

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**CENTRAL ZONAL BENCH, BHOPAL (MP)**

**EXECUTION PETITION 02 OF 2020**  
**IN**  
**ORIGINAL APPLICATION NO. 88/2015**

**IN THE MATTER OF:**

BABULAL JAJOO

.... APPLICANT

//VERSUS//

STATE OF RAJASTHAN AND ORS.

...RESPONDENT

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PLACE :: BHOPAL

DATE :: 01.09.2020



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THROUGH COUNSEL  
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**SYNOPSIS**

That the present Execution Application is filed against the Respondents for willfully flouting the order passed by the Hon'ble National Green Tribunal Bhopal in the matter of O.A. no. 88/2015. The Applicant with the help of this Execution Application seeks direction from the Hon'ble National Green Tribunal to direct the Respondents to comply with the order and to further penalize the Respondents for the willful non-compliance of the order of the Hon'ble National Green Tribunal.

PLACE :: BHOPAL  
DATE :: 01.09.2020



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**CHRONOLOGY OF EVENTS**

<b><u>DATE OF EVENTS</u></b>	<b><u>PARTICULARS</u></b>
<b><u>11.09.2017</u></b>	Detailed Order passed by the Hon'ble Tribunal in the matter of O.A. no. 88/2015 directing the Respondents.
<b><u>22.01.2018</u></b>	Final order disposing off the O.A. no. 88/2015
<b><u>01.09.2020</u></b>	Present Execution Application filed

PLACE :: BHOPAL

DATE :: 01.09.2020



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**EXECUTION PETITION 02 OF 2020  
IN  
ORIGINAL APPLICATION NO. 88/2015**

**IN THE MATTER OF:**

**BABULAL JAJOO**

S/O SHRI BALU RAM JAJOO

AGED 59 YEARS

R/O JAJOO BHAWAN,

BHILWARA, RAJASTHAN

... APPLICANT

**//VERSUS//**

**1. STATE OF RAJASTHAN  
THROUGH DISTRICT COLLECTOR  
BHILWARA, RAJASTHAN**

**2. JINDAL SAW LIMITED  
TRILANGA HILL, VILLAGE PUR,  
BHILWARA, RAJASTHAN AND  
B-136, QUEENS ROAD, VIDHYUT NAGAR-B, JAIPUR – 302021**

...RESPONDENTS

**APPLICATION UNDER SECTION 25 READ WITH SECTION 26 AND 28  
OF THE NATIONAL GREEN TRIBUNAL ACT, 2010 SEEKING PENALTY  
AGAINST THE RESPONDENTS IN THE ORIGINAL APPLICATION NO.  
88/2015 FOR WILFUL NON-COMPLIANCE OF THE DIRECTIONS  
ISSUED BY THIS HON'BLE TRIBUNAL VIDE AN ORDER DATED  
11.09.2017**

**1. PARTICULARS OF THE APPLICANT:**

Same as stated above.

**2. PARTICULARS OF THE RESPONDENTS / NON-APPLICANTS**

Same as stated above.

**3. PARTICULARS OF THE ORDERS IN CONNECTION WITH WHICH  
THE PETITION IS BEING MADE:**

The Respondents have willfully defied the directions contained in the Order dated 11.09.2017 and 22.01.2018 passed by this Hon'ble Tribunal in *O.A. No.*

*88 of 2015 – Babulal Jajoo versus State of Rajasthan and Ors.* Copy of the

order dated 11.09.2017 and 22.01.2018 is annexed herewith as Annexure C/1 (colly).

#### **4. FACTS OF THE CASE:**

4.1 That the Applicant had filed an Original Application bearing No. 88/2015 before the Hon'ble Tribunal on 14.09.2015 raising issue with regard to non-action of the Respondent No. 1 in stopping illegal blockage of catchment area of Samodi Ponn (Bhilwara) by the Respondent No. 2 and further also failed to stop illegal mining operation by the Respondent No. 2 amongst various other issues discussed further.

