

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

Original Application No. 432/2025

IN THE MATTER OF:

ASHISH JAIN

...Applicant / Petitioner

Versus

PUBLIC WORKS DEPARTMENT (PWD) & Ors.

...Respondents

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New Delhi

Dated 21.03.2026


Applicant
Ashish Jain

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REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT

I, **Ashish Jain**, S/o Sh. S.K. Jain Resident of A-264 Surajmal Vihar Delhi - 110092, the Applicant in the above-mentioned matter, do hereby solemnly affirm and state as under:

1. That the present rejoinder affidavit is being filed in response to the reply filed on behalf of Respondent No.1 – Public Works Department (PWD). The Applicant respectfully acknowledges that Respondent No.1 has filed its response before this Hon'ble Tribunal and has placed certain facts on record regarding the execution of the road strengthening and recarpeting work.

At the outset, the Applicant reiterates that the grievances raised in the Original Application relate to the **environmental and public health concerns caused during the execution of road milling and recarpeting work carried out in the months of May–June 2025 on Road No. 58A (Master Somnath Marg), Surajmal Vihar, Delhi.**

3. That the present Original Application was filed only after repeated representations and complaints to the concerned authorities did not result in timely remedial action.

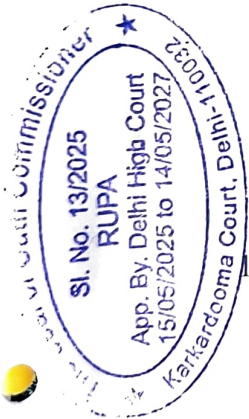


However, the reply filed by Respondent No.1 does not disclose:

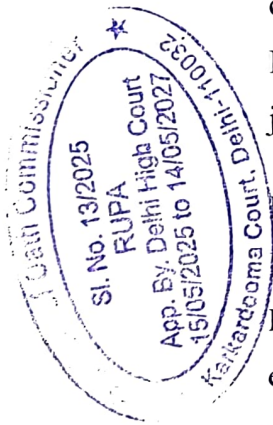
- a) the date on which the site inspection was carried out;
- b) the date on which the debris was removed;
- c) the date on which the road milling work was completed; and
- d) the duration for which the road remained in a milled condition.

The absence of these details leaves the core grievance raised by the Applicant regarding prolonged dust pollution and environmental nuisance caused to the residents, unresolved.

10. That the Applicant respectfully clarifies that the present application is not intended to attribute any mala fide conduct to Respondent No.1, which is the supervising public authority responsible for the project. However, it is an admitted position that the actual execution of the road milling and recarpeting work was undertaken by **Respondent No.2 – M/s Sethi Constructions**, the contractor engaged for carrying out the work.
11. That during the execution of such works, the executing contractor exercises direct control over the operational activities at the site, including milling of the road surface, handling of construction debris, transportation of waste material and maintenance of environmental safeguards. So , it was primarily the respondent no 2 who was responsible for the prevention of the violation of Environmental laws.
12. That the Applicant respectfully submits that a **stretch of road extending over more than one kilometer remained milled and scratched for several months**, causing continuous dust emissions and environmental inconvenience to the residents of the surrounding areas.



13. That the contractor executing public infrastructure work cannot be permitted to leave an entire stretch of Service road in a milled condition and delayed the Second layer of bitumen surface of the main road for an extended period of time causing continuous dust pollution and thereafter evade environmental responsibility.
14. That the handling and disposal of construction debris generated during such works is governed by the **Construction and Demolition Waste Management Rules, 2016**, which mandate proper collection, transportation and disposal of such waste at designated facilities. The executing agency undertaking the work is required to ensure strict compliance with these statutory environmental safeguards.
15. It is respectfully submitted that the Hon'ble Supreme Court of India has consistently recognized the **Polluter Pays Principle** and the **Precautionary Principle** as integral components of environmental jurisprudence.



