

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

INDEX

IN

RESPONSE AFFIDAVIT

(ON BEHALF OF UTTARAKHAND POLLUTION CONTROL BOARD)

(Respondent no.1)

in

I.A. NO.306/2025, 385/2025 & 386/2025

IN

APPEAL NO.32 OF 2025

M/s Hotel Garhwal Terreis

...Appellant

Versus

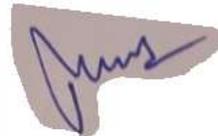
Uttarakhand Pollution Control Board & Ors.

..Respondents

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Date:

Place: Dehradun



Mukesh Verma, Advocate
(Counsel for Respondent-1)

Chamber No. 50,
Supreme Court of India,
New Delhi

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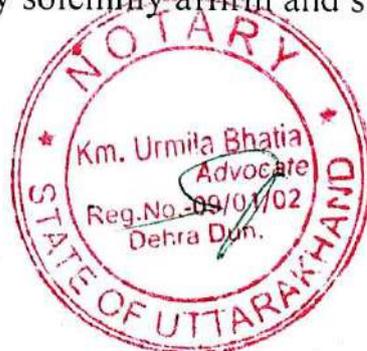
Uttarakhand Pollution Control Board & Ors.

..Respondents

Affidavit of Dr. Parag Madhukar Dhakate,
aged about 51 years S/o Shri. M.B
Dhakate presently posted as Member
Secretary, Uttarakhand Pollution Control
Board, Uttarakhand.

Deponent

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



1. That the deponent is presently posted as the Member Secretary and is duly authorized to sign and file the instant affidavit and as he is well acquainted with the facts and circumstances of the case.

PRELIMINARY SUBMISSIONS-

2. At the outset, it is most respectfully submitted that the present appeal filed by the appellant is not maintainable and is liable to be dismissed on the ground of delay, as the appellant has failed to assign any reasonable and sufficient cause which prevented it from filing the appeal within the statutory limitation period of 30 days, as prescribed under Section 16 of the National Green Tribunal Act, 2010. It is submitted that on 9.05.2023 show cause direction issued to 106 hotels including the appellant unit. Further, on 13.02.2024, the answering respondent had issued a demand notice to the appellant unit for levy of environmental compensation amounting to Rs. 4,42,500/-. However, subsequently, the said demand notice dated 13.02.2024 was cancelled, and the Show Cause Notice dated 09.05.2023 was revoked, and the appellant unit was directed to ensure strict compliance with the provisions of the Water Act, Air Act, and the Environment (Protection) Act, along with the Rules and Notifications made thereunder.

3. That thereafter, the answering respondent reassessed the environmental compensation payable by the appellant hotel in compliance with the order dated 29.07.2024 passed by this Hon'ble Tribunal in Original Application No. 353/2024. Upon such reassessment, it was found that environmental compensation amounting to Rs. 19,50,000/- was payable by the appellant unit.



[Handwritten signature]

Accordingly, a demand notice dated 08.11.2024 was issued, directing the appellant unit to deposit the said amount within one month from the date of receipt of the notice. It was further clearly stipulated that in case the aforesaid amount was not deposited within the prescribed time, further action would be taken in accordance with the law.

4. That as per the provisions of Section 16 of the National Green Tribunal Act, 2010, the appellant was required to file an appeal before this Hon'ble Tribunal against the demand notice dated 08.11.2024 within 30 days from the date of communication of the said demand notice. However, instead of availing the statutory remedy, the appellant filed a writ petition bearing WPMS No. 169 of 2025 before the Hon'ble High Court of Uttarakhand on 09.01.2025, challenging the demand notices dated 13.02.2024 and 08.11.2024. It is submitted that the said writ petition was also filed beyond the prescribed period of limitation, and admittedly, no application for condonation of delay was filed therein. A bare perusal of the order dated 12.03.2025 passed by the Hon'ble High Court would show that there is no observation or direction condoning the delay, if any, in seeking appropriate remedy against the impugned demand notices. The Hon'ble High Court merely disposed of the writ petition by granting liberty to the appellant to approach this Hon'ble Tribunal within a week.

5. That it is further submitted that Section 16 of the National Green Tribunal Act, 2010 provides that any person aggrieved by an order, decision, direction, or determination of the Board or State Government may file an appeal before the Tribunal within 30 days



[Signature] 4

from the date of communication thereof. The proviso further empowers the Tribunal to condone the delay for a further period not exceeding 60 days, subject to the appellant establishing sufficient cause. In the present case, the demand notice dated 08.11.2024 was admittedly communicated to the appellant, whereas the present appeal has been filed only on 09.04.2025, resulting in a delay of approximately 121 days, which is far beyond the maximum permissible period of 90 days under the statute. Hence, the present application seeking condonation of delay is not sustainable, and consequently, the appeal is liable to be dismissed as barred by limitation.

