

# Hiranya Pandey

Advocate High Court, Mumbai.

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## By Hand Delivery

Date 3<sup>rd</sup> September 2014

To

Mr. Mihir Desai

Advocate

22, Raja Bahadur Mansion,

2<sup>nd</sup> Floor, Opp. State Bank of India

Mumbai Samachar Marg

Fort, Mumbai- 400023

Sir,

- Ref :** 1. My notice dated 19<sup>th</sup> Aug 2014 served on Greenpeace India.  
2. Your Reply dated 27<sup>th</sup> Aug 2014 on behalf of Greenpeace, India.

My client, Crop Care Federation of India has instructed me to issue the following in Reply in Rejoinder to the reply sent through you by Greenpeace India.

1. **Brief facts of the matter:** Last month i.e. in August 14, your client Greenpeace, India had released in the internet and print and electronic to the mainstream media in India, a self sponsored report that claimed that many Indian tea brands have high levels of pesticide residues. This surreptitious pesticides residue analysis was done in an unknown and undisclosed laboratory in the Europe - apparently funded by Greenpeace International. The report sensationally titled "**Trouble Brewing: Pesticide Residues in Tea Sample**" did not explain the protocol used for the tests nor did it carry the raw data, chromatograms, etc for expert review by scientists in India. My client suspected a foul play in this whole episode, and asked me to send a notice . I therefore served a notice on 19<sup>th</sup> Aug 2014 that among others asked your client to disclose the protocol

followed for the residue analysis, the name of the laboratory and scientists who analysed the tea sample allegedly collected from India, the raw data for the entire analysis together with chromatograms, etc.

2. My client is surprised that in response to their just and legitimate request for full and comprehensive analytical information, your client had stated that **"they are under no obligation to furnish the copies of the raw data"** and that my client **"have no right to any information in addition to what is provided in the report"**.
3. My client would like to assert that that the stand taken by your client – Greenpeace India- is thoroughly untenable and highly objectionable.
4. My client asserts that The Article 51-A (h) of the Indian Constitution provides, inter alia, **it shall be the fundamental duty of every citizen of India to "develop scientific temper and spirit of inquiry"**. The "scientific" temper refers to an attitude which involves application of scientific principles and logic without bias and errors. According to India's Ministry of Law and Justice the **"scientific temper"** in the Article 51-A(h) requires thirst for knowledge and urge to research for facts and zeal for setting things right. The fundamental duty to develop scientific temper and spirit of inquiry is applicable to all citizens. Therefore, be informed, that my client in fact exercised this fundamental duty when they sought the raw data behind your clients mysterious analysis in an unknown laboratory in Europe.
5. My client further reiterate that they have a fundamental duty u/a 51-A (h) of Indian Constitution to seek all laboratory information to

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ascertain the veracity of the wild claims made by your client about presence of pesticide residues in Indian tea. Any attempt by your client, a foreign funded NGO, to oust our duties/ rights /jurisdiction would be *ultra- vires*

6. My client categorically state that the right to know, seek and receive information has been recognized within the right to freedom of speech and expression in India ( S.P. Gupta v. union of India , AIR 1982 SC 149).
7. My client state that the wild claims made in the mainstream media by your client about Indian tea constitute a threat to our economic security. India is the second largest tea producer in the world. These claims were calculated to have an adverse effect on our economic security and sovereignty of India.
8. My client seeks to know if Greenpeace India, a foreign funded NGO, has within its declared functions / objectives the right to draw our food and/or environmental and /or other samples for bio-monitoring studies at a laboratory functioning abroad. If yes, my client seeks to have a copy of such functions/ objectives as expressly declared to Indian authorities at the time of seeking registration by Greenpeace India under Indian Societies Act.
9. My client asserts that as per our government records, Greenpeace India was registered as a Society with Tamil Nadu vide registration No. 377 of 2002 on 22.7.2002. Interestingly however, the Greenpeace-India's web site (accessed on 3<sup>rd</sup> Sept 14) claims "**Greenpeace India has been working on various issues related to the environment since 2001**". Can a person claim to be living

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before his birth? Can Greenpeace India claim to be working in India ahead of its registration in India? Were they operating clandestinely? My client seeks to know.

