

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

**ORIGINAL APPLICATION NO. 229 OF 2025**

**IN THE MATTER OF:**

Ghulam Nabi Bhat

...Applicant

Versus

National Highways Authority of India & Ors.

....Respondents

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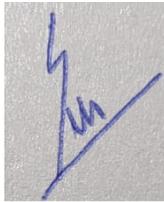
NDOH: 17.12.2025

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PLACE: NEW DELHI

DATED: 15.12.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI  
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**REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLIES  
FILED BY THE RESPONDENTS**

**MOST RESPECTFULLY SHOWETH:-**

1. The present Application has been filed under Section 15 read with 20 of the National Green Tribunal Act, 2010 raising the issue of environmental damage to the Orchards/agricultural field of the Applicant in form of dust pollution and water logging of his high density Apple orchard located at Wathora, Batpora, Tehsil Chadoora, District Budgam, Union territory of J&K which has led to flooding/damaging of approximately 6.5 Kanals ( 3288 Sq. meters) of the said Orchard/ Agricultural field owned by the Applicant by the acts and omissions committed by Respondent Nos. 1 and 2 who are engaged in constructing the Srinagar Ring Road flyover bridge near to the Orchard/Agricultural field of the Applicant.
  
2. All this has led to a severe damage of the apple orchards and crops like oats and mustard. The Applicant also submit that the NHAI was duty bound to get done a thorough Environment Impact Assessment (EIA) done as required under Section 3 (2) (v) of the Environment Protection Act, 1986 read with Rule 5 sub-rule (3) clause (d) of the Environment Protection Rules, 1986. The EIA & EMP got done by the NHAI through it's consultant Louis Berger Consulting Pvt. Ltd. in 2015 is superficial and deficient in taking care of the actual impact on the Environment as is evident from

the facts of the present case. Hence there is violation of the provisions of Environment Protection Act, 1986 read with Rules the Environment Protection Rules, 1986 which is a Schedule I enactment and within the jurisdiction of this Hon'ble Tribunal.

3. That the contents of the Original Application may be read as part and parcel of this Rejoinder and the contents of the said Original Application are not been repeated herein for the sake of brevity. All the contents of the Replies filed by the Respondent NHAI and NKC Projects Pvt Ltd. are denied in toto unless they are specifically admitted herein.
4. The Applicant is filing this Rejoinder to the Reply filed by the Respondents. The following issues have been taken up by the Respondent in the Replies filed by them :-
  - i. There is no Environmental damage at all.
  - ii. There was no dust pollution or water logging
  - iii. There was heavy rainfall in the valley in the month of April due to which the water level had raised upto the danger mark.
  - iv. Because of the heavy rainfall, there was flood like situations due to which the water from the flood channels had seeped to the residential areas leading to landslides and damage to the private properties. Moreover due to landslides, there was damage to several structures in District Budgam with a portion of an interior road, along with two boundary walls being washed away.
  - v. Respondent has adopted sufficient provisions for the cross-water drainage throughout the alignment of Ring Road.
  - vi. It is denied that the Environment Impact Assessment (EIA) and Environmental Mitigation Plan (EMP) study which was

done by the Answering Respondent through its consultant

Louis Berger Consulting Pvt Ltd, is superficial and deficient.

vii. The Applicant is not entitled to compensation as per Section 17 of the NGT Act, 2010.

viii. The Applicant is not entitled to compensation as per the Polluter Pays Principle which forms part of the NGT Act, 2010 as stipulated under Section 20 of the Act as in this case as there was no violation under the Environment Protection Act, 1986 read with Environment Protection Rules, 1986.

5. **In rejoinder to contention Nos. i to viii it is submitted that the same are wrong and denied.** It is reiterated that there has been environmental damage in form of dust pollution and water logging which has led to flooding of the Orchards of the Applicant at village Wathoora, Tehsil, Chadoora in District Budgam in the Union Territory of Jammu and Kashmir. The Environmental damage has occurred due to the construction of Srinagar Ring Road passing through Village Wathoora, Tehsil, Chadoora in District Budgam in the Union Territory of Jammu where the Apple Orchards of the Applicant are situated. As a matter of fact there is no question of damage to the fields of the Applicant due to heavy rains as claimed by the Respondents. This fact also stand proved by the report of the J&K Pollution Control Committee which says at pages 97-99 as under:-

**“5. Regional Director, J&K PCC Kashmir:**

Regional Director, J&K PCC, Kashmir submitted his report vide No. PCC/RDK/LS(NGT)/2025/781-782; dated; 18.06.2025 **(Copy enclosed as Annexure 11)**. Highlights of the report are briefly summarized as under;

- a) The construction of the semi-circular ring road at Batpora Wathoora resulted in physical division of the land, leading

to the accumulation of surface water by obstructing the natural flow of irrigation water that led to persistent water logging in the Orchard of the complainant.

