

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

EXECUTION APPLICATION NO. 3 OF 2025

IN

ORIGINAL APPLICATION NO.60 OF 2014

IN THE MATTER OF :

**SOCIETY FOR PROTECTION OF CULTURE,
HERITAGE, ENVIRONMENT, TRADITIONS
AND PROMOTION OF NATIONAL AWARENESS
[ALSO KNOWN AS SPCHETNA]**

...APPLICANT

VERSUS

**DELHI DEVELOPMENT AUTHORITY
AND ANOTHER**

...RESPONDENTS

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Date 04.08.2025

Filed by:

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**REJOINDER AFFIDAVIT ON BEHALF OF APPLICANT TO
COUNTER AFFIDAVIT FILED BY RESPONDENT NO. 02 i.e., 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 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
affidavit filed by Respondent No. 02 and a rejoinder to the same is as under:

MOST RESPECTFULLY SHOWETH:



1. The Original Application No. 60/2014 was filed by the Applicant Society through its President, duly authorized, challenging the grant of the District Park/Green Area measuring approximately 18,500 sq. meters, surrounding the Tower Restaurant at Asiad Village, New Delhi, adjacent to the Siri Fort Complex, by Respondent No. 1 to Respondent No. 2. The said Application was disposed of vide order dated **10.07.2015**, whereby the Respondents were permitted to use the Green Area for **10 days in a month**, provided that the **Tower Restaurant was concurrently operated**. This condition was later modified in **Review Application No. 23/2015**, vide order dated **31.07.2017**. The Respondents were also directed to strictly comply with environmental laws subject to condition that **Tower Restaurant was concurrently operated**.
2. However, till date, Respondent No. 2 continues to use the Green Area **without operating the Tower Restaurant**, in blatant and continued violation of the various orders passed by this Hon'ble Tribunal. The Applicant Society, had to file the various Execution Applications and present Execution Application, respectfully seeks the indulgence of this Hon'ble Tribunal to secure the implementation of its order dated **24.05.2024 passed in Execution Application 50/2023**. Further, it is an admitted fact by Respondent No. 2 while filing Reply to E.A 50/2023 in para-Z at internal page No. 20 has admitted that both Respondent No.1 and Respondent No. 2 were aware of the fact that Tower Restaurant being non-compliant Fire Department did not issue NOC, relevant text of which is reproduced as under: -

- *there is no default or breach on the part of the respondent no.3 in that regard*
- *the NOC from Fire Department has not been given for the reason that the "Tower Restaurant Building" is non-compliant.*



- *this material fact was concealed from respondent no. 3, when respondent-DDA issued NIT and also when it accepted the Tender bid of respondent No.3;*

3. Respondent No. 2, having unequivocally accepted the condition of concurrent use of the Tower Restaurant while utilizing the green area, as mandated by the Hon'ble Tribunal vide order dated 10.07.2015, failed to assail the said direction under Section 22 of the National Green Tribunal Act, 2010 ('the Act'), and is thus estopped from challenging or acting contrary to it at this stage. The relevant text of section 22 is reproduced as under: -

22. Appeal to Supreme Court.

- Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908: Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellants was prevented by sufficient cause from preferring the appeal.

Therefore, the order dated 10-07-2015 in OA 60/2014 has attained finality and binding.

4. It is respectfully submitted that the present Reply has been filed merely to circumvent the categorical admission made by Respondent No. 2 in its Reply to E.A. No. 50/2023 at paragraph Z (internal page 20), wherein it was expressly acknowledged that both Respondent No.1 and Respondent No.2 were fully aware that the Tower Restaurant could not be operated. Notwithstanding this clear admission, the Respondent continues to use the Green Area, albeit without operating the Tower Restaurant, and has been



brazenly violating the order dated 10-07-2015, the order dated 31-07-2017 in Review Application No. 23/2015 filed by Respondent No. 2, the order dated 12-04-2023 in E.A. No. 23/2019, and the order dated 24-05-2024 in E.A. No. 50/2023

The relevant text of the said admission, wherein it is acknowledged that the Tower Restaurant was non-compliant and that the Fire Department did not issue the necessary NOC, is reproduced as under: -:-

- there is no default or breach on the part of the respondent no.3 in that regard

- the NOC from Fire Department has not been given for the reason that the "Tower Restaurant Building" is non-compliant.

