

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

**I.A. NO. 272 OF 2025  
IN  
I.A. NO. 329 OF 2024  
IN  
O.A. NO. 06 OF 2012**

**IN THE MATTER OF:**

NIZAMUDDIN WEST ASSOCIATION

...APPLICANT

**VERSUS**

UNION OF INDIA & ORS.

...RESPONDENTS

**AND IN THE MATTER OF:**

ABHISHEK DUTT

...APPLICANT

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**NDOH: 21.05.2025**

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**New Delhi**

**Dated:20.05.2025**

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...APPLICANT

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANT**

I, Abhishek Dutt, s/o Shri Kamal K. Dutt, aged about 44 years, having office at L-7, Lajpat Nagar – III, Near Sanatan Dharam Mandir, New Delhi – 110024, do hereby solemnly affirm and declare that: -

1. I am the Applicant in the accompanying Intervention Application and as such I am well versed with the facts and circumstances of the case and competent to depose the instant Affidavit.

The Applicant is a public spirited individual and a former Municipal Councillor of Kasturba Nagar Constituency [which includes the area / locality of Defence Colony]. The Applicant has filed the captioned IA No.272 of 2025 seeking issuance of appropriate directions / orders concerning *inter alia* the deplorable condition of the Defence Colony Drain ["DC Drain"] as well as the overall drainage system in Defence Colony which leads to *inter alia* repeated instances of flooding and water logging on the roads of Defence Colony during the monsoon season and intolerable foul odour around the entire block of land near the DC Drain [which houses many residents of Defence Colony] all year round.



3. The instant additional affidavit is being filed by the Applicant to bring on record certain photographs revealing the ground level situation of the DC Drain and the lapses in safety measures that the Municipal Corporation of Delhi [“MCD”] has purportedly sworn to undertake *vide* an Affidavit dated 05.05.2025, as well as the lack of other reasonable safety measures that ought to be undertaken.
4. It is pertinent to note that *vide* Order dated 04.09.2024, this Hon’ble Tribunal took note of *inter alia* the foul smell and gases polluting the area surrounding the DC Drain and directed the MCD to open the vents in the DC Drain in a manner such that it does not create problems for the nearby residents. However, the vents of the DC Drain have not been opened by the authorities for this purpose. An additional affidavit dated 18.12.2024 had been filed by the Applicant in the captioned IA putting on record the status of the same.
5. As regards the cleaning and desilting of the DC Drain, at the hearing held on 24.01.2025, it was submitted by the Government of National Capital Territory of Delhi [“GNCTD”] that the work of desilting of drains had been taken over by the Irrigation and Flood Control Department [“I&FCD”].
6. However, an undertaking dated 25.02.2025 filed by the Addl. Chief Secretary, I&FCD shifted the responsibility of the desilting work of the specific portion of the drains which are covered by concrete structures to their respective agencies.



This Hon’ble Tribunal took note of the same and *vide* Order dated 27.02.2025 directed the Addl. Chief Secretary, I&FCD to file a fresh affidavit after discussing the matter with Chief Secretary, GNCTD and resolving the inter-departmental deviations with respect to proper

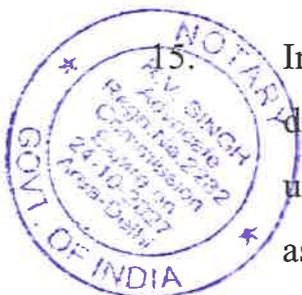
desilting of the Kushak Drain and Sunehri Pul Drain within a period of 10 [ten] days.

8. Accordingly, an affidavit dated 11.03.2025 was filed by the Addl. Secretary, I&FCD stating that for the cleaning of the covered portion of the Kushak Drain, MCD shall be releasing Expression of Interest to engage agencies equipped with cleaning the covered portions of the Kushak Drain and for the open portion of the drains, the I&FCD shall take up the responsibility of desilting and cleaning of the same.
9. From a perusal of the affidavit dated 11.03.2025, it is apparent that the various conflicting stands being *inter alia* shrugging of responsibility between different departments; carving out differentiation between covered portions and uncovered portions of the drain and division of responsibility in carrying out the desilting of these portions separately [I&FCD to carry out the desilting of the uncovered portions and MCD to take responsibility for desilting of the covered portions], etc., had been taken by the authorities / departments.
10. In view of the contradicting stance taken by the authorities, this Hon'ble Tribunal *vide* Order dated 09.04.2025 directed the personal appearance of the Commissioner, MCD and the virtual appearance of the CEO, DJB and Chief Secretary, Delhi on the next date of hearing being 16.04.2025. Furthermore, this Hon'ble Tribunal also appointed Mr. Rahul Khurana as the Court Commissioner [**"Court Commissioner"**] to assess the ground level situation of the DC Drain.



The Ld. Court Commissioner submitted a report dated 15.04.2025 in compliance of the Order dated 09.04.2025 bringing on record various photographs of the DC Drain *inter alia* setting out that major portion of the DC Drain is covered and a lot of waste and garbage was piled up in the covered portion of the DC Drain.