4.2 Firstly, the Hon'ble Tribunal vide order dated 11.09.2017 in regard to the issue of plantation of 10000 trees by the Respondent No. 2 Company had directed the Collector to identify an area which would always remain as the green belt and would not be liable to be allotted for any such purposes where the trees are required to be cut. The Hon'ble tribunal further added that variety of the trees to be planted would have to be such which can easily survive as the area is saline with scanty rain fall and advice of the Forest Department officials be taken to identify appropriate varieties of trees to be planted in the area.

4.3 That the Respondent No. 2 Company has defied the order of the Hon'ble Tribunal in this regard and has not completed the works of plantation of the trees to this date and therefore, has flouted the directions of this Hon'ble Tribunal.

4.4 Secondly, the Hon'ble Tribunal vide order dated 11.09.2017 addressed the issue of area of 400 bighas which was originally a charagrah (grazing land) for the cattle and out of which small portion was earmarked for the establishment of Gowshala which has been adversely affected because of run-off from overburdened dump. The Hon'ble Tribunal had directed that

*“the District Collector and the Municipal Authority, Bhilwara to consider the same to be taken up for the purpose of management by the Municipal Authorities. Order to that effect be issued by the Collector to the Municipal Authorities and same be notified for that purpose. We have seen in the Media that the Central Government has come out with the scheme for proper maintenance of the Gowshala and making them self sufficient by utilising the gohar and other material for the purpose of gohar gas and / or compost for self sustaining of the Gowshala on that pattern and looking to the scheme of the Govt. of India the Gowshala should be properly administered and maintained. Stray cattle within the city should be taken to the Gowshala and city should made free from such cattle. The stray cattle are not only a problem for the traffic on the road but also at the same time are reason for the congestion on the roads and air pollution is also being caused by the same. Therefore the said measures should be taken up on priority, Administration and maintenance of Gowshala could be taken up under the CSR activity of the Respondent NO. 2 company. We may also add that the 400 beghas which have been identified and handed over to the Respondent NO. 2 and sufficient plantation can also be carried out in the same as well as in the Gowshala which can act as shady trees and fodder for the benefit of stray cattle. The parties are directed to submit proof of execution and compliance of the aforesaid order.”*

4.5 That to utmost shock and surprise, even after constantly reminding the District Collector, Bhilwara (who was supposed to see that the Respondent No. 2 Company comply with the abovementioned directions of the Hon’ble Tribunal in context of Gowshala) by the Applicant, no work as directed by the order of the Hon’ble Tribunal has been carried out by the Respondent

No. 2 Company and thousands of stray cattle are still on the streets, everywhere to be found, thereby, causing nuisance all over the city of Bhilwara. There are reported incidents of people getting physically hurt because of the stray cattle fighting amongst themselves.

4.6 That, in terms of Section 26, the Respondent No. 2 is liable to be punished with imprisonment which may extend to three years or a penalty to the tune of Rs. 10 Crores. The relevant abstract of Section 26 is produced as under:

*“Chapter IV*

*Section 26 – Penalty for failure to comply with the orders of the Tribunal –*

*(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:*

*Provided that if a company fails to comply with any order or award or decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.*

*(2) Notwithstanding anything contained in the code of criminal procedure, 1973 every offence under this act shall be deemed to be non-cognizable within the meaning of the said code.”*

4.7 That as has been directed in the order, the Respondent No. 2 had to carry out the works of planting 10000 trees and establishment of Gowshala for taking the stray cattle from city to that establishment and that the same works are done, had to be ensured by the District Collector, Forest Department and Municipal Authority, who have not complied with the directions of the Hon’ble Tribunal. This aptly tantamount to failure on part of the Government Department to comply with the orders of the Tribunal and therefore the Government Department is also accountable for not complying with the orders of this Hon’ble Tribunal in terms of Section 28 of the Act.

