

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH AT NEW DELHI**

ORIGINAL APPLICATION NO. 620 OF 2024

IN THE MATTER OF:

Bashir Ahmed Bhat & Ors.

...Applicants

VERSUS

National Highways Authority of India & Ors.

...Respondents

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FILED BY

Date: 13.12.2025

Place: New Delhi





**[PALLVI HOODA, SHIV BHATNAGAR,
YUVRAJ NANDAL]**

**[D/2759/2020, D/14855/2023,
D/3096/2024]**

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**OBJECTIONS ON BEHALF OF RESPONDENT NO. 2, NKC PROJECTS
PVT. LTD.*****(In terms of the directions of this Hon'ble Tribunal dated 04.11.2025)***

MOST RESPECTFULLY SHOWETH:

1. INTRODUCTORY / PRELIMINARY

1.1 These objections are filed by Respondent No. 2, NKC Projects Pvt. Ltd. ("NKC") to the Report of the Chief Horticulture Officer, Budgam, dated 22.10.2025 (Annexure A-4) which the Applicants have placed on record. The present objections are filed in continuation of the replies already filed on behalf of the Respondent and in compliance with the directions of this Hon'ble Tribunal dated 04.11.2025.

A copy of the rejoinder and Annexures as placed on record by the Applicants is available on the file.

1.2 At the outset, it is submitted that the Horticulture Report is factually erroneous, procedurally flawed, speculative in its conclusions, beyond the expertise of the reporting officers, and suffers from patent perversity and bias. The Report is therefore liable to be rejected in toto.

2. **BRIEF FACTS**

- 2.1 The Applicants allege environmental damage, inter alia water-logging and dust pollution, to their orchards in and around Village Wathoora, Budgam, consequent to the construction of the Srinagar Ring Road.
- 2.2 The Horticulture Department carried out an initial inspection on 02.09.2024 and recorded that ***no damage had been caused to any existing orchard due to the floods of April 2024***. This earlier finding is on record and is a material contemporaneous observation.
- 2.3 Thereafter, a further site inspection was carried out on 11.10.2025, following which the Horticulture Report of 22.10.2025 was prepared. This later report advances ***different observations and speculative conclusions regarding possible future damage***.

3. **GROUND OF OBJECTION**

Earlier contemporaneous findings preclude the later contrary conclusion:

- 3.1 The Horticulture Department's inspection dated ***02.09.2024*** is a contemporaneous report carried out within a reasonable time of the alleged April 2024 event and explicitly recorded ***no damage*** to existing orchards. The present report, having been prepared more than a year after the alleged incident, cannot supersede or override or dilute the earlier contemporaneous findings in the absence of a cogent explanation or substantive supporting evidence.
- 3.2 It is pertinent to mention here that fruit trees (like apple, plum, pear, etc.) manifest visible and persistent effects if severely affected by waterlogging or flood damage, such effects are not ephemeral and ***could not have been missed in the September 2024 inspection*** if they had in fact occurred in April 2024. The absence of any documented damage gives rise to a presumption in favour of the

Respondents that no damage, as alleged, resulted from the purported April 2024 event.

Temporal disconnect and irrelevance of belated inspection:

- 3.3 The inspection conducted on 11.10.2025 is temporally remote from the alleged incident of April 2024. Any attempt to attribute causation or assess an event that supposedly occurred more than eighteen months earlier, on the basis of current conditions, is retrospective, speculative, and inherently unreliable.
- 3.4 The Horticulture Report does not demonstrate any contemporaneous evidence tying the present drainage configuration or compaction to the April 2024 flood event. The Report therefore lacks the necessary causal nexus between the alleged historical event and the present observations. Furthermore, the drainage system referred to in the second report was not in existence at the time of the alleged April 2024 event.

Lack of participation; breach of principles of natural justice; one-sided inspection:

- 3.5 It is an elementary principle of natural justice that affected parties must be given an opportunity to participate in fact-finding exercises which may lead to adverse conclusions against them. The October 2025 inspection was carried out in the presence of the orchardist alone, without the participation or even notice to NHAI and NKC who are the other interested parties. The Report, therefore, suffers from procedural bias.
- 3.6 The failure to involve NKC and NHAI at the inspection renders the process one-sided and the resulting conclusions inadmissible in judicial or quasi-judicial proceedings. The Hon'ble Tribunal has consistently held that reports prepared after inspections in which interested parties were excluded cannot be relied upon. The Report must be rejected for violation of natural justice.

