

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
EXECUTION APPLICATION NO. 50/2023

IN THE MATTER OF:

SOCIETY FOR PROTECTION OF CULTURE, HERITAGE,
ENVIRONMENT, TRADITIONS AND PROMOTIONS OF
NATIONAL AWARENESS (SP-CHETNA)

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

INDEX

S.NO.	PARTICULARS	PAGE NO.
1.	Rejoinder Affidavit by the Applicant to the Reply filed by Respondent No. 3 M/s. Jhankar	1-6
2.	Proof of Service	7

06-05-2024

FILED BY: -

Madhumita Singh

ADV. MADHUMITA SINGH & ADV. SAMEER SOOD

COUNSEL FOR THE APPLICANT A 414-4 15,
SOMDUTT CHAMBERS 1, BHIKAJI CAMA PLACE,
NEW DELHI-11 006

Email: madhumita@casassociates.in

sameer@casassociates.in

Ph.:9971117818,9999245900

**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI
EXECUTION APPLICATION NO. 50/2023**

IN THE MATTER OF:

**SOCIETY FOR PROTECTION OF CULTURE, HERITAGE,
ENVIRONMENT, TRADITIONS AND PROMOTIONS OF
NATIONAL AWARENESS (SP-CHETNA)**

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

**REJOINDER AFFIDAVIT BY THE APPLICANT TO REPLY FILED BY
RESPONDENT NO. 05/ M/s. Jhankar Banquets**

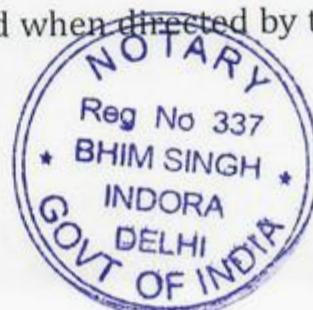
I, Anil Sood, a senior citizen, S/o Late Sh. M.C Sood, aged about 69 yrs., R/o C-1/1056, Vasant Kunj, New Delhi-110070, do hereby solemnly affirm and state as under:

That I am the President of the Applicant Society, and I am well acquainted with the facts and circumstances of the present case and as such, competent to make and affirm the present rejoinder affidavit.

I have gone through the Reply filed by Respondent No. 3/ Jhankar and seek permission of this Hon'ble Tribunal to file a short affidavit in view of specific admission of non-compliance of directions contained in order dated 10-07-2015 in OA 60/2014 and 12-04-2023 in EA No. 23/2019 and this Hon'ble Tribunal by Respondent No.3 and as per statement made by the Counsel of Respondent 3 at the time of hearing on 5th March 2014.

The Applicant shall file detailed affidavit as and when directed by this Hon'ble Tribunal.

MOST RESPECTFULLY SHOWETH



SUBMISSIONS IN SHORT ON REPLY BY RESPONDENT No.3

1. Both the Respondent No.2 and Respondent No.3 are guilty of noncompliance of order dated 12th April 2023 passed by this Hon'ble Tribunal, despite having received a copy and having full knowledge of the fact of non-operation of Tower Restaurant by Respondent No. 3 which was a pre-condition to permit use of Green Area around, which was a District Park.
2. The Respondent No.3 is blowing hot and cold in same breath while alleging that the present Execution Application is gross abuse of process of law without spelling out even a single word about the alleged abuse. Applicant takes a strong objection to the statement made in Para 2 of the preliminary objections that application has been filed for some personal grudge and/or vendetta against Respondent No. 3.
3. The contents of para 2 of the preliminary reply are baseless, frivolous, and derogatory and defamatory. Absolutely false and incorrect allegations and averments have been made for which the applicant reserves his right to seek appropriate remedy against the officials of Respondent no.3 who have sought to make false and frivolous allegations and derogatory and defamatory remarks. The applicant takes very serious objection to the tone and tenor of the language used by Respondent no.3
4. The Respondent No.3 despite admitted position that it is not operating Tower Restaurant, is still brazenly continuing to use the green area, in violation of all the orders passed by this Hon'ble Tribunal. Therefore, instead of answering the issue of noncompliance of directions no.(s) 1 and 2 in para 31 of the order dated 10-07-2015 (at page no.60 of the EA) and order dated 12th April 2023, (at page no. 120 of the paper book) is taking an adversarial stand like an ordinary litigant and making baseless and frivolous allegations and averments against the



applicant and trying to build a new case, while admitting that it did not challenge at any stage the pre-condition of "use of tower restaurant" while using green area.

5. That, Respondent No.3 is trying to make out a new case without challenging the direction no.(s) 1 & 2 of the order dated 10th July 2015, reproduced in Para J of the Reply filed by Respondent No. 3, which for ease of reference is once again reproduced as under: -

1. *The third respondent shall be entitled to use the green area to the extent of 18,500 sq. mtrs. Around the Tower restaurant for marriages, parties, etc., not more than 10 days in a month and subject to the condition **that it shall also run the tower restaurant and pay all necessary lease and license charges in accordance with the terms and conditions of lease and license to be executed.***

2. *It will be open to the second respondent to execute the necessary license deed in favor of the third respondent regarding the use of 18,500 sq. mtrs. of green area around Tower restaurant subject to the above conditions and other conditions as may be stipulated by it.*

3. *The second respondent shall ensure that the third respondent complies with all the conditions of the lease/license and **take appropriate action on violation of the same.***

6. Further in para-N of the Reply filed by Respondent No.3 it has concealed the fact that it has challenged only the restriction imposed regarding use of green area for 10 days in a month instead of 30 days. Since it had accepted the condition "**that it shall also run the tower restaurant**" it accepted the said condition being part of the scheme of allotment of Green Area around to promote Tower Restaurant, hence did not challenge the said restriction.



