

**IN THE HON'BLE HIGH COURT OF PANJAB & HARYANA
AT CHANDIGARH**

C.W.P. No _____ of 2008

(Public Interest Litigation)

Hemant Goswami

...Petitioner

Versus

Union of India & Ors.

...Respondents

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Note:- No notice of caveat petition has been received by the petitioner.

Note:-1. The main law points involved in the writ petition are in para no. 16 at page nos. 13,14 and15 of the writ petition.

2. Relevant Rules and Statutes:- Constitution of India
Motor Vehicle Act 1988
General Clauses Act
Right to Information Act

3. Any Other Case:- Nil

(A. P. S. Shergill) (Raina Sabharwal)
Place:- Chandigarh ADVOCATE
Date:- July 21, 2008 COUNSEL FOR THE PETITIONER
Enrolment No. P-810/1993

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Application under section 151 C.P.C. for grant of
exemption from filing the certified copies of
Annexures P-1 and P-2.

RESPECTFULLY SHOWETH:-

1. That the above mentioned Civil Writ Petition is being filed in this Hon'ble High Court and is likely to succeed on the basis of grounds taken therein.
2. That the certified copies of Annexures P-1 to P-2 are not readily available with the petitioners. However, true copies of Annexures are being filed for the kind perusal of this Hon'ble Court. Hence, this application.

It is, therefore, respectfully prayed that this application may kindly be allowed and filing of the certified copies of Annexures P-1 to P-2 may kindly be dispensed with.

Note: No affidavit is necessary.

Chandigarh

Date:- October 23, 2008

(A.P.S.Shergill) (Raina Sabharwal)

Advocates

Counsel for the Petitioner

IN THE HON'BLE HIGH COURT OF PANJAB & HARYANA AT
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LIST & DATES OF EVENTS

1950	An American Firm, M/s. Mayer, Whittlessay and Glass was commissioned to prepare the Master Plan for Chandigarh, the new City of Independent India.
1951	Mathew Novicki of "M/s. Mayer, Whittlessay and Glass" was tragically killed in an air accident and Mayer decided to discontinue. Thereafter, the work was assigned to a team of architects led by Charles Eduard Jeanneret better known as Le Corbusier in 1951
1952	The visualized concept of Chandigarh cemented. Foundation Stone of Chandigarh laid. Chandigarh was developed as one of the first cities of independent India with proper scientific urban planning and the "Master Plan" of Chandigarh was developed keeping in view many important factors necessary for scientific development of any urban area. Chandigarh is known as one of the best experiments in urban planning and modern

	architecture in the twentieth century in India.
23 rd July 2001	Notification bearing No. 5221-HIII(2)-2001/13645 issued under Section 117 of the Motor Vehicle Act 1988 declaring Sector 43 as a place where vehicles may halt
2005 to till date	Many unplanned deviations in Chandigarh's Master Plan allowed without appropriate approvals and/or without proper long-term scientific and architectural assessment. Even the initially planned architectural control, held sacrosanct till date was also diluted in commercial interest. Chandigarh Master-Plan faces many aberrations. The edicts of Chandigarh by Mon Le Corbusier, the planner of Chandigarh gains significance. He had warned of such a possibility and mentioned that the purpose of the "Edicts of Chandigarh" was to enlighten the present and future citizens of Chandigarh about the basic concepts of planning of the city so that they become its guardians and save it from whims of individuals.
14 th January 2008	Press note issued declaring that formal process for the shifting of more inter-state bus services from ISBT 17 to ISBT 43 has been initiated. Press note mentions that the shifting of the bus stands taken under Section 117 of the Motor Vehicle Act. No scientific assessment/evaluation from the point of view of urban-city development undertaken.

Hence, this civil writ petition is being filed before this Hon'ble Court.

