

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

INDEX

IN

RESPONSE AFFIDAVIT ON BEHALF OF RESPONDENT
(UTTARAKHAND POLLUTION CONTROL BOARD)

in

Appeal No. 8/2025

M/S Hotel Valentine

Applicant

Versus

Uttarakhand Pollution Control Board

Respondent

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Dated: April, 2025



MUKESH VERMA

Counsel for UKPCB

Chamber No. 50, Old Block,

Supreme Court of India, New Delhi

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Affidavit of Dr. Parag Madhukar Dhakate, aged about 47 years S/o Shr. M.B Dhakate presently posted as Member Secretary, Uttarakhand Pollution Control Borad, Uttarakhand.

Deponent

I, the above-named deponent does hereby solemnly affirm and state on oath as under: -

1. That the deponent is presently posted as the Member Secretary, Uttarakhand Pollution Control Borad and is competent to sign and file the instant affidavit on behalf of respondent and as such he is well acquainted with the facts and circumstances of the case.

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2. That the deponent has gone through the contents of the above-noted Appeal (hereinafter referred to as 'the said appeal') along with the annexures and affidavit filed by the appellant and has fully understood the contents thereof and is in a position to reply to the same.
3. That before giving para-wise reply it is necessary to bring certain facts before this Hon'ble Tribunal.

BRIEF FACTS

4. That this Hon'ble Tribunal vide order dated 26.07.2023 passed in in Original Application No. 353/2022, Kartik Sharma vs. State of Uttarakhand was pleased to direct the respondent as under: -

“

3. The State PCB has not taken action against units/hotels which are in operation without any consent and further State PCB has not taken any steps against the past violation.

4. Accordingly, we direct the State PCB to take necessary action against the units/hotels which have no valid consent and further to take action against the past violation.....”

5. In this connection, it is pertinent to clarify that Show Cause Notice dated 09.05.2023 was already issued to 106 hotels and thereafter the environmental compensation was also imposed.




6. That the matter Original Application No. 353/2022, Kartik Sharma vs. State of Uttarakhand was again listed on 29.07.2024 and on the said date, this Hon'ble Tribunal was pleased to direct as under: -

“

4. The Member Secretary, UKPCB present in person has submitted that the hotels which were violating the norms have been imposed the EC from the date of issuance of show cause notice. These violations also cover the non-existing dual piping system and operation without CTO. Hence, action of imposition of EC was required to be taken with effect from the date of violation. Member Secretary, UKPCB has assured that in respect of each violator, now, the date of violation will be ascertained and the action will be taken.

.....”

7. That in compliance with the order dated 29.07.2024, passed by this Hon'ble Tribunal in Original Application No. 353/2022, Kartik Sharma vs. State of Uttarakhand, a meeting was conducted on 09.10.2024 to reassess the environmental compensation previously imposed on hotels in Mussoorie. In the said meeting, it came to light that a decision of imposing environmental compensation w.e.f. 21.12.2019 has already been taken by the Uttarakhand Pollution Control Board, in its 23rd meeting and therefore, it was decided that the first day of violation shall be considered 21.12.2019 for those hotels which were operating without consent as on 21.12.2019. Apart from this, in the said meeting it was also decided that the



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environmental compensation shall be imposed on such hotels from 21.12.2019 or from the date of their operation, whichever is higher. In this connection, copy of minutes of meeting dated 15.10.2024 along with the chart of reassessment of environmental compensation against hotels are collectively being marked and filed as **Annexure No. 1** to this affidavit.

8. Earlier the environmental compensation was imposed from date of show cause direction (i.e. 09.05.2023) to date of compliance (i.e. 18.09.2023) for 132 days. That since the date of start of appellant hotel is 01.04.2021 and date of compliance is 18.09.2023, therefore, environmental compensation has been imposed for 900 days and reassessed as under: -

Total no. of day of violation: 900

EC rate: 2250

Total EC: $900 \times 2250 = 20,25,000/-$

Previously imposed EC = 2,97,000/-

EC after reassessment = 17,28,000/-



PARA WISE REPLY:

9. That the contents of Paragraph No. 1 and 2 of the said appeal pertain to the particulars of appellant and respondent and hence do not call for any reply.

