

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

**ORIGINAL APPLICATION NO. 665 OF 2024**

**ASHOK PASWAN**

**...APPLICANT**

**VERSUS**

**MINISTRY OF ENVIRONMENT FOREST**

**AND CLIMATE CHANGE & ORS.**

**...RESPONDENTS**

**NDOH: 19.11.2024**

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**FILED THROUGH**

*Shashank Rai*

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**Place: New Delhi**

**Date: 12.11.2024**

**70**

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**REPLY TO IA NO. 274/2024 MOVED BY SH. VIPIN  
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OF CPC FOR IMPLEADMENT OF APPLICANT/  
INTERVENOR VIPIN NAYYAR AND MANAGING  
DIRECTOR UTTARAKHAND JAL VIDHYUT NIGAM  
LIMITED DEHRADUN AS NECESSARY PARTIES AND TO  
STRIKE OUT RESPONDENT NO. 2 CHAIRMAN  
CENTRAL GROUND WATER BOARD AND RESPONDENT  
NO. 6 MATRICHAYA ASHRAM (SOCIETY) THROUGH ITS  
PRESIDENT IN THE PRESENT OA**

**TO,**

**THE HON'BLE CHAIRMAN AND HIS COMPANION**

**MEMBERS OF THE HON'BLE TRIBUNAL**

**MOST RESPECTFULLY SHOWETH:**

1. That the present Reply to IA No. 274/2024 is being filed on behalf of the Applicant in the captioned matter ASHOK

PASWAN V. MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE & ORS OA No. 665/2024 which is coming before this Hon'ble Tribunal for hearing on 15.11.2024.

2. That the contents of the OA must be read as part of this Reply and are not being repeated here for the sake of brevity.
3. That the Application filed by the Intervenor Applicant is frivolous, and is aimed at entangling the Applicant in needless procedural technicalities so that the violation of environmental laws and standards can continue unabated and with impunity, and hence the present Application deserves to be dismissed at the threshold.
4. That the Applicant denies each and every averment raised in the IA under Reply, and nothing shall be deemed to be admitted unless expressly admitted by the Applicant.

**PRELIMINARY SUBMISSIONS:**

**A. RESPONDENT NO. 6 MUST BE RETAINED AS A PARTY**

5. That the grounds raised in the application are based on an erroneous understanding of the law and are devoid of merit. It is submitted that Respondent No. 6 is a necessary party to this case for the reasons enlisted in the following paragraphs
6. That the Respondent No. 6, Maatri Chhaya Ashram (hereinafter referred to as the "**Ashram**") has a direct and substantial interest in the subject matter of the present dispute. The cause of action raised in the present O.A. relates to the environmental impact of illegal constructions in the catchment area of the Chilla Jal Vidyut Pariyojna, and the Respondent No. 6's involvement in such construction is central to the issues in this case.

It is a well-established principle of law that a party whose presence is essential for the complete adjudication of the matter cannot be struck out. In **Razia Begum v. Sahebzadi Anwar Begum, AIR 1958 SC 886**, the Supreme Court held that a necessary party is one in whose absence the matter cannot be effectively adjudicated. Since the Respondent No. 6 is directly involved in the alleged illegal constructions and the relief sought pertains to the assets of the Respondent No. 6, striking it out would undermine the very foundation of the proceedings.

7. That the Intervenor's contention that Respondent No. 6 is neither proper nor necessary party to the proceedings is not substantiated by any credible evidence. The applicant has relied upon documentary proof and circumstantial evidence that unequivocally points to the respondent's involvement in the cause of action. It is trite law that in environmental matters, any entity or individual responsible for or contributing to the environmental degradation can be impleaded as a necessary or proper party.
8. That it is trite that this Hon'ble Tribunal is not bound by CPC and/or Indian Evidence Act and can frame its own rules and procedures in the light of natural justice to punish the environment polluter and degrader. Lack of renewal of registration of Respondent No. 6 cannot allow it to flout environmental norms with impunity.
9. With regards to unregistered partnership which is not a legal entity, the law is well settled that although Section 69 bars a suit by an unregistered partnership, it doesn't bar a suit against the unregistered partnership as has been held by Hon'ble High Court of Calcutta in **Trimurti Cargo Movers Pvt Ltd vs. Auto**

**Cars.** The rationale being that a partnership firm cannot take advantage of impunity against a third party by not registering itself and in this way can take advantage of its own wrong against its liability against a third party. There is no reason why Respondent No. 6, registered at the time of committing the wrongs, should be allowed to escape the liability on the basis of **Polluter Pays Principle and Precautionary Principle** merely by not renewing its registration.