7. Hon'ble Tribunal while passing order dated 31-07-2017 in Review Application filed by Respondent No. 3, in para 7 (at page 88 of the paper book) has recorded the following finding: -

7. Several other grounds are urged inter-alia amongst which the main challenge is opposed to restricting the right of use of land for commercial activity like banqueting and marriages for a period of 10 days in a month while allowing 20-21 days for public use etc.

8. Since Respondent No.3 has accepted and never challenged the restriction of use of green land "**subject to condition that it shall also run Tower Restaurant**"; this is first and foremost condition to use the green area, which Respondent No. 2 has failed to implement and enforce the order passed by this Hon'ble Tribunal for reasons best known to it.

9. That, in para 20 (at page no. 94) the question framed by Hon'ble Tribunal is as follows: -

The question now is whether the condition stipulated by this Tribunal restricting the use of said area for only a period of 10 days in a month is justified and is called for.

10. Further, in paras 24 and 25 (at page no.(s) 95 and 96 of the paper book) the following order was passed: -

24. As a result while confirming the findings of this Tribunal on various points recorded, we are of the opinion that the ban imposed by this Tribunal by the Judgment under review restricting the use of land admeasuring 18,500 sq. meters by Respondent No.3 for a limited period of 10 days in a month needs to be modified and we permit him to utilise the land in terms of license granted by DDA un-interrupted.



25. *Apart from the conditions imposed by the judgment in question, we direct DDA to finalise complete documentation in this regard to the transaction within a period of one from now and while doing so keep in mind the finding recorded by this Tribunal and comply with directions recorded therein.*

11. That, Respondent No.2, despite being a Responsible public authority, mandated to serve the public at large, for reasons best known to it has failed to comply with the directions by this Hon'ble Tribunal that use of green area by Respondent No.3 is "**subject to condition that it shall also run Tower Restaurant**", consequently has brazenly and outrageously violated the orders passed by this Hon'ble Tribunal.

12. Despite having been informed time and again followed by various emails communicating orders passed and requesting compliance thereof, still Respondent No.2, for reasons best known to it, permitted repeated violation of the directions in order dated 10-07-2015, 31-07-2017 and 12-04-2023.

13. Thus, Respondent No.2 has miserably failed to implement the Orders passed by this Hon'ble Tribunal and therefore, be directed to cancel the license deed as Respondent No. 3 has not operated "Tower Restaurant" till date, which was the first condition imposed by this Hon'ble Tribunal, in view of the scheme for promoting and operating Tower Restaurant by Respondent No. 3, published by Respondent No.2 and restore the area as "District Park" for use of common citizens, as it was prior to the grant of license.



Deponent

Verification: Verified at New Delhi on this the 6th day of May 2024 that the contents of the above application are true and correct to the best of my

knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Date: 06.05.2024

Place: New Delhi



Deponent



ATTESTED
BHIM SINGH INDORA
NOTARY GOVT. OF INDIA

- 6 MAY 2024

ENTERED AT SL No. 10508 OF 2024

Re: Advance Service of Rejoinder Affidavit in E.A. 50/2023

Madhumita Singh <madhumita@casassociates.in>

Mon 5/6/2024 11:24 AM

To: vivinahuja@gmail.com <vivinahuja@gmail.com>

Cc: Anil Sood <anilsood@spchetna.com>; Sameer Sood <Sameer@casassociates.in>

📎 1 attachments (3 MB)

Rejoinder Affidavit (Jhankar) 6-5-24.pdf;

Dear Mr. Ahuja,

PFA the Rejoinder Affidavit in E.A. 50/2023.

Regards,

Madhumita Singh (Advocate)

Senior Associate Advisory & Litigation

M +91 9971117818



CAS ASSOCIATES | Head Office: A 414-415, Somdutt Chambers- I, 5, Bhikaji Cama Place, New Delhi-110066 | T +91 011 2619 5005 | F +91 011 2619 5005 | Email: sameer@casassociates.in

The information contained in this e-mail is private & confidential and may also be legally privileged. While the information contained in this document and any of its attachments is provided for the assistance of the recipient, the same should not be relied upon as a substitute for professional, technical or legal advice; unless it is sent after being duly signed by the firm in hardcopy. The contents of this mail and any of its attachments are subject to change without notice. If you are not the intended recipient of this mail, please notify us, preferably by e-mail; and do not read, copy or disclose the contents of this message to anyone. Whilst we have taken reasonable precautions to ensure that any attachment to this e-mail has been swept for viruses, e-mail communications cannot be guaranteed to be secure or error free, as information can be corrupted, intercepted, lost or contain viruses. We do not accept liability for such matter or their consequences.