Chandigarh

(A. P. S. Shergill) (Raina Sabharwal)

Date:- July 21, 2008

Advocate

Counsel for the Petitioner

IN THE HON'BLE HIGH COURT OF PANJAB & HARYANA
AT CHANDIGARH

C.W.P. No _____ of 2008
(Public Interest Litigation)

Hemant Goswami, aged 37 years, S/o Sh B. M. Goswami,
Chairperson, Burning Brain Society, #3, Glass office, Shivalikview
Business Arcade, Sector 17-E, Chandigarh 160017

.....Petitioner

Versus

1. Union of India through Secretary – Ministry of Home Affairs,
North Block, Central Secretariat, New Delhi - 110 001
2. Union of India through Secretary – Ministry of Urban
Development, 'C' Wing, Nirman Bhawan, Maulana Azad Road,
New Delhi - 110 001
3. Chandigarh Administration through Administrator, UT
Secretariat, Sector 9, Chandigarh 160 009

..... Respondents

That the Chandigarh Administration has decided to shift the present bus stand in Sector 17, Chandigarh to Sector 43, Chandigarh by issuing a notification under Section 117 of the Motor Vehicle Act 1988. The shifting of the bus stand has been done without getting relevant changes in Master-Plan and without accessing long-term ramification/impact of the change and is bound to disturb the scientific layout/planning of the city. The non-technical bureaucracy has no power to disturb the sanctity of the master-plan and/or

change the master-plan without proper approvals and scientific assessment.

AND SO THIS

Civil Writ Petition under Articles 226/227 of Constitution of India for issuance of Writ or direction in the nature of **Writ of Mandamus** or any other appropriate Writ be issued directing the respondents to maintain a status-quo and not shift the Sector 17 bus-stand or make any other change in the master plan which in any way disturb/changes/alters the original "Master Plan" of Chandigarh.

And

for issuance of **writ of Mandamus** for directing the respondents 1 and 2 to initiate a detailed inquiry to look into the necessity of recent changes in the "Master Plan" and for assessing circumstances, special interests and reasons which resulted in changing/altering the master plan of Chandigarh in a piece-meal manner and without following a proper and straight-forward route (If any change was required).

And

Writ, order or direction in the nature of **Quo Warranto** be issued, directing the Chandigarh Administration to produce all such notifications, order and/or any other lawful powers entrusted on the Chandigarh Administration and exercised by Chandigarh Administration which empowers the Chandigarh

Administration, the Administrator and/or any official so as to make changes which have the effect of Altering/Changing/Manipulating the Master Plan of Chandigarh.

And

Writ, order or direction in the nature of **Writ of Certiorari** be issued, quashing all orders and notification changing the bus-stand completely from Sector 17 to Sector 43 and which have an effect of Changing/Altering/Manipulating the Master Plan of Chandigarh.

And

Writ of Mandamus be issued for directing the respondents 1 to 3 that if decongestion of Sector 17 is an issue so not to use the land of Sector 17 bus stand for any commercial purpose and/or lease it out/sell the land of Sector 17 Bus-Stand and the surrounding area to any commercial and/or private entity in any way.

And

any other appropriate writ, order or direction this Hon'ble 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:

1. That the Petitioner is a social activist associated with many civil society organizations including many national and international organizations and actively engaged in public welfare. The petitioner is engaged in various social, public interest and civil rights activities concerning the youngsters and the public in general. Petitioner is also heading civil society organizations called "Burning Brain Society" and "Society for Prevention of Crime and Corruption." Many of the petitioners' social work have produced positive results and have been widely recognized nationally and globally. The circumstances of the present case entitles the petitioner to invoke the extraordinary jurisdiction of this Hon'ble Court by way of public interest litigation as the issue involved touches the lives of more than a million people.
2. That Chandigarh was developed in the 1950's as one of the first cities of independent India with proper scientific urban planning and the "Master Plan" of Chandigarh was developed keeping in view many important factors necessary for scientific development of any urban area. Chandigarh is known as one of the best experiments in urban planning and modern architecture in the twentieth century in India.
3. That the Master Plan of Chandigarh was developed by world renowned experts and well qualified architects and the necessary care taken for development of modern city. Factors like segregating commercial areas and places of public importance from the residential dwellings were considered and so Sector 17 was developed as the heart of the city connected by wider roads, with a bus stand, no/marginal residential areas, etc. The bus stand was so planned that the buses travel on wider roads and do not disturb the residential areas.

