

**BEFORE THE NATIONAL GREEN TRIBUNAL
AT PRINCIPAL BENCH, NEW DELHI**

EXECUTION APPLICATION NO.: 16 OF 2019
IN
ORIGINAL APPLICATION NO.: 153 OF 2014

IN THE MATTER OF:

Indian National Trust for Art
and Cultural Heritage

...Applicant

Versus

Government of NCT of Delhi & Ors.

...Respondents

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DATE: 30.12.2024

PLACE: NEW DELHI

FILED BY:



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**ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANT
WITH REGARD TO THE EXPANSE OF THE NAJAFGARH
JHEEL, SUBMERGENCE LEVELS AND AREAS OVER LAST
16 YEARS, WHICH OUGHT TO BE NOTIFIED AS A
TRANSBOUNDARY WETLAND**

The Applicant above-named

MOST RESPECTFULLY SHOWETH:

1. That the Applicant had filed the above titled Original Application raising the threats to the Najafgarh Jheel, an important water body in the National Capital Region, arising from continuous encroachments, unauthorized constructions and the fast draining of the lake waters by widening the Najafgarh drain, connecting the lake with Yamuna, by the Respondents on the pretexts of flood-protection. The Applicant by way of the Original Application had also raised inaction on the part of the Respondents in curbing the unauthorized constructions in and around the lake. The Original Application sought revival, protection and preservation of the interstate Najafgarh Jheel, which is extremely vital to meet the drinking and domestic needs of the water starved areas of Gurgaon and

Delhi through groundwater recharge, moderate urban flooding, maintain and restore biodiversity habitats, developing climate resilience.

2. That by way of the present Affidavit, the Applicant, herein, seeks to place additional submissions with regard to the expanse of the Najafgarh Jheel, the submergence levels and areas achieved over the last 16 years, which ought to be notified as a Transboundary Wetland under the provisions of the Wetlands (Conservation and Management) Rules, 2017. The contents of this Affidavit are in addition to the Objections, dated: 28.08.2024 filed by the Applicant herein to the Report dated: 29.07.2024, filed on behalf of the Member Secretary, State Wetland Authority Haryana, and not in derogation thereof.
3. That the State Wetlands Authority, as per Rule 5(4)(i) of the Wetlands (Conservation and Management) Rules, 2017, is obligated to perform the following function:

“in cases wherein lands within boundary of notified wetlands or wetlands complex have private tenancy rights, recommend mechanisms for maintenance of ecological character through promotional activities;”

It is submitted that, as such, regardless of the revenue record the area of submergence and buffer zone and zone of influence is required to be notified as a wetland under the Wetlands (Conservation and Management) Rules, 2017 and which in no way adversely affects the interests of farmers.

4. That further, Rule 4 of the Wetlands (Conservation and Management) Rules, 2017, imposes certain restrictions, as under:

“4. Restrictions of activities in wetlands.-(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

(2) The following activities shall be prohibited within the wetlands, namely,-

...

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

...”

(Emphasis added)

5. That, in accordance with Rule 4(2)(vi), as stated above, Mean HFL recorded from 2007 to 2017 is 209.86m and 209.95m from 2009 to 2024 and 210.27m from 2015-2024 [with an average estimated area of submergence of 3800 acres]. The High Flood Levels of the decade preceding and prior to 2017 are as follows :

Year	High Flood Level Contour
2009	210 m
2010	211 m
2011	208.5 m
2012	207.5 m
2013	210.5 m
2015	209.5 m
2016	210 m
2017	209.5 m
Average Level	209.5 M

AREA OF SUBMERGENCE

6. That the area of submergence as recorded in Haryana EMP and subsequently in the Joint EMP [on behalf of State of Haryana and Government of NCT of Delhi], submitted by the CPCB on behalf of MoEF&CC, before this Hon'ble Tribunal, are as follows :

- Submergence Area under contour 211m : 5349 acres
- Submergence Area under contour 210m : 3436 acres
- Submergence Area under contour 209m : 917 acres

The above-mentioned area is now being sought by Haryana to be reduced to a mere 75 acres even in the face of water crisis and in face of annual submergence area records presented in the Table below and which also appears to be trickery in view of their declaration in the Interministerial Committee mentioned in above para 4.

