

**BEFORE THE NATIONAL GREEN TRIBUNAL**

PRINCIPAL BENCH, NEW DELHI

APPEAL NO. 17 OF 2021

(Under Section 16 (h) of the National Green Tribunal Act, 2010)

**IN THE MATTER OF:**

University Of Delhi

...Appellant

Versus

Ministry Of Environment, Forest

And Climate Change &amp; Ors.

...Respondents

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NDoH: 15.03.2022

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Place: New Delhi

Date: 14.03.2022

DRAWN &amp; FILED BY:



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**REJOINDER AFFIDAVIT ON BEHALF OF THE APPELLANT IN****RESPONSE TO THE REPLY FILED BY THE RESPONDENT NO. 1****(MINISTRY OF ENVIRONMENT FOREST & CLIMATE CHANGE).****PRELIMINARY SUBMISSIONS:**

1. That the present Rejoinder is being submitted towards the Reply dated 18.01.2022 filed by the Respondent No. 1 – Ministry of Environment Forest & Climate Change by the Appellant.
2. That at the outset it is submitted that the said Reply of Respondent No. 1 only comprises of reiteration of facts however no explanation/ submission/ clarification has been provided by the Respondent No. 1 towards the objections/shortcomings/discrepancies highlighted by the Appellant in the present Appeal against the issuance of the impugned Environment Clearance (EC) dated 21.05.2021 issued by them.
3. That in this regard it is submitted that the Appellant has raised several points which shows that the impugned EC has been granted without application of mind on the potential impact that the said project will have on the environment of the area and therefore the same is liable to be set aside.

4. That such point includes the fact that project is within Zone C-13 of the Zonal Development Plan of Zone C called Delhi University Area wherein there is a restriction on tall buildings imposed in accordance with clause 11.3 of the Master Plan of Delhi 2021 and therefore the said project cannot be established in the said site which had now increased from S+G+37 Floors to 2 basement + 43 floors.
5. That further, it has also been raised that the observations made by this Hon'ble Tribunal towards the said project under the order dated 27.02.2020 of this Hon'ble Tribunal passed in Appeal No. 112/2018 has not been given due attention while appraising the said project. That under the said case, the present Appellant had filed an Appeal against the EC dated 23.03.2018 granted earlier by the SEIAA Delhi towards the said project. That under the said order the importance of Northern Ridge has been noted and the requirement of permission from Ridge Management Board for nearby projects has been made. It was also directed to undertake the carrying capacity of the area in question. That it is pertinent to mention that under the said order, after making detailed examination of the submissions made towards the said project, this Hon'ble Tribunal had concluded that said EC has been granted without application of mind and prima facie found the project to be not viable. That the said case was subsequently disposed of by this Hon'ble Tribunal as the said impugned EC dated 23.03.2018 was withdrawn by the Respondent No. 2 herein. However, the observations made by this Hon'ble Tribunal under the order dated 27.02.2020 remained valid which ought to have been considered thoroughly while appraising the project on the subsequent application for EC made by Respondent No. 2 – M/s YBPL.

6. Further, the Respondent No. 1 has also failed to provide any explanation as to how the EC application was processed without issuance of Term of Reference (ToR), preparation of EIA Report and appraisal thereof as required for the said project which is a category B project and not category B2 project under the Schedule to the EIA Notification 2006. That it is reiterated that vide notification dated 17.02.2020, all Building and Construction projects requires to undergo the step of scoping for determination of ToR which has not been followed prior to granting the impugned EC dated 21.05.2021.
7. That the Respondent No. 1 has also failed to provide any explanation as to why has the recommendation of the Committee constituted by this Hon'ble Tribunal vide order dated 27.02.2020 under its report dated 10.12.2020 for having a single basement rather than two has been accepted on a basis of a superficial explanation provided by Respondent No. 2 – M/s Young Builders Pvt. Ltd. (M/s YBPL) vide its response dated 22.03.2021. That in this regard it is submitted that the Respondent No. 2 – M/s Young Builder Pvt. Ltd. had given its response dated 22.03.2021 giving an explanation in this regard that there are many projects which involves construction below the ground water levels and therefore restriction of project to only one basement is not required. Further, no explanation has been provided on the impact of two basement on the ground water. That it is pertinent to mention that the said recommendation was provided by the Joint Committee inconsideration of the specific site of the project which is at an elevated land between Najafgarh Drain and River Yamuna and the said area is also a Ground Water Discharge Zone. That the content of paragraphs 24(c) to 24(e) of the Appeal 20.08.2021 are reiterated in this regard. That without adequate consideration of the same the Respondent No. 1 has simply accepted the superficial explanation provided by the Respondent No. 2 and has granted the impugned EC without further

investigation on the same. That the same again shows the non-application of mind by the MoEF&CC in this regard.