12. *Vide* Order dated 16.04.2025 it was recorded by this Hon'ble Tribunal that a meeting of all concerned officers had been convened by the Chief Secretary, GNCTD and it had been resolved that the responsibility of cleaning of the entire stretch of the DC Drain [covered as well as uncovered] shall be of the MCD and the covered portion of the DC Drain shall be opened longitudinally for the purpose of desilting. It was further recorded that the Commissioner, MCD shall be filing an affidavit giving the timeline and the entire program along with the modalities for desilting of the DC Drain within 3 [three] days.
13. Pursuant to the Order dated 16.04.2025 an affidavit dated 22.04.2025 had been filed by the Commissioner, MCD. However, *vide* Order dated 23.04.2025 it was recorded by this Hon'ble Tribunal that the clear timeline for desilting had not been specifically mentioned in the Affidavit dated 22.04.2025. Furthermore, it was not disclosed what safety measures shall be taken in the process such that the opening in the covered portion may not lead to any accident or emission of foul smell.
14. It is pertinent to note that the covered portion of the DC Drain where the MCD had decided to make longitudinal openings for the purpose of cleaning and desilting forms part of a recreational park which is utilised by the residents of Defence Colony for morning / evening walks, children playing sports, etc., making it even more important for the MCD to instil effective safety measures for the same.



15. In pursuance of the Order dated 23.04.2025, MCD filed an affidavit dated 05.05.2025 *inter alia* setting out the safety measures to be undertaken while carrying out the cleaning and desilting of the DC Drain as:-

*“...during the ongoing and proposed longitudinal openings and desilting in the Defence Colony drain, Metal Sheet covers and signboards will during the execution phase to avoid any accident. For sustained safety and drain protection post opening and desilting, RCC toe walls will be constructed along the sides of the openings to ensure safe access for future maintenance as well as desilting.”*

16. As regards the foul smell covering the entire block of land around the DC Drain the Affidavit dated 23.04.2025 filed by MCD states that

*“the foul smell is due to continuous flow of sewerage water through the drain which gets only exacerbated due to its covering. In fact, the sewage water should not flow into these natural drains and it needs to be trapped and treated by Delhi Jal Board through a long-term sewage drainage and treatment plan.”*

17. This Hon’ble Tribunal *vide* Order dated 06.05.2025 recorded the submission of the Ld. Senior Counsel appearing on behalf of the Applicant that the MCD had not disclosed how the longitudinal opening in the middle of the covered portion will be treated by them, whether it will be covered or what action will be taken for safety of the residents and for the prevention of emitting foul smell from that. Two weeks’ time was granted to the MCD to file an affidavit clarifying *inter alia* the above issue.

18. While the MCD is yet to file an affidavit to this effect, it is pertinent to note that no proper safety measures are being taken by the MCD in carrying out the longitudinal opening of the covered portion of the DC Drain for the purposes of cleaning and desilting.

As already stated hereinabove, the covered portion of the DC Drain forms part of a recreational park and on various instances it has been



observed that children are playing in the park and various people are utilising it for morning/evening walks with many portions of the park being cut from the centre [longitudinal openings] with the debris being inside the drain.

20. Pertinently, for most of the longitudinal openings made by the MCD in the covered portion of the DC Drain / park there are neither any metal sheet covers nor any signboards as stipulated in the Affidavit 05.05.2025 filed by the MCD. To make things worse, there are practically no safety instruments whatsoever and any person / child while walking / playing in the said park is prone to falling prey to the longitudinal openings made by the MCD with no barricading, fencing, or any other safety measure.
21. Moreover, the foul smell covering the block of land around the DC Drain has also increased drastically in the recent past making it difficult for people to even breathe properly while travelling through the roads adjoining the DC Drain.
22. While the efforts of the MCD in initiating the execution of proper cleaning and desilting of the DC Drain by making longitudinal openings in the covered portion / park are appreciated it is an unfortunate state of affairs that practically no safety measures are being taken by the MCD and the hazardous foul smell emanating from the DC Drain has also increased drastically thereby putting the lives of many at risk.
23. Accordingly, the Applicant has filed the instant Affidavit for the limited purpose of placing on record certain photographs revealing the ground level situation of the DC Drain and the lapses in safety measures that the MCD has purportedly sworn *vide* Affidavit dated 05.05.2025. A copy of the photos of the longitudinal openings made by the MCD have been annexed hereto and marked as **Annexure A [Colly.]**.