In **Vellore Citizens Welfare Forum vs Union of India (1996)** and **Indian Council for Enviro-Legal Action vs Union of India (1996)**, the Hon'ble Supreme Court held that the entity responsible for environmental degradation must bear the cost of remediation and environmental restoration.

16. That if during the execution of the road work the milled surface remained exposed for an extended period and construction debris was allowed to remain at the site causing environmental nuisance, the responsibility for such lapses would primarily lie with the executing contractor agency, namely **Respondent No.2 – M/s Sethi Constructions**.

17. That It is further submitted that despite being aware of the proceedings before this Hon'ble Tribunal, **Respondent No.2 has not filed any response to the Original Application** explaining the manner in which the work was executed or the environmental safeguards adopted.

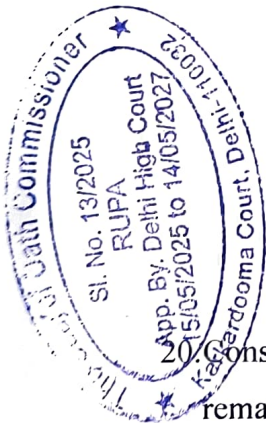
18. That the order passed by this Hon'ble Tribunal dated **12.01.2026** records that Respondent No.2 was not properly served. However, it is respectfully submitted that **a representative of Respondent No.2, namely Mr. Premdhan Sahu, had appeared before this Hon'ble Tribunal on the earlier date of hearing on 03.11.2025**, which indicates that Respondent No.2 had knowledge of the pendency of the present proceedings.

19. That despite such knowledge, Respondent No.2 has not placed any material on record to demonstrate:

- a) the duration of the milling work;
- b) the date of completion of the recarpeting work;
- c) the manner in which the milled debris was transported and disposed of; and
- d) the environmental safeguards adopted during the execution of the project.

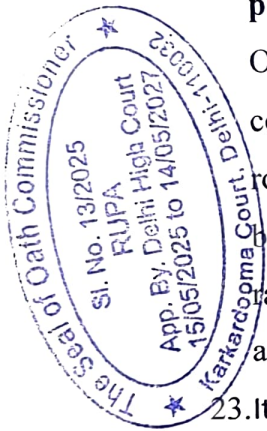
Considering the scale of the work and the duration for which the road remained milled, partly laid, broken from the edges and exposed, it can be imagined how the dust pollution was affecting the residents of the locality, the Applicant respectfully submits that the role of Respondent No.2 in relation to the environmental impact caused during the execution of the work deserves to be examined by the Respondent no 1

21. That since the Respondent no1 was responsible to ensure the compliance of the environmental laws during the execution of work and hence should have taken the immediate action against the polluter agency,



Respondent no.2. It was also required **to set an example for the other agencies undertaking the road construction work in Delhi to follow the Environmental Laws** and to take necessary measures to not let the dust pollution escalate.

22. That the Applicant had specifically stated in the Original Application that the **dumping of milled asphalt and bituminous debris in the green belt had obstructed the natural seepage of rainwater into the soil during the monsoon season, thereby adversely affecting the process of groundwater recharge.** The photographs annexed with the Original Application clearly demonstrate that the green belt had been covered with layers of asphalt debris generated from the milling of the road surface. Bituminous material being impervious in nature forms a barrier over the soil surface and prevents the natural percolation of rainwater, thereby disturbing the ecological balance of the soil and affecting its fertility.



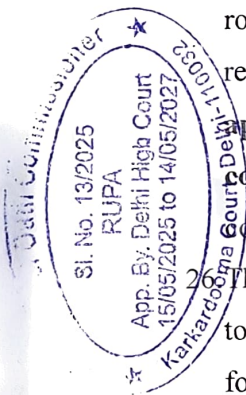
23. It is further submitted that even the photograph filed by Respondent No.1 as Annexure-B, which is purportedly taken after the removal of debris, shows that the green belt has not regained its natural vegetation. **The continued absence of vegetation in the said area indicates that the soil had been adversely affected due to prolonged dumping of asphalt debris during the execution of the work.** This circumstance further substantiates the Applicant's grievance that the dumping of bituminous waste in the green belt caused lasting ecological impact on the soil and vegetation of the area. The respondent no. 1 was the competent authority to punish the Respondent no. 2 for the violation of Environmental laws.