10. My client assert that *prima facie* it looks that Greenpeace India is receiving and spending huge foreign funds in order to destabilize the progress in Indian agriculture. Here is an example. Bihar farmers have started adopting modern agri inputs. In the year 2011-12, Bihar's food grains production increased significantly to 17.7 million tons from 10.8 million tons in the previous year. Alarmed by this astonishing agricultural growth, Greenpeace India brought in one Mr. Reynes Tirado from Greenpeace, UK. He travelled extensively in Bihar advising Bihar farmers not to use chemical fertilizers. He claimed that nitrogenous fertilizers could cause cancers. This episode exposes the nefarious designs of Greenpeace to destabilize agriculture in India. Why don't Greenpeace advise UK farmers not to use chemical fertilizers? Why India? Why Bihar? The hidden agenda is to destabilize Indian agriculture.
  
11. My client assert that *prime facie* Greenpeace India is receiving huge foreign funds under some fancy purpose. For example in the year 2012- 13, Greenpeace India received huge foreign fund of Rs 10.14 crores for the declared purpose of establishing "**decentralized renewable energy**" in Patna, Bihar. Decentralized energy means energy that is produced close to where it is consumed. Renewable energy means energy that comes from naturally renewable sources like sunlight, wind, biomass , tidal waves etc. How many "**decentralized renewable energy**" centers that Greenpeace India established in Patna? It is an offence in India under Foreign

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Contribution (Regulation Act )2010 to receive foreign funds and use for the purpose other than the declared one.

12. My client assert that all donations to Greenpeace India are eligible for income tax exemption u/s 80G in India. This means they are financed- indirectly - by Indian government. They should, therefore, come under Right to Information Act for Indian public to know everything about their source of funds and how they are spent in India . According to section 2 (h) (ii) of the RTI Act, to be a public authority, the non government organisation requires to be **substantially financed directly or indirectly by funds provided by appropriate government.** The term "substantial" is not defined in the RTI Act. Dwelling on this the Delhi High Court opines that what amounts to substantial financing cannot be straight jacketed into rigid formulae. As long as the object for funding is achieving a felt need of a section of public or to serve larger societal goals. That the percentage of funding is not majority funding is not material as long as the object of funding from "appropriate government" is for achieving a felt need of a section of a public or to secure a larger societal goals. The term "substantially financed" does not refer to majority funding. Non government organisation which are enjoying benefit of substantial funding directly or indirectly from the government fall within the definition of public authority under the RTI Act. Therefore, please advise your client that if they continue to dodge giving the raw data of the laboratory analysis, my client would, among others, move the matter before the competent authority under Right to Information Act. Greenpeace India is accountable to people of India and not to their funding masters sitting abroad.

13. ***“Many environmental scares are based on misconception and weak or bad science”*** observed Bruce Ames, National Academy of Sciences, USA. My client completely agree with this observation based on past experience. My client would like to give an example. Delhi based Center for Science and Environment (CSC) run by Ms. Sunita Narain - known to be receiving huge foreign funds- claimed to have found 9.19 ppm of Endosulfan residues in filtered water samples collected from Kasargod, Kerala a few years ago. As this residue level was 2800% higher than the pesticide's known water solubility, the industry asked her to scientifically prove the claim. She never accepted the challenge. It is a fundamental principle in analytical chemistry that one can't find residues of a chemical in filtered water samples over and above its maximum solubility. The water solubility of the pesticide Endosulfan is 0.32 ppm. My client assert, based on experience, that foreign funded environmental NGOS often make unfounded, and unscientific and un-provable allegations about pesticides.
14. My client assert that If Greenpeace cannot make public all the raw data concerning this questionable study, the laboratory and scientists involved, for scrutiny by Indian experts, the Greenpeace must tender public apology in popular media in India and withdraw the report. Sensationalism, hysterical scare mongering and sheer deception through false and fabricated reports form the modus operandi of Greenpeace. My client say that they are committed to fight against Greenpeace and other foreign funded environmental NGOs who are spreading unfounded and unscientific rumours with a hidden agenda. The Greenpeace internal records would show that

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courts had fined them for making wild and false allegations fined them in the past.

In view of the above, my clients once again seek full and comprehensive raw data concerning the alleged pesticide residue analysis involving Indian tea sample within next 15 days. In case of failure, my client will take all actions considered necessary to protect their legitimate public interests.

Because this matter is of public interest, be informed, my client will be releasing this to the public domain as well. They are also formally submitting a copy of this to various government authorities.

Yours Truly

(Hiranya Pandey)