

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 438 OF 2018**

IN THE MATTER OF:

ARTI

...APPLICANT

VERSUS

**CENTRAL GROUND WATER
AUTHORITY & ORS.**

...RESPONDENTS

**JOINT SUBMISSION BY RESPONDENTS NO. 51, 53, 104
AGAINST THE OBSERVATIONS MADE IN JOINT
INSPECTION COMMITTEE REPORT DATED: 03.12.2021
SUBMITTED BEFORE THIS HON'BLE TRIBUNAL**

For Vaishali Hotel & Resorts

Partner

Respondent No. 51

For Royal Park Hospitality Pvt. Ltd

(Director)

Respondent No. 53

For G... ENTERPRISES

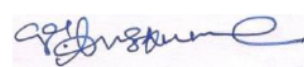
Partner

Respondent No. 104
(Through Counsel)

Filed by-



ADITYA KISHOR TYAGI
(D/4583/2016)



ANAND KUMAR V
(D/598/2017)

Counsels for the Respondent No.51, 53, 104

AP Legal Chambers,

Advocates & Solicitors

G- 70, LG – 04, G – Block, Sector – 63, Noida – 201301

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Email: aplegalchambers@gmail.com

Submitted On: 11th October, 2023

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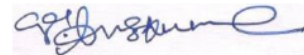
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New Delhi

Dated: 11.10.2023

Filed by-

ADITYA KISHOR TYAGI
(D/4583/2016)

ANAND KUMAR V
(D/598/2017)

Counsels for the Respondent No.51, 53, 104

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

(Under Rule 14 and 16 of the National Green Tribunal Act, 2010)

ORIGINAL APPLICATION NO. 438 OF 2018

IN THE MATTER OF:

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...APPLICANT

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...RESPONDENTS

JOINT SUBMISSION BY RESPONDENTS NO. 51, 53, 104

AGAINST THE OBSERVATIONS MADE IN JOINT

INSPECTION COMMITTEE REPORT DATED: 03.12.2021

SUBMITTED BEFORE THIS HON'BLE TRIBUNAL

MOST RESPECTFULLY SHEWETH:

That the address of service of respondent No 51, 53, 104 is that of their counsels **M/s AP Legal Chambers, Advocates & Solicitors**, having their office at G – 70, LG - 04, G – Block, Sector – 63, Noida – 201301, Gautam Buddh Nagar, Uttar Pradesh and the email id for correspondence is aplegalchambers@gmail.com

1. That the Respondents jointly and severally submit reply before this Hon'ble Tribunal.

2. That the respondents herein have already individually solemnly affirmed that they are competent to represent in this particular case and that they are well acquainted with the facts and circumstances of this case
3. That they have in their individual capacity have already sworn in their respective affidavits in their replies and herein acknowledge that the facts mentioned in this reply are true and correct to the best of their knowledge and belief and nothing material have been concealed therefrom.

MOST RESPECTFULLY SHEWETH AS UNDER:

1. That the Respondent No 51, 53, 104 jointly and severally are making submissions against the observations made in Joint Inspection Committee (JIC) report dated: 03.12.2021 submitted before this Hon'ble Tribunal
2. That the respondents submit, respectfully highlight and bring to the kind notice of this Hon'ble Tribunal the glaring discrepancies in the JIC Report dated 03.12.2021
3. That the Respondents submit herein the general observations and factual errors in the reports and the prayers and schedules of the observations jointly and specific observations pertaining to respective respondents severally.

4. That the Respondents deny each and every specific averment / observation stated against them in the JIC Report dated 03.12.2021, unless unambiguously admitted and nothing shall be treated as acceptance/admission by reason of non-traverse.
5. That the Hon'ble Tribunal vide Order dated 24.09.2021 directed CGWA to place complete information on record about the status of compliance by the concerned parties. The operative part of the order of this Hon'ble Tribunal dated supra is extracted as under:

5. Unfortunately, report dated 31.12.2018 has been filed only on 10.09.2021 without any narrative by the CGWA. The report merely annexes a letter of the District Magistrate, Ghaziabad dated 31.12.2018 in respect of 15 hotels which were inspected and found extracting water illegally. It is stated that the borewells of the said hotels were sealed. ...

