

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 737 OF 2022

I.A NO. 93/ 2023

IN THE MATTER OF:

Amit Aggarwal, ARWS

.....Applicant

Versus

Delhi Development Authority & Ors.

.....Respondents

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Through

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PLACE: DELHI

DATE:

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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 737 OF 2022
I.A NO. 93/ 2023

IN THE MATTER OF:

Amit Aggarwal, ARWSApplicant

Versus

Delhi Development Authority & Ors.Respondents

**REJOINDER ON BEHALF OF THE APPLICANT TO THE "REPORT/ AFFIDAVIT
FILED BY RESPONDENT NO. 1 viz. DELHI DEVELOPMENT AUTHORITY"**

MOST RESPECTFULLY SHOWETH:

1. The present rejoinder is being filed by the Applicant to the Report/Affidavit filed by the Respondent No. 1 viz. Delhi Development Authority (hereinafter referred to as "Affidavit")
2. At the outset it is submitted that each and every averment, contentions and allegations made by the Respondent No. 1 in its affidavit (Reply and a Report) are stated to be incorrect and vehemently denied except those which are admitted expressly by the Applicant. It is submitted that the contents of the Original Application No. 737/2022 and I.A No. 93 of 2023 are reiterated and reaffirmed as being true and correct. It is submitted that the contents of the Affidavit which are not admitted specifically hereinafter, may be deemed to have been denied by the Applicant.

3. Before proceeding with the Rejoinder to the Affidavit, it is submitted that there are certain preliminary submissions and objections that are necessary for the proper adjudication of the present Application. It is further submitted that the present Rejoinder is an addition to the contentions already raised by the Applicant in the Original Application and the I.A the contents of which may be read as part and parcel of this Rejoinder and the contents of the captioned Original Application and I.A are not repeated here for the sake of brevity and to avoid repetition.

PRELIMINARY SUBMISSIONS AND OBJECTIONS:

1. The primary question that needs to be answered in the captioned Application is whether the Respondents can bear the depletion of trees at the conserved Smriti van area and the unredeemable environmental loss as a whole. The answer to the said question must be explored in the prevailing circumstances wherein the Air Quality Index of the National Capital is nothing less than a threat for living beings.
2. The Respondent No. 1 and 2 has not come forward with the exact number of trees that can be planted voluntarily as a move to maintain the biodiversity and environment of Smriti Van or any such further compensatory piece of land around Smriti Van Area where the estimated environmental loss can be accommodated and redeemed in the form of plantation.
3. Area of land utilized by the STP causing grave loss to fertility of the soil around the STP requires immediate attention of the authorities to question it's placement without proper channel of permissions. The MoU entered between DDA and DJB is questionable as fraudulent and negligent.

4. The affidavit/ Reports of Respondents lacks estimated financial loss to the environment in Indian Rupees as per the rate set for the trees along with the age and maintenance of the same in accordance with the Amount set by the Supreme Courts committee whereby the grounds mentioned in I.A No. 93/2023.
5. Replies on the part of Respondents with regards to I.A No. 93/2023 is still awaited.
6. The estimated environmental loss worth crores should be compensated by way of tree plantations and land by DDA should be considered.
7. Areas except pathways and lanes should be protected from undue human intervention and interference by installing grills and fencing.
8. Necessary awareness should be instilled among public with regards to non-forestry activities and strictly adhere to the same.
9. Respondents and their official communications in this regard should enlist and mention the land in issue as “Van” or “Forest” instead of “Park” respecting the Conserved Forest status of Smriti Van maintaining that richness of a true forest can be taken forward along with the insane growth in human population and migration of people to a metro city like Delhi hand in hand if least or restricted human intervention to conserved areas of the city can be avoided for unnecessary activities that can take place on multiple other places in the name of fitness and leisure along with redemption and plantation of rich species and variety of trees that can last for multiple hundred years.

