

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

**EXECUTION APPLICATION NO. 11 OF 2023
IN
ORIGINAL APPLICATION NO. 89 OF 2021**

IN THE MATTER OF:

**VARUNAPPLICANT
VERSUS**

**GOVT. OF N.C.T. OF DELHI & ORS.
....RESPONDENT(S)**

N.D.O.H.: 03-09-2024

INDEX

S.No.	Particulars	Page No.
1.	Combined response on behalf of Respondent/ Lodging House Owners Association (Regd.) to the Reports filed by DJB, GNCTD and CGWA	1-17
2.	Annexure R1: True Copy of a Water Cess receipt issued by the DJB to a member of the Respondent Association (as illustration)	18
3.	Annexure R2: True Copy of a Consent to Operate to DPCC to a member of the Respondent Association (as illustration)	19
4.	Annexure R3: True Copy of one such Show Cause Notice issued by the DPCC to a member of the Respondent Association (as illustration) in 2021	20-21
5.	Annexure R4: True Copy of a response given to the Show Cause Notice	22-23
6.	Annexure R5: True Copy of a Show Cause Notice dated 10-07-2024	24

695

7.	Annexure R6: True Copy of Order dated 14-08-2024 issued by DPCC	25-26
8.	Annexure R7: True Copy of the Recovery Certificate	27
9.	Vakalatnama	28-29
10.	Proof of Service	30

NEW DELHI

DATED: 02-09-2024

FILED BY:



KANU AGRAWAL | KRITIKA GUPTA

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VARUN

.....APPLICANT

VERSUS

GOVT. OF N.C.T. OF DELHI & ORS. ...RESPONDENT(S)

**COMBINED RESPONSE ON BEHALF OF RESPONDENT/
LODGING HOUSE OWNERS ASSOCIATION (REGD.) TO
THE REPORTS FILED BY DJB, GNCTD AND CGWA**

Most respectfully showeth:

1. That the present matters deals with alleged illegal extraction of ground water in Delhi, with a specific target area of Paharganj. The present application seeks execution of order of this Tribunal dated 08-04-2021 in OA No. 89/2021, *Varun vs. Govt. of NCT of Delhi & Ors.* However, vide order dated 30-11-2023, this Hon'ble Tribunal was pleased to exercise its suo motu jurisdiction in the matter to examine "*if there are serious violation of environment norms, relaxing such procedure*".
2. That vide Order dated 30-11-2023, the Hon'ble Tribunal was pleased to appoint a Joint Committee of MoEF&CC, CPCB, DPCC, CGWA, and District Magistrate, New Delhi to look into the matter and take remedial measures in coordination with concerned authorities, following *due process*. It is submitted that the CPCB and DPCC were directed to act as the nodal agency for coordination and compliance of the orders of the Tribunal.
3. That as noted in the Order dated 04-09-2023, the Joint Committee so appointed by this Hon'ble Tribunal filed its first report through DPCC on 30-08-2023 and sought more time to submit its response in the matter. The matter was accordingly listed for 30-11-2023.

697

4. That the present affidavit is being preferred by the Respondent/ Lodging House Owners Association (Regd.) which represents the Lodging House Owners and are working for the welfare of the Guest Houses situated in Paharganj, New Delhi. The present affidavit is being filed to show genuine bonafides on part of the Association as an environmentally responsible body and to locate a judicial sustainable approach to the present matter.
5. It is submitted that the members of the Respondent Association have been in operation since last 20+ years. The Hon'ble Tribunal was pleased to allow IA 828/2023 filed in the matter vide its previous Order dated 30-11-2023 thereby impleading the Respondent/ Lodging House Owners Association (Regd.) as a Respondent in the matter.
6. That all the said 536 Guest Houses which are members of the Respondent Association are not only connected with the Sewer Lines provided by DJB **but are also working without Kitchen and Laundry / Boiler**. Therefore, the only use of the water and the replenishment of the water takes place in its natural form **untreated with chemicals or food particles**. Further, it is also respectfully submitted that most of the members of the Applicant Association are registered under Micro, Small and Medium Enterprises Development Act 2006. Moreover, the members of the Respondent Association have valid Consent to Operate from DPCC, valid Fire Safety Certificates, valid Health Trade License from the MCD, License to operate place of public entertainment from the Police etc.

7. That along with IA 828/2023 seeking impleadment in the matter, the Respondent Association has also filed IA 829/2023 seeking urgent interim directions, mainly seeking directions to the Respondents (*viz.* DJB, CGWA, GNCTD, DPCC, CPCB) to not seal the bore wells of the members of the Respondent Association. The Hon'ble Tribunal was pleased to issue notice of this IA on the Respondents vide Order dated 30-11-2023. However, the adjudication of the IA 829/2023 was deferred by the Hon'ble Tribunal at that stage in view of the Report filed by the Sub-Divisional Magistrate, Karolbagh stating the action of sealing of borewells of the members of the Respondent Association had been halted for the time being. The Hon'ble Tribunal was pleased to note that *"since the action of sealing the borewells has been temporarily put on hold, therefore, consideration of IA is deferred till the filing of reply of IA by the concerned parties"*.
8. That even after 9 months, none of the Respondents have filed their response to IA 829/2023. On one hand, the Respondents are deliberately avoiding filing response to IA 829/2023 and on the other hand, the Respondents are scuttling the rights of the Applicant by their recent actions in complete violation of the principles of natural justice, fair play and the law.
9. That it is also pertinent to note that vide Order dated 30-11-2023, the Hon'ble Tribunal had directed all the other Respondents (*i.e.*, MoJS, CGWA, DJB, DPCC, District Magistrate, New Delhi) to clearly disclose their power and duties for management and control of ground water in Delhi and the action which has been taken by them in this regard. Till date, the aforesaid Respondents have failed to comply with the aforesaid directions of the Hon'ble Tribunal.