6. When we have taken up the matter today, learned counsel for the CGWA has no information as to why only 15 hotels have been inspected why the report of 2018 was filed only in September, 2021 and what is the current status. This is sorry state of affairs of an important organisation, to say the least.

8. In view of the above, while directing listing of this application on 08.11.2021 to be considered alongwith other matters involving illegal extraction of ground water, we direct the CGWA to place complete information on record about the status of compliance by the concerned parties. The CGWA may interact with the District Magistrate and the State PCB about

the remedial measures for compliance of law and take further action, following due process, in exercise of statutory regulatory powers of the CGWA and other Authorities, including District Magistrate and the State PCB.

6. That in compliance to the order of this Hon'ble Tribunal dated supra, committee comprising following officials was set up:
 - a. Sh. Jagdamba Prasad, Scientist-D, CGWA Lucknow*
 - b. Sh. Mohan Prakash Paswan, Executive Engineer, Minor Irrigation Department, Ghaziabad*
 - c. Sh. Imran Khan, Environment Engineer, UPPCB Lucknow*
 - d. Sh. Yogesh Kumar, UPJN, Ghaziabad*

7. That in the report of CGWA dated 01.12.2021, Sh. P.K. Tripathi ScD / Head of Office CGWB, Northern Region has mentioned in Para 7 that Sh. Mohan Prakash Paswan, Executive Engineer from Minor Irrigation Department, Ghaziabad could not come for inspection due to illness.

8. That the Joint Inspection Committee through CGWA submitted a report dated 03.12.2021 after visiting 121 units. That the committee members of the JIC analyzed and categorized the respondent units into seven heads. For the purpose of brevity, the details of categorization are not given in detail.

9. That in the view of the said report, Hon'ble NGT vide order dated 25.02.2022 directed State PCB to issue notice to the concerned hotels/ respondent units.
10. That the respondents in light of the above order of this Hon'ble Tribunal dated supra would like to submit:

GENERAL OBSERVATIONS OF ALL 3 RESPONDENTS:

1. The inspections were carried out from 11-11-2021 to 16-11-2021 on 121 out of 122 respondents
2. That the respondent no 6 is not mentioned in the list hence 121 units were verified by the JIC and out of the 121, 8 units were repeated/mentioned twice in the Original Application and hence actual units verified due to duplication comes to **113 Hotels**
3. That the JIC has not used any scientific methodology in their data collection process. Neither they have had any purpose for this inspection, nor had any idea of what kind of data they were collecting or methods or procedures that they would be adopting in collecting the data and in processing the information.
4. That accurate data collection methodology is necessary to make informed decisions, to ensure quality and to give assurance for data integrity.

5. That the JIC data lacks proper questionnaire and the observations of the committee are grossly erroneous, inaccurate, insufficient, lacks sense of responsibility and has intentional omissions and requires counter-validation from are reliable and trustworthy source to corroborate the data to get any conclusive evidence.
6. That the JIC has carried out a monotonous exercise without actually capturing the essence of the data as required by this Hon'ble Tribunal to come to any concrete conclusions.
7. That these inaccurate data as collected by the JIC has compromised the prospects of the respondent units and has resulted in continuous harassments from different agencies.
8. In all Category B respondent units (Total Units 11 with repetition of 2 units), the observation of the committee is same while they have not mentioned whether at the time of their inspection, tubewell existed in their premises or not.
9. Observations of Respondent No 5, 13&101, 15 are one and the same **“The affidavit of extraction of ground water from tube well and receipt of water tax of Nagar Nigam and water purchased from bulk water suppliers through water tankers are submitted to UPPCB, Ghaziabad”**

10. Observations of Respondent Units 35, 43, 47, 59 & 107, 65, 92, 110 are one and the same **“The Proprietor has been directed to submit the affidavit of no extraction of ground water from tubewell and receipt of water tax of Nagar Nigam and water purchased from bulk water suppliers through water tankers to UPPCB Ghaziabad”**
11. Observations of Respondent Units 42 and 51 are absurd, lacks clarity, defies logic, common sense and makes a mockery of the seriousness of the task entrusted to them.
12. In all the observations of the committee members during the inspection, JIC has reported based on the information provided by some **X representative**, in what capacity JIC has taken the replies/answers of the representatives in face value is unknown.
13. That the report has not captured the designation, capacity of the representatives thereby genuinely creating a doubt with regard to veracity and reliability of this report.
14. It also gives way for speculation as to whether they have intentionally not made the answering people accountable.
15. Year of establishment of the respondent units are intentionally not captured in this report whereas it has mentioned the same in the observations of other districts conducted across UP.

