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Precaution Over Presumption: The Supreme Court’s Reaffirmation Of Statutory Planning Control And Environmental Safeguards In India

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PUBLISHED 20 March 2026

Introduction

The Supreme Court of India delivered a significant judgment in Harbinder Singh Sekhon & Ors. v. State of Punjab & Ors.[1], adjudicated by a Division Bench. The judgment addresses two interrelated but distinct questions: first, the legality of a Change of Land use granted in favour of a cement grinding unit in Sangrur, Punjab, in derogation of the operative Master Plan; and second, the constitutional validity of the Central Pollution Control Board's reclassification of standalone cement grinding units from the Red to the Orange industrial category. In both parts, the Court delivered emphatic rulings that reinforce the binding character of statutory planning instruments, the impossibility of curing jurisdictional defects through administrative convenience, and the constitutional obligation to maintain preventive environmental safeguards.

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Background and Factual Matrix

Punjab, for Shree Cement North Private Limited acquired approximately 47.82 acres of land near Sangrur, the purpose of establishing a cement grinding unit. The land fell within a rural agricultural zone under the notified Master Plan for Sangrur, where red category polluting industries were expressly impermissible. On December 13, 2021, the Punjab Bureau of Investment Promotion issued a Change of Land Use (CLU) in favour of the company under a single-window mechanism. The following day, the Punjab Pollution Control Board (PPCB) issued a No Objection Certificate and Consent to Establish premised on the CLU. Local agriculturists and the neighboring Vasant Valley Public School the latter specifically citing the risk to students and staff challenged these permissions before the High Court of Punjab and Haryana. The High Court dismissed both petitions, acknowledging that the CLU lacked statutory backing as on its date of issuance, but holding that an ex post facto approval granted at the 43rd meeting of the Punjab Regional and Town Planning and Development Board on January 5, 2022, had cured the defect. The appellants carried the matter to the Supreme Court by way of Special Leave Petitions.

The Court's Analysis on Planning Law

The Supreme Court, after a careful examination of the Punjab Regional and Town Planning and Development Act, 1995 (PRTPD Act), held that the CLU dated December 13, 2021, was void for want of statutory authority. The Court reiterated, relying on Bangalore Medical Trust v. B.S. Muddappa[2] and K. Ramadas Shenoy v. Town Municipal Council, Udipi[3], that a Master Plan is not a mere policy document but a binding statutory instrument. Once published and operational under Sections 70 and 75 of the PRTPD Act, it governs all land use and development within the planning area. Section 79 of the Act contains a mandatory prohibition against use of land inconsistent with the Master Plan, and a CLU operates as a regulatory permission within not above that framework. A permission authorising a use impermissible under the operative Plan is without jurisdiction from the moment of its grant.

The Court further rejected the High Court's finding that the Board's ex post facto approval could retrospectively validate the CLU. Under Section 76 of the PRTPD Act, revision of a Master Plan attracts the same mandatory procedural discipline as its original preparation under Sections 70 and 75 encompassing public notice, invitation and consideration of objections and suggestions, and formal publication in the Official Gazette. Minutes of a Board meeting do not constitute a statutory amendment. The Court held that a jurisdictional defect cannot be cured by subsequent administrative endorsement in the absence of an express statutory power of retrospective validation, which the PRTPD Act does not confer. The submission that substantial financial investment had been made in furtherance of the CLU was equally rejected: expenditure incurred in furtherance of an unlawful permission cannot supply the statutory authority it lacks.

Environmental Safeguards and Siting Compliance

On the question of siting, the Court found that compliance with the PPCB notification dated September 2, 1998 which prescribes minimum buffer distances of 300 metres from educational institutions and residential clusters of 15 pucca houses had not been demonstrably established. The authority had measured distances from the project boundary rather than from identified emission sources, an approach the Court characterised as falling below the minimum regulatory standard. Applying the precautionary principle, the Court held that preventive siting safeguards must be satisfied on objective and verifiable material at the threshold stage of regulatory consideration, and cannot be deferred to the consent-to-operate stage. The requirement of prior environmental clearance under the EIA Notification, 2006, was equally emphasised as a precondition and not a post-construction formality.

The Constitutional Challenge to the CPCB Reclassification

During the pendency of the appeals, the CPCB issued a revised industrial sector categorization in January 2025, reclassifying standalone cement grinding units without a Captive Power Plant from the Red to the Orange category, thereby relaxing applicable siting safeguards. The Ministry of Environment, Forest and Climate Change issued Notifications GSR 84E and GSR 85E consequentially. The Court quashed both the reclassification and the notifications, holding that the downgrade rested on generic, sector-level assumptions rather than a scientifically substantiated and site-specific assessment of exposure risks. Cement grinding units inherently generate particulate emissions and fugitive dust with direct public health consequences. Diluting siting norms without a demonstrable reduction in such risk was held to infringe Article 21 of the Constitution which encompasses the right to a clean and healthy environment and to constitute arbitrary action violating Article 14. Relying on Vellore Citizens Welfare Forum v. Union of India[4] and allied decisions, the Court held that where regulatory action lowers the constitutional minimum of protection for life and health, judicial intervention is a constitutional obligation and not an intrusion into policy. All permissions granted solely on the basis of the impugned reclassification were declared to have no survival.

Conclusion

Harbinder Singh Sekhon v. State of Punjab is a compelling reaffirmation of foundational principles in Indian planning and environmental law. It establishes with clarity that statutory Master Plans cannot be circumvented by administrative permissions, that ex post facto approvals cannot supply jurisdiction where none existed, and that preventive environmental safeguards cannot be weakened by sectoral reclassification divorced from exposure realities. Above all, it affirms that industrial development, however economically desirable, must operate within the discipline of applicable statutes and the constitutional framework that safeguards the right to life, health, and a clean environment for all citizens.

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1. 2026 INSC 159 (with WRIT PETITION (C) No. 481 OF 2025 AND WRIT PETITION (C) No. 551 OF 2025) ??
2. (1991) 4 SCC 54 ??
3. (1974) 2 SCC 506 ??
4. (1996) 5 SCC 647 ??

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