10. That thereafter, vide its Order dated 06-02-2014, the Hon'ble Tribunal had reiterated that the "*Competent Authority*" will take action to prevent illegal extraction of ground water in violation of the norms and requisite permission by duly following principle of 'Natural Justice'. However, it is respectfully pointed out that the **Respondents have completely failed to show that firstly there has been illegal extraction of ground water by the members of the Respondent Association in violation of the existing policy** and secondly, the Respondents **have failed to take action as per principles of Natural justice.**
11. That as noted in the Order dated 22-08-2024, the Respondents (i.e., MoJS, CGWA, DJB, DPCC, District Magistrate, New Delhi) have failed to clarify to this Hon'ble Tribunal as to which authority is responsible for framing and applying the policy for extraction of ground water in NCT Delhi. Yet, the Respondents (i.e., MoJS, CGWA, DJB, DPCC, District Magistrate, New Delhi) have begun to take coercive action against the members of the Respondent Association.
12. That in this regard, it is respectfully submitted that while dealing with a similar situation in OA 108/2013, this Hon'ble Tribunal vide its Order dated 03-09-2013 (at Page 208) had constituted a Committee comprising of Secretary, Environment & Forests, Government of NCT of Delhi as Chairman of the Committee and others and directed this committee to consider chalking out of complete plan to prevent unauthorized and illegal use of underground water as well as its regulations keeping in mind the Notification dated 12-07-2010. It is further of note that vide Order dated 22-08-2014 (at Page 211) in OA 108/2013, the Hon'ble

700

Tribunal had considered the fact that there are many small scale industries running for number of years and further observed that in the circumstances that there was a total inadequacy of water supply which compelled the said industries to install bore wells for water supply, and while striking the balance of convenience and by way of taking liberal approach to the issue at hand, devised an *interim arrangement in consonance with the principles of Sustainable Development and Precautionary Principle as contemplated under Section 20 of the National Green Tribunal Act 2010 and as such, inter alia, observed that the bore wells of the said small scale industries may not be sealed.* The Hon'ble Tribunal specifically directed that all the said industrial units are bound to pay Water Cess under the Water (Prevention and Control of Pollution) Cess Act, 1974 as well as appropriate water consumption charges to the Delhi Jal Board for extraction and utilization of underground water.

Re DJB

13. That in light of the orders issued in OA 108 of 2013, the DJB on 19-03-2015 held its 121st meeting and as such issued Resolution No. 200. approving the fixation of Ground Water Cess / Usage Charges on the industries for operating their Tube Wells / Bore Wells for extraction of Ground Water. As per this Resolution, monthly charges were to be levied on the industries, temporarily, for extraction of ground water from tube well / bore well. It was also decided that for Non Water packaging industries the monthly charges for extraction of ground water from tube well / bore well would be Rs 1670/- per tube well / bore well, while for water packaging industries it would be Rs. 4170 per tube well / bore well.

Vide a subsequent Circular/letter dated 08-07-2015 (at Page 218) titled “Fixation of Ground Water Cess/ Usage Charges on the Industries operating Tube-well/ Bore well for extraction of the Ground Water”, the aforesaid Resolution was implemented by the DJB in Delhi.

14. That during the pendency of OA 108/2013, the DJB notified the Voluntary Disclosure Scheme (VDS) in the NCT of Delhi inviting voluntary disclosure of tube wells and borewells from public at large within 3 months of the Public Notice dated 23-04-2014
15. That at this stage, it is pertinent to point out that around **185 members of the Respondent Association have applied under the Voluntary Disclosure Scheme (VDS) notified by VDS.** Moreover, many members of the Respondent Association have paid hefty sums as Water Cess/Usage Charges levied by the DJB for extraction of Ground Water for the period 10-04-2015 to 31-03-2019. Pertinently, the DJB did not accept Water Cess/Usage Charges from the members of the Respondent Association after March 2019 despite repeated efforts of the members of the Respondent Association. It is respectfully submitted that all the members of the Respondent Association are ready and willing to deposit the said Water Cess/Usage Charges with the DJB.
16. That it is further pertinent to point out that the **Committee formed by this Hon’ble Tribunal in OA 108/2013 had recommended not to seal the borewells of such parties who have voluntary disclosed the same in accordance to the VDS Scheme notified by the DJB.** This recommendation was accepted by the Secretary Cum Divisional Commissioner, Revenue Department, Government of NCT of Delhi vide letter dated 06-10-2015 (at Page 219).

17. That the DJB has issued letter to some members of the Respondent Association in 2023 categorically stating that **unit is regularized/authorized/permitted to draw the ground water as per Voluntary Disclosure Scheme (VDS)** (at Page 275 onwards).
18. That yet astonishingly the DJB has now taken a stand before this Hon'ble Tribunal that "*disclosure under Voluntary Disclosure Scheme itself cannot be treated regularization*" in complete and utter disregard to the submissions and undertakings made before this Hon'ble Tribunal in OA 108 of 2013. Moreover, the DJB has deliberately failed to inform this Hon'ble Tribunal of its Circular/letter dated 08-07-2015, under which the DJB has levied hefty amounts as Water Cess Charges/ Usage Charges from the members of the Respondent Association. True Copy of a Water Cess receipt issued by the DJB to a member of the Respondent Association (as illustration) is annexed herewith as **Annexure R1**.
19. That this self-contradicting and ever-changing stance of the DJB on the VDS and levy of Water Cess is *ex facie* illegal and bad a law. The DJB cannot be permitted to misrepresent the public at large in such fashion and seek unjust enrichment thereto.
20. That as noted in the previous Order dated 22-08-2024, the DJB has categorically submitted that the competent authority to take action with respect to extraction of ground water in Delhi is the District Level Advisory Committee. If that is the case, then **the DJB is guilty of misleading the members of the Respondent Association as well as public large by floating the VDS Scheme as well as wilfully levying Water Cess.**

21. That it bears noting that the water supply by DJB is highly deficient in the area, a fact which has been pointed out to the DJB by various members of Respondent Association consistently. Yet the DJB has taken an incorrect stand before this Hon'ble Tribunal that it had not received any complaint of insufficient water supply in the area. The Respondent Association craves leave of this Hon'ble Tribunal to seek liberty to place such complaint letters on record. The Respondent Association further reserves its liberty to seek appropriate remedy before the appropriate forum against the actions of the DJB.