16. It takes super-human efforts to cover the following number of respondents in any given date. The speed at which the committee has travelled to each unit raises a lot of doubt as to whether they had captured the details accurately, that too only 3 out of total 4 people in the committee were available for the entire duration of the physical verification.

Date-wise summary of Inspection carried out on the following days

| SI No | Date of inspection | Hotels Covered | Duplication of Hotels |
|-------|--------------------|----------------|-----------------------|
| 1 | 11.11.2021 | 11 | 2 |
| 2 | 12.11.2021 | 23 | 6 |
| 3 | 13.11.2021 | 17 | 0 |
| 4 | 14.11.2021 | 18 | 2 |
| 5 | 15.11.2021 | 26 | 6 |
| 6 | 16.11.2021 | 26 | 0 |
| | Grand Total | 121 | 8 |

SPECIFIC OBSERVATIONS OF THE RESPONDENTS:

A. Respondent No 51 – Hotel Vaishali Inn

1. In 110 out of 113, JIC has recorded the name of the representative who had facilitated during the inspection or who was available during the inspection in their respective hotels. 3 hotels do not carry the name of the representative i.e. Respondent Nos 51; 76@94; 88

2. Respondent No 51 is **M/s Vaishali Inn** and it is therefore humbly stated before this Hon'ble Tribunal that due to the want of information, the details provided by the JIC are inadequate and lacks authenticity.
3. That the JIC report has observed 2 tubewells in the premises of the respondent, but they have not gone into verifying whether the tubewell is used as a source of water supply.
4. That the respondent vehemently opposes the observation of the committee members during the inspection and is extracted below for your immediate perusal.

“The representative of hotel was informed that the water supply of the hotel is being fulfilled by Ghaziabad Nagar Nigam through Ganga Jal Water.

One energized and one unenergized tubewells were found back side of hotel, while the location of tube wells was avoided by showing the hotel's workers as per direction of owner”

5. That the answering respondent is not able to make out any meaningful opinion or process the information from the observation of the committee members during the inspection as it lacks clarity, defies logic and common sense.

B. Respondent No 53 – Hotel Le Crescent

1. That the answering respondent purchased the hotel Le Crescent in September, 2019, and started their operations only from 10th September, 2020
2. That the JIC has not intentionally covered the year of establishment of the respondent unit to create ambiguity, indicating the malefide intention of the JIC whereas it has mentioned the same in the observations of other districts conducted across UP.
3. That the veracity, genuineness and reliability of the JIC report is subject to scrutiny.

C. Respondent No 104 – Hotel Royal Park Hotels and Resorts

1. That the answering respondent is shocked and surprised that the JIC report has observed 1 tubewells in the premises of the respondent, but the respondent completely refutes the observation of the report.
2. That the respondent vehemently opposes the observation of the committee members during the inspection and is extracted:

“The representative of hotel Shri Sukhbir Yadav was informed that water supply of the of hotel is being fulfilled by Ghaziabad Nagar Nigam through Ganga Jal water which is not adequate quantity for hotel.

One energized tubewell was found for water supply of hotel”

3. That the respondent respectfully submits before this Hon'ble Tribunal that the **water supply of the hotel is being fulfilled by Ghaziabad Nagar Nigam through Ganga Jal which is in adequate quantity for hotel.**
4. That since inception, the answering respondent has not used borewell in their premises

FACTUAL ERRORS IN THE REPORT AS OBSERVED:

1. Respondent No 13 & 101 are same unit i.e. Anand Retreat, (KA 74, Near Kaushambi Metro Station, Kaushambi, Ghaziabad – 201010, while the JIC visited the Respondent No 101 on 11.11.2021, but did not record the observation and then again visited the same premises on 12.11.2021 and recorded the observations as Respondent No 13.
2. The unit of Respondent No 25 was visited by JIC on 11.11.2021, and in their observations JIC has mentioned ***“Tube well was found sealed and cable disconnected as per earlier joint inspection report on 31.12.2021, carried out district administration UP Pollution Control Board and Electricity Department Ghaziabad”*** It is interesting to note that the JIC has prophesied on 11.11.2021 itself that the tube well was found sealed on 31.12.2021 i.e. 51 days in advance.