- this material fact was concealed from respondent no. 3, when respondent-DDA issued NIT and also when it accepted the Tender bid of respondent No.3;

PRELIMINARY OBJECTION:

1. It is respectfully submitted that the reply filed by Respondent No. 2 ought not to be accepted or taken on record, as the matter is presently at the final stage. It is further submitted that Respondent No. 2 at this belated stage, has engaged a new counsel—**Mr. Gaurav Agarwal**, who is the son of a sitting Hon'ble Member of this Hon'ble Tribunal, **Hon'ble Mr. Justice Sudhir Agarwal**. The engagement of counsel in such circumstances gives rise to a clear perception of conflict of interest, undermining the principles of transparency and fairness in adjudication, and is therefore impermissible in law and equity.

2. It is respectfully submitted that the reply filed by Respondent No. 2 ought not to be accepted or taken on record, as the matter is presently at the final



stage. It is further submitted that Respondent No. 2, at this belated stage, has engaged a new counsel—**Mr. Gaurav Agarwal**, who is the son of a sitting Member of this Hon’ble Tribunal, **Hon’ble Mr. Justice Sudhir Agarwal**. This gives rise to a serious perception of **conflict of interest** and raises legitimate concerns regarding **judicial propriety and institutional integrity**.

3. It is a well-settled principle that **“justice must not only be done but must also be seen to be done** as held by Hon’ble Supreme **Court in the case of Ranjit Thakur v. Union of India, (1987) 4 SCC 611**, relevant paras of which are reproduced as under:

15. The second limb of the contention is as to the effect of the alleged bias on the part of Respondent 4. The test of real likelihood of bias is whether a reasonable person, in possession of relevant information, would have thought that bias was likely and is whether Respondent 4 was likely to be disposed to decide the matter only in a particular way.

16. It is the essence of a judgment that it is made after due observance of the judicial process; that the court or tribunal passing it observes, at least the minimal requirements of natural justice; is composed of impartial persons acting fairly and without bias and in good faith. A judgment which is the result of bias or want of impartiality is a nullity and the trial “coram non-judice”. (See Vassiliades v. Vassiliades [AIR 1945 PC 38 : 221 IC 603].

17. As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own



mind and ask himself, however, honestly, “Am I biased?”; but to look at the mind of the party before him.

22. Thus tested the conclusion becomes inescapable that, having regard to the antecedent events, the participation of Respondent 4 in the court-martial rendered the proceedings coram non-judice.

4. Hon’ble Supreme Court has consistently held that even the likelihood or perception of bias is sufficient to vitiate judicial proceedings. **In State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770**, the Court emphasized that where there exists even a reasonable apprehension of bias or conflict of interest, the concerned authority ought to recuse itself or avoid association in any manner that may compromise public confidence. The relevant text of para 28 is reproduced as under: -

*28. The principle in these cases is derived from the legal maxim—*nemo debet esse judex in propria sua causa*. It applies only when the interest attributed is such as to render the case his own cause. This principle is required to be observed by all judicial and quasi-judicial authorities as non-observance thereof is treated as a violation of the principles of natural justice. (Vide *Rameshwar Bhartia v. State of Assam [(1952) 2 SCC 203 : AIR 1952 SC 405 : 1953 Cri LJ 163]*, *Mineral Development Ltd. v. State of Bihar [AIR 1960 SC 468]*, *Meenglas Tea Estate v. Workmen [AIR 1963 SC 1719]* and *Transport Deptt. v. Munuswamy Mudaliar [1988 Supp SCC 651 : AIR 1988 SC 2232]*.)*

5. In view of the above, the engagement of Mr. Gaurav Agarwal as counsel for Respondent No. 2 in the present matter—especially at the final stage of proceedings before this Hon’ble Tribunal, where his father is a sitting Member—constitutes a clear breach of the principles of natural justice and



judicial impartiality. The reply filed through such counsel deserves to be disregarded as it is vitiated by a conflict of interest and is contrary to the settled principles of fair and unbiased adjudication.

6. Furthermore, while filing the Reply, Respondent No. 2—despite the admitted position that it had unequivocally accepted and never challenged the order dated 10.07.2015 in O.A. No. 60/2014, as contemplated under Section 22 of the Act, wherein a specific condition was imposed restricting the use of the green area to the concurrent operation of the Tower Restaurant—is now attempting to set up an entirely new case under the guise of responding to the Execution Application. Such a belated and inconsistent stand is legally impermissible and amounts to approbation and reprobation, a course of conduct that is clearly prohibited in law and liable to be rejected at the threshold.