8. Further, it is pertinent to mention that that the Respondent No. 2 – M/s Young Builders Pvt. Ltd under its Form 1A for application for EC and its response dated 22.03.2021 to the queries raised by EAC has relied on various observations made by the Joint Committee under its report dated 10.12.2020. However, no heed has been given to the objections/contentions raised by the Appellant against the said report submitted vide the Objection/Written Submission dated 15.01.2021 even though the same was noted by this Hon'ble Tribunal under its final order dated 20.01.2021. For instance, the observations on the traffic study done by the Joint Committee has been relied upon by the Respondent No 2 under its Form 1A, however the objection to the said observations on the Appellant made in the Objection/Written Submission dated 15.01.2021 has not been considered by the Respondent No. 1 – MoEF&CC. Similarly, there are many other observations of the Joint Committee Report dated 10.12.2020 which has been relied upon by the Respondent No. 2 - M/s YBPL and the same has been accepted without considering the objections raised by the Appellant herein against the same.
9. Further, no explanation/clarification has been provided by the Respondent No. 1 – MoEF&CC towards various environmental concerns raised by the Appellant under the Appeal against the project of Respondent No. 2- M/s YBPL. That these includes underestimation of water requirement submitted by Respondent No. 2; no clarity provided on the use of ground water; OM dated 23.05.2019 not considered for considering issue on extraction of groundwater; impact of northern ridge; no carrying capacity conducted of the area; restriction on the height of building in the zone in question; traffic analysis made by Joint

Committee has various discrepancies and cannot be relied upon; two approach roads are narrower than what has been considered; Chattra Marg is accident prone and the project increase risk for disabled community using the roads; older traffic report, Geotechnical report considered which was for project of a smaller size; Ambient Air Quality is already beyond the permissible norms; the zone is a silent zone under Noise Pollution Rules 2010 which has not considered; impact of the tall building on the privacy and integrity of female students living in hostels adjacent to the proposed project not considered among others.

**PARA-WISE REJOINDER:**

10. That the corresponding Para 1 to 10 are reiteration of facts and requires no response. However with regard to the submission that the project in question is a category B project shows that as per EIA Amendment Notification dated 17.02.2020, the said project was required to undergo the step of Scoping which has not been followed in the present case and no explanation has been provided by the MoEF&CC in this regard.
11. That in response of the content Para 11, it is submitted that the conclusion made in the Joint Committee report titled “Rapid Indicative Environment”, finding the project to be viable cannot be relied upon as there are various discrepancies which were found by the Appellant towards the said report which were submitted by the Appellant under its Objections/Written Submission dated 15.01.2021 filed in Appeal no. 112/2018 and which were also noted by this Hon’ble Tribunal under its final order 20.01.2021 before disposing of the matter. However, the Respondent No. 1 – MoEF&&CC has failed to consider the said discrepancies brought forth by the Appellant towards

the said report even though the same has been relied upon by the Respondent No. 2 – M/s YBPL in its application for the impugned EC.

12. That in response to the content of Para 12, it is submitted that even though the EAC had sought the clarification on the 2 basements in view of recommendation of the Joint Committee of having only one, however, the superficial explanation of Respondent No. 2 – M/s YBPL in this regard was simply accepted without any application of mind as explained above. Further, with regards to the point-wise replies to the representation of the Appellant, given by the Respondent No. 2 – M/s YBPL, it is submitted that the replies provided are not sufficient on the points raised and no further opportunity was granted to the Appellant for rebuttal of the said replies provided by the Respondent No. 2 – M/s YBPL. For instance, with regards to the objection raised that the said project in falling within an area wherein tall buildings have been restricted, it has been submitted that there are a number of high rise buildings existing in the vicinity and the names of them have been provided, however none of those buildings listed is within Zone C-13 wherein there is a restriction of height as per Zonal development Plan of Zone C read with Master Development Plan 2021 of NCT Delhi. Further, with regards to traffic analysis, reliance has been made on the observations of the Joint Committee report dated 10.12.2020 however no consideration of the discrepancies raised by the Appellant under its Objection/Written Submission dated 15.01.2021 on the same has been considered before accepting the submissions made therein. Further, even though it has been stated that no groundwater will be used for the project, however, it is clear from the information provided that dewatering of groundwater will be done for construction of the proposed basements and it has not been clarified as to how the said water will be used. Further no clearance from Central Ground Water Authority has been obtained till date.