4. The “**Edicts of Chandigarh**” from the website of “Chandigarh Administration” at http://chandigarh.nic.in/knowchd_edict.htm reads (emphasis and underlining added);

“This edict of Chandigarh was prescribed by Mon Le Corbusier, the planner of Chandigarh for its citizens to follow in future. The object of this edict is to enlighten the present and future citizens of Chandigarh about the basic concepts of planning of the city **so that they become its guardians and save it from whims of individuals**. This edict sets out the following basic ideas underlying the planning of the city.”

5. That the concept of Chandigarh as visualized through its Mater-Plan is mentioned at Chandigarh Administration’s web site http://chandigarh.nic.in/knowchd_general.htm which further reads (emphasis and underlining added);

“Le Corbusier conceived the master plan of Chandigarh as analogous to human body, with a clearly defined head (the Capitol Complex, Sector 1), **heart (the City Centre Sector-17)**, lungs (the leisure valley, innumerable open spaces and sector greens), the intellect (the cultural and educational institutions), the circulatory system (the network of roads, the 7Vs) and the viscera (the Industrial Area). **The concept of the city is based on four major functions: living, working, care of the body and spirit and circulation**. Residential sectors constitute the living part whereas the Capitol Complex, City Centre, Educational Zone (Post Graduate Institute,

Punjab Engineering College, Panjab University) and the Industrial Area constitute the working part. The Leisure Valley, Gardens, Sector Greens and Open Courtyards etc. are for the care of body and spirit. The circulation system comprises of 7 different types of roads known as 7Vs. Later on, a pathway for cyclists called V8 was added to this circulation system.

The Capital complex comprises three architectural masterpieces: the "Secretariat", the "High Court" and the "Legislative Assembly", separated by large piazzas. In the heart of the Capital Complex stands the giant metallic sculpture of The Open Hand, the official emblem of Chandigarh, signifying the city's credo of "open to given, open to receive".

The city centre (Sector 17) is the heart of Chandigarh's activities. It comprises the Inter-State Bus Terminus, Parade Ground, District Courts, etc. on one hand, and vast business and shopping center on the other. The 4-storey concrete buildings house banks and offices above and showrooms/shops at the ground level with wide pedestrian concourses. The Neelam piazza in the center has fountains with light and water features."

6. That the concept notes along with the Master-Plan and also the study of the architectural control envisaged at the time of conceptualizing Chandigarh clearly points out that every building, road and structure was carefully planned to support other ancillary functions, utilities and activities. The growth of the city was also

been planned on the same lines. The systems have been so designed so as to even take care of unexpected growth and progress.

7. That the roads in Chandigarh were so planned and designed so as to provide ease of access and reduce the congestion at any point. But over a period of time, the Chandigarh Administration constructed dividers between the roads and blocked the mid-section entry into sectors; this resulted in congestion at all roundabouts (now turned into traffic-light points) and made the traffic chaotic. Many roundabouts were also unmindfully removed and several roads blocked. For free flow of traffic (after the slit-roads were closed as a result of dividers) there was a need to construct under-passes and/or over bridges; this was not done. This disturbed the traffic system and defeated the original master-plan. The website of Chandigarh Administration at http://chandigarh.nic.in/knowchd_gen_circulation.htm mentions that;