Submergence Levels & Areas Over Last 16 Years

Year	High Flood Level [HFL]Contour	Submergence Area at HFL Acres/Ha
2009	210m	3436*
2010	210.35m	3800
2011	209.75 m	2100
2012	209.72 m	2100
2013	209.92 m	2200
2014	209.70m	2100
2015	209.70m	2100
2016	210.00 m	3436*
2017	209.62m	2000

2018	210.12m	3600
2019	209.37m	1500
2020	210.65m	2000
2021	210.90m	4600
2022	211.05m	5349*
2023	210.75m	4200
2024	210.60m	4000
Average Level	210.41M	3800 Acres/1520 Ha

Source for HFL at Jhatikra : I&FC, Delhi for Levels
*Submergence Areas as/Haryana EMP

7. That the State Wetlands Authority, as per Rule 5(4)(g) of the Wetlands (Conservation and Management) Rules, 2017, is required to perform the following function:

“define strategies for conservation and wise use of wetlands within their jurisdiction; wise use being a principle for managing these ecosystems which incorporates sustainable uses (such as capture fisheries at subsistence level or harvest of aquatic plants) as being compatible with conservation, if ecosystem functions (such as water storage, groundwater recharge, flood buffering) and values (such as recreation and cultural) are maintained or enhanced;”

8. That it is expedient in the interest of justice that the entire area of Najafgarh Jheel falling in Haryana, with core submergence area of 209m contour, buffer zone upto contour 211m and HFL upto 212.5m contour as noted in Joint EMP, is notified as Wetland.

PRAYER

In light of the facts and circumstances stated herein-above, it is most respectfully prayed that this Hon'ble Tribunal may, graciously, be pleased to:

- A. Direct the State of Haryana to prepare the Brief Document and send the same to MOEFF&CC for Notification of Najafgarh Jheel as a Transboundary Wetland, with core submergence area of 209m contour [917 acres], buffer zone upto contour 211m and HFL upto 212.5m contour as noted in Joint EMP, along with the zone of influence extending up to 212.5 m., on that part of the Jheel, falling on the side of Haryana;
- B. Direct the State of Haryana to implement its part of the Joint EMP, dated: 13.12.2021, filed by the MoEF&CC before this Hon'ble Tribunal, wherein the concurrence of the State of Haryana is expressly noted and to which the State of Haryana has not objected in the last 37 Months;
- C. Direct the above said compliances to be carried out within 30 days in a time-bound manner;
- D. Pass any other Order(s) or direction(s) as this Hon'ble Tribunal may deem fit and proper on the facts and circumstances of the instant case.


DEPONENT
 I N T A C H
 Natural Heritage Division
 71, Lodhi Estate, New Delhi-110 003

Applicant

FILED BY:



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AFFIDAVIT

I, Manu Bhatnagar, S/o Lt. Sh. R.P. Bhatnagar, aged around 66 years, R/o 24, Chitra Vihar, Delhi-110092 do hereby solemnly affirm and declare as under:

1. That I am currently employed as the Principal Director in the Applicant Organization and am conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Objection are true and correct to my knowledge as derived from the records of the case. No part of it is false and nothing material has been concealed therefrom.

I, IDENTIFIED THE
DEPONENT WHO HAS
SIGNED IN MY PRESENCE

Manu Bhatnagar
DEPONENT
I N T A C H
Natural Heritage Division
71, Lodhi Estate, New Delhi-110 003

DEPONENT

VERIFICATION

Verified on this ____ day of August, 2024 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.

Manu Bhatnagar
DEPONENT
I N T A C H
Natural Heritage Division
71, Lodhi Estate, New Delhi-110 003

DEPONENT

NOTARY PUBLIC APPOINTED BY
GOVT. OF INDIA
G. S. KHARRANDA

Notary
Reg. No. 785

30 DEC 2024

ADVOCATE
ENL. No. D.287781

ATTESTED 9899422266

ATTESTED
[Signature]
NOTARY PUBLIC