10. That the contents of Paragraph No. 3 of the said appeal are denied. On the basis of facts narrated in subsequent paragraphs, the appellant is not entitled to get any interim relief.
11. That the contents of Paragraph No. 4 of the said appeal do not call for any reply.
12. That the contents of Paragraph No. 5 of the said appeal are denied for want of knowledge. The appellant is put to strict proof thereof.

REPLY OF FACTS OF THE CASE:

13. That the contents of Paragraph No. 1 of the said appeal are admitted only in so far as they are a matter of record. Rest of the contents are denied. It is wrong to state that the appellant is following all the environmental norms as prescribed by the Local Authorities.
14. That the contents of Paragraph No. 2 to 6 of the said appeal are admitted only in so far as they are a matter of record. Anything contrary thereto is vehemently denied.
15. That the contents of Paragraph No. 7 to 9 of the said appeal are denied for want of knowledge. The appellant is put to strict proof thereof.
16. That the contents of Paragraph No. 10 of the said appeal are admitted only in so far as they are a matter of record. It is wrong to allege that the appellant has been following all the norms, rules and regulations as mandated by the respondent while granting CCA.



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17. That the contents of Paragraph No. 11 of the said appeal are admitted only in so far as they are a matter of record.
18. That the contents of Paragraph No. 12 of the said appeal are admitted only in so far as they are a matter of record. Rest of the contents are denied. It is pertinent to mention that the order dated 13.02.2024 was issued as per rules. Also, order regarding reassessment of EC was issued in strict compliance with the directions issued by this Hon'ble Tribunal vide order dated 29.07.2024 passed in OA No. 353/2022, Kartik Sharma vs. State of Uttarakhand. As per the order of this Hon'ble Tribunal, the UKPCB reassessed and imposed environmental compensation from the date of actual violation rather than from the date of show cause notice. Furthermore, earlier Show Cause Notice dated 09.05.2023 was issued to the Appellant under Section 33A of the Water (Prevention & Control of Pollution) Act and Section 31A of the Air (Prevention & Control of Pollution) Act which covered the underlying violations - operation without valid consent and non-compliance with the environmental norm. The reassessment merely involves recalculating the quantum of compensation for the same violations based on revised parameters as directed by this Hon'ble Tribunal. The essential nature of violations remained unchanged. Section 33A of the Water Act empowers the Board to issue directions in exercising its powers and performing its functions. This provision requires that reasonable opportunity be given before issuing directions, which was fulfilled through the original show cause



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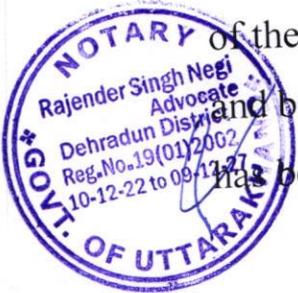
notice. The grounds of appeal are not legally tenable and hence the present appeal deserves to be dismissed.

19. That the contents of Paragraph No. 13 of the said appeal are admitted only in so far as they are a matter of record.
20. That the contents of Paragraph No. 14 and 15 of the said appeal do not call for any reply.


Deponent

Verification: -

Verified at Dehradun on the 1st day of April 2025, that the contents of the response affidavit are true and correct to the best of my knowledge and belief based on the official record and nothing is false and no material has been concealed therein.




Deponent

Dated: April, 2025



This affidavit is sworn before me by
Shri..... Dr. Ranveer Madhukar Phule
who is identified by Shri.....
at Dehradun on.....