13. That in response to contents of Para 13 – 15, it is submitted that the impugned EC dated 21.05.2021 has been granted without due application of mind and the project in question is not viable as was rightly concluded by this Hon'ble Tribunal under its order dated 27.02.2020. That the Respondent No. 1 has issued the same without thoroughly considering the submissions made by the Appellant under its representation dated 02.03.2021 and the written submission/objection dated 15.01.2021 filed against the report dated 10.12.2020 of the Joint Committee, the order dated 27.02.2020 and final order dated 20.01.2021 passed in Appeal No. 112/2018 as already elaborated above.
14. That the contents of Para 16-17 require no response.

In view of the above, the prayers made in the Appeal before this Hon'ble Tribunal are reiterated.

Place: New Delhi

Date: 14.03.2022

DRAWN & FILED BY:



Sanjay Upadhyay, Salik Shafique, Anurag Ojha,

Rohan Chawala & Saumitra Jaiswal

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

**(UNDER SECTION 16(h) OF THE NATIONAL GREEN TRIBUNAL 2010)**

**APPEAL NO. 17 of 2021**

**IN THE MATTER OF:**

University of Delhi .....Applicant

Versus

Ministry of Environment Forest & Climate Change & Ors. ....Respondent

**AFFIDAVIT**

I, Dr. Vikas Gupta S/o Late I.J. Gupta, aged about 53 years, Registrar, University of Delhi – Delhi – 110007 do hereby solemnly state and affirm on oath as under:

1. That I am the Registrar, University of Delhi – the appellant herein and am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying rejoinder are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.

**Verification:**

Verified at Delhi on this \_\_\_\_ day of \_\_\_\_ 2022 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.

*Mukul*  
**DEPONENT**  
विश्वविद्यालय  
University of Delhi  
दिल्ली-110007/Delhi-110007

[ 9 MAR 2022

*Mukul*  
**DEPONENT**  
Registrar  
विश्वविद्यालय  
University of Delhi  
दिल्ली-110007/Delhi-110007



Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted

It is correct

*[Signature]*  
Notary, DELHI

[ 9 MAR 2022



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**Service of Rejoinder of Appellant (University of Delhi) to Reply dated 18.02.2022 of Respondent No. 1 - Ministry of Environment Forest & Climate Change**

1 message

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**ELDF** <eldflegal@gmail.com>

Mon, Mar 14, 2022 at 2:50 PM

To: "adv.kumarrajeshsingh@gmail.com" &lt;adv.kumarrajeshsingh@gmail.com&gt;, "mail@aglaw.in" &lt;mail@aglaw.in&gt;

Cc: salik shafique &lt;salik@eldfindia.com&gt;, Saumitra Jaiswal &lt;SAUMITRA@eldfindia.com&gt;

Dear Sir,

I am writing on behalf and under the instructions of Mr. Sanjay Upadhyay, - the Counsel for the Appellant in Appeal No. 17 of 2021 titled - University of Delhi Vs MoEF&CC & Ors.

Please find attached the Rejoinder on behalf of Appellant (University of Delhi) to the Reply dated 18.02.2022 of Respondent No. 1 - Ministry of Environment Forest & Climate Change filed in Appeal No. 17 of 2021 - University of Delhi Vs MoEF&CC & Ors.

The said Rejoinder is accordingly hereby served.

Warm Regards,

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**Sameer***Enviro Legal Defence Firm**29, Presidential Estate LGF,**Nizamuddin East New Delhi – 110013**Ph. No. 011-40573181*

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 **Rejoinder.pdf**  
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