Speculative and prospective appraisal, not a finding of present damage:

- 3.7 The Horticulture Report principally expresses concerns about the “*likelihood*” of future damage and recommends remedial drainage works to prevent prospective waterlogging. Mere apprehension of potential future harm, absent present injury, does not establish actionable environmental damage or liability against NKC.
- 3.8 Relief or directions against Respondents must be predicated upon established past injury (April 2024) causally attributable to the Respondents’ acts or omissions. A hypothetical or contingent future possibility is an insufficient basis for punishment or compensation.

Exceeding domain of expertise; inadmissible technical conclusions:

- 3.9 The Horticulture officers are experts in agronomy, horticulture and plant health. The Report, however, expresses technical opinions on engineering matters like ***drainage design, compaction due to heavy machinery, alignment and structural adequacy of drains***, which lie within the domain of civil/structural engineering and PWD/engineering agencies.
- 3.10 When a report transcends the competency of the reporting authority, the correct course is to refer such technical aspects to the competent engineering authority or to a neutral expert. The Horticulture Report’s engineering conclusions are therefore ultra vires, unreliable and inadmissible as conclusive evidence of engineering defect or causation.

NKC acts under the direction, approval and supervision of NHAI; no independent liability:

- 3.11 NKC’s functions and on-site works are undertaken strictly in compliance with the contractual mandate, technical specifications, standards, and directions and approvals issued by the National Highways Authority of India (NHAI), along with prevailing standard industry practices. At every relevant stage, works executed by NKC are approved by NHAI officers and the Project Director/Engineer-in-Charge exercises supervision and oversight.

- 3.12 Any observations concerning drainage design parameters, engineering considerations or systemic planning aspects are matters falling within the purview of the competent technical authorities, including NHAI, which is the designated implementing and supervisory body for the project. Respondent No. 2, NKC, having merely executed the works as per the sanctioned designs and directions issued by NHAI, may not appropriately be subjected to adverse findings for actions undertaken under such approved mandate and oversight.

4. ADDITIONAL SUBMISSIONS

4.1 **Material on Record Favors Respondents**

The record (including the J&K Pollution Control Committee report and the Horticulture report of 02.09.2024) acknowledges that the course of the local nallah was earlier diverted for bridge construction and was later restored; it also records air quality concerns attributable to dust from unmetalled roads. Such material demonstrates multi-causal factors including natural events, interim diversions and general dust which are not exclusively attributable to NKC.

4.2 **EIA/EMP Compliance and Non-Attribution**

The preparation, approval, and implementation of the EIA/EMP fall exclusively within the domain and authority of NHAI. Accordingly, Respondent No. 2, NKC, has no role or involvement in this regard.

4.3 **Objections to Mischaracterisation of Drainage Flow and Erroneous Technical Observations in the Report Dated 11.10.2025**

Without prejudice to its rights and without admitting any part of the second report, Respondent No. 2 submits that M/s NKC Projects Pvt. Ltd. strongly objects to the observations recorded in the Report of the Horticulture Development Officer, Chadoora, and the DLSMS (Entomology) dated 11.10.2025, wherein it is alleged that the drains constructed along the Ring Road highway have been directed towards the adjoining plum and apple orchards. These allegations are wholly false, misconceived, and factually incorrect. The said orchards are

located at Ch. 9+800 (LHS) of the Project Highway, which is presently under construction. The chute drains at this location have been executed strictly in accordance with the approved Plan & Profile drawings and chute drain design drawings, which unequivocally establish that the drainage system is engineered to convey surface runoff vertically downwards towards the designated Energy Dissipation Basins, which are further connected to the linear drain for safe discharge into the nearest natural outlet/nallah. This reflects the standard engineering methodology uniformly followed across National Highway projects. At no stage is the runoff designed, intended, or permitted to be directed towards adjoining orchard lands. The allegation that runoff is being diverted onto the orchards is therefore contrary to approved engineering design, unsupported by any technical material, and stems from a fundamental misunderstanding of the project's drainage system.

True copy of the drawing layout of the draining system is annexed herewith and marked as **ANNEXURE A-1**

4.4 **Conclusion**

It is further submitted that the inspection dated 11.10.2025, which forms the basis of the impugned observations, was conducted without the participation of any qualified engineering expert and without notice to NHAI or Respondent No. 2. The conclusions drawn therein therefore suffer from unilateral assessment, incomplete technical appreciation, and lack of competent engineering evaluation. The Respondent No. 2 accordingly rejects the said observations as premature, inaccurate, and unsustainable, and submits that the conclusions relating to drainage alignment, flow direction, or alleged discharge towards orchards are unreliable and cannot form the basis of any adverse inference.