Re DPCC

22. That as regards the DPCC, it is reiterated that *most of the members of the Respondent Association have valid Consent to Operate under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and under Sections 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 from the DPCC.* True Copy of a Consent to Operate to DPCC to a member of the Respondent Association (as illustration) is annexed herewith as **Annexure R2**.
23. That the DPCC had earlier issued Show cause notices to the members of Respondent Association in 2021, under Section 33(A) of Water (Prevention and Control of Pollution) Act, 1974 and under Section 31(A) of Air (Prevention and Control of Pollution) Act, 1981 and under Section 5 of the Environment (Protection) Act, 1986 *inter-alia*, seeking closure of the bore-wells. True Copy of one such Show Cause Notice issued by the DPCC to a member of the Respondent Association (as illustration) in 2021 is annexed

herewith as **Annexure R3**. True Copy of a response given to the Show Cause Notice is annexed herewith as **Annexure R4**.

24. That the members of the Respondent Association had appropriately responded to the aforesaid notices issued by the DPCC. It is reiterated that some members of the Respondent Association had applied under the VDS to the DJB and had been paying Water Cess Charges to DJB. Moreover, the applications of the members of the Respondent Association seeking grant of license/registration of the borewell with the Revenue Department, GNCTD had been kept pending indefinitely. Aggrieved with such circumstances, the members of the Respondent Association had office of Minister of Environment, Development and GAD, Government of NCT of Delhi. Vide its minutes of meeting dated 27-04-2022 *the office of Minister of Environment, Development and GAD, Government of NCT of Delhi (at Page 260) had directed DPCC to coordinate with the officers of Delhi Jal Board and District Magistrate and as such further directed them to settle the issue regarding extraction of ground water* by various members of the Association.
25. That despite directions issued by the office of Minister of Environment, Development and GAD, Government of NCT of Delhi, the DPCC took no action for resolution of the issues regarding extraction of ground water raised by the Respondent Association, and *proceeded to issue Closure Orders dated 29-03-2022 issued u/s 33(A) of Water Act 1974 & u/s 31(A) of Air Act 1981 to around 330 members of the Respondent Association.*
26. That upon noting that DJB has issued letters to some individual owners of Guest houses/ Hotels stating that unit is

regularized/authorized/permitted to draw the ground water as per Voluntary Disclosure Scheme (VDS), the DPCC vide letter No. DPCC/CMC-VII/OA (89)/2021/EA No. (11/2023)/2024/2948-2954 to 5251-5257 dated 14-03-2024 from SEE, CMC-VII conveyed “Revocation of directions for closure dated 29.03.2022 issued u/s 33(A) of Water Act 1974 & u/s 31(A) of Air Act 1981 as amended to date” (at Page 49).

27. That the **DPCC has now issued show cause notices to all 442 guest houses on 10-07-2024 for imposition of Environmental Damages Charges of Rs 1 Lakhs on each unit in complete violation of the principles of natural justice and fair play.** The DPCC has intentionally ignored the minutes of meeting dated 27-04-2022 issued by the office of Minister of Environment, Development and GAD, Government of NCT of Delhi as well as the previous communications exchanged with the Respondent Association in this regard. True Copy of a Show Cause Notice dated 10-07-2024 is annexed herewith as **Annexure R5**.
28. That such Show Cause Notice has been issued in complete ignorance of the fact the members of the some members of the Respondent Association had applied under the VDS to the DJB and had been paying Water Cess Charges to DJB. The Show Cause Notice provides **no rationale for arriving the expropriatory figure of Rs. 1 Lakh as environmental compensation, or the period for which such compensation is being levied.**
29. It is submitted that in the absence of any data or material with regard to the actual alleged damage caused to the ground water levels by the usage of borewell by the Respondent Association, the **imposition if the fine of Rs. 1 lakh is purely on ipse dixit and**

706

wholly irrational. On this ground alone, the said levy ought to be stayed.

30. Moreover, the applications of the members of the Respondent Association seeking grant of license/registration of the borewell with the Revenue Department. Despite the inaction of the Respondent in resolving these long pending issues, the DPCC has issued the Show Cause Notices dated 10-07-2024 as a knee-jerk reaction in a bid to report compliance to this Hon'ble Tribunal, without actually ensuring actual compliance of the directions of this Hon'ble Tribunal. The Respondent Association reserves its liberty to seek appropriate remedy before the appropriate forum against the actions of the DPCC. True Copy of Order dated 14-08-2024 issued by DPCC is annexed herewith as **Annexure R6**. True Copy of a Recovery Certificate issued by the Revenue Department, GNCTD is annexed herewith as **Annexure R7**.

Re Revenue Department, GNCTD

31. That the applications of the members of the Respondent Association seeking grant of license/registration of the borewell with the Revenue Department. However, no action has been taken by the Revenue Department/ DM, GNCTD till date.
32. That the Respondent Association has repeatedly given representations to the DM (Central), GNCTD pointing out as under :
- CGWA for regulating the extraction of ground water in Delhi vide notice in the year 1998 directed public to declare

707

their borewells for the purpose of registration, and many members possess such registration;

- the DJB has issued a certificate of registration of the borewell by the members of the association in October 2023; the Deputy Commissioner (Revenue) has also issued a circular dated 06-10-2015 to not take action against the units that have declared borewells in VDS to DJB;
- the DJB has fixed ground water cess/usage charges on all commercial units for operating their tube-wells/borewell for extraction of ground water and as per the resolution, a sum of Rs.1670/- per month was levied for extraction of ground from a non-packaging industry;
- the members of the Association started receiving the Bill as per decision communicated by the DJB to its sub-ordinate; each member of the Association is being levied additional sewerage charges @Rs.2000/- per month for discharging extra sewerage generated on account of extracting ground water which is being duly paid by the members;
- the Ministry of Jal Shakti, vide public notice **MSMEs dated 26.10.2020 based on notification dated 24.09.2020, exempted for NOC having consumption of underground water less than 10 KL from applying for registration of borewell connection. The usage of the members of the Association is well below this limit.**

Some of the representations of the Respondent Association have been annexed with the Status Report of GNCTD at Page 290 onwards.