The relevant abstract of Section 28 of the Act is produced as under:

*Section 28: Offences by government Department – (1) Where any Department of the government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this act and punished accordingly:*

*Provided that nothing contained in this section shall render such Head of Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.*

*(2) Notwithstanding anything contained in sub-section (1), where an offence under this act has been committed by a department of the government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the*

*part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

5. That thereafter vide order dated 22.01.2018, the Hon'ble Tribunal disposed of the instant Original application whereby the Respondent No. 2 had undertaken to establish STP by June 2020, but the same is also not complied till date.
6. That, on bare reading of the above provisions, the Respondents have failed to comply with the order passed by the Hon'ble Tribunal and hence this application.
7. That, the requisite court fees has been paid alongwith the Application.
8. That, an affidavit in support of the application is filed alongwith.
9. The Applicant has a good case on merits and the balance of convenience also lies in his favour.

### **PRAYER**

In the light of the aforesaid facts and circumstances of the case, it is most humbly submitted that this Hon'ble Tribunal may be pleased to:

1. Allow the present Application;
2. Direct the Respondent No. 2 Company to comply with the directions contained in the Orders dated 11.09.2017 and 22.01.2018;
3. Penalise the Respondents for willful non-compliance of the Order dated 11.09.2017 in terms of the provisions of the Sections 26/28 of the National Green Tribunal Act, 2010; and/or
4. Pass any other Order (s) to preserve and protect the interest of the Petitioner which this Hon'ble Court may deem fit in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, AS DUTY BOUND SHALL EVER PRAY.

PLACE :: BHOPAL  
DATE :: 01.09.2020



APPLICANT  
THROUGH COUNSEL  
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akshay19rathore96@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL  
BENCH, BHOPAL (MP)

EXECUTION PETITION **02** OF 2020  
IN  
ORIGINAL APPLICATION NO. 00 /20

IN THE MATTER OF:

BABULAL JAJOO ... APPLICANT

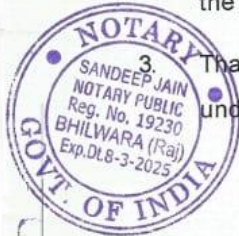
// VERSUS //

STATE OF RAJASTHAN AND ANR. ...RESPONDENT

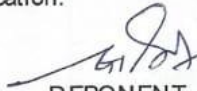
AFFIDAVIT

I, Babulal Jajoo, S/o Shri Balu Ram Jajoo, Aged adult, R/o Jajoo Bhawan, Bhilwara, Rajasthan do hereby solemnly affirm on oath as under:

1. That, I am the Applicant in the petition and fully conversant with the facts of the case and hence competent to swear on this affidavit.
2. That, I am filing an application under Section 26 read with Section 28 of the National Green Tribunal Act, 2010, the contents of which have been drafted on my instructions and the same are true and correct to the best of my knowledge and belief.



That, I have not suppressed any material fact and I have read and understood the contents of the accompanying application.

  
DEPONENT

VERIFICATION

I, the above name deponent do hereby verify that the contents of the affidavit above are true and correct and no material fact has been concealed.

Signed and verified on this day of 1<sup>st</sup> September 2020 at \_\_\_\_\_

  
DEPONENT

Dependent Sworn and verified before me and Admitted to be true and correct. True Hence Attested.  
 Sandeep Jain  
 Notary Public  
 Bhilwara (Raj)

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
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EXECUTION PETITION **02** OF 2020  
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STATE OF RAJASTHAN AND ORS.