S.No = 1776

(Rajender Singh Negi)
Advocate & Notary, Dehradun

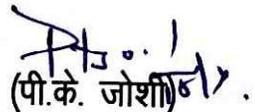
मा0 एन0जी0टी0 में योजित मूल आवेदन सं0-353/2022 कार्तिक शर्मा बनाम उत्तराखण्ड राज्य में पारित आदेश दिनांक 29.07.2024 के अनुपालन में मसूरी स्थित होटलों पर पूर्व में आरोपित पर्यावरणीय क्षतिपूर्ति के पुर्न आंकलन हेतु दिनांक 09.10.2024 को बैठक की गई जिसमें होटलों पर आरोपित पर्यावरणीय क्षतिपूर्ति के पुर्न आंकलन हेतु निम्नानुसार निर्णय लिए गए:-

1. उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड द्वारा पर्यावरणीय क्षतिपूर्ति आंकलन हेतु बोर्ड की 23वीं बैठक में निर्णय लेते हुए दिनांक 21.12.2019 से लागू कर दिया गया है। अतः ऐसे होटल जो दिनांक 21.12.2019 की स्थिति पर बिना सहमति के संचालित थे उनमें उल्लंघन के प्रथम दिवस को दिनांक 21.12.2019 माना जाना उचित होगा। इसके अतिरिक्त जो होटल बिना सहमति के संचालित थे, पर पर्यावरणीय क्षतिपूर्ति का आंकलन दिनांक 21.12.2019 अथवा संचालन की तिथि जो भी उच्चतर हो से आंकलन किया जाना उचित होगा।
2. उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड द्वारा कोविड संक्रमण काल में ऐसे उद्योगों जिनके पास दिनांक 31.03.2020 तक वैध संचालनार्थ सहमति थी उनकी संचालनार्थ सहमति की अवधि दिनांक 31.03.2021 तक बढ़ायी गयी (पत्रांक-यूईपीपीसीबी/एच.ओ./सा.-06-24वीं बो0बै0/2020/1599-319 दिनांक 13.07.2020)। इस कारण जिन उद्योगों के पास वैध सहमति दिनांक 31.03.2020 तक वैध थी नवीनीकरण हेतु आवेदन नहीं किया गया, उनमें प्रथम उल्लंघन दिवस दिनांक 01.04.2021 माना जाना उचित होगा।
3. उपरोक्त के अतिरिक्त अन्य होटलों पर उनकी सहमति वैधता समाप्ति के पश्चात के प्रथम दिवस से पर्यावरणीय क्षतिपूर्ति का आंकलन करना उचित होगा।
4. उपरोक्त तथ्यों के आधार पर पूर्व में आरोपित पर्यावरणीय क्षतिपूर्ति का आंकलन संलग्न है।

समिति की संस्तुति अनुमोदनार्थ प्रस्तुत है।


(हरीश चन्द्र भट्ट)
लेखाधिकारी


(डॉ. अकुर कसल)
पर्यावरण अभियन्ता


(पी.के. जोशी)
पर्यावरण अभियन्ता




1. Hotels operational without CCA before 21-12-2019 or commissioned after ward and running without CCA

S.no.	Name Of the Unit	Industry Address	Validity	Rooms	Date of Start	Date of Compliance	Total Days of violation (without CCA)	EC Rate	Proposed EC	Previous Compensation
1	Hotel Minerva, Mussoorie	the mall kulri bazar, near green vegetarian Mussoorie	30.9.2024	17	17-05-1986	25.06.2023	1282	2250	2884500	105750
2	Hotel Rock Stone	The Mall Near Post Office, Mussoorie	31.03.2024	19	17.05.2008	23.05.2023	1249	2250	2810250	31500
3	Hotel Karma Villas	villa estate big bend picture palace road Mussoorie	30.09.2024	13	25.02.2021	09.06.2023	834	2250	1876500	69750
4	Hotel Hard Rock	Dehradun road, Mussoorie	30-09-2024	44	22.11.2022	01.06.2023	191	3750	716250	86250
5	Hotel I india (Hotel Hard Rock)	Big bend picture palace road, Mussoorie	30-09-2024							
6	Hotel Himalayan Breeze	mall road near library Mussoorie	30.09.2024	10	01.04.2023	04.08.2023	125	2250	281250	76500
7	Hotel Shingar	mall road, Mussoorie	30-09-2024	15	01.06.2021	24.06.2023	753	2250	1694250	22500
8	Hotel Sapphire	Camel back road Mussoorie	30-09-2024	10	01.04.2023	19.05.2023	48	2250	108000	96750
9	Yog Holistic Wellness Centre Unit of Aron Resort	Kulri chowk Mussoorie	30-09-2024	20	23.12.2020	21.06.2023	910	2250	2047500	18000
10	Hotel Carlton Plaisance	Happy Valley Road. Near the L.B.S.N.A. Academy, Mussoorie	30-09-2024	11	01.04.2021	19.05.2023	778	2250	1750500	22500
11	Hotel Landour residency	Clock tower Mussoorie	30-09-2024	10	19.10.2022	16.05.2023	209	2250	470250	15750
12	Hotel Royal Mansion	Near wynberg school the mall road Mussoorie	30-09-2024	17	05.03.2017	06.09.2023	1355	2250	3048750	270000
13	Hotel Spring unit of Luxmi Resorts	Library road Mussoorie	30-09-2024	10	01.01.2022	23.06.2023	538	2250	1210500	101250
14	Hotel Bright Star	Kulri Bazaar, Mussoorie	30-09-2024	20	01.11.2022	25.06.2023	266	2250	598500	173250