33. That without resolving the aforesaid issues, and without any notice, the **DM (Central), GNCTD has resorted to conducting a so-called sealing drive in the Paharganj area from 31-08-2024 to 02-09-2024 in complete violation to the principles of natural justice.** The Respondent Association reserves its liberty to seek appropriate remedy before the appropriate forum against the actions of the DM (Central), GNCTD.
34. That it is pertinent to mention here that the aforesaid one-sided coercive actions being taken by the DJB, DPCC and DM (Central), GNCTD against the Respondent Association are *ex facie* unjust, against the principles of natural justice and law. The actions of the aforesaid Respondents have been **undertaken without assessing whether there has been illegal extraction of ground water by the Respondent Association in violation of the norms and requisite permission and whether there has been an actual depletion of the groundwater of the area.** It is a matter of record that the Respondents have failed to undertake any actual on ground analysis of the ground water table to the area concerned.
35. That moreover, the Respondents have failed to understand that members of the Respondent Association are modest commercial undertakings with MSME registrations and are working without Kitchen and Laundry / Boiler. The entire action of the Respondents seems to be predicated on the incorrect understanding that the members of the Respondent Association are large scale Hotels

(with 100s of rooms, swimming pools, playing grounds etc). Rather the members of the Respondent Association are modest lodging houses (akin to Bed & Breakfast) with room capacity of average 10-15 rooms. No chemicals are being discharged by the members of the Respondent Association as such.

36. That the Respondents (i.e., DJB, DPCC and DM (Central), GNCTD) have failed to take into consideration the previous Orders and directions of this Hon'ble Tribunal in various matters that there is a need for a holistic plan for ground water extraction in entire Delhi.
37. This Hon'ble Tribunal on previous occasions while dealing with the cases of units in DSIIDS Development Industrial Area and Guest Houses in Noida, Ghaziabad etc. **had emphasised that there cannot be a blanket ban of ground water extraction as such modest commercial undertakings** cannot operate on the deficient and irregular water supply provided through pipelines. However, the Respondents' (i.e., DJB, DPCC and DM (Central), GNCTD) recent action are akin to placing a blanket ban on ground water extraction in Delhi without considering the Schemes and Policies it had notified to the public at large in Delhi. Moreover, the Respondent's actions only against the members of the Association reek of bias as the Association have been singled out in the entire city. Needless to add, **without the supplemental water supply through bore-wells, the members of the Respondent Association will not be able to operate, thereby frustrating their rights to livelihood.**

710

38. That it is reiterated that by IA 828/2023 and IA 829/2023, Respondent Association had provided the followings suggestions for securing the groundwater table of the area in question:

a. Meter may be installed with each bore well so that clear picture can come out regarding the use of ground water by the members of the applicant association;

b. Members of the Applicant's association may be directed to use the terrace to collect the rain water and to use the same for the replenishment purpose.;

c. Delhi Jal Board may be directed to provide adequate quantity of water through pipelines.

The Respondent Association is ready and willing to work in consultation with the Competent Authority(s) to ensure that a holistic and practical plan for ground water extraction is arrived at.

39. That the Respondent Association is ready and willing to work with the Respondents (i.e. DJB, DPCC and DM (Central), GNCTD) and shall continue to comply with each and every direction of this Hon'ble Tribunal.

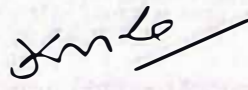
36. The Respondent Association craves leave of this Hon'ble Tribunal to reserves its liberty to make additional submissions in the matter if the need so arises.

NEW DELHI
DATED: 02-09-2024



RESPONDENT ASSOCIATION

THROUGH

KANU AGRAWAL &
KRITIKA GUPTA | 

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.....APPLICANT

VERSUS

GOVT. OF N.C.T. OF DELHI & ORS.

.....RESPONDENT(S)



I, Ram Kumar, aged about 47 years, son of Late Sh. Rajeshwar, resident of M8, Saket, New Delhi - 110017, do hereby solemnly affirm and declare as under:

1. I am the authorised representative of the Lodging House Owners Association (Regd.) with address 8525, Arakshan Raod, Ram Nagar, Pahar Ganj, New Delhi – 110055 and as such I am fully conversant with the facts and circumstances of the case and competent to depose hereunder.
2. I say that the accompanying response has been drafted under the instructions of Lodging House Owners Association (Regd.) I say that the facts stated therein are true to my knowledge That the Annexures placed on record are true copies of respective documents available with the petition.

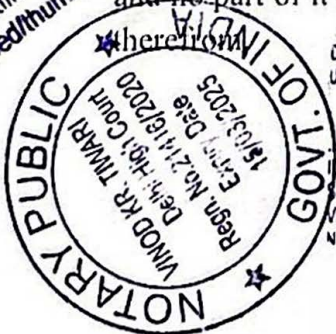
[Handwritten Signature]

DEPONENT

02 SEP 2024

[Handwritten Note: I identified the Deponent who has signed/mumb impression before me on 27/9/24]

VERIFICATION: Solemnly affirmed at New Delhi on ___ day of _____ 2024 that the contents of my above affidavit are true and correct to my knowledge derived from the records of the Company and no part of it is false and nothing material has been concealed herefrom



CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY TO UNDERSTAND AFFIRMED & DECLARED BEFORE ME AT NEW DELHI

IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

VINOD KUMAR TIWARI Advocate, Reg. No. 2416/2020
NOTARY PUBLIC (NEW DELHI)

[Handwritten Signature]

DEPONENT

02 SEP 2024

714
ANNEXURE R2

DELHI POLLUTION CONTROL COMMITTEE

(Government of N.C.T. of Delhi)

4th & 5th Floor, ISBT Building Kashmere Gate, Delhi 110006



CONSENT ORDER

Certificate No. :G-19572

Name of the unit	:	R S INTERNATIONAL
Address	:	24A/7880, ARAKSHAN ROAD PAHAR GANJ NEW DELHI-110055. Hotels, Delhi - 110055
Consent Order No	:	DPCC/CMC/2020/3785606
Date of issue	:	09/09/2021
Product/Activity	:	Hotel/ Guest Houses having 20 to 50 rooms (double bed) or 40 to 100 rooms (single bed) (excluding 3 Star and above). - connected to / Discharging Effluent into Public / Municipal / DJB Sewer and not having Kitchen and / or Laundry with Boiler
Manufacturing Activities	:	GUEST HOUSE/LODGING HOUSE WITH 24 ROOMS & 41 LODGERS.
Category Name	:	[ORANGE]
Product Capacity	:	24 Numbers/Day

This Consent to Operate is hereby granted under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 under ORANGE Category. This consent is subjected to terms and conditions specified overleaf. This is being issued with reference to your application id 3785606 valid from 07/03/2020 to 06/03/2025.