Para wise reply to preliminary submissions:

1. That, the contents of para 1 are a matter of fact. Hence, merit no response.
2. That, the contents of para 2 are a matter of fact. Hence, merit no response.
3. That the contents of paragraph 3, as stated, are vehemently denied. Respondent No. 2, having accepted the order dated 10.07.2015 without challenge, stood precluded from invoking the appellate jurisdiction of the Hon'ble Supreme Court under Section 22 of the Act, the prescribed limitation period having long since expired. It is a settled position in law that once a party elects not to challenge an order within the time permitted by statute, it cannot subsequently reopen the same issues by way of collateral proceedings.



The subsequent filing of W.P. (C) No. 11160 of 2024 before the Hon'ble High Court of Delhi, assailing the direction issued to Respondent No. 3 to impose Environmental Compensation, along with W.P. (C) No. 8268 of 2024 challenging the imposition of Environmental Compensation itself, constitutes a clear abuse of the process of law. It is a well-settled principle that a party cannot be permitted to approbate and reprobate or initiate parallel proceedings to undermine the finality of adjudication.

Such conduct on the part of Respondent No. 2 reflects a deliberate and mala fide attempt to obstruct and delay the execution of binding and lawful directions issued by this Hon'ble Tribunal and deserves to be viewed with disapproval.

4, 5 & 6 The contents of paragraphs 4, 5 and 6, as stated, are vehemently denied. It is respectfully submitted that instead of availing the statutory remedy of filing a Civil Appeal before the Hon'ble Supreme Court under Section 22 of the Act, Respondent No. 2 has chosen to invoke the writ jurisdiction of the Hon'ble High Court of Delhi by filing W.P. (C) No. 11160 of 2024, seeking quashing of the order dated 24.05.2024 passed by this Hon'ble Tribunal in the Execution Application. Notably, Respondent No. 2 has failed to disclose the material fact that it did not challenge the earlier order dated 10.07.2015 before the Hon'ble Supreme Court, which has since attained finality.

Further, the imposition of Environmental Compensation by Respondent No. 3, undertaken in compliance with the Tribunal's directions, has been separately challenged by Respondent No. 2 in W.P. (C) No. 8268 of 2025, once again without assailing the foundational order dated 10.07.2015. This omission strikes at the root of the matter and renders the writ petitions legally untenable. The filing of these writ petitions is thus a deliberate tactic

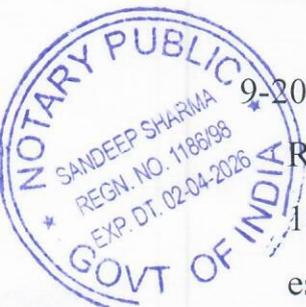


to delay the enforcement of lawful directions and amounts to a clear abuse of the process of law.

7. The contents of para 7 are denied as the ratio of order dated 11th January 2024 in case of **THE STATE OF HIMACHAL PRADESH AND OTHERS vs. YOGENDERA MOHAN SENGUPTA AND ANOTHER** in **CIVIL APPEAL NOS. 5348-5349 OF 2019** are entirely different and cannot apply in the present case, because once interim order was passed by Hon'ble High Court, and Hon'ble Tribunal was seized of this fact, final order could not have been passed. In the present case the final order dated 10-07-2015 in OA 60/2014 passed by Hon'ble Tribunal has been accepted and was never assailed by Respondent before Hon'ble Supreme Court and no proceeding whatsoever are pending even in W.P.(C) 11160/2024 and W.P. (C) 8268/2025 and there is no stay on proceedings before Hon'ble Tribunal.
8. The contents of paragraph 8 are denied in toto. At the cost of repetition, it is once again reiterated that the order dated 10.07.2015 passed by this Hon'ble Tribunal in O.A. No. 60/2014 has not been challenged by Respondent No. 2 before any superior court. No proceedings whatsoever are pending in respect thereof, nor is there any stay operating against the said order. The said order has thus attained finality and is binding on all parties.

Para wise reply to reply on execution application:

- 9-20. That the contents of paragraphs 9 to 20 are vehemently denied. Respondent No. 2, having unequivocally accepted the order dated 10.07.2015 passed by this Hon'ble Tribunal in O.A. No. 60/2014, is now estopped from placing reliance on subsequent judgments or seeking to



build an entirely new case at this belated stage. The said order has attained finality and is binding on all parties. It is well settled that once a party fails to avail the remedy of appeal within the prescribed limitation, the adjudication attains finality.

At best, such issues could have been raised before the Hon'ble Supreme Court by way of an appeal under Section 22 of the Act, within the statutory period—an opportunity which Respondent No. 2 failed to exercise.