- 10.** It is most humbly submitted before the hon'ble tribunal in respect of the boundary of the land in issue, the boundary of South Central Ridge under notification of forest act as well as boundaries enumerated under section 20 of Indian Forest Act.

Smriti Van which is carved out of South Central Ridge Area being its essential part should have similar boundaries wherein, DDA should provide and surface the minutes of meetings or documents before the Hon'ble Tribunal specifying the area of Smriti Van.
- 11.** All non-forestry activities should be stopped including removal of STP and drainage carrying sewage. Absence of approval and design faults resulting untreated affluent discharging into the lake or water body becomes important to remove these structures out of ridge boundaries.
- 12.** As custodians of the SCRA DDA is the sole responsible authority for any mishandling by other agencies and contractors. Pr. Commissioner (Personnel, Horticulture, landscape & Coordination) should be involved to ensure full and proper implementation of guidelines and suggestions.
- 13.** Till live monitoring of affluent going to lake through technology is implemented, there shall be complete stopping of flow
- 14.** Drains that are raised above the ground level including any walls should be brought to ground level to allow free flow of rain water into lake from all sides.
- 15.** The premises within the city forests to be declared as "No Plastic Zone", Solid Waste Management, No discharge of affluents, pollutants within the city forest premises, No felling, pruning or any kind of damage to the trees. A carrying

capacity for each city forests to be decided. No selling and buying of food materials inside the city forests. Feeding of wild animals to be strictly prohibited. Only pedestrians to be allowed. No playing of sound boxes, DJ etc. No installation of electric lights; As per the guidelines by Forest (Conservation) Act, 1980, Wildlife (Protection) Act, 1972, Delhi Preservation of Trees Act, 1994, Indian Forest Act, 1927.

16. MoEFCC circular reg. Revision of Rates of Net Present Value along with Current status and condition of the Smriti Van is contained in documentary and Photo proofs annexed as **ANNEXURE R-1 TO ANNEXURE-R-18**

PARA WISE REPLY TO THE AFFIDAVIT:

1. In reply to the contents of Para No. 1 of the Affidavit it is submitted that the Respondent" No. 1 has filed the objections/affidavit under the untraceable terminology of "report in continuance of the affidavit". It is submitted that no law recognizes any pleading with the said terminology as stated in the counter affidavit.

“This Status Report is based upon records maintained by the Respondent Department and is in continuation of the Counter Affidavit dated 15-05-2023 filed in the matter by this Respondent.”

It is further submitted that no procedural law provides the liberty to any litigant to file pleadings in two invented parts i.e. 'counter affidavit' and “Status Report in continuation of the Counter affidavit”. Accordingly, the Respondent No.1 shall be more vigilant and shall be ordered by the respected Hon’ble National Green Tribunal, Principal bench to speed up the redemption of the Smriti Van.

- (i) It is also submitted that the Application was filed on behalf of the Applicant before the Hon'ble National Green Tribunal, Principal Bench on 29th September 2022, to which the incomplete and improper Counter-Affidavit was filed on 15.05.2023, and in furtherance the remaining status report was filed on 05th October 2023, the complete Compliance of court orders by filing the Affidavit with the Status Report took more than a year to be brought into notice.
2. The contents of Para no. 2 of the Affidavit/ Status Report containing the Geo Co-ordinates of the Smriti Van are deemed to be true and admitted while the information is incomplete and improper as the area of the remaining land out of the total area of 34.51 acres available for Tree Plantation and Compensatory Tree Plantation is not estimated with the total No. of trees that can be planted at Smriti Van along with the specie, age, lifetime of a tree.
3. In reply to the Para No. 3 stating an inspection of Smriti Van was carried out by the Range Officer, South Forest Division. Department of Forests and Wildlife, Office or Deputy Conservator of Forests (South), GNCTD on 19-06-2023. After a detailed inspection, the Range Officer made the observations that clearly states the following contradictions:

 - (i) As per point.1 in the table Representative of NBCC assured to start preparation for starting Plantation work is deemed to be vague assuring starting a long pending compensatory and compulsory plantation smells fraudulent as the statement does not state a compulsory achievable goal but to only start a work which as speculated might reach a pause at any stage if not paid heed to by the applicant and the most respected Hon'ble Court of law.