SATENDER KUMAR
Digitally signed by SATENDER KUMAR
Date: 2021.09.09 17:27:33 +05'30'
Senior Environmental Engineer

Subject: Show Cause Notice u/s 33(A) of Water (Prevention and Control of Pollution) Act, 1974 and u/s 31(A) of Air (Prevention and Control of Pollution) Act, 1981 and u/s 5 of the Environment (Protection) Act, 1986, as amended to date

Whereas, Central Pollution Control Board has delegated all its powers and functions under the Water (Prevention & Control of Pollution) Act, 1974 and under the Air (Prevention & Control of Pollution) Act, 1981 in respect of Union Territory of Delhi to Delhi Pollution Control Committee.

And whereas, the whole Union Territory of Delhi has been declared as an Air Pollution Control area, under sub section (I) of section 19 of the Air (Prevention & Control of Pollution) Act, 1981 vide notification no. GSR 106 (E) dated 20.02.1987.

And whereas, it is mandatory provision under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 that no person without the previous consent of the DPCC shall establish or operate any industrial plant in air pollution control area.

And whereas, it is a mandatory provision under u/s 25/26 of the Water (Prevention & Control of Pollution) Act, 1974, that no person without the previous consent of the DPCC shall establish or take any steps to establish any industry, operation or process or any treatment and disposal system an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land or operate any industrial plant in air pollution control area.

And whereas, you AURA HOTEL 1185/31, A.K. Road, Pahar Ganj, Central District, New Delhi:-110055 (herein after referred as addressee) is engaged in the activity of Hotel/Guesthouses.

And whereas, as per the Central Ground Water Authority, the Paharganj area of New Delhi has been declared as an over exploited area, and the illegal extraction of groundwater by the Hotels/Guesthouses situated in Paharganj area of New Delhi without having any valid NOC from the Central Ground Water Authority and are thereby violating the provisions of the Environment (Protection) Act, 1986. These Hotels & Guesthouses also don't have any Consent to establish or Consent to operate under the Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act 1981 which are mandatory to run hotels & guesthouses.

And whereas, the illegal drawing of the groundwater through borewells cannot be permitted by these hotels & guesthouses in violation of the Judgment of this Tribunal dated 20.07.2020 in Original Application No. 176/2015 titled as Shailesh Singh v. Hotel-Holiday Regency, Moradabad & Ors.

And whereas, your case was taken up by the Competent Authority in Delhi Pollution Control Committee and decided to issue Show Cause Notice for closure u/s 33(A) of Water (Prevention and Control of Pollution) Act, 1974 and u/s 31(A) of Air (Prevention and Control of Pollution) Act, 1981 and u/s 5 of the Environment (Protection) Act, 1986, as amended to date.

in exercise of powers conferred upon it, under the provisions of said acts as proposed directions:

That you (the addressee) shall submit the details of number of bore well in the premises and valid permission from Delhi Jal Board/Central Ground Water Authority, for extraction of ground water, immediately.

- 3. That you (the addressee) shall close your unit with immediate effect in case of non-compliance of 1 & 2 as above.
- 4. That the concerned Sub-Divisional Magistrate shall ensure effective closure of the said unit with immediate effect in case of non-compliance of 1 & 2 as above.
- 5. That the concerned authority TPDDL/BSES shall disconnect the electricity/power supply of the unit with immediate effect in case of non-compliance of 1 & 2 as above.
- 6. That the concerned authority in DJB shall disconnect the water supply connection of the said unit with immediate effect in case of non-compliance of 1 & 2 as above.
- 7. That the concerned authority in Delhi Police and MCD shall cancel the permission/license for the operation of the said unit with immediate effect in case of non-compliance of 1 & 2 as above.

Hence by way of this notice, you are hereby given an opportunity to submit your reply as to why the aforesaid proposed directions should not be confirmed. Your reply should reach to this office within 15 days from date of service of this notice, failing which it shall be assumed that you have nothing to say in this regard and the competent authority of DPCC shall be free to take action as proposed above. This may also be treated as an opportunity of being heard.

This issue as per the approval of the Competent Authority, Delhi Pollution Control Committee

See
SEE, (CMC-VII)

To,
**AURA HOTEL 1185/31, A.K. Road, Pahar Ganj,
Central District,
New Delhi:-110055**

Copy to:

- 1. Master File, CMC-VII

[Signature]
EE, (CMC-VII)

2005h066&6



Hotel
R.S. International

ANNEXURE R4

Phone :011-23615705

011-23615706

01143541285

→ 9873997920

24A/7880, Arakashan Road, Pahar Ganj, New Delhi-110055

E-mail : hotelsinternational1985@gmail.com Website : www.rsinternationaldelhi.com

To,
DPC (DELHI POLLUTION CONTROL COMMITTEE,

Member Secretary, AND. SEE, (CMC-VII) AND EE, (CMC-VII)
N.C.T of Delhi

Caused by
29/09/21
Dated13/9/21.....

Subject: Withdraw Show Cause Notice. F. No. DPCC/CMC-VII/2021/ 500 - 01 u/s 33(A) of Water Prevention and Control of Pollution Act 1974 and u/s 31(A) of Air (Prevention and Control of Pollution) Act, 1981 and u/s 5 of the Environment (Protection) Act, 1986, as amended to date.

Important: Relief required from Disconnection of Borewell (Ground Water) and from prosecution in Lieu of Gazette Notification Dated 24, September and PUBLIC NOTICE, Dated 26TH October, 2020 through Government of India, Ministry of Jal Shakti. (Copy Enclosed for your reference)

Respected Sir,

We received a Show Cause notice No. F.No. DPCC/CMC-VII/2021/ 500 - 01 to seal the Ground Water Boring/Borewell, order to disconnect the Electricity Connection and prosecution against Hotel, *R.S. INTERNATIONAL* (Activity Guest House) Address *A/24-7880, Arakashan Road, Pahar Ganj New Delhi 110055* on Date *27/7/21*

Sir, in this regards we want to inform you that: -

Problem: We use water for Human Consumption like fresh-up and Bathing from Bore-well "domestic use." (The requirement of water for our guest house is less than 10 KLD per day whereas DJB is not in a position to supply enough water).