- b) The common drainage point from the complainant was a cross drainage Hume pipes laid previously by Roads and Buildings Department across the Srinagar Wathoora Batpora road that has now got blocked due to construction activity of semi-ring road, resulting in persistent water logging in the Orchard.
- c) The owner of the Orchard was found dewatering the accumulated water from the drain from the side of his Orchard by means of dewatering pump at the time of inspection.

**6. Chief Horticulture Officer, Budgam:**

The Chief Horticulture Officer Budgam submitted his report vide No.CHO/Bud/Dev/2025-26/2552-53; dated: 30.07.2025 (Copy enclosed as Annexure 12). Highlights of the report are briefly summarized as under:-

- a) The said high density Orchard was established during the year 2018 under the scheme PMDP and is spread over an area of 06 kanals.
- b) The entire area where the Orchard has been established is low-lying. However, at the time of establishment of Orchard complete drainage of the water was ensured by the Department to prevent any damage due to water stagnation. Accordingly, the said Orchardist has developed the drainage channels and the threat of water stagnation was effectively addressed.
- c) The Orchard exhibited normal growth and fruit production until 2023, when the drainage system was disrupted due to the construction of a road/flyover by the NHAI, located about 30 feet from the Orchard.
- d) The filling and compaction associated with road construction led to blockage of the Orchard's drainage channels, resulting in complete water stagnation in the Orchard.

- e) Prolonged stagnation of water led to the emergence of root-rot problem, affecting around 300 plants. The remaining Plants are showing stunted growth and are at risk of further damage unless the drainage system is promptly reconstructed or improved.
- f) That due to the construction of the road/flyover approximately 30ft from the Orchard has blocked the drainage channels and compacted soil pores. This has resulted in severe water stagnation, which in turn has damaged the fruit plants in the Orchard.
- g) Further, as regards the extent of damages caused to the Orchard, it has been reported that the Orchard in question is spread over an area of 6 kanals with 955 apple fruit plants of various strains viz. Gala, Red Delicious, Fuji, and Golden and 300 apple plants have completely dried or damaged, corresponding to 30% of the total plantation and out of the remaining 695 plants, the majority show yellowing of leaves and stunted growth due to water stagnation during precipitation, accounting for about 20-25% loss to the plants.

The Divisional Officer, J&K PCC, Budgam has further verified the reply submitted by Chief Horticulture Officer, Budgam and have largely endorsed the report of the Chief Horticulture Officer, Budgam vide No. PCC/DO/Bud/2025/331; dated: 09.09.2025. (copy enclosed as Annex-13)

**Prayer:**

In the premises, it is therefore respectfully prayed that the report may kindly be taken on record before the Hon'ble National Green Tribunal for consideration.

Sd/- 13.9.25  
(Ghansham Singh)  
Member Secretary  
J&K PCC  
13-9-25"

- 6. That it is submitted that the report of J&K Pollution Control Committee dated 13.09.2025 is self-explanatory as the J&K PCC team has admitted that flooding has taken place in the fields of the

Applicant. It is stated that about 50% of the Orchard of the Applicant got adversely affected/damaged due to the acts/omissions and non-implementation of Key Environmental Impacts and Management Measures with respect to drainage in the EIA, which have not been met. This damage has not only incurred financial losses but has also affected the livelihood dependent on the orchard due to the grave negligence of Respondent Nos. 1 and 2. The construction activities have generated excessive dust, which settles on crops, hindering and adversely affecting their growth and yield. Despite the acquisition of a substantial portion of land for the project, the remaining land near the highway sides which comprises of the Orchards/agricultural fields is now facing severe environmental consequences, faced by the Applicant at Wathora, Batpora, District Budgam, Union territory of J&K. The damage has incurred by the dust pollution and waterlogging, especially to apple orchards are substantial and alarming.