24. I state that the contents of the foregoing Affidavit are true and correct to the best of my knowledge.

**Verification: -**

I, Abhishek Dutt, the deponent abovenamed, do hereby verify that the contents of foregoing affidavit are true to my knowledge. Nothing contained herein is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 20 day of May 2025

**DEPONENT**

I identified the deponent/executant who has signed in my presence



CERTIFIED THAT THE DEPONENT  
Shri/Smt/Km. Abhishek Dutt  
S/o. W/o. D/o. Sh. Kunal Singh  
Identified by Shri/Smt. Ad  
has solemnly affirmed before me at Delhi  
on 20 MAY 2025 at which have been  
that the contents of which have been  
read over & explained to him/her are true & correct  
to his/ her knowledge

Notary Public Ad

20 MAY 2025



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India

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SUNDAY, 18 MAY

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SUNDAY, 18 MAY

India

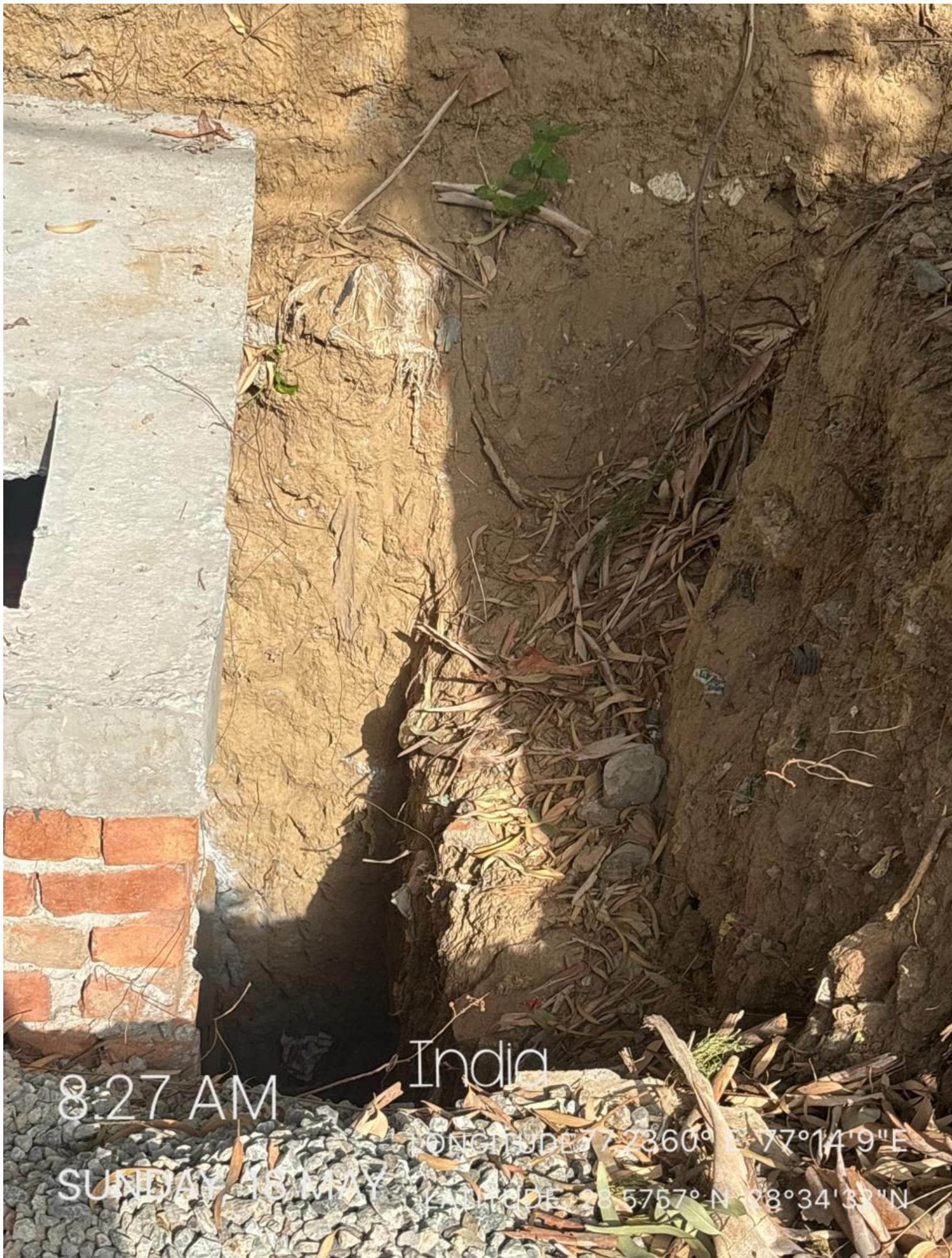
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**Re: Original Application No. 6 of 2012 - Nizamuddin West Association v. Union of India & Ors. | National Green Tribunal, Principal Bench**

**From** Tanish Arora <tanish.arora@foxandmandal.co.in>

**Date** Tue 2025-05-20 12:03 PM

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 1 attachment (4 MB)

Additional Affidavit Kushak Nala.pdf;

Dear All,

Please see attached a copy of the Additional Affidavit being filed by the Applicant in the captioned matter as and by way of advance service upon you.

Regards,

**Tanish Arora**

Associate



**FOX & MANDAL**  
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**From:** Tanish Arora

**Sent:** 08 April 2025 10:59 AM

**To:** secy-moef@nic.in <secy-moef@nic.in>; PUJAKALRA09@GMAIL.COM

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**Subject:** Original Application No. 6 of 2012 - Nizamuddin West Association v. Union of India & Ors. I National Green Tribunal, Principal Bench

Dear All,

Please find attached the copy of the IA being filed on behalf of the Applicant - Abhishek Dutt in I.A. No. 329 of 2024 in the captioned matter, as and by way of service upon you.

Regards,

**Tanish Arora**

Associate



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