In the time of pandemic (Covid-19), as per Disaster Act all the statutory compliance which effect the livelihood be uphold as no such order can be passed as per disaster act as we have no other source of income to run our livelihood. Please also consider that it will also affect the lively hood of our employees who also depend on us.

Fundamental Right: We have a fundamental right to use water only for living/ Human Consumption purpose which any government agency or law cannot take from us and have a moral responsibility to provide sufficient water for day to day living purpose, No legal boundation is there to stop anyone to use water for living purpose, if government fails to provide it means it is a failure of the agency, but we also cannot run away from our responsibility, so if any critical situation arise we should support the government to make the plan for implementation of refilling the ground water through Rain Water Harvesting, but keeping in mind no one should get affected.

"DELHI JAL BOARD IS NOT PREPARED TO SUPPLY SUFFICIENT WATER"

Delhi Jal Board don't have sufficient water to supply, rest of the water is the only source is Natural Ground Water, whereas Delhi Jal Board supply only few hours in .50 inch pipe line about 250-500 litres of water a day. We cater to Budget Tourist who use water only for Human Consumption like bathing or cleaning purpose so it is a domestic use as our daily requirement is about less than 10 KLD.

Gazette Notification & Public Notice of Ministry of Jal Shakti: DELHI POLLUTION CONTROL COMMITTEE.(DPCC) must comply Government of India, Ministry of Jal Shakti "Department of Water Resources, River Development and Ganga Rejuvenation" (Central Ground Water Authority-CGWA Gazette Notification, Dated 24, September, 2020 (Copy Enclosed) notifies the usage of Ground Water. The Guideline to regulate and Control Water Extraction in India with immediate effect. In preamble No1. Exemptions from seeking No Objection Certificate: In point no. (V) : Micro and small Enterprises drawing Ground Water less than 10 Cum/Day for drinking /domestic

PUBLIC NOTICE, on DATED 26TH October, 2020 (Copy Enclosed for your reference) - Government of India, Ministry of Jal Shakti "Department of Water Resources, SAYS " This is to bring to the Notice of all the Ground water users that: Besides Micro and Small Medium Enterprises drawing less than 10 KLD of ground water are also exempted from obtaining NOC from Ground Water withdrawal - We falls under exempted categories as per above public notice so relief and relaxation be given and the Show Cause Notices by DPCC be withdrawn with immediate effect. .

Our Guest Houses using less than 10 KLD/Day water which is exempted from taking NO OBJECTION CERTIFICATE from State/Center so keeping in mind DPCC should withdraw its Show Cause Notices as per the Gazette Notification, also make law/rule/policy accordingly. And in absence of policy Delhi Government should give relief to such users as per Gazette Notification Dated 24, September, 2020 (Copy Enclosed) and PUBLIC NOTICE, on DATED 26TH October, 2020 (Copy Enclosed)

We are also ready to pay any abstraction/restoration charges as per rule/law/policy if define/implement according to Gazette Notification/Public Notice by Delhi Government in future.

Request: Please withdrawal Show Cause Notices given to us as we using less than 10 KLD of ground water per day as per Govt. of India Notification/Public Notice as above, also any sealing action or electricity disconnection or any kind of prosecution orders given in past after the effect Gazette Notification/Public Notice be taken back. Sir our Guest House falls under the Micro and Small Enterprises drawing Ground Water less than 10 KLD/Day so DPCC should give relief to us as we are very small unit, so please withdraw the Show Cause Notice.

SDM: Please also direct the officials of Delhi Government not to prosecute us or disconnect Electricity connection through BSES or BYPL till the policy is finalized or decision taken.

We request you to please take necessary Action

Thank with Regards,

Anischa

or Hotel
Address:

Mobile:

9873997920

Copy Enclosed for your reference

1. Gazette Notification Dated 24, September, 2020
2. PUBLIC NOTICE, DATED 26TH October, 2020
3. Copy of Notice received from DPCC
4. CTO /CTE Enclosed
5. MSME Registration Enclosed
6. Copy of Water Bill



F.No. DPCC/CMC-VII/(EA No. 11/2023)/2024/1182-1185

Dated: 10.07.2024

ANNEXURE R5**Subject: Show Cause Notice for imposition for EDC-reg**

Whereas, directions under section 5 of the Environment (Protection) Act, 1986 was issued on 18.05.2010 which prescribes that "No person, group, authority, association or institution shall draw ground water through bore-well or tube-well (both new as well as existing and drawing ground water without permission of Central Ground Water Authority) for domestic, commercial, agricultural and or industrial uses without the prior permission of the "Competent Authority" that is to say, the Delhi Jal Board or the New Delhi Municipal Council.

And whereas, the Hon'ble National Green Tribunal in OA No. 25/2019 (Abdul Farukh Vs Govt of NCT of Delhi) wrt illegal extraction of ground water has issued number of directions. The Chief Secretary, GNCTD in the meeting dated 15.11.2019 has directed DPCC to levy of Environmental Damage Compensation upon owners of illegal bore wells.

And whereas, on the direction passed by the Hon'ble Green Tribunal in OA No. 685/2019 titles as "Rakesh Kumar vs Govt of NCT of Delhi", the Chief Secretary, Delhi has taken a meeting on 12.06.2020 and prepared a SOP titled as "Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/tubewells". As per SOP, DPCC is required to levy Environmental Damage Compensation upon owners of illegal bore wells.

And whereas, as per decision taken in the meeting of Joint Committee on 27.04.2023 formed by Hon'ble NGT in EA No. 11/2023 in OA No. 89/2021 in the matter "Varun vs Govt. of NCT of Delhi & Ors" under the Chairmanship of Member Secretary, joint inspection of M/s AURA HOTEL 1185/31, A.K. Road, Pahar Ganj, Central District, New Delhi:-110055 (hereinafter referred as the addressee) was conducted by officials of DPCC and DJB on 22.08.2023 and during inspection, it was observed that you (the addressee) are using 1 No.(s) of bore well for extracting ground water without permission from the authorized officer/competent authority.

And whereas, CGWA has informed that registration certificates issued by CGWA (if any) are not "No Objection Certificate" for ground water extraction.

And whereas, DJB has informed to DPCC that registration under "Voluntary Disclosure Scheme" (VDS) (if any) cannot be treated legal as District Magistrate is competent authority to legalize the bore wells. Also, DJB informed that there is no major complaint for short supply of water has been received from this area.