7. Therefore, the Applicant relies upon the report of the J&K PCC and re-iterate that there has been environmental damage in form of water logging which has led to flooding of the Orchards of the Applicant at village Wathora, Tehsil, Chadoora in District Budgam in the Union Territory of Jammu and Kashmir. The Environmental damage has occurred due to the construction of Srinagar Ring Road passing through Village Wathora, Tehsil, Chadoora in District Budgam in the Union Territory of Jammu where the Apple Orchards of the Applicants are situated.
8. That the Applicants re-iterate that the NHAI was duty bound to get done a thorough Environment Impact Assessment (EIA) done as required under Section 3 (2) (v) of the Environment Protection Act,

1986 read with Rule 5 sub-rule (3) clause (d) of the Environment Protection Rules, 1986. The EIA & EMP got done by the NHAI through its consultant Louis Berger Consulting Pvt. Ltd. in 2015 is superficial and deficient in taking care of the actual impact on the Environment as is evident from the facts of the present case. Hence there is violation of the provisions of Environment Protection Act, 1986 read with Rules the Environment Protection Rules, 1986. There is poor impact assessment of natural drainage system that has led to massive impact on orchards leading to submergence of Orchard lands and damaging of crops.

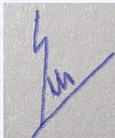
9. It is submitted that this is a clear cut case of liability of NHAI and its contractor NKC Projects Pvt. Ltd to pay compensation to the Applicants and other villagers living in neighboring villages for damage to their Orchards/agricultural fields on the basis of principles of No Fault Liability as per Section 17 of the NGT Act, 2010.
10. The NHAI and its contractor NKC Projects Pvt. Ltd are also duty bound under Section 15 of the NGT Act, 2010 for restoration, restitution and remediation of the Orchards/agricultural fields of the Applicants and other villages/ area in their vicinity to its original state and pay forthwith compensation to the Applicants. As per Section 20 of the NGT Act, 2010 the principle of polluter pays is part of the NGT Act, 2010 and the Applicants rely on the said provision for imposition of a suitable compensation by this Hon'ble Tribunal. Therefore, the prayer in the Original Application may very kindly be allowed in view of the above mentioned facts and circumstances.

11 Any other or further relief may also be granted in favour of the Applicants



**GHULAM NABI BHAT**  
Applicant

THROUGH



**SAURABH SHARMA**

**BIJAY KUMAR**

Advocates

Counsels for the Applicant

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Saket, New Delhi

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(M): 9810983559

VERIFICATION: Verified today on this 12-12-2025 at Srinagar,  
Union Territory of J&K do hereby verify and declare that the facts  
mentioned above are true and correct nothing material has been  
concealed therefrom and no part of it is false.



**GHULAM NABI BHAT**  
Applicant

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

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...Applicant

Versus

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....Respondents

AFFIDAVIT

I, Ghulam Nabi Bhat, aged about 66 years, son of Shri Abdul Satar Bhat, resident of Wathora, Batepora, Tehsil Chadoora, District Budgam, Union Territory of Jammu & Kashmir, do hereby solemnly affirm and declare as under:-

1. That I am the Applicant in the abovementioned Original Application and therefore competent to swear the present Affidavit.
2. That the accompanying Rejoinder has been drafted by my counsel on my instructions and the contents of the same are true and correct to my knowledge.

*[Handwritten Signature]*

DEPONENT

VERIFICATION: Verified today on this 12-12-2025 at Srinagar, Union Territory of J&K do hereby verify and declare that the facts mentioned above are true and correct nothing material has been concealed therefrom and no part of it is false.

Verified that the contents of this affidavit have been declared and solemnly affirmed

before me Notary Public on 12.12.2025

by Sh. Ghulam Nabi Bhat

S/o Abdul Satar

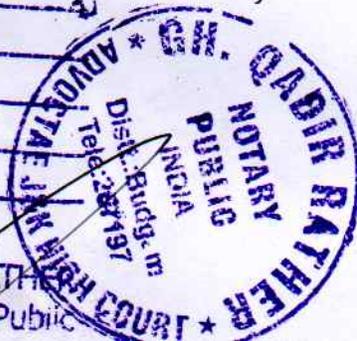
R/o Wathora

Who is identified by self

at Srinagar

*[Handwritten Signature]*

DEPONENT



GH. QADIR RATHER  
Advocate Notary Public

*[Handwritten notes and signatures in the bottom left corner]*





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Saurabh Sharma &lt;saurabh.envirolawyer@gmail.com&gt;

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**Advance service of Rejoinder in OA 229/2025**

1 message

**Saurabh Sharma** <saurabh.envirolawyer@gmail.com>

Mon, Dec 15, 2025 at 3:07 PM

To: Vijay Kumar &lt;vijay3312@gmail.com&gt;, Madhu Sweta &lt;madhu@singhania.in&gt;, membersecy.pcb@jk.gov.in, cs-jandk@nic.in

Dear Sir/s,

Please find attached the advance service of Rejoinder on behalf of the Applicant in OA 229/2025 titled Ghulam Nabi Bhat vs. NHAI & Ors.

Regards

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**Saurabh Sharma**  
**+91 9810983559****Rejoinder.pdf**  
769K