

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 138 OF 2022**

IN THE MATTER OF:

ROSHAN JOSHI

... APPLICANT

VERSUS

STATE OF UTTARAKHAND & ORS.

...RESPONDENTS

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FILED BY:

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ADITYA SAMADDAR [D/4162/2014]

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Date: **20.04.2022**

Place: New Delhi



सत्यमेव जयते

INDIA NON JUDICIAL Government of Uttarakhand

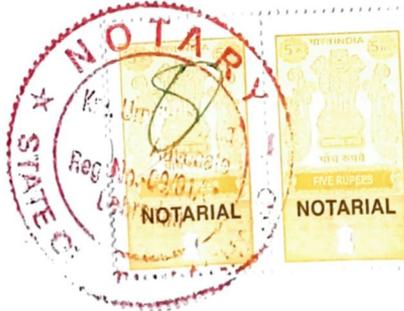
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Certificate No. : IN-UK80543622428431U
Certificate Issued Date : 21-Apr-2022 04:44 PM
Account Reference : NONACC (SV)/ uk1335004/ DEHRADUN/ UK-DH
Unique Doc. Reference : SUBIN-UKUK133500465868465389434U
Purchased by : ROSHAN JOSHI
Description of Document : Article 4 Affidavit
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : ROSHAN JOSHI
Second Party : NA
Stamp Duty Paid By : ROSHAN JOSHI
Stamp Duty Amount(Rs.) : 10
(Ten only)



SUMAN GARG
Stamp Vendor
Kutchery, Dehradun
Mob.: 9719948787

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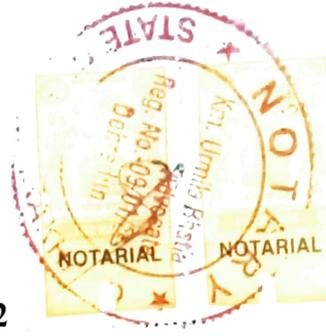


Roshan Joshi

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IN THE MATTER OF:

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**AFFIDAVIT OF OBEJECTION TO REPORT BY
ADDITIONAL DISTRICT MAGISTRATE,
DEHRADUN, UTTARAKHAND DATED 05.04.2022**

I, Roshan Joshi, son of Shri Dhaniram Joshi, aged about 55 years, resident of Shamshergarh, Nathuwala, Near Arya Samaj, Dehradun, do hereby solemnly affirm and state as under:

1. That I am the Applicant in the present Original Application (OA) and am well conversant with all the facts and circumstances of the case and as such I am competent to swear this affidavit.
2. That I have read and understood the contents of the present Affidavit of Objections and say and submit that the contents hereof have been drafted on my instructions. I accordingly state as follows.



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3. That the Deponent prays that the averments made in the OA may be read as part of the present affidavit as the same is not being reiterated herein for the sake of brevity.
4. That the present OA prayed for the following reliefs on the grounds, inter alia, that the CPCB Guidelines dated 07.01.2020 and the clarification dated 29.01.2021 make it abundantly clear that if construction had not started prior to 07.01.2020, petrol pumps could not be allowed within a 50m radius of residential areas. The petrol pumps at Khasra No. 1560, Mauja Raipur, Pargana Parvadun, Dehradun, Uttarakhand and Khasra No. 5787/1 that are in question in the present application received their NOC and sanction letter for construction only after 07.01.2020, and therefore, the Petitioner has sought the following prayers:

- A) Quash the approval/permission granted by the State Respondents to set up petrol pump/diesel filling station at Khasra No. 1560, Mauja Rapipur, Pargana Parvadun, Dehradun, Uttarakhand;*
- B) Quash the approval/permission granted by the State Respondent to set up petrol pump/diesel filling station at Khasra No. 5787/1, Ranjhawala, Raipur, Dehradun, Uttarakhand;*
- C) Issue an order or direction commanding the Respondent No. 2 and Respondent No. 5 to re-examine all the Applications filed before in which approval has been granted or construction has commenced after 07.01.2020 in view of the guidelines issued by CPCB;*
- D) Issue an order or direction to Respondent No. 2 and Respondent No. 5 to grant any future NOCs/ licenses /*



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sanction letters only after checking strict compliance with the CPCB guidelines;

E) Pass any such further orders as this Hon'ble Court may deem fit and proper in the interest of justice."