3. The JIC has not reported or mentioned about the current status of the Respondent Units whose tube wells were sealed on an earlier Joint Inspection dated: 31.12.2018

PRAYER:

That in the light of the above-mentioned facts, grounds and circumstances, the respondent herein prays for:

1. That Setting aside the findings/ reports / observations of the Joint Inspection Committee dated 03.12.2021 which is submitted before the Hon'ble Tribunal
2. That to take cognizance of the replies filed to the UPPCB and Nodal Officer, Ground Water Web Portal and ordering them to cancel the fine levied on us.
3. That if deemed fit, an Amicus Curie(s) may to be appointed by the Hon'ble Tribunal for re-verification and re-validation along with the same team or any other team which this Hon'ble Tribunal may constitute.
4. That if deemed fit, Ministry of Tourism, Government of India and Department of Tourism, Uttar Pradesh may be included as Respondents in this case OA 438/2018

5. That if deemed fit, one representative from the Central Tourism Department and UP State Tourism Department may also be included in the Joint Inspection Committee.
6. To pass any such order that this Hon'ble Tribunal may deem fit in the interest of justice.

New Delhi

Dated: 11.10.2023

For Vaishali Hotel & Resorts

 Partner

Respondent No. 51

For Royal Park Hospitality Pvt. Ltd

 (Director)

Respondent No. 53

For G ENTERPRISES

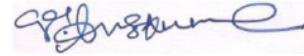
 Partner

Respondent No. 104
 (Through Counsel)

Filed by-



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 (D/4583/2016)



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Counsels for the Respondent No.51, 53, 104

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M. No. +91 – 9210248080

Email: aplegalchambers@gmail.com

Annexure R – 1 Date wise details of inspection report**1. Date: 11.11.2021 & Total Respondents visited: 11 Units**

| Resp No | Date of inspection | Remarks | NOC |
|----------------|---------------------------|----------------|------------|
| 5 | 11/11/2021 | | No |
| 14 | 11/11/2021 | | No |
| 25 | 11/11/2021 | Same as 27 | No |
| 27 | 11/11/2021 | Same as 25 | No |
| 35 | 11/11/2021 | | No |
| 43 | 11/11/2021 | | No |
| 44 | 11/11/2021 | | No |
| 45 | 11/11/2021 | | No |
| 47 | 11/11/2021 | | No |
| 67 | 11/11/2021 | | No |
| 101 | 11/11/2021 | | No |

2. Date: 12.11.2021 & Total Respondents visited: 23 Units

| Resp No | Date of inspection | Remarks | NOC |
|----------------|---------------------------|----------------|------------|
| 8 | 12/11/2021 | Same as 97 | No |
| 9 | 12/11/2021 | Same as 96 | No |
| 13 | 12/11/2021 | | No |
| 15 | 12/11/2021 | | No |
| 21 | 12/11/2021 | | No |
| 28 | 12/11/2021 | | No |
| 29 | 12/11/2021 | | No |
| 34 | 12/11/2021 | | - |
| 36 | 12/11/2021 | | No |
| 42 | 12/11/2021 | | No |
| 46 | 12/11/2021 | | No |

| | | | |
|-----|------------|------------|-------------------------------|
| 51 | 12/11/2021 | | No |
| 76 | 12/11/2021 | Same as 94 | No |
| 87 | 12/11/2021 | | No |
| 88 | 12/11/2021 | | No |
| 92 | 12/11/2021 | | - |
| 94 | 12/11/2021 | Same as 76 | No |
| 96 | 12/11/2021 | Same as 9 | No |
| 97 | 12/11/2021 | Same as 8 | No |
| 99 | 12/11/2021 | | No |
| 100 | 12/11/2021 | | Yes/Applied for renewal ofNOC |
| 110 | 12/11/2021 | | No |
| 112 | 12/11/2021 | | No |