It is also submitted that the reply by DDA and Observations by Forest Department as per Point 1 given in the table of the affidavit filed by R1 does not contain the type/specie of trees planted along with the lifetime.

- (ii) As per point 2 in the table stating that the Representative of DDA explained that water out of the STP shall be used to greening the South-Central Ridge and hence has been taken as forestry activity, is vehemently refuted as the STP, after long observations has failed to treat any contamination or in greening of the South Central Ridge Area, clearly failing to control the perishing of the water body and the Green Area and only covering a vast area of land beneath in the name of STP. It is submitted that the STP should be placed/planted outside the conserved forest area to treat the sewage water/ drain water being discharged into the lake/pond/water body present at the Smriti Van Area. The said approach will be detrimental to the Environment and living beings the said conclusion has to be necessarily rejected.
- (iii) Further, as per point 3 in the table, “Representative agreed to remove the concrete in pond and maintain the existing natural pond for fauna present in South Central Ridge”, wherein, as per the inspection reports, the walls have been found punctured and the pond is filled with good earth. It is submitted that the pond is collapsing and deteriorating in terms of maintenance and water quality in it, even after the inspection.
- (iv) As per point 4 in the table, it is submitted that the tiles that were informed as removed before the Hon’ble Court of Law, are still present improperly laid at the Smriti Van, which are speculated to be re-placed and re organized once the legal suit reaches its waning or disposal stage.

It is also submitted that the report states:

“ In view of the actions taken by the DDA, vide letter dated 21-06-2023, the Deputy Conservator of Forests was pleased to note that as necessary actions have been taken by the DDA, no further action is required.”

It is humbly respectfully Prayed before the Hon’ble court to order DDA to take stringent and concrete actions that are in favor of the Smriti Van without any ulterior motive and remove the remaining tiles from the Area and transport it outside of the area in issue so that no other person or body with unlawful motives benefit due to the availability of the exploitative materials.

4. In reply to the content of Para No. 4 with regards to the compensatory plantation of 1500 saplings for NBCC Project and 250 saplings for a Rajya Sabha Secretariat Project are accepted and admitted as true in nature, however lacking the information regarding the specie of the sapling/tree and its lifetime.

It is also humbly submitted before the court that the damages caused to the environment in terms of decreasing capacity of the city to absorb pollution related issues due to constant negligence towards it and the depletion and non-maintenance of trees present at Smriti Van outrightly has attacked the city financially too in the form of cost of damage of per tree. It is an admitted fact that prevailing circumstances the Air Quality Index of the National Capital is nothing less than a threat for human beings.

5. In reply to the content of Para No. 5 in respect of concrete structure/pond which was found recently within the Smriti Van which has been completely removed and excavated earth has been filled therein, is accepted and humbly appreciated.

6. Further, in reply to the contents of Para No.6 in respect of complete removal of interlocking tiles is false, wrong, and hence denied and the corresponding submissions of the Application are reiterated and reaffirmed as true and correct. The interlocking tiles are present in improper form at the Smriti Van attracting speculation about further ulterior motives, while the cause agitated by the Applicant is purely pro-bono and for the benefit of environmental well-being.
7. In reply to the contents of Para No.7, it is specifically and vehemently denied that the STP is being maintained and the STP water is used for the greening purpose of the Smriti Van. Whereas, the vast area where the STP is located is causing depletion of the green belt and is also one of the key elements that is disturbing the pristine biodiversity containing rich species of flora and fauna. The water body is in a stinking cesspool-like condition. It is also submitted that the drain and sewage water is flowing directly into the lake water and the green area.
8. In reply to the contents of Para No.8, the compliance by the Respondent is accepted and humbly appreciated.
9. In reply to the contents of Para No. 9, the statement by the answering respondent is admitted to be true and appreciated along with further humble request to the Hon'ble National Green Tribunal, Principal Bench to order the answering respondent to co-operate with the Applicant and to touch the grounds of the O.A 737/2022 and I.A 93/2023 in maintaining the pristine green cover & biodiversity of Smriti Van Area, which is a protected, conserved forest area, part of South Central Ridge Area (SCRA)