“Le Corbusier's traffic system followed Mayer's lines but was more elaborate; he called it *Les Sept Voies de Circulation*, or Seven Vs. The rationale of his planning was the motor car. "From his early studies in urbanism, **Le Corbusier had identified the motor car as the central factor of modern town** planning. His initial, primarily aesthetic, quasi-Futurist response to the motor car and to rapid movement in the cities had, by 1950, metamorphosed into a theoretical solution to the problems of modern traffic -- a graded system of circulation, from crossing continents to walking to the front door. [As Le Corbusier put it] 'The 7 Vs act in the town plan as the bloodstream, the

lymph system and the respiratory system act in biology. These systems are quite rational, they are different from each other, there is no confusion between them, yet they are in harmony ... It is for us to learn from them when we are organising the ground that lies beneath our feet. **The 7Vs are no longer the sinister instruments of death, but become an organised hierarchy of roads which can bring modern traffic circulation under control'."**

The 7Vs establishes a hierarchy of traffic circulation ranging from : arterial roads (V1), major boulevards (V2) sector definers (V3), shopping streets (V4), neighbourhood streets (V5), access lanes (V6) and pedestrian paths and cycle tracks (V7s and V8s). The essence of his plan for Chandigarh rests on preserving intact the true functions of these seven types of roads.

The entrance of cars into the sectors, which are exclusively reserved to family life, can take place on four points only; in the middle of the 1,200 meters; in the middle of the 800 meters. All stoppage of circulation shall be prohibited at the four circuses, at the angles of the sectors. The bus stops are provided each time at 200 meters from the circus so as to serve the four pedestrian entrances into a sector. Thus the transit traffic takes place out of the sectors; the sectors being surrounded by four wall-bound car roads without openings (the V3s). **The road system was so designed that "never a door will open on the surrounding V3s: precisely**

the four surrounding V3s must be separated from the sector by a blind wall all along." Buses can ply on the V4s, the horizontal connection between contiguous sectors, but not within the sector interiors."

8. That on 23rd July, 2001 bearing number No. 5221-HIII(2)-2001/13645 Chandigarh Administration **issued a notification under Section 117 of the Motor Vehicle Act 1988** announcing Sector 43 as another places where the Buses may stop. Notification is annexed as "Annexure P-1."
9. That subsequently Chandigarh Administration issued orders for more buses to stop and commence the journey from Sector 43. In May 2008, Chandigarh Administration issued another order that within another six months all the buses would start from Sector 43 and the Sector 17 Bus Stand would no more be in use. The press note issued in this regard is annexed as "Annexure P-2."
10. That the order has been interpreted as and has an effect of completely shifting of the Bus Stand from Sector 17 to Sector 43.
11. That this complete removal of bus stand from Sector 17 to Sector 43 was never a part of the original master plan and/or any other subsequent scientific urban development planning. Such a move to shift the bus stand completely from Sector 17 to Sector 43 has the potential of damaging efficient management of traffic. Will cause untold harassment to the commuters and disturb the life of residents especially in the sectors 49, 48, 47, 46, 45, 43, 42, 41, 40 for ever. Even as on date, the approach roads to the Sector 43 Bus Stand faces frequent traffic jams. This in itself shows the poor level of planning and inadequacy of the Sector 43 location for an Inter-State Bus Stand.
12. That no scientific planning has been done for making such a major change in the "Master Plan" of Chandigarh and such uncontrolled

and careless planned change will disturb the planning of the city and make it more chaotic as the time will pass.

13. That no approval of the Union Ministry of Urban Planning and/or the Home Ministry and/or the Cabinet has been taken for making such a major change in the Master Plan of Chandigarh.

14. That such a decision has been taken at a local lower bureaucratic level. Grapevine galore amid allegations and speculations that the Sector 17 Bus Stand is being removed to accommodate some big business houses owing to the high commercial value of the land in Sector 17. Such a change will also affect the modern heritage-status of Chandigarh for which efforts are being made with UNESCO.

15. That even in a place like Delhi having high density of population and a large commuting population, the Kashmiri Gate Bus Terminal (ISBT) coexist with the "Metro Terminal" and the need to completely shift the Bus Terminal to accommodate Metro or to sell/lease out the (perceived) valuable land of Kashmiri gate has not being considered.