24. That the dumping of asphalt debris not only caused temporary nuisance but also resulted in degradation of the soil in the green belt and obstruction of rainwater infiltration, hence the environmental impact of the violation assumes greater seriousness. Therefore the environmental compensation proposed against Respondent No.2 may also include the cost of ecological restoration of affected green belt shown in **Annexure A-5** of the O.A. having the area of more than 1- 2000 square meters.”
25. In accordance with the **Polluter Pays Principle**, the agency responsible for environmental nuisance and degradation is required to bear the cost of remediation and environmental restoration. And, considering the duration of the violation, the scale of the work and the environmental inconvenience caused to residents due to prolonged exposure of milled road surface and improper handling of construction debris, the Applicant respectfully submits that **environmental compensation in the range of approximately ₹12,00,000 (Rupees Twelve Lakhs) may be considered against Respondent No.2**, subject to assessment by the competent authorities.
26. That Such environmental compensation may appropriately be directed to be deposited with the **Delhi Pollution Control Committee (DPCC)** for undertaking environmental restoration measures including dust mitigation and restoration of affected green belt areas.

PRAYER

In view of the above facts and submissions, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to:

- a) *Take the present rejoinder affidavit on record;*



b) Consider the fact that the Respondent no.1 completely ignored to take any action against the Respondent no. 2 for the violation of environmental laws in relation to the handling of construction debris and environmental safeguards during the execution of the work;

c) Direct the Respondent No.1, to explain the duration of the milling work, the date of completion of the work and the date when the malba/bitumen gravels was removed from the site shown in the Annexure – B of their reply .

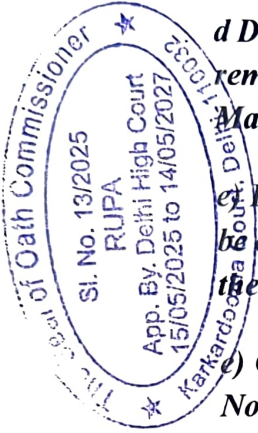
d Direct the Respondent no . 1 to find out the period for which the road remain scratched/ Milled and the period during which the Bitumen Malba remain dumped in the Green Belt at site shown in Annexure; B

e) Direct the Respondent no 1, to Ban Respondent. 2 who are found to be deliberately Violating the Environmental laws from participating in the Tenders for Road construction/ resurfacing in future .

f) Consider imposing environmental compensation upon Respondent No.2, in accordance with the Polluter Pays Principle, for the environmental nuisance caused during the execution of the work;

f) Direct that any such environmental compensation be deposited with the Delhi Pollution Control Committee (DPCC) for environmental restoration and dust mitigation measures;

Or, pass such other or further orders as this Hon'ble Tribunal may deem fit and proper in the interest of environmental protection and public health.



[Signature]
DEPONENT

I identify the Deponent who has signed/put thumb impression in my presence

Verification

24 MAR 2026

Verified at New Delhi on this 24th day of March 2026 that the contents of the above rejoinder affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

VERIFIED
Shri/Smt./Km
V/o, W/o, D/o, Sn.
identified by Shri/Smt
was solemnly Attested before me at Delhi
in 24 MAR 2026 SI No. 2
that the contents of the affidavit which
have been read Over & explained to him/her
are true & correct to his/her knowledge

[Signature]
DEPONENT

24 MAR 2026



GREEN BELT



Tax Invoice

Invoice No. 2022-23/031

Dated 27-Aug-22

World

64 P-10



B3, DDA Market, Block



n Ma



Annexure - B

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