5. That the Deponent had filed IA No. 42/2022 at the time of filing of the present OA, wherein the following prayers had been made:

"A: Issue an order staying the construction and operation of petrol pump / diesel filling outlet at Khasra No. 1560, Mauja Raipur, Pargana Parvadun, Dehradun;

B. Issue an order staying the construction and operation of petrol pump/diesel filling station at Khasra No. 587/1, Ranjhawala, Raipur, Dehradun;

C. Issue an order staying the grant of NOCs / licenses / sanction letters by the Respondents in respect of petrol pumps in residential areas in violation of the CPCB guidelines on distancing;

D. Pass such other Order or Orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

6. That the present OA and IA No. 42/2022 were listed for first hearing on 22.02.2022. This Hon'ble Tribunal on the said date was pleased to constitute a Joint Committee that was directed to conduct a site visit at Khasra No. 1560 Mauza Raipur, Pargana Parvadun, Dehradun, Uttarakhand and Khasra No. 587/1, Ranjhawala, Raipur, Dehradun, Uttarakhand and further directed that Factual and Action Taken Report be filed within six weeks thereafter. The relevant portion of the Order dated 22.02.2022 passed in the present matter reads as under:



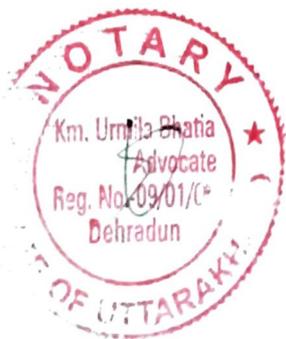
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“15. In view of the submission made by the Ld. Counsel for the applicant, a Joint Committee of the State PCB and District Magistrate Dehradun, Uttarakhand is constituted. The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within 15 days and undertake site visit at Kh. No. 1560 Mauza Raipur, Pargana Parvadun, Dehradun and Kh. No. 587/1, Ranjhawala, Raipur, Dehradun and look into the grievance of the applicant. Factual and action taken report may be furnished within six weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. List the matter for consideration on 22.04.2022.”

[Emphasis supplied]

7. That the Additional District Magistrate, Dehradun Uttarakhand has thereafter placed a copy of the Report dated 05.04.2022 on record before this Hon'ble Tribunal. The said Report was duly uploaded on the website of the Tribunal and perused by the deponent.
8. That the deponent seeks to raise objections to the said Report dated 05.04.2022 of the Additional District Magistrate, Dehradun Uttarakhand in terms of the present Affidavit. The objections are as hereinunder:

- a. **INSPECTION CARRIED OUT BELATEDLY:** The order dated 22.02.2022 directed that the Joint Committee formed in terms of the said Order was to meet within 15 days and undertake site visit at Kh. No. 1560 Mauza Raipur, Pargana



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Parvadun, Dehradun and Kh. No. 587/1, Ranjhawala, Raipur, Dehradun i.e., by 09.03.2022 and look into the grievance of the Applicant/Deponent. A perusal of the Report dated 05.04.2022 and the documents attached thereto indicate that the site inspection was not carried out within the time directed by this Hon'ble Tribunal. The Letter dated 01.04.2022 issued by the Regional Officer, UKPCB indicates that the inspections at Khasra No. 1560 Mauza Raipur, Pargana Parvadun, Dehradun and Khasra No. 587/1, Ranjhawala, Raipur, Dehradun were carried out as late as on 30.03.2022. Such delay in inspection is objectionable as the present OA had specifically pleaded that the petrol pump at Khasra No. 1560 Mauza Raipur, Pargana Parvadun, Dehradun had been operationalized by giving a hyper technical interpretation of the Order dated 29.01.2021¹ in terms whereof construction of the said petrol pump had been stayed. In fact, the Deponent had also filed IA No. 56/2022 on 08.03.2022 in the present matter seeking an injunction on the construction and operation of the petrol pump / diesel filling outlet at Khasra No. 1560, Mauja Rapipur, Pargana Parvadun, Dehradun, as the Petitioner found that construction had been started at the site on a