PRAYER

In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- I. Reject the Horticulture Report dated 22.10.2025 (Annexure A-4) as it is unreliable and cannot form the basis of any adverse order against Respondent No. 2.
- II. Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the interests of justice.

AND FOR THIS ACT OF KINDNESS, THE RESPONDENTS AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY



**[PALLVI HOODA, SHIV BHATNAGAR,
YUVRAJ NANDAL]**

**[D/2759/2020, D/14855/2023,
D/3096/2024]**

**Advocates for the Petitioners
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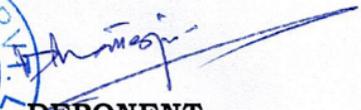
IN THE MATTER OF :

BASHIR AHMED BHAT & ORS. ...PETITIONER
VERSUS
NATIONAL HIGHWAY AUTHORITY ...RESPONDENTS
OF INDIA & ORS.

AFFIDAVIT

I, Subhash Chandra Chatterjee, S/o. Late S.K. Chatterjee, aged 76 years, R/o. M-52, Ground Floor, Chittaranjan Park, New Delhi-110019, do hereby solemnly affirm and state as under:-

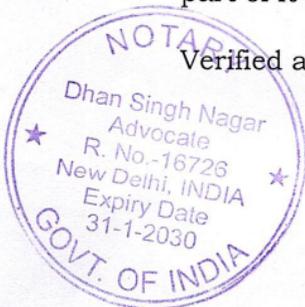
1. That I am the authorized signatory on behalf of the Respondent Company in the above captioned matter and as such am well conversant with the facts and circumstances of the case.
2. That the contents of the Objections on behalf of Respondent No.2 are true and correct to the best of my knowledge, belief and nothing material information has been concealed therefrom.
3. That the Annexures produced alongwith the reply are true copies of their respective originals.


DEPONENT


VERIFICATION

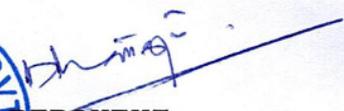
I, the above named deponent do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, belief. No part of it is false nothing material has been concealed therein.

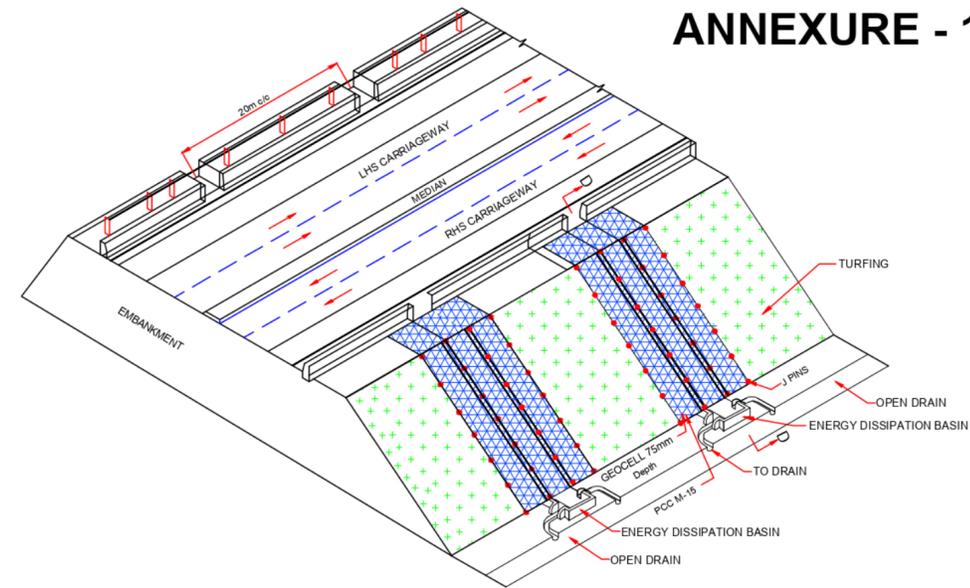
Verified at New Delhi on this ___ day of December, 2025.