It is submitted that the Affidavit is also silent as to how the environment can be possibly compensated for the no. of multiple decades of environmental and economical negligence since 1992. It is an established principle of law that the development has to be carried out on the principle of sustainable development. One does not need special intellect or reasoning to reject the fact that negligence and low-maintenance of a rich green area along with the trees and biodiversity as a whole cannot be justified under the garb of sustainable development. Time and again this Hon'ble National Green Tribunal and the Hon'ble Delhi High Court as well as the Apex court of India, Hon'ble Supreme Court of India and its Committee has passed orders to protect the trees and has further passed strict orders for the plantation of the trees.

PRAYER

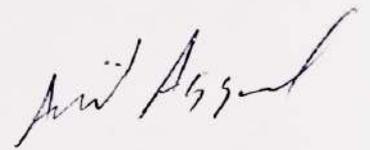
It is therefore most humbly and respectfully prayed that having regards to the aforementioned facts and circumstances, this Hon'ble Tribunal may graciously be pleased to;

- (a) Order the Respondent 1 to clear the Smriti Van area in a proper manner without any sign of interlocking tiles and also redeem the loss and depletion incurred and done to the water body which is nothing but a stinking cesspool at present filled with contaminated water with no effect of an STP.
- (b) Order answerable authorities with regards to MOU dated 10-03-2023 entered between DDA and DJB i.r.o STP and the poor functioning and negligent functioning of the same and if the loss of environmental land due to the placement can be compensation in the form of plantation of trees at a green area present around the Smriti Van area avoiding the vast take over and depletion of the green cover.

- (c) Call the responsible authorities to estimate the total loss incurred by the City in terms of environmental losses and the economic losses. Estimating the No. of trees that should have been planted and maintained since 1992 and the age of the trees till now that turned out in a high environmental deficit.

Points of concern:

- (i) *DJB Treatment Plant 60x45=2700 sqm equivalent to 675 trees (4 sqm per tree) wasted*
- (ii) *Kishangarh road takes about 10,000 sqm equivalent to 2500 trees.*
- (iii) *Cemented closed 2m wide drain taking more than 100 trees space.*
- (iv) *Mela Ground kept abandoned about 3 acres of land is equivalent to 3000 trees.*
- (v) *As per norm ridge areas can have only 5% development like path etc. Rest of the land is to be reserved for the trees and biodiversity.*
- (d) Affidavit and acknowledgement with regards to the contents in I.A No. 93/2023 is still requiring attention by the Respondents before the Hon'ble National Green Tribunal.
- (e) Pass any other appropriate order as this Hon'ble Court may deem fit.



Applicant

THROUGH

GARIMA KUMAR

Advocate

Enrl. No. D/2443/2020

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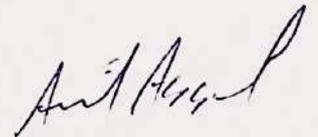
PLACE: DELHI

DATE: 23rd January 2024**VERIFICATION**

I, Amit Aggarwal, S/o Sh. R.L Aggarwal aged 55 years, Applicant, authorized by ARWS, Sector- 'A' Pocket 'B' and 'C', Vasant Kunj, New Delhi- 110070, do hereby verify that the contents of the above Para-wise Replies covered from S.No. 1- 9 are true to the best of my knowledge and the Prayer sought from the Hon'ble Tribunal therein are based on legal documents-properties and that there is no suppression of any material fact.