And whereas, Central Pollution Control Board (CPCB) has framed guidelines for levying Environmental Compensation for illegal ground water extraction.

And whereas, in view of Hon'ble NGT directions/orders and in compliance of stipulated guidelines of CPCB, it has now been decided to levy an interim Environmental Compensation (EC) of Rs. 1,00,000/- (Rs. One Lakh Only), liable to pay in the form of DD in favor of "DELHI POLLUTION CONTROL COMMITTEE" on the addressee on account of extraction of ground water for commercial usage without permission from Competent Authority.

By way of this notice, you are hereby directed to call upon to show cause, as to why the above said Environmental Compensation should not be imposed. The reply, if any, should reach to this office within 15 days from the date of issue of this notice. In case of failure, it will be presumed that the addressee has nothing to say in this regard and the aforementioned EC will be imposed without any further reference.

This is being issued as per the approval of Competent Authority in DPCC.

To,

M/s AURA HOTEL
1185/31, A.K. Road, Pahar Ganj,
Central District, New Delhi:-110055

SEE, CMC-VII

P. S. Pankaj
Senior Environmental Engineer
Delhi Pollution Control Committee
4th & 5th Floor, ISBT Building
Kashmere Gate, Delhi-110006

Copy to: -

1. District Magistrate (Central), 14, Daryaganj, Delhi - 110002- with request for effective closure/sealing of bore well and submit compliance report to this office within 15 days.

Flatted Factory Complex, Delhi-110055


DELHI POLLUTION CONTROL COMMITTEE

4th & 5th Floor, ISBT Building
Kashmere Gate, Delhi 110006
(Visit us at <https://www.dpccocmms.nic.in>)


F.No. DPCC/CMC-VII/EA No. 11/2023/2024/3076-3079
Dated:14.08.2024
Subject: Order for confirmation of Environmental Compensation-reg.

OK

Whereas, directions under section 5 of the Environment (Protection) Act, 1986 was issued on 18.05.2010 which prescribes that "No person, group, authority, association or institution shall draw ground water through bore-well or tube-well (both new as well as existing and drawing ground water without permission of Central Ground Water Authority) for domestic, commercial, agricultural and or industrial uses without the prior permission of the "Competent Authority" that is to say, the Delhi Jal Board or the New Delhi Municipal Council.

And whereas, the Hon'ble National Green Tribunal in OA No. 25/2019 titled "Abdul Farukh Vs Govt of NCT of Delhi" wrt illegal extraction of ground water has issued number of directions. The Chief Secretary, GNCTD in the meeting dated 15.11.2019 has directed DPCC to levy of Environmental Damage Compensation upon owners of illegal bore wells.

And whereas, on the direction passed by the Hon'ble Green Tribunal in OA No. 685/2019 titles as "Rakesh Kumar vs Govt of NCT of Delhi", the Chief Secretary, Delhi has taken a meeting on 12.06.2020 and prepared a SOP titled as "Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/ tubewells". As per SOP, DPCC is required to levy Environmental Damage Compensation upon owners of illegal bore wells.

And whereas, CGWA has informed that registration certificates issued by CGWA (if any) are not "No Objection Certificate" for ground water extraction.

And whereas, DJB has informed to DPCC that registration under "Voluntary Disclosure Scheme" (VDS) (if any) cannot be treated legal as District Magistrate is competent authority to legalize the bore wells. Also, DJB informed that there is no major complaint for short supply of water has been received from this area.

And whereas, Central Pollution Control Board (CPCB) has framed guidelines for levying Environmental Compensation for illegal ground water extraction.

And whereas, as per decision taken in the meeting of Joint Committee on 27.04.2023 formed by Hon'ble NGT in EA No. 11/2023 in OA No. 89/2021 in the matter "Varun vs Govt. of NCT of Delhi & Ors" under the chairmanship of Member Secretary, joint inspection of M/s AURA HOTEL 1185/31, A.K. Road, Pahar Ganj, Central District, New Delhi:-110055 (hereinafter referred as the addressee) was conducted by officials of DPCC and DJB on 22.08.2023 and during inspection, it was observed that you (the addressee) are using 1 no (s) of bore well for extracting ground water without permission from the authorized officer/competent authority.

And whereas, Show Cause Notice for imposition of Environment Damage Compensation of Rs. 1,00,000/- (Rupees one lakh only) was issued to you vide F.No. DPCC/CMC-VII/(EA No. 11/2023)/2024/1182-1185 dated 10.07.2024.

And whereas, you (the addressee), have submitted the reply on 25.07.2024 in this office which is found to be not satisfactory. Also, you have not deposited the Environmental Compensation (EC) till date.

Now therefore, the Competent Authority in Delhi Pollution Control Committee in exercise of powers conferred upon it under the provisions of said Acts as amended to date, has decided to issue the following directions:-

- That you (the addressee) shall deposit the Environmental Compensation (EC) of Rs 1,00,000/- (Rupees one lakh only) in the form of DD in favour of "Delhi Pollution Control Committee" within 15 days of issuance of this order failing which you shall be liable for penal action as per the law.

This is being issued as per the approval of Competent Authority, DPCC.

To,
M/s AURA HOTEL,
1185/31, A.K. Road, Pahar Ganj,
Central District, New Delhi:-110055



SEE, CMC-VII

P. S. Pankaj
Senior Environmental Eng
Delhi Pollution Control Com
4th & 5th Floor, ISBT Bldg
Kashmere Gate, Delhi-110

Copy for information and necessary action to: -

1. District Magistrate (Central), 14, Daryaganj, Delhi – 110002- with request for effective closure/sealing of bore well with immediate effect and submit compliance report to this office within 15 days.
2. SDM, Karol Bagh, Jhandewalan Flatted Factory Complex, Delhi-110055- with request for effective closure/sealing of bore well with immediate effect and recovery of EC of amount Rs. 1,00,000/- (Rupees One Lakh Only) in favor of DPCC, in case unit failed to deposit the same and submit compliance report to this office within 15 days.
3. Master File, CMC-VII



SEE, CMC-VII

P. S. Pankaj
Senior Environmental Engineer
Delhi Pollution Control Committee
4th & 5th Floor, ISBT Building
Kashmere Gate, Delhi-110055

ANNEXURE R6



GOVERNMENT OF NCT OF DELHI
IN THE COURT OF ASSISTANT COLLECTOR GRADE-I/SDM (KAROL BAGH)
FLATTED FACTORIES COMPLEX, JHANDEWALAN, NEW DELHI-110055.