10. Even otherwise, it is worth noting that the bars to suits would not apply to an application moved before this Hon'ble Tribunal.
11. Furthermore, Respondent No. 6 has been impleaded through its president and not all by itself.

**B. IMPLEADMENT OF INTERVENOR IS NOT NEEDED**

12. That the Intervenor in his personal capacity is neither a proper nor necessary party in the present Application before this Hon'ble Tribunal and also there is no averment nor relief sought against him.
13. It is being reiterated that Respondent No. 6 is being represented through the Intervenor who is the President of Respondent No. 6, and hence nothing will be done behind his back and there is no violation of natural justice as alleged.
14. That it is pertinent to note that the Intervenor has nowhere denied the alleged constructions by Respondent No. 6, violating the environmental laws, judgment / directions of this Hon'ble Tribunal besides statutory provisions. The devise of creating and registering a Society at a property, then doing illegal constructions in the name of the Society, then allowing the registration of society to lapse, and when the Society is made

liable for the wrongs, claiming that it is a private party, is a clear abuse of the process of law.

15. The present application is only an abuse of the process of the court just to waste precious judicial time and delay the mitigating and punitive actions by this Hon'ble Tribunal against Respondent No. 6.
16. The applicant, being the dominus litus, has the prerogative to choose the respondent based on the factual matrix of the case. Unless it is demonstrably shown that the chosen respondent has no role or nexus with the issue, the applicant cannot be compelled to substitute the respondent

**C. IMPLEADMENT OF MANAGING DIRECTOR UTTARAKHAND JAL VIDYUT NIGAM LIMITED (UJVNL) IS NOT NEEDED**

17. That UJVNL is neither a necessary nor proper party in the present Application before this Hon'ble Tribunal and also there is no averment nor relief sought against it.
18. In **Vidur impex and traders pvt. Ltd. And others v. Tosh apartments pvt. Ltd. And others [2012 (10) S.C.R. 307]**, the Apex court held that *"If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff"*.

**D. RESPONDENT NO. 2 THE CHAIRMAN CENTRAL GROUND WATER BOARD MUST BE RETAINED AS A PARTY**

19. That it has been specifically pleaded in the OA that Respondent No. 6 has got illegal and unauthorized construction in the within the Eco- Sensitive and Prohibitory Zone of River Ganga and

over the Filter Trench of the Dam "Chilla Jal Vidyut Pariyojna". This adversely interferes with recharge of ground water.

20. Moreover, it has also been raised in the present OA that untreated sewage and fecal matter is discharged in the River Ganga. The intervenor seeks to create an artificial distinction between groundwater and surface water - a practice which has already been repudiated by Mihir Shah Commission.
21. Respondent No. 2, being an expert body, is best placed to assess the damages caused by illegal and unauthorized construction by Respondent No. 6 to the ecology, including groundwater, of the region, and is hence a proper party if not necessary party to the present OA.

**PARA WISE REPLY**

22. Para 1 is a matter of record and needs no reply.
23. The contents of Para 2 are strongly denied.
24. The contents of Para 3 are denied for want of ignorance. The Intervenor must be made to submit strict proof for the same.
25. The contents of Para to the extent of factum of renewal of Society are denied for want of ignorance. The Intervenor must be made to submit strict proof for the same. The portions pertaining to statutory provisions and judgment of MP High Court, being matter of record, need no reply. The portion regarding the maintainability of the present application against an unregistered society is denied. The contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.
26. The contents of Para 5, to the extent they are matters of record, are admitted, and the rest of the portions are denied. The

contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.