3. Date: **13.11.2021** & Total Respondents visited: **17 Units**

| Resp No | Date of inspection | Remarks | NOC |
|----------------|---------------------------|----------------|------------|
| 17 | 13/11/2021 | | No |
| 24 | 13/11/2021 | | No |
| 30 | 13/11/2021 | | No |
| 37 | 13/11/2021 | | No |
| 40 | 13/11/2021 | | No |
| 53 | 13/11/2021 | | No |
| 56 | 13/11/2021 | | No |
| 79 | 13/11/2021 | | No |
| 85 | 13/11/2021 | | No |
| 104 | 13/11/2021 | | No |
| 105 | 13/11/2021 | | No |
| 109 | 13/11/2021 | | No |
| 113 | 13/11/2021 | | No |

| | | | |
|-----|------------|--|----|
| 117 | 13/11/2021 | | No |
| 120 | 13/11/2021 | | No |
| 122 | 13/11/2021 | | No |
| 124 | 13/11/2021 | | No |

4. Date: **14.11.2021** & Total Respondents visited: **18 Units**

| Resp No | Date of inspection | Remarks | NOC |
|---------|--------------------|------------|-----------------|
| 10 | 14/11/2021 | | No |
| 11 | 14/11/2021 | Same as 91 | No |
| 16 | 14/11/2021 | | No |
| 32 | 14/11/2021 | | No |
| 49 | 14/11/2021 | | No |
| 58 | 14/11/2021 | | No |
| 59 | 14/11/2021 | | No |
| 63 | 14/11/2021 | | No |
| 80 | 14/11/2021 | | No |
| 90 | 14/11/2021 | | No |
| 91 | 14/11/2021 | Same as 11 | No |
| 95 | 14/11/2021 | | No |
| 103 | 14/11/2021 | | No |
| 106 | 14/11/2021 | | No |
| 107 | 14/11/2021 | | No |
| 111 | 14/11/2021 | | No |
| 121 | 14/11/2021 | | No |
| 126 | 14/11/2021 | | Applied for NOC |

5. Date: **15.11.2021** & Total Respondents visited: **26 Units**

| Resp No | Date of inspection | Remarks | NOC |
|---------|--------------------|---------|-----|
| 7 | 15/11/2021 | | No |

| | | | |
|-----|------------|------------|----|
| 18 | 15/11/2021 | | No |
| 20 | 15/11/2021 | | No |
| 22 | 15/11/2021 | | No |
| 23 | 15/11/2021 | Same as 66 | No |
| 31 | 15/11/2021 | | No |
| 33 | 15/11/2021 | | No |
| 38 | 15/11/2021 | Same as 64 | No |
| 41 | 15/11/2021 | | No |
| 52 | 15/11/2021 | | No |
| 55 | 15/11/2021 | | No |
| 60 | 15/11/2021 | | No |
| 62 | 15/11/2021 | | No |
| 64 | 15/11/2021 | Same as 38 | No |
| 66 | 15/11/2021 | Same as 23 | No |
| 69 | 15/11/2021 | | No |
| 71 | 15/11/2021 | | No |
| 72 | 15/11/2021 | | No |
| 75 | 15/11/2021 | | No |
| 77 | 15/11/2021 | | No |
| 83 | 15/11/2021 | | No |
| 84 | 15/11/2021 | Same as 96 | No |
| 86 | 15/11/2021 | | No |
| 93 | 15/11/2021 | | No |
| 98 | 15/11/2021 | Same as 84 | No |
| 116 | 15/11/2021 | | No |

6. Date: **16.11.2021** & Total Respondents visited: **26 Units**

| Resp No | Date of inspection | Remarks | NOC |
|---------|--------------------|---------|-----|
| 12 | 16/11/2021 | | No |

| | | | |
|-----|------------|--|----|
| 19 | 16/11/2021 | | No |
| 26 | 16/11/2021 | | No |
| 39 | 16/11/2021 | | No |
| 48 | 16/11/2021 | | No |
| 50 | 16/11/2021 | | No |
| 54 | 16/11/2021 | | No |
| 57 | 16/11/2021 | | No |
| 61 | 16/11/2021 | | No |
| 65 | 16/11/2021 | | No |
| 68 | 16/11/2021 | | No |
| 70 | 16/11/2021 | | No |
| 73 | 16/11/2021 | | No |
| 74 | 16/11/2021 | | No |
| 78 | 16/11/2021 | | No |
| 81 | 16/11/2021 | | No |
| 82 | 16/11/2021 | | No |
| 89 | 16/11/2021 | | No |
| 102 | 16/11/2021 | | No |
| 108 | 16/11/2021 | | No |
| 114 | 16/11/2021 | | No |
| 115 | 16/11/2021 | | No |
| 118 | 16/11/2021 | | No |
| 119 | 16/11/2021 | | No |
| 123 | 16/11/2021 | | No |
| 125 | 16/11/2021 | | No |