No F.SDM/KB/Recover [REDACTED]

Date 03/07/24

NOTICE

(WRIT OF DEMAND UNDER SECTION 136 THE DELHI LAND REFORMS ACT, 1954)

Take Notice that a Recovery Certificate F.No. DPCC/CMC-VIII/EA 306/11/2023/2024/2709-2703 dated 14/08/2024 under section 33 C (1) ID Act, 1947 "as arrears of Land Revenue" issued by Sh. P.S. Pankaj Sr. Environmental Engineer, CMC-VII, Delhi Pollution Control Committee 4th & 5th Floor, ISBT Building, Kashmere Gate, Delhi-110006, under which you are liable to pay of Rs. 1,00,000/- Only to DPCC. (Copy attached)

You are hereby directed to deposit Rs. 1,00,000/- Only, with this office within 30 days of receipt of this notice.

In the event of failure to deposit Rs. 1,00,000/- Only, you are directed to file the particulars of your bank account(s) in which there is sufficient amount to satisfy the Recovery Certificate, on affidavit before the undersigned within 30 days of receipt of this notice.

This affidavit is mandatory as per the directions issued by the High Court of Delhi in W.P.(C) 8092 of 2016.

The respondent shall appear before the undersigned on D. (date) to deposit the outstanding dues, failing which further action for the realization of dues will be initiated against you without further loss of time.

Given under my hand and the seal of the Assistant Collector-II on the day of

Encl: RC attached.



[Signature]
ASSISTANT COLLECTOR GRADE-I/TEHSILDAR
SUB-DIVISION KAROL BAGH

723**BEFORE THE NATIONAL GREEN TRIBUNAL AT DELHI
PRINCIPAL BENCH****EXECUTION APPLICATION NO. 11 OF 2023
IN
ORIGINAL APPLICATION NO. 89 OF 2021****IN THE MATTER OF:****VARUN****.....APPLICANT****VERSUS****GOVT. OF N.C.T. OF DELHI & ORS.****....RESPONDENT(S)****VAKALATNAMA**

KNOW ALL to whom these presents shall come that I, Ram Kumar, aged about 7- years, son of Lare Sh. Rajeshwar, resident of M8, Saket, New Delhi -110017, the authorised representative of the Lodging House Owners Association (Regd.) with address at 8525, Arakshan Raod, Ram Nagar, Pahar Ganj, New Delhi – 11005, do hereby appoint Mr. Kanu Agrawal (D/2030/2014) and Ms. Kritika Gupta (D-2750/2015), Chamber No. 155, Block I, High Court of Delhi, Shershah Road, New Delhi 03, to be my advocate in the above entitled matter and authorise her:

To act, appear and plead in the above noted case in the Court or in any other Court in which the same may be tried or heard and also in the appellate Court including the High Court subject to payment of fees separately for each Court by me / us. To sign, file and verify and present pleadings, appeals, cross-objections or petition for execution, review, revision, compromise or other petition affidavit or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment of fees for each stage. To file and take back documents, to admit or deny the documents of opposite party. To withdraw or compromise the said case or admit to arbitration any difference or dispute that may arise touching or in any manner relating to the said case. To take execution proceedings, to deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress of and in the prosecution of the said case. To appoint and instruct any other legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the advocate whatever

he may think fit to do so and sign the power of attorney. And I / we the undersigned do agree to ratify and confirm all acts done by the advocates or their substitute in the matter as my / our own acts, as done by me / us to all intents and purposes. And I / We undertake that I / We or my / our duly authorised agent would appear in court on all hearings and will inform the advocate for appearance when the case is called. And I / We undersigned do hereby agree not to hold the advocate or his substitute responsible for the results of the said case. The adjournment cost whatever ordered by the Court shall be of the advocate, which he shall receive and retain for himself. And I / We the undersigned hereby agree that in the event of the whole or part of the fee agreed by me / us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only. I / We will not be entitled for the refund of the same in any case whatsoever. IN WITNESS WHEREOF I / We do hereunto set my / our hand to these presents the contents of which have been understood by me / us on this 2nd day of September 2024

Accepted subject to the terms of fees.



ADVOCATES

[Signature]
 CKRITIKA GUPTA)
 D/2750/2015

(KANU AGRAWAL)

D/2030/2014



CLIENT

Identified
[Signature]





725

Kritika Gupta <kritika0504@gmail.com>

EA 11 of 2023 in OA 89/2021: Varun vs GNCTD

Kritika Gupta <kritika0504@gmail.com>

2 September 2024 at 22:47

To: richak407@gmail.com, jyoti.legal@gmail.com, Gigicgeorge.adv42@yahoo.in, Balendu Shekhar <officeofbalendu@gmail.com>

Ms. Richa Kapoor, Ld. Counsel for DJB- richak407@gmail.com
Ms. Jyoti Mendiratta, Ld. Counsel for GNCTD- jyoti.legal@gmail.com
Mr. Gigi C George, Ld. Counsel for CGWA- Gigicgeorge.adv42@yahoo.in
Mr. Balendu Shekhar, Ld. Counsel for DPCC - officeofbalendu@gmail.com

Please find attached herewith the combined response on behalf of Respondent/ Lodging House Owners Association (Regd.).


Yours sincerely,

**Kritika Gupta,
Advocate**

Mob.: +91 8826331177

Chamber No. 155, Lawyers' Chamber Block I,
High Court of Delhi, Shershah Suri Marg, Delhi.

This message contains legally privileged and confidential information and is for the use of the addressee only. If the reader of this message is not the intended recipient, you are hereby cautioned that any dissemination, distribution or copying of this communication is prohibited. If you have received this transmission in error, please immediately notify the undersigned by return email and delete this message from your system. The undersigned does not guarantee the security of any information transmitted through email and is not liable for any interception, corruption or delays. Anyone communicating with the undersigned by email accepts the risks of email communications and their consequences.

 **Combined response - Varun vs GNCTD.pdf**
12204K