LAW POINTS

16. That the law points involved in this Writ petition are as follows:-

- i. Whether the Master Plan of a Union Territory can be changed by the Administrator and/or an executive (bureaucrat) in a piece-meal manner without involving the Union Ministry of Urban Development and without the approval of the Union Cabinet?
- ii. Whether the Administrator of a Union Territory has any power to perform an executive function independent of the Parliament and the Union Cabinet

for items listed in List II of the Seventh Schedule under Article 246 of the Constitution?

- iii. Whether an Administrator of a Union Territory, who is not an elected representative in any way and is not answerable to the Parliament and is also not under the Union Public Service Commission; has any power to perform an executive function without seeking approval of the Parliament, either directly, or indirectly through the Union Cabinet, and/or the Controlling Department i.e. the Ministry of Home Affairs.
- iv. Whether any major change in the Master Plan of any city can be approved without proper technical evaluation and without any scientific basis and by people who are not technically qualified to do so?
- v. Whether it was necessary to share all the relevant facts and reasons of any decision affecting the public, with the general public as mandated under Section 4(1)(c) and 4(1)(d) of the Right to Information Act 2005 and/or in the constitutional spirit of democracy and transparency.
- vi. Whether the Motor Vehicle Act 1988 is the appropriate legislation to make or suggest any kind of changes in the Master-Plan and/or the Urban Planning of Chandigarh?
- vii. Whether the land vacated for decongesting any area be allocated to any other commercial activity which will again result in congestion of the area?

viii. Whether the respondents acted in a manner so as to upset the master plan and defeat the objectives and the spirit of a well planned city and that of the Constitution?

17. That the petitioner has not filed any such Writ petition in this Hon'ble Court or Supreme Court of India.

18. That the matter is of vital general importance affecting the general public and requires intervention of this Hon'ble Court.

19. That there is no other alternative remedy of appeal or revision available to the petitioners except to approach this Hon'ble Court by way of filing the present writ petition.

RELIEF SOUGHT

20. It is, therefore, respectfully prayed;

I. that an Order, Writ or direction in the nature of **Writ of Mandamus** or any other appropriate Writ be issued directing the respondents to maintain a status-quo and not shift the Sector 17 bus-stand or make any other change in the master plan which in any way disturb/changes/alters the original "Master Plan" of Chandigarh.

II. for issuance of **writ of Mandamus** for directing the respondents 1 and 2 to initiate a detailed inquiry to look into the necessity of recent changes in the "Master Plan" and for assessing circumstances, special interests and reasons which resulted in changing/altering the master

plan of Chandigarh in a piece-meal manner and without following a proper and straight-forward route (If any change was required).

III. Writ, order or direction in the nature of **Writ of Quo Warranto** be issued, directing the Chandigarh Administration to produce all such notifications, order and/or any other lawful powers entrusted on the Chandigarh Administration and exercised by Chandigarh Administration which empowers the Chandigarh Administration, the Administrator and/or any official so as to make changes which have the effect of altering/changing/manipulating the Master Plan of Chandigarh.

IV. Writ, order or direction in the nature of **Writ of Certiorari** be issued, quashing all orders and notification changing the bus-stand completely from Sector 17 to Sector 43 and which have an effect of Changing/Altering/Manipulating the Master Plan of Chandigarh.

V. **Writ of Mandamus** be issued for directing the respondents 1 to 3 that if decongestion of Sector 17 is an issue so not to use the land of Sector 17 bus stand for any commercial purpose and/or lease it out/sell the land of Sector 17 Bus-Stand and the surrounding area to any commercial and/or private entity in any way.

VI. Any other appropriate writ, order or direction this Hon'ble 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.

VII. Filing of certified and fair typed copies of Annexures **P-1** to **P-2** may kindly be dispensed with, and permission to file true copy of the same be granted.