Annexure R -2 Classification of the answering respondent

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| Sl No | Details | Particulars | Particulars | Particulars |
|-------|--|---|---|--|
| 1 | Respondent No | 51 | 104 | 53 |
| 2 | Respondent Name | Vaishali Inn | Royal Park Hotels & Resorts | Le Crescent |
| 3 | Respondent Address | 339A, Sector 4, Vaishali, Ghaziabad-201010 | Shakti Khand -1/209, Indirapuram, Ghaziabad-201010 | Plot No-14A, Mall road, Near DPS School old building, Ahinsa Khand-2, Indirapuram, Opposite Cloud 9, Ghaziabad |
| 4 | Year of Establishment | 2010 | 2010 | 2019 |
| 5 | Category | A | A | C |
| 6 | Date of Inspection | 12/11/2021 | 13/11/2021 | 13/11/2021 |
| 7 | Category Explanation | Respondent units which are being supplied water inadequately or completely by Nagar Nigam and still tubewell(s) exist in their premises. | Respondent units which are being supplied water inadequately or completely by Nagar Nigam and still tubewell(s) exist in their premises. | Respondents units which are not being supplied water by the Nagar Nigam and are only using tubewell(s) |
| 8 | No of Tubewells reported in the JIC | 2 | 1 | 1 |
| 9 | Observation of the committee members during the inspection | The representative of hotel was informed that water supply of the hotel is being fulfilled by Ghaziabad Nagar Nigam through Ganga Jal Water. One energized and one unenergized tubewells were found back side of hotel, while the location of the tube wells was avoided by showing the hotel's workers as per direction of owner | The representative of hotel, Shri Sukhbir Yadav was informed that water supply of the of hotel is being fulfilled by Ghaziabad Nagar Nigam through Ganga Jal Water which is not adequate quantity for hotel. One energized tube well was found for water supply of hotel. | The representative of hotel Shri Uttam Sinha informed that, no Ganga Jal water supplied by Ghaziabad Nagar Nigam, thereby the water supply of the hotel is being done through one tube well |
| 10 | Whether respondent accepts the existence of tubewell in their premises | Yes, respectfully agrees with qualified submissions | No, respectfully refutes the observations completely | Yes, respectfully agrees with qualified submissions |
| 11 | Reasons for qualification | One tubewell structure exists, another structure is for the building's earthing wires for electricity | No structure exists. Never had tubewell installed in the premises | One tubewell structure exists |
| 12 | Whether tubewell is in operation | No | Not Applicable | No |
| 13 | When was it in operation | During the construction of the hotel | Not Applicable | During the time of purchase of the hotel exactly from September 2019 to Mar 2020 and from August 2021 to March 2023 |



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AP Legal Chambers <alegalchambers@gmail.com>

Service of Reply - OA No 438 of 2018: NGT PB New Delhi

1 message

AP Legal Chambers <alegalchambers@gmail.com>

Wed, Oct 11, 2023 at 12:45 AM

To: "artikashyap2k18@gmail.com" <artikashyap2k18@gmail.com>, cgwa@nic.in, dmgha@nic.in, "gdagzb@gmail.com" <gdagzb@gmail.com>, "jmdnagarupjn@gmail.com" <jmdnagarupjn@gmail.com>, secgda@gmail.com

Bcc: ADITYA TYAGI <advadityatyagi@gmail.com>, advkamalpal@gmail.com

Dear All,

Please find the enclosed copy of the joint reply filed by and on behalf of Respondent Nos 51, 53, 104 in the captioned matter.

Thanks and Regards,
Adv. Anand Kumar V
91 - 8939605801

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Thanks and with warm regards,

Team APLC
New Delhi**Disclaimer/Confidentiality:**

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 **Joint reply by Repondent Nos 51,53,104.pdf**
2797K