DATE: 23rd January 2024

PLACE: DELHI

**APPLICANT**

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

O.A. No.737 of 2022

I.A No. 93/ 2023

IN THE MATTER OF:

Amit Aggarwal, ARWS

.....Applicant

Versus

Delhi Development Authority & Ors.

.....Respondents

AFFIDAVIT

I, Amit Aggarwal, S/o Sh. R.L Aggarwal aged 55 years, Applicant, authorized by ARWS, Sector- 'A' Pocket 'B' and 'C', Vasant Kunj, New Delhi- 110070, do hereby solemnly affirm on oath and declare as under:

1. That I am the Applicant in the captioned Application and conversant with the facts and circumstances of the present case and hence I am competent to swear the present affidavit.
2. That the accompanying Rejoinder has been drafted under my instructions and is based on the records obtained from public domain and personal information of the Applicant. I have gone through and understood the contents therein.
3. The contents of the present Rejoinder may be read as part of this affidavit as the same are not being repeated herein for the sake of brevity.



Anil Aggarwal

DEPONENT

VERIFICATION:

27 JAN 2024

Verified at New Delhi on this 24th day of January, 2024, I, the above-named Deponent, do hereby solemnly affirm and declare that the contents of paragraphs 1 to 3 of the foregoing affidavit are true to and correct to my knowledge as derived from the information available in public domain and nothing material has been concealed there from.

Anil Aggarwal

DEPONENT



CERTIFIED THAT THE DEPONENT:
Sh./Smt./Km. *Anil Aggarwal S/O Sh. R.L. Aggarwal*
R/o.....
Identified by Shri/Smt. *Gaurav Kumar Adv*
has solemnly affirmed before me at
Delhi *27/01/2024* at Sl. No. *01/2024*
That the contents of the affidavit which
have been & explained to him are
true & correct to the Knowledge

Renu Verma
NOTARY PUBLIC

27 JAN 2024

Regd at S.No-01/2024

I certify that the Executant/Deponent
who has signed in my presence.

Gaurav
Advocate
D/2443/2020

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira
Paryavaran Bhavan, Aliganj, Jorbagh Road
New Delhi-110 003
Date: 6th January, 2022

To

The Additional Chief Secretary (Forest)/Principal Secretary (Forest),
All States Governments/ Union Territory Administration

Sub: Revision of rates of Net Present Value – reg

Sir,

I am directed to invite your attention to Hon'ble Supreme Court's order dated 28.03.2008 in Writ Petition (Civil) No. 202 of 1996 in the matter of T. N. Godavarman Thirumalpad vs. Union of India and Ministry' guidelines dated 05.02.2009 wherein rates to Net Present Value (NPV) to be realized in lieu of diversion of forest land have been fixed based on the outcome scientific assessment of ecosystem goods and services. Hon'ble Supreme Court in the said order has also directed the MoEF&CC for upward revision of the NPV rates.

2. In compliance of order dated 28.03.2008 of Hon'ble Court and with the approval of the competent authority, the following revised NPV rates have been prescribed for levying NPV in lieu of diversion of forest land:

Table: Revised NPV rates based on fitment factor of 1.53

(in Rs.)

Eco-Class	Very Dense	Dense	Open
Class-1	1595790	1436670	1116900
Class-II	1595790	1436670	1116900
Class-III	1357110	1228590	957780
Class- IV	957780	861390	670140
Class-V	1436670	1292850	1005210
Class-VI	1516230	1372410	1069470

Eco-Class-I:	Tropical Wet Evergreen Forests, Tropical Semi-evergreen Forests and Tropical Moist Deciduous Forests
Eco-Class-II:	Littoral and Swamp Forests
Eco-Class-III:	Tropical Dry Deciduous Forests
Eco-Class-IV:	Tropical Torn Forests and Tropical Dry Evergreen Forests
Eco-Class-V:	Sub-tropical Broad-Leaved Hill Forests, Sub-Tropical Pine Forests and Sub-Tropical Dry Evergreen Forests
Eco-Class-VI:	Montane Wet Temperature Forests, Himalayan Moist Temperature Forests, Himalayan Dry Temperature Forests, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub

3. NPV shall be charged to the extent of ten times of the normal NPV payable in the case of National Parks and five times in the case of Sanctuaries. The use of non-forest land falling within the National Parks and Wildlife Sanctuaries may be permitted on payment of an amount equal to the NPV payable for the adjoining forest area. In respect of non-forest land falling within marine National Parks / Wildlife Sanctuaries, the amount shall be five times the NPV payable for the adjoining forest area;

4. The proposals under the following categories are exempted from NPV to the extent as mentioned in the list below:

Category	Conditions
i. Schools	Full exemption upto 1 ha. of forest land, provided: a. no felling of trees is involved; b. alternate forest land is not available; c. the project is of non-commercial nature and is part of the Plan/Non-Plan Scheme of Government; and d. the area is outside National Park/Sanctuary
ii. Hospitals	
iii. Children's playground of non-commercial nature.	
iv. Community centres in rural areas.	
v. Over-head tanks	
vi. Village tanks	
vii. Laying of underground drinking water, irrigation and PNG pipeline upto 4 inch diameter	
viii. Electricity distribution line upto 22 KV in rural areas.	

ix. Relocation of villages form the National Parks/ Sanctuary to alternate forest land	Full exemption	
x. Collection of boulders/silts from the river belts in the forest area.	Full exemption, provided:- (a) area is outside National Park/ Sanctuary; (b) no mining lease is approved/signed in respect of this area; (c) the works including the sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Management Committee; (d) the activity is necessary for conservation and protection of forests; and (e) the sale proceeds are used for protection/conservation of forests.	
xi. Laying of underground optical fiber cable	Full exemption, provided: (a) no felling of trees is involved; and (b) area falls outside National Park / Sanctuary.	
xii. Pre-1980 regularization of encroachments and conversion of forest villages into revenue villages	Full exemption provided these are strictly in accordance with MoEF&CC's Guidelines dated 18.9.1990.	
xiii. Underground mining	Surface strain predicted by 3-D subsidence prediction model	NPV to be paid
	i. Up to 5mm/m	NIL
	ii. 5mm to 10 mm/m	10% of normal rates
	iii. 10mm/m to 15 mm/m	25% of normal rates
	iv. 15 mm/m to 20 mm/m	50% of normal rates
	v. more than 20 mm/m	At Normal rates

xiv. Wind Power Projects	50% at the minimum NPV rate, provided, minimal tree felling is involved, irrespective of the eco-class in which the project lies.
xv. Hydroelectric Projects up to 25 MW capacity	50% of the applicable rates of the forest land actually diverted for setting up of such projects, provided, the project involves felling of not more than 5 trees per hectare.
xvi. Field Firing Range (FFR) of Defence Ministry not involving felling of trees and no likelihood of destruction of forests	At the rate of 20 % of the normal rates of NPV for the forest areas falling within the impact zone. The forest areas falling within safety zone of FFRs shall be fully exempted from the requirement of payment of NPV
xvii. The area of riverbed in a proposed water reservoir, that is to be under permanent submergence throughout the year	50 per cent of the normal rate applicable to the area.

Yours faithfully,

Sd/-

(Sandeep Sharma)

Asst. Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, All State Governments/UTs
2. The Nodal Officer (FCA), Office of the PCCF, All State Governments/UTs
3. The Regional Officer, All Integrated Regional Offices of the MoEF&CC
4. Monitoring Cell, FC Division, MoEFCC, New Delhi
5. Guard File



ANNEXURE-R-3













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ANNEXURE-R-9



ANNEXURE-R-10



ANNEXURE-R-11









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ANNEXURE-R-15



ANNEXURE-R-16



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ANNEXURE-R-17



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