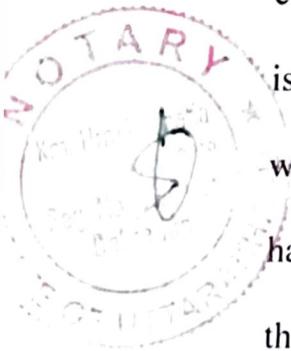
¹Annexed as Annexure A-27 to the present OA.

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war footing. In terms of the said IA², it was pointed out that *“It is submitted that on 08.03.2022, it was personally observed by the Applicant that despite the pendency of the present proceedings before this Hon'ble Tribunal, the construction of the petrol pump has begun in full swing at Khasra No. 1560, Mauza Raipur, Pargana Parvadun, Dehradun.”*The said IA is yet to be listed and heard by this Hon'ble Tribunal. The Respondent-licensee got an opportunity to complete construction of the petrol pump situated at Khasra No. 1560, Mauza Raipur, Pargana Parvadun, Dehradun before the inspection was carried out, and therefore grave prejudice has been caused to the Petitioner by the delay in inspection.

b. REPORT OF THE SITE INSPECTION OF KHASRA NO. 1560, MAUZA RAIPUR, PARGANA PARVADUN, DEHRADUN HAS NOT BEEN PLACED ON RECORD:

In continuation of the above objection of delayed site inspection, it is further a matter of grave concern that only the factual report with regard to Khasra No. 587/1, Ranjhawala, Raipur, Dehradun has been placed on record before this Hon'ble Tribunal. Although the Letter dated 01.04.2022 issued by the Regional Officer,



² Paragraph 12; IA No. 56/2022 in the present OA.

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UKPCB mentions that a site inspection was carried out at Khasra No. 1560, Mauza Raipur, Pargana Parvadun, Dehradun on 30.03.2022, but only the Site Inspection Report of Khasra No. 587/1, Ranjhawala, Raipur, Dehradun has been annexed and the Site Inspection Report pertaining to Khasra No. 1560, Mauza Raipur, Pargana Parvadun, Dehradun has not been placed on record. It is critical for adjudication of the issues raised in the present Petition that that the report of the inspection carried out of Khasra No. 1560, Mauza Raipur, Pargana Parvadun, Dehradun be placed on record. Given the nature of the allegations raised by the Deponent in terms of the OA, IA No. 42/2022 and IA No. 56/2022 and the prayers sought therein explicitly seeking an injunction on construction of the petrol pump at the said site, such an omission is highly suspicious.

9. That in terms of the above objections, it would be in the interest of justice that the prayers in IA No. 56/2022 be granted by this Hon'ble Tribunal.



Roshan Jashi
DEPONENT

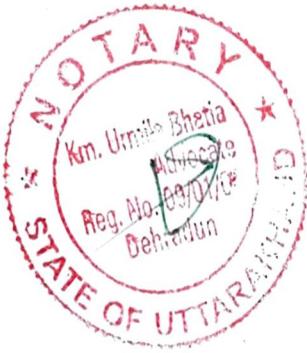
VERIFICATION

I, the above named deponent, do hereby verify that the contents stated in the above affidavit are and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at Dehradun on this 21st day of April, 2022.

Rashan Joshi
DEPONENT

Filed by
S.S. Negi
(Adv)
UK 260108



This affidavit is sworn before me by
Sd/- Johan Joshi Negi
who is S.S. Negi
at Dehradun on 21/4/2022
KM. URMIL BHERIA
Advocate & NOTARY, Dehradun