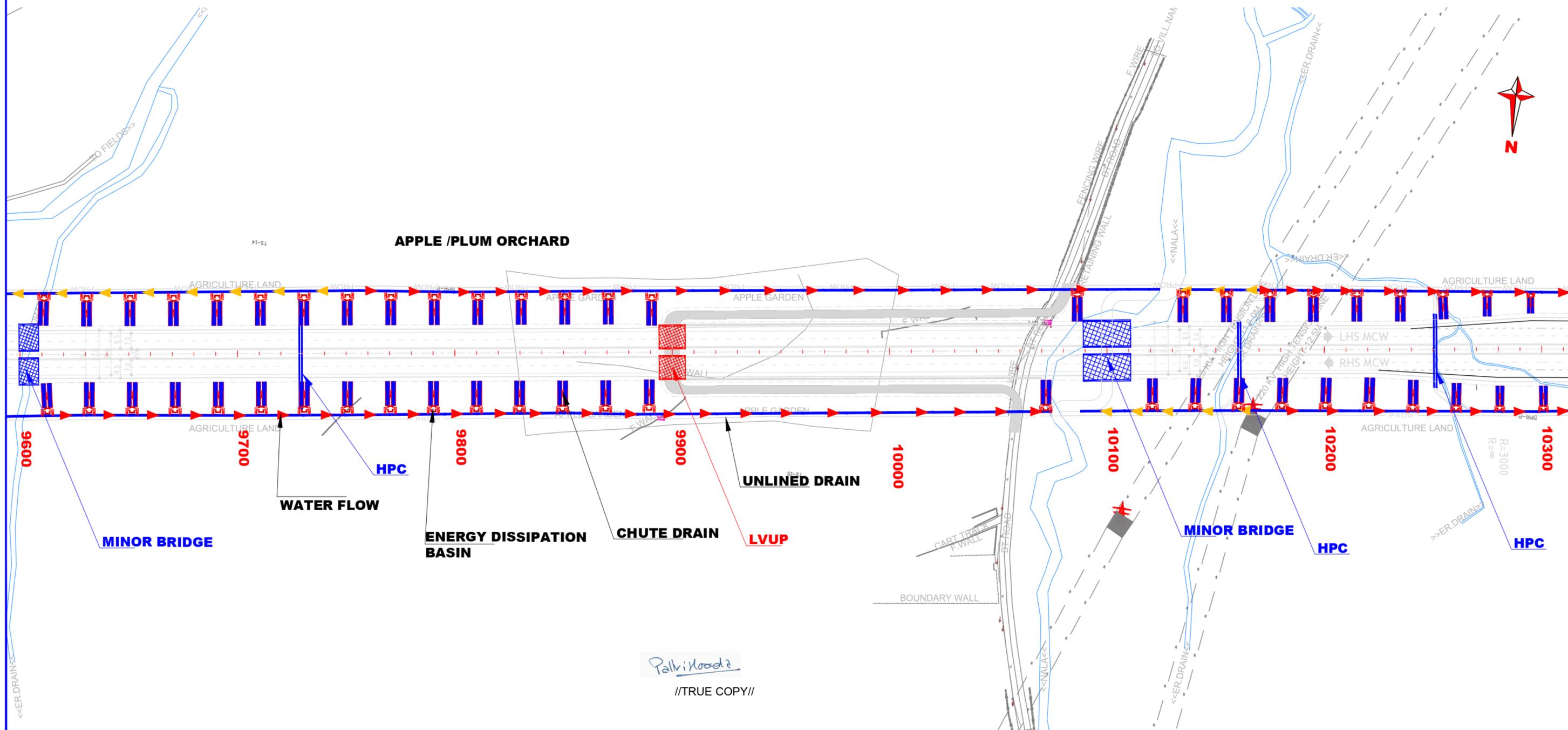
ATTESTED
NOTARY PUBLIC
DELHI

09 DEC 2025


DEPONENT

AERIAL VIEW OF CHUTE AND DISSIPATION BASIN





Vijay Kumar <vijay3312@gmail.com>

Objection on behalf NKC Projects In a matter of O A No. 620/2024, Bashir Ahmed Bhat & Ors. Vs. NHAI & Ors,

1 message

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Sat, Dec 13, 2025 at 4:22 PM

To: rajesh@singhania.in, membersecy.pcb@jk.gov.in, filing.bpl-ngt@gov.in, Consultant Judicial <judicial-ngt@gov.in>, saurabh.envirolawyer@gmail.com, madhu@singhania.in, cs-jandk@nic.in

Objection on behalf of NKC Projects. In a matter of O A No. 620/2024, Bashir Ahmed Bhat & Ors. Vs. NHAI & Ors,
This is for your kind information and necessary action please.

warm regards

VIJAY KUMAR

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