...RESPONDENT

**LIST OF DOCUMENTS**

S. NO.	PARTICULARS	PAGE NOS.
1.	ANNEXURE C – 1  A copy of the Order dated 11.09.2017 and 22.01.2018 passed by this Hon'ble Tribunal.	12-17

PLACE :: BHOPAL  
 DATE :: 01.09.2020



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**Annexure C/1**

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

**Original Application No. 88/2015 (CZ)**  
**Babulal Jajoo Vs. State of Rajasthan & Ors.****CORAM :** HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**PRESENT :** Applicant: In person  
Mr. M.S. Kachchwa, Adv  
Ms. Zubia Sajid, Adv.  
Raj. State & RSPCB: Shri Sandeep Singh, Adv.  
Shri Dharmendra Dandwani,  
Municipal Council, Bhilwara,

Date and Remarks	Order of the Tribunal
<p>Order No. 25</p> <p>11<sup>th</sup> September, 2017</p>	<p>In our order dtd. 29.05.2017 a direction was given to the Respondent Company for carrying out plantation of trees 10000 in number. It is submitted that till date this work has not been completed and only about 300 trees have been planted. Learned Counsel for the State submitted that the Collector had identified certain areas where illegal mining had been done which was ordered to be backfilled with soil and over there these 300 trees have been planted.</p> <p>Learned Counsel for the Applicant and the Applicant who are present submitted that this land on which the plantation had been carried out may be allotted for setting up of industrial estate by RIICO, the catalyst agency of the State of Rajasthan and in that view of the matter these trees that have been planted are liable to be cut and therefore, the purpose of green belt would not be served.</p> <p>It was suggested by the Learned Counsel for the Applicant that the Collector may be directed in consultation with the Forest Department as well as with the Applicant to identify the areas where such plantation can be safely carried out and where the possibility of these trees being cut in future would not be there. In the event of such land being either allotted or which are capable of being allotted it was suggested that the river front of the River Kothari be taken up for tree plantation. We would direct that</p>

<p>the copy of this order shall be given to the Collector by the Learned Counsel for the State and the Collector in consultation with the Forest Department and the Applicant would identify such area which would always remain as the green belt and not liable to be allotted for any such purposes where the trees are required to be cut.</p> <p>We may also add that variety of the trees to be planted would be such which can easily survive as the area is saline with scanty rain fall and advice of the Forest Department officials be taken to identify appropriate varieties of trees to be planted in the area.</p> <p>Another issue that has been dealt with by us earlier is with regard to the establishment of the STP. Learned Counsel for the State pointed out that area has been marked on the ground and the Respondent No. 2 Company can safely now proceed with the work of setting up of the STP.</p> <p>Learned Counsel for the Respondent No. 2 submitted that though the area have been marked by Revenue Officer however formal possession of the land to the Respondent No. 2 has not been handed over. We direct that the Collector shall depute the Tehsildar for carrying out the aforesaid task and the land be handed over within next two weeks. It would be thereafter responsibility of the Respondent No. 2 to protect the area by way of fencing or wall and start their work immediately.</p> <p>We have seen in the news paper today that in Kotra Sultanabad at Bhopal a Sewage System has been established where the treated water is of drinking water quality. We would direct that the representative of the Respondent No. 2 Company who are present in court today would visit the aforesaid site and discuss with the person who has set up plant and see whether similar system could be set up in the case the same is found appropriate.</p> <p>The Learned Counsel for the Applicant and the Applicant raised the issue before us by showing the photographs of the area near the overburden site of the Respondent No. 2 Company which they allege that</p>
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the same has become sludge as a result of the run off from the overburden site and some cattle etc. which are entering in the area get struck and some of them even had died. It is submitted that an area of 400 beghas which was originally a *Charagah* (grazing land) for the cattle and out of which a small portion was earmarked for the establishment of *Gowshala* has been adversely affected because of run-off from overburden dump.

So far as this issue is concerned, we would direct that the Collector along with the officials of the Respondents Company to depute a team to inspect the area along with the Applicant and whatever steps are required to be taken for the improvement of the same including the proper maintenance of the overburden site and to prevent the storm water to come down from the dump. For this purpose the PCB authorities shall insist upon the compliance of the EC conditions with regard to overburden dump including construction of the garland drain. We direct here that the garland drain should be *pakka* not a *kachha* garland drain and all efforts should be made to ensure that the storm water does not overflow the garland drain, and, therefore, it should be of adequate capacity.