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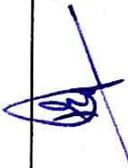
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15	Hotel london House	the mall road. survey colony Mussoorie	30-09-2024	10	01.11.2016	24.07.2023	1311	2250	2949750	171000
16	Hotel Nandan Hotel (dunsvirk court)	Baroda estate library Chowk, Mussoorie	30-09-2024	41	01.04.2020	06.09.2023	844	3750	3165000	450000
17	Hotel J S Inn	kempty fall road, charleville mussoorie	30-09-2024	12	04.05.2019	29.08.2023	1347	2250	3030750	252000
18	Hotel Sky touch	the mall road Mussoorie	30-09-2024	11	01.04.2022	04.08.2023	490	2250	1102500	195750
19	Hotel Prestige, Gandhi Chowk, Mussoorie	Gandhi Chowk, Mussoorie	30-09-2024	18	21.07.2021	17.10.2023	818	2250	1840500	362250
20	Hotel Charlene	Near Hotel Brentwood, The Mall Road Kulri, Brentwood lane mussoorie	31.03.2025	18	18.07.2022	10.05.2023	296	2250	666000	2250
21	Hotel Valentine	mall road Mussoorie	30-09-2024	15	01.04.2021	18.09.2023	900	2250	2025000	297000
22	Hotel Mussoorie Mid view	mall road Mussoorie	31.03.2024	14	01.04.2021	01.09.2023	833	2250	1874250	2587500
23	Hotel Akanksha anand plaza	near radha krishna mandir Mussoorie	31.03.2025	19	01.11.2022	30.07.2023	271	2250	609750	184500
24	Hotel valley vista	Landour Bazar, Mussoorie	30-09-2024	16	01.04.2022	17.08.2023	503	2250	1131750	225000
25	(HOTEL ILBERT MANOR (Hotel E-mail), Duglavilla Road)	Gandhi Chowk, Mussoorie	30-09-2027	14	05.07.20222	07.08.2023	398	2250	895500	202500

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26	Hotel Notting hill a unit of Loharu infrastructures pvt Ltd	raddison road chowk, the mall road mussoorie	31.03.2025	19	08.05.2022	280.08.2023	477	2250	1073250	249750
27	Hotel Green View	Mall Road gandhi chowk Mussoorie	30.09.2025	10	13.09.1988	06.11.2023	1416	2250	3186000	409500
28	Hotel Grand The Mall (Hotel Ashoka Plaza)	mall road, opposite bata showroom Mussoorie	Not applied	14	01.08.2017	06.11.2023	1416	2250	3186000	409500
29	Hotel Urvashi Palace	Behind clock tower, oak road Mussoorie	31.03.2025	12	01.06.2018	06.11.2023	1416	2250	3186000	409500
30	Hotel Palazo	near radha krishna mandir Mussoorie	31-03-2025	10	01.04.2022	06.11.2023	584	2250	1314000	409500
31	Heavens view resort	Kulri chowk Mussoorie	31.03.2025	12	24.06.2022	06.11.2023	500	2250	1125000	409500
32	Hotel elegant hill	kulri chowk mussoorie	31.03.2025	8	30.07.2021	06.11.2023	829	2250	1865250	409500
33	Hotel Sun & Snow (kamakshi Grand)	Picture palace Mussoorie	31.03.2025	30	19.09.2018	06.11.2023	1416	3750	5310000	409500
34	Romeo Lane The Courtyard House (Hotel Radison Tara	The Mall Road Sylverton Estate, Mussoorie	31.03.2025	23	10.04.2023	06.11.2023	210	3750	787500	409500
Total									59820750	7216500