It is further submitted that the scope of an Execution Application is confined to the implementation and enforcement of the final order and does not permit reopening of concluded issues or introduction of new grounds. The repeated efforts of Respondent No. 2 to re-agitate settled matters under the guise of reply to execution proceedings amount to an abuse of the process of law and are clearly designed to delay the execution of binding directions. Such conduct deserves to be deprecated and rejected at the threshold."

DEPONENT

VERIFICATION:

IDENTIFIED BY

Verified at New Delhi on this the 01st day of August 2025 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: 01.08.2025

Place: New Delhi

ATTESTED

NOTARY PUBLIC
DELHI (INDIA)



DEPONENT

4 AUG 2025

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...APPLICANT

VERSUS

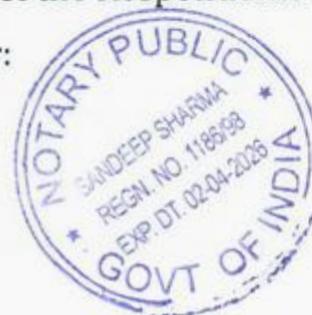
**DELHI DEVELOPMENT AUTHORITY
AND ANOTHER**

...RESPONDENTS

AFFIDAVIT OF SERVICE

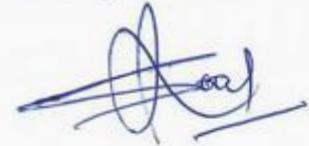
I, Anil Sood a Senior Citizen, S/o Sh. M.C. Sood, R/o.- C-1/1056, Vasant Kunj, New Delhi-110070, aged about 69 years, do hereby solemnly affirm and state as under:

1. That I am the President of the Applicant in the above-mentioned case. The present affidavit of service is being affirmed by me in such capacity on behalf of the Applicant.
2. I state that I have sent e-mail dated: 04th August 2025 from my official e-mail address anilsood@spchetna.com to the respondents, as an advance copy of the Rejoinder affidavit on behalf of Applicant to counter affidavit filed by respondent no. 02 i.e., M/s Jhankar Banquets. The particulars and e-mail address of the Respondents on whom service has been affected are as under:



Description of Respondents	E-mail Address of Respondents	Status	Date of e-mail
Delhi Development Authority (Respondent No. 1)	vcdda@dda.org.in osdtovc@dda.gov.in	Served	04.08.2025
M/s Jhankar Banquets Through its partner Usha Kapoor (Respondent No. 2)	gaurav@grvlegal.in	Served	04.08.2025
Delhi Pollution Control Committee (Respondent No. 3)	chdpcc@nic.in	Served	04.08.2025

True copies of the e-mail dated: 04th August 2025 sent by me to the Respondents are annexed herewith as Annexure-A.



DEPONENT

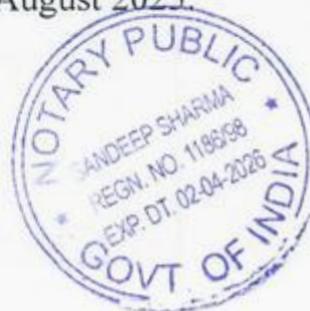
VERIFICATION

I, the Deponent above named do hereby verify that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 04th August 2025.

ATTESTED

NOTARY PUBLIC
DELHI (INDIA)
- 4 AUG 2025




DEPONENT

 Outlook

Re; Rejoinder Affidavit on behalf of Applicant to Counter affidavit filed by Respondent No. 02 in EA 03/2025

From Anil Sood (SPChetna) <anilsood@spchetna.com>

Date Mon 04-08-2025 08:17

To chdpcc@nic.in <chdpcc@nic.in>; gaurav@grvlegal.in <gaurav@grvlegal.in>; vcdda@dda.org.in <vcdda@dda.org.in>

Cc osdtovc@dda.gov.in <osdtovc@dda.gov.in>; Madhumita Singh <madhumita@casassociates.in>; Sameer Sood <sameer@casassociates.in>

 1 attachment (840 KB)

Rejoinder to Reply filed by R2.pdf;

Dear All

Attached is rejoinder to the reply filed by Respondent No. 2 in EA 03/2025.

With best wishes & kind regards

Anil Sood
Hony President - SPCHETNA
TEDx Speaker, Recipient of Man of Excellence Award 2023
A 414-415 , Somdutt Chamber -1
5 Bhikajicama Place,
New Delhi.
email: anilsood@spchetna.com
Cell. +91-9971117801

Web site: www.spchetna.com

The donations to the Society holding Unique Registration No AABTS4118AF20214, are exempt from Income Tax under Section 80 G of Income Tax, Act, 1961, vide order dated 31st December 2021 from AY 2022-23 to AY 2026- 2027

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