As far as the *Gowshala* is concerned we direct the District Collector and the Municipal Authority, Bhilwara to consider the same to be taken up for the purpose of management by the Municipal Authorities. Order to that effect be issued by the Collector to the Municipal Authorities and same be notified for that purpose. We have seen in the Media that the Central Government has come out with the scheme for proper maintenance of the *Gowshala* and making them self sufficient by utilising the *gobar* and other material for the purpose of *gobar* gas and / or compost for self sustaining of the *Gowshala* on that pattern and looking to the scheme of the Govt. of India the *Gowshala* should be properly administered and maintained. Stray cattle within the city should be taken to the *Gowshala* and city should be made free from such cattle. The stray cattle are not only a problem for the traffic on the road but also at the

same time are reason for the congestion on the roads and air pollution is also being caused by the same. Therefore the said measures should be taken up on priority, Administration and maintenance of *Gowshala* could be taken up under the CSR activity of the Respondent NO. 2 company. We may also add that the 400 *beghas* which have been identified and handed over to the Respondent NO. 2 and sufficient plantation can also be carried out in the same as well as in the *Gowshala* which can act as shady trees and fodder for the benefit of stray cattle. The parties are directed to submit proof of execution and compliance of the aforesaid order.

The Municipal Authority shall also take immediate steps as we have been informed that in Bhilwara the Municipal body had acquired and installed a decomposition plant and for preparation of compost. We have been informed that contractor who was engaged for running the same had left the work and thereafter for a long time the same is lying without being used. The Municipal Authority shall take up the issue immediately as under the MSW Rules, 2016 there is a specific provision for preparation of the compost out of the MSW and also marketing and utilisation of the said compost along with chemical fertilizers. We would direct that the Collector and the Municipal Commissioner looking into the said issue shall make every effort for operationalising the said plant at the earliest. The efforts that are made in that behalf shall be submitted before us on the next date of hearing.

Let the matter be listed on **16<sup>th</sup> October, 2017.**

.....JM  
(DALIP SINGH)

.....EM  
(Dr. S.S.GARBYAL)

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,  
BHOPAL**

**Original Application No. 88/2015 (CZ)  
Babulal Jajoo Vs. State of Rajasthan & Ors.**

**CORAM : HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

**PRESENT :Applicant: Dr. M.S. Kachchwa, Adv**  
**Raj. State& RSPCB: Shri Sandeep Singh, Adv.**  
**Respondent No. 2 : Ms. Tanuka De, Adv**  
**Shri Rajendra Gaur**