VIII. the present writ petition may kindly be allowed with costs.

Place: Chandigarh

Date:- July 21, 2008

PETITIONER

Through Counsel:-

(A. P. S. Shergill) (Raina Sabharwal)

Advocates for the Petitioner

VERIFICATION:-

Verified that the contents of paras No. 1 to 15 and para No. 17 to 19 are true and correct to my knowledge, whereas, contents in para 16 and 20 are based on legal advice which I believe to be true and correct. No part of it is false and nothing has been concealed therein.

Place: Chandigarh

Date:- July 21, 2008

PETITIONER

**IN THE HON'BLE HIGH COURT OF PANJAB & HARYANA AT
CHANDIGARH**

C.W.P. No _____ of 2008

(Public Interest Litigation)

Hemant Goswami

...Petitioner

Versus

Union of India & Ors.

....Respondents

Affidavit of Hemant Goswami, aged 37 years,
S/o Sh B. M. Goswami, Chairperson, Burning
Brain Society, #3, Glass office, Shivalikview
Business Arcade, Sector 17-E, Chandigarh
160017.

I, the above named deponent do hereby solemnly affirm and declare as
under:-

1. That the deponent is filing the accompanying civil writ petition in
this Hon'ble High Court. The contents of the civil writ petition may be read
as a part and parcel of this Affidavit. The civil writ petition has been drafted
under the instructions of the deponent. The deponent declares that the
contents of this affidavit are true and correct to his knowledge and he is
fully conversant with the facts of the present case.

Chandigarh

Date:- July 21, 2008

Deponent

VERIFICATION:-

Verified that the contents of my above stated affidavit comprising of
one para are true and correct to my knowledge. No part of it is false and
nothing has been concealed there from.

Chandigarh

Date:- July 21, 2008

Deponent

GOVERNMENT OF INDIA

Chandigarh Administration Gazette

EXTRAORDINARY

Published by Authority

CHANDIGARH, MONDAY, JULY 23, 2001 (SRAVANA 1, 1923
SAKA)

HOME DEPARTMENT

Notification

The 23rd July, 2001

No. 5221-HIII(2)-2001/13645.— In exercise of the powers conferred by Section 17 of the Motor Vehicles Act, 1988 (Act No. 59 of 1988) the Administrator, Union Territory, Chandigarh, hereby determines ISBT, Sector 43, Chandigarh, to be a place at which motor vehicles may stand either indefinitely or for a specified period of time, and also determines the aforesaid ISBT, Sector 43, Chandigarh to be a place at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

R.S. GUJRAL,
Home Secretary,
Chandigarh Administration

True Copy

Advocate

Annexure P-2

Public Relations Department, Chandigarh Administration

www.chdpr.gov.in

Press Release

CHANDIGARH, JANUARY 14: Formal process for the shifting of more inter-state bus services from ISBT 17 to ISBT 43 was completed today, as UT Home Secretary, Mr. Krishna Mohan issued the formal notification.

All bus services from Chandigarh to Ludhiana and Kurali/Mullanpur site and back during day and night would now be shifted to ISBT 43 from ISBT 17. All bus services from Chandigarh to Ropar Side and back between 8:00 PM to 5:00 AM will also be shifted. All bus service from Chandigarh to Sirhind via Landran, Chunni, Fatehgarh and back between 8:00 pm to 5:00 AM has also been shifted from ISBT 17 to ISBT 43.

The notification has been issued in exercise of the powers conferred by Section 117 of the Motor Vehicles Act, 1988 (Act No. 59 of 1988), the Administrator, Union Territory, Chandigarh, vide notification No. 5221-HIII(2)-2001/13645, dated the 23rd July, 2001, has determined ISBT, Sector 43, Chandigarh to be a place at which motor vehicles may stand either indefinitely or for a specified period of time and also determined the aforesaid ISBT, Sector 43 Chandigarh, to be a place at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

As per the notification, the Administrator, Union Territory, Chandigarh is satisfied that it is necessary in the interest of public safety and to decongest the ISBT Sector 17 Chandigarh that the operation of more bus services from Chandigarh are shifted from ISBT, Sector 17 to ISBT, Sector 43.

True Copy

Advocate