

Place: Chandigarh

Date:- March 25, 2008

Applicant/Petitioner

Annexure P-1

	
<p>Felled trees in the compound of Punjab University</p>	<p>The SDO incharge in Punjab University who later on complained of manhandling.</p>
	
<p>Anurag Chauhan taking police for inspection of trees (He was later arrested)</p>	<p>Police Inspecting in Punjab University</p>
	
<p>Police inspecting a tree being cut illegally</p>	<p>After arresting Anurag, the witness. SHO of Sector 11 police station</p>

Annexure P-1

<p>New Plants planted do not survive (One of the sapling planted in lieu of the old trees)</p> <p>→</p>	
<p>Trees being felled and carried away from the Punjab University Compound →</p>	
 <p>30/07/03/20</p>	 <p>30/07/03/20</p>
 <p>20/07/03/20</p> <p>Trees being felled in the premises of PGIMR</p>	 <p>30/07/03/20</p>  <p>30/07/03/20</p>

Annexure P-2

THE HINDU

Date:22/03/2008 URL:**<http://www.thehindu.com/2008/03/22/stories/2008032256790700.htm>****Felling of trees angers students, activists**

Special Correspondent

Panjab University authorities auction 149 trees for over Rs.23 lakh

'Criminal case falsely registered against students'

University students decide not to celebrate Holi

CHANDIGARH: A group of citizens, students and members of social organisations on Friday protested against the cutting of trees on the Panjab University campus.

The University authorities auctioned 149 trees for over Rs.23 lakh to some private contractors after declaring over 110 trees as causing threat to people and buildings.

"If the reasoning that trees can cause danger to the public is accepted then very soon each and every tree across the country can be cut down on the same logic," said social activist Hemant Goswami.

Gaurav Chabra of the NGO Humlog said that it was the duty of the Forest Conservator to verify independently whether there was any rationale behind felling of trees or was it sheer financial interests which motivated the auction of trees.

Student leaders alleged that not only the trees marked in the auction list and the "application for permission" were being cut but rather trees were being selected on the basis of their "commercial value". They further alleged that most of the trees were deliberately wrongly numbered with the "design to cut double the number of trees for which sanction was sought".

New construction

"There are no more than five to ten trees which cause some kind of obstruction to any new construction or whose branches cause obstruction. The University authorities have themselves written in the permission letter that only three trees were coming in way of construction," said another student.

"The most unfortunate part is that even the Chandigarh Administration and Chandigarh Police did not act in an unbiased manner. The police registered case against the students who

were protesting about the felling of tree and who exposed the irregularities in the university,” said Dr. Gaurav Chabra.

He also showed a video recording about the whole sequence of events and how the SDO and other officials reacted to the complaint made by students and citizens. The video also showed the incident on the basis of which the police registered an FIR against Anurag, the student who had sought all the information through RTI. Students said that the criminal case had been falsely registered against students to intimidate them. “We will now seek registration of a case against the SHO and the SDO for making a false complaint,” asserted a student leader.

The NGO Burning Brain Society has constituted an independent ‘Citizens’ Environment Audit Team’ to systematically investigate the whole issue. Dr. Chabra will be heading the team consisting of Panjab University students and concerned citizens of the city.

Meanwhile, students of Panjab University have decided not to celebrate Holi in protest against the ill-treatment and registration of false cases against the Indian National Students’ Organisation (INSO) leaders.

INSO activists also held a protest at the PU Students’ Centre against the fee hike, registration of false criminal cases and illegal cutting of trees on the PU campus. They also demanded an independent and impartial inquiry into the registration of false cases and illegal cutting of trees in PU.

In a statement here, INSO campus acting president Vikrant Malik said a false impression was being created to project INSO as an organization of hooligans, which was absolutely baseless, false and malicious.

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Annexure P-3

**(News from "The Tribune" Saturday, March 22, 2008,
Chandigarh, India)**

Trees felled on World Forestry Day

**Rajmeet Singh
Tribune News Service**



Chandigarh, March 21

Cut trees to celebrate the World Forestry Day.... Ironical? Not quite, for this was what was exactly done by authorities of the Commonwealth Youth Programme Asia Centre, Sector 12, here today. A number of old shisham, mango, jamun and eucalyptus trees were chopped without taking mandatory clearance from the horticulture wing of the Chandigarh administration.

According to Chandigarh trees preservation order, not a single tree can be cut without the permission of the UT adviser. Deputy conservator of forests Ishwar Singh said apart from dead trees, permission had to be sought to cut trees.

Sources revealed that at least four tractor-trailers of felled wood had been sold to a private contractor. Some felled logs and leftover branches could still be seen on the scene. Ironically, the Asia centre of the CYP, which holds training programme for delegates of Commonwealth countries, has been organising regular programmes for protection of the environment.

Meanwhile, shocked by the illegal felling of trees at the behest of a finance and development officer (FPO) of the CYP Asia centre, its regional director Raj Kumar Mishra has marked an inquiry. He said he was out of town when the official felled the trees. Mishra said the decision to remove dead trees and eucalyptus had only been taken after consultations with the environment society of India.

"We will take strict action against the official, as it is a serious offence," said the regional director. XEN, horticulture, Dilbagh Singh said permission had not been taken from the department and such an offence could lead to registration of an FIR.

The regional director, however, did not confirm the exact number of trees that had been illegally felled.

(Website Link: <http://www.tribuneindia.com/2008/20080322/cth1.htm#2>)

Annexure P-4

**(News from "The Times of India" Saturday, March 22, 2008,
Chandigarh, India)**

Citizens cry foul over tree cutting in varsity

TIMES NEWS NETWORK

Chandigarh: Group of citizens, students and members of civil society organisations got together to protest against the cutting down of trees on the Panjab University campus.

The university authorities auctioned 149 trees for over Rs 23 lakh to some private contractors after declaring more than 110 trees, a threat to people and building.

"If the reasoning that trees can cause danger to public is accepted, then very soon each and every tree across the country would be cut down on the same logic," said social activist Hemant Goswami. "It is the duty of forest conservator to verify independently whether there was any rational behind felling of trees or was it sheer financial interest, which motivated the auction of trees," Dr Gaurav Chabra of NGO Humlog added.

Students alleged that trees were being selected on the basis of their commercial value, rather than those marked in the auction list and for which permission had been obtained. Most trees were deliberately wrongly numbered and an intention to cut double the number of trees, for which sanction had been sought was clearly visible.

(Web site link: <http://epaper.timesofindia.com/Daily/skins/TOI/navigator.asp?Daily=TOICG&login=default&AW=1206380698328>)