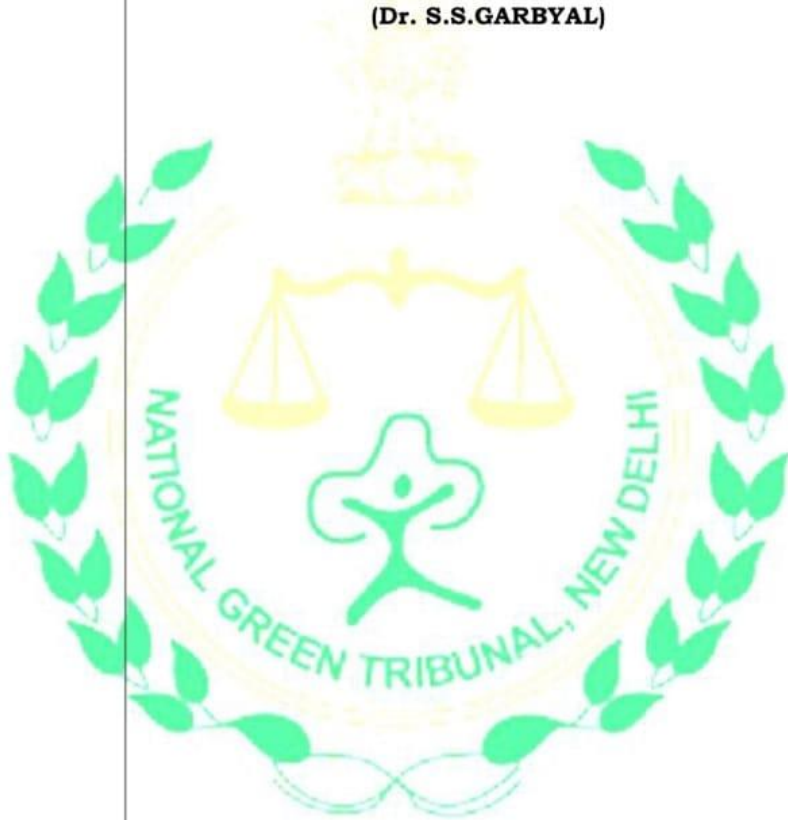
Date and Remarks	Order of the Tribunal
<p><b>22<sup>nd</sup> January, 2018</b></p>	<p>Compliance affidavit on behalf of the respondent no. 2 /Jindal Saw Ltd. has been filed on 29.05.2017 wherein Action Plan for setting up of 10 MLD, STP was given. It has been stated that the work of establishment of the STB would be completed within a period of 30 months i.e. by June, 2020.</p> <p>The Learned Counsel for the State of Rajasthan / respondent no. 1 had filed the compliance report on 22.11.2017 and it has been stated therein that there is no overburden left in the Samodi pond area and about that there is no obstruction in the catchment of the Samodi pond. It has also been stated that plantation of fruit bearing trees has been raised over 100 bighas land which is adjacent to the plant area and necessary steps have also been taken for protection and maintenance of the trees that has been planted. The Learned Counsel appearing for the applicant does not wish to file any</p>

Item no.07  
kg

response to the compliance filed by the State.

In view of the above, this Original Application No. 88/2015 stands **disposed** of. Liberty is however, granted to applicant to approach this Tribunal in case he finds that certain compliances are formed not to have been made as directed by this Tribunal.

.....EM  
(Dr. S.S.GARBYAL)




**VAKALATNAMA****BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL CENTRAL  
ZONAL BENCH BHOPAL (MP)**Case No. **02-2023**

PETITIONER/ APPELLANT	1.	Babulal Jajoo
		<u>Versus</u>
RESPONDENTS	1.	State of Rajasthan and Ors

I or We the named below do hereby appoint, engage and authorize Advocate (s) named below to appear, act and plead in aforesaid case / proceedings, which shall include applications for restoration, setting aside of ex-parte orders, corrections, modifications, review and recall of orders passed in these proceedings, in this court or in any other court in which the same may be tried/ heard/proceeded with and also in the appellate, revisional or executing court in respect of proceedings arising from this case/proceedings as per agreed terms and conditions and authorize him / them to sign and file pleadings, appeals, cross objections, petitions, applications, affidavits or other documents as may be deemed necessary or proper for the prosecution/ defence of the said case in all its stages and also agree to ratify and confirm acts done by him / as if done by me /us:

In witness whereof I/we do hereunto set my/ our hand to these presents, the contents of which have been duly understood by me/ us, this..... Day of.....201

Particulars (in block letters) of each party executing vakalatnama

S.No.	Name & Father's/Husband's Name	Registered address	e-mail addresses	Telephone no.	Status in the case	Full signature/thumb impression
	Babu Lal Jajoo S/o Balu Ram Jajoo A-125-126, KUMUD VIHAR, OPP. HOTEL FLORA PARK, BHILWARA - 311001 (RAJASTHAN)			98290-47200 bjaju.bhl@gmail.com	Applicant	

Accepted:

Particulars (in block letters) of each Advocate accepting vakalatnama

S.No.	Full name & Enrollment no.	Address for service	e-mail address	Mobile No.	Full signature
		Akshay Rathore and Naveen Ahuja, Indus Garden, Bawadiyakalan, Bhopal		RV 50. 9425377747; 7000842241	