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2. Hotels Having CCA but renewal not obtained with in time, hotel having last CCA validity up to 31-3-2020, violation calculated from 1-4-2021

S.no.	Name Of the Unit	Industry Address	Validity	Rooms	Validity of Last CCA	Date of Compliance	Total Days of violation (without CCA)	EC Rate	Proposed EC	Previous Compensation
1	The Claridges Hotel Pvt Ltd	barlowganj road mussoorie-barlowganj road mussoorie,DUN-mussoorie	30.09.2026	22	31-03-2020	16-05-2023	775	3750	2906250	26250
2	Ms Hotel Garhwal Terreis	-85 mall road, Dehradun. ,Town:Mussoorie	31.03.2025	25	31-03-2020	03-09-2022	520	3750	1950000	0
3	Hotel Dream palace	Sylverton Estate, Kuliri, The Mall, Mussoorie	31.03.2027	12	31-03-2020	18.05.2023	777	2250	1748250	20250
4	Hotel Castle View	Hotel Castle View , Landour Bazar, Clock Tower , Mussoorie	30.09.2027	10	31-03-2020	15.05.2023	775	2250	1743750	13500
5	Hotel Vikas	Hotel Vikas, The Mall, Mussoorie, Uttarakhand Dehradun	30.09.2026	10	31-03-2021	26.05.2023	786	2250	1768500	38250
6	HOTEL PRAKRIT	Village Tundhar Kyarkuli- Mussoorie, Dehradun, Uttarakhand.	30-09-2027	17	31-03-2023	17.05.2023	47	2250	105750	18000
7	Sunset View Resort	Village Kyarkuli, Power House, Mussoorie, Dehradun, Uttarakhand.	30.09.2027	14	31.03.2023	18.05.2023	48	2250	108000	20250
8	Hotel Jass Resorts	Cart Road, Mussoorie Lake, Dhobi Ghat, Mussoorie.	30-09-2024	14	01.04.2021	12.06.2023	802	2250	1804500	103500
9	Hotel Aashna	Hotel Aashna . Glen Ronak Estate near Waverly Convent School, Mussoorie, Uttarakhand	30-09-2025	12	31.03.2020	17.05.2023	776	2250	1746000	18000
10	Hotel Ramanand Regency	Charlville Road, Mussoorie, Dehradun	30-09-2024	14	31.03.2020	17.05.2023	776	2250	1746000	18000
11	Hotel Tourist Home	Hotel Tourist Home, Mount View State, Kulri, Mussoorie	30-09-2027	10	31.03.2021	23.06.2023	814	2250	1831500	101250

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12	Hotel Welcome	Hotel Welcome, Radha Bhawan Esate - Mussoorie, Uttarakhand Dehradun	30-09-2024	14	31.03.2021	22.05.2023	782	2250	1759500	29250
13	HOTEL NATRAJ PALACE U/O KIRAN DIVYA	NATRAJ PALACE KULRI, MUSSOORIE, Dehradun, Uttarakhand. 248179	30.09.2024	18	31.03.2020	22.05.2023	781	2250	1757250	29250
14	HOTEL PICNIK	Hotel Piknik, Picture Palace, Kulri, Mussoorie - 248179	30-09-2024	19	31.03.2021	11.05.2023	771	2250	1734750	4500
15	Wild Flower House Hotel (Tandon Hotel)	Mall road Mussoorie	31.03.2028	16	31.03.2023	06.11.2023	220	2250	495000	409500
							Total		23205000	849750



