

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
I.A. NO. 625 OF 2023
IN
ORIGINAL APPLICATION 392 OF 2022**

IN THE MATTER OF:

PRASOON PANT & ANR. ... APPLICANTS

VERSUS

UNION OF INDIA & ORS. ... RESPONDENTS

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THROUGH



RITWICK DUTTA



**RAHUL CHOUDHARY
ADVOCATES**

COUNSELS FOR THE APPLICANT

N-73, LOWER GROUND FLOOR, GREATER KAILASH-I,

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PLACE: NEW DELHI

DATE: 17.10.2023

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**REPLY TO I.A. NO. 625 OF 2023 ON BEHALF OF THE
APPLICANTS:**

MOST RESPECTFULLY SHOWETH:

1. That the above-titled I.A. No. 625 of 2023 has been filed by M/s Ace Group (hereinafter referred to as the '**Project Proponent**') who is Respondent No. 10 in the Original Application No. 392 of 2022 titled *Prasoon Pant & Anr. v. Union of India & Ors.*
2. That the Original Application was filed by the Applicants raising the issue of illegal extraction of ground water by the builders operating in Noida, impleaded as respondent Nos. 09 to 48. Vide order dated 5.07.2022, this Hon'ble Tribunal formed a Joint Committee to verify facts and furnish an action taken report.
3. That vide order dated 15.11.2022, the Hon'ble Tribunal directed that:

"11. Following the above order, we issue directions for sealing of all illegally operating borewells and recovery of compensation for illegal extraction of ground water in the past considering the cost of such water with deterrent element and the cost of replenishing ground water level. In absence of clear data on these aspects, interim/floor level compensation can be equal to atleast 0.5% of the project cost of the PPs, apart from remedial action for future. ..."

4. That according to the said order, the Uttar Pollution Control Board submitted a compliance report dated 15.05.2023 wherein it had calculated the interim compensation for all the defaulting projects based on 0.5% of the project cost. Vide letter dated 12.05.2023, the UPPCB imposed a compensation of Rs. 1.38 crores, Rs. 3.91 crores and Rs. 3.3 crores, respectively for illegal extraction of groundwater on the three projects of the Project Proponent i.e. Ace City, Ace Aspire and Ace Divino.
5. That the said I.A. has been filed seeking modification/stay of the order dated 15.11.2022, praying for fresh constitution of the Joint Committee with the District Magistrate, Noida to be a member for fresh inspection of the project sites with the authorized representatives of the projects present.
6. That the said Projects falls within the jurisdiction of GNIDA who is Respondent no. 8 in the present Original Application. It is submitted that GNIDA is responsible for the supply of water within its jurisdiction as per the UP Industrial Area Development Act, 1976, and hence, their submissions are required to be noted for the proper adjudication of the above-titled I.A. and Original Application.
7. That the Project Proponent by this present application has raised the contention that the Joint Committee has failed to bring any illegality against the Ace City and Ace Aspire projects and that the findings in the report has been given on blatant assumptions. It is stated that when the site visit was conducted by the Joint Committee, by then the projects Ace City and Ace Aspire were handed over to the AoA or RWA of the respective society. Moreover, during construction phase of both projects, water supply had been obtained from the GNIDA. Therefore, it is contended that any pump operational during the joint inspection was the responsibility of the AoA or RWA of the projects and compensation if any to be levied from the AoA itself. Further it is contended that no inspection

was ever done at the Ace Divino project site but notice was still served upon the said project for compensation.

8. That therefore, the Applicants would like to raise following objections to the contentions stated in the above-titled I.A.

a. Ace City and Ace Aspire:

9. That the Project Proponent contends that the notice dated 26.09.2022 by the UPPCB was never received by them. It was only vide notice dated 6.06.2023 of UPPCB imposing compensation on the above-mentioned projects, did the Project Proponent first receive intimation of the ongoing proceedings. However, as stated by the Project Proponent, site visit by the Joint Committee was conducted on 14.09.2022 and 19.09.2022 at the project sites of the Project Proponent. Further, vide letters dated 26.09.2022 (as annexed in the Joint Committee Report dated 7.10.2022) by the UPPCB sent to both Ace City and Ace Aspire, it is stated that *"Permission of Uttar Pradesh Ground Water Department for groundwater extraction was not provided by the representative present at the time of inspection."* Therefore, it can easily be inferred that the representatives of the Project Proponent were present during site inspection. Thus, it is quite difficult to believe that the Project Proponent were unaware of the above-titled proceedings.
10. That the Project Proponent has further contended that the borewell present at Ace City and Ace Aspire were not installed during construction phase and later on the possession of the projects were handed to the respective AoA/RWAs. It is contended that during site inspection, the borewell found did not belong to the Project Proponent as they did not have any control over the project sites.
11. It is submitted that the Project Proponent has put the onus of the operation of society of Ace City and Ace Aspire in hands of the elected AOA/RWA, while out rightly rejecting that illegal extraction was being

done. Considering that the Project Proponent states that water supply was being provided by GNIDA during construction phase, hence, the response of the GNIDA is important in light of present facts and circumstances of the case.

b. Ace Divino:

12. That the Project Proponent contends that no site inspection was done at the project site by the Joint Committee, but notice dated 13.06.2023 by the UPPCB was issued to the said project similar to Ace City and Ace Aspire for imposing compensation.
13. It is submitted that such a contention is denied because the UPPCB had issued a letter dated 20.12.2022 to Ace Divino as annexed in the Joint Committee Report dated 15.05.2023 (at **Pg. 281 of the Paperbook**) wherein it was stated that:

"During inspection, it was found that 01 borewell (capacity 10 HP) has been installed for water supply in the project without obtaining permission from Uttar Pradesh Ground Water Department. In this regard, you were directed at the time of inspection to obtain the necessary no objection certificate from the Uttar Pradesh Ground Water Department, but you have not yet complied with the said instruction. ..."

According to the said letter, it is clear that site inspection was done at project site and one borewell was found installed. Therefore, the Project Proponent was aware that the site inspection was done by the Joint Committee and were also directed to obtain the necessary NOC from UP Ground Water Department. Therefore, the Project Proponent cannot claim the defence that Ace Divino project site was not inspected by the Joint Committee.

14. That the UPPCB is required to reply on the allegations made by the Project Proponent for the proper adjudication of the above-titled I.A. and Original Application.

15. That in light of the above submissions and objections on behalf of the Applicant, this Hon'ble Tribunal may be pleased to dismiss the I.A. No. 625 of 2023.
16. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.



APPLICANT NO. 2

THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY

ADVOCATES

COUNSELS FOR THE APPLICANT

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AFFIDAVIT

I, Pradeep Kumar, S/o Shri Chandu Lal, aged about 34 years, R/o Village Village Sunpura, Post Vaidpura, Greater Noida, Gautam Budh Nagar (UP), do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 2 in the above titled Original Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Reply are true and correct and nothing material has been concealed therefrom.

Pradeep Kumar
**I, IDENTIFIED THE
DEPONANT WHO HAS
SIGNED IN MY PRESENCE**

Pradeep Kumar

DEPONENT

VERIFICATION

Verified on this 17th day of October, 2023 that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

NOTARY PUBLIC APPOINTED BY GOVT. OF INDIA G. S. KHARRANDA		
Notary Reg. No. 745	17 OCT 2023	ADVOCATE ENL. No. D 287781
ATTESTED 9899422266		

Pradeep Kumar

DEPONENT

ATTESTED

NOTARY PUBLIC