27. The contents of Para 6 are vehemently denied. The contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.
28. The contents of Para 7, to the extent they are matters of record, are admitted, and the rest of the Para is strongly denied. The contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.
29. Para 8 is a matter of record and needs no reply.
30. The contents of Para 9, to the extent they are matters of record, are admitted. It is strongly denied that Managing Director Uttarakhand Jal Vidyut Nigam Limited, Dehradun (UJVNL) is a necessary party to the subject matter. The contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.
31. The contents of Para 10 are vehemently denied. The contents of the Preliminary submissions must be read here and are not repeated here for want of brevity.
32. The contents of Para 11 are vehemently denied in strongest of terms. It is in fact the IA under Reply, which is baseless, frivolous and filed only to delay the proceedings and thereby continue to pollute the River Ganga and degrade the ecology of the Holy Town of Rishikesh for one's own petty gains.
33. The contents of Para 12 are strongly denied. It is in fact the Intervenor who has sought to abuse the process of law by filing the present IA aimed only to harass the Applicant who, being a socially and environmentally conscious person, has taken the cause of the River Ganga.

34. The contents of Para 13 are vehemently denied in strongest of terms. The allegations of the Intervenor regarding perjury are vehemently denied and the Intervenor be directed to strict proof for the same. The Applicant reserves the right to pursue legal remedies for false allegations leveled by Intervenor.
35. The Prayer clause is strongly denied.

**PRAYER:**

It is therefore prayed, in the interest of justice, that this IA 274/2024 under Reply be dismissed with heavy cost on Intervenor for abusing the process of the court, and seeking to delay prevention and mitigation of damage to River Ganga by filing this baseless and frivolous Application. The Hon'ble Tribunal is prayed to pass any other order/direction in the interest of justice.

Prayed Accordingly



APPLICANT

**FILED THROUGH**



AJAI KR. SRIVASTAVA, SHASHANK RAI, OM PRAKASH  
SAPRA, ANUSHI AGRAWAL, YASH PRAKASH YADAV  
**(COUNSELS FOR PETITIONER)**

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**Place: New Delhi**

**Date: 12.11.2024**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
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ORIGINAL APPLICATION NO. \_\_\_\_\_ OF 2024  
(Under Section 14 r/w S. 18 of National Green Tribunal Act, 2010)**

**IN THE MATTER OF:-**

**ASHOK PASWAN**

**....APPLICANT**

**VERSUS**

**UNION OF INDIA & ORS.**

**..RESPONDENTS**

**AFFIDAVIT**

I, Ashok Paswan S/o Shri Jang Bahadur, R/o 48, Veerbhadra Marg, Gali No. 8, Rishikesh, DEhradun, Uttarakhand, presently at Delhi, aged about 44 years do hereby solemnly affirm and state as under:

1. That I am the Applicant in the present Original Application and thus well aware of the facts and circumstances of the present case, hence, competent to file and swear this affidavit in support of the accompanying application.
2. That the accompanying application is drafted by my counsel under my instructions and the contents of the same are read over to



me and the same are true and correct as per my knowledge and the legal advice received from my counsel.

3. That the Annexures filed along with the present Original Application are true copies of the original.

*[Signature]*  
DEPONENT

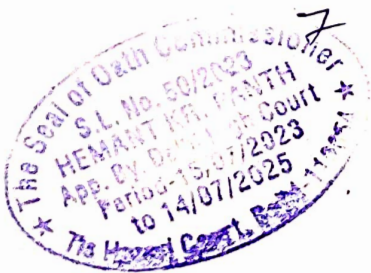
*Sashank Rai*  
I identify the deponent who has signed in my presence

**VERIFICATION:**

29 MAY 2024

Verified at New Delhi on this \_\_\_ day of May, 2024, that the contents of above affidavit are true and correct to my knowledge and that nothing material has been concealed therefrom.

*[Signature]*  
DEPONENT



CERTIFIED THAT THE DEPONENT  
Shri. *Aswini Parwar*  
S/o *[Signature]*  
Residing at *[Signature]*  
Identified by Shri/Sri *[Signature]*  
as solemnly sworn to the  
affidavit which he/she has read & explained  
& further are true & correct to his/her  
knowledge  
29 MAY 2024  
Attested  
Oath Commissioner Delhi

29 MAY 2024