6. That the contention of the appellant seeking exclusion of 67 days on the ground that it had approached the Hon'ble High Court is wholly untenable. The appellant has failed to establish that it was prevented by any sufficient cause from filing the appeal within limitation. The filing of a writ petition before an inappropriate forum, despite the existence of an efficacious statutory remedy, cannot be construed as a bona fide or diligent prosecution of proceedings in accordance with law. Therefore, the reasons assigned by the appellant do not justify exclusion of time and are liable to be rejected.
7. That without prejudice to the above submissions, it is further submitted that subsequent to issuance of the demand notice dated 08.11.2024, the answering respondent, i.e., Uttarakhand Pollution Control Board, in continuation of statutory proceedings, issued a Show Cause Notice dated 27.09.2025 to the appellant unit in accordance with law. In response thereto, the appellant unit, namely Hotel Garhwal Terries, submitted its representation dated

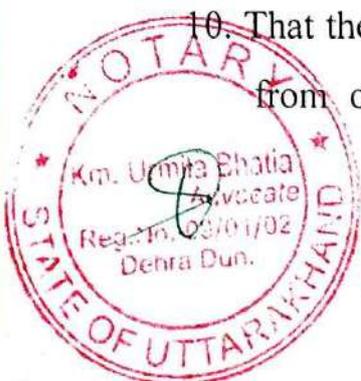


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25.10.2025, which is presently under scrutiny, and further action is in process as per law. It is respectfully submitted that the aforesaid proceedings do not create any fresh cause of action, nor do they extend or override the statutory limitation prescribed under Section 16 of the NGT Act for challenging the demand notice dated 08.11.2024. In this connection, copy of the Show Cause Direction dated 27.09.2025 is being filed and marked as Annexure-1 to this affidavit.

8. That apart from the above, the Hon'ble Supreme Court, in a catena of judgments on the issue of limitation, has categorically held that where a case is presented beyond limitation, the applicant must satisfactorily explain the existence of "sufficient cause." Mere negligence, lack of bona fides, or failure to act diligently does not constitute sufficient cause. It has further been held that condoning inordinate delay without justification would amount to violation of statutory provisions and would reflect disregard to legislative intent.
9. That in view of the above submissions, it is evident that the appellant has failed to show any sufficient or bona fide cause for the delay. The appellant has not acted with due diligence and has failed to approach the appropriate forum within the prescribed period. Therefore, the application seeking condonation of delay, as well as the present appeal, is liable to be dismissed at the threshold on the ground of limitation.

10. That the facts stated hereinabove are based on the information derived from official records and are true and correct to the best of the



knowledge and belief of the deponent. No part of the same is false, and nothing material has been concealed therefrom.

[Signature]
Deponent

VERIFICATION:

Verified at Dehradun on the 09 day of February 2026, that the contents of the accompanying 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.

[Signature]
Deponent

Dated: 21/2/2026

[Signature]

affidavit is sworn before me by
Dr. Pooja Pradnya Dhakate
is identified by
Dehradun on 21/2/2026

KM. URMILA BHATIA
Advocate & NOTARY, Dehradun

Identified by : Poojanika Jina
Advocate
UK/1475/2022

[Signature]
21/2/26



HEAD OFFICE

गौरा देवी पर्यावरण भवन

Uttarakhand Pollution Control Board
46-B, SIDCUL IT Park,
Sahastradhara Road, Dehradun(Uttarakhand)



उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड
46-बी, सिडकुल, आईटीओ पार्क,
सहस्रधारा रोड, देहरादून (उत्तराखण्ड)

UKPCB/HO/C&M 191 (Vol-2)/2025 | 84

Dated

27, Sep, 2025

To,

M/s Hotel Garhwal Terries
85 mall Road
Mussoorie, District Dehradun

Direction under section 33-A of the Water (Prevention & Control of Pollution), Act, 1974 as amended and section 31-A of the Air (Prevention & Control of Pollution), Act, 1981 as amended.

WHEREAS, the Central Government has made the **Water (Prevention and Control of Pollution) Act, 1974 (Hereinafter referred as Water Act)** and the **Air (Prevention and Control of Pollution) Act, 1981**, and the **Air (Prevention & Control of Pollution), Act, 1981 (Hereinafter referred as Air Act)** and section 25/26 of the Water Act and section 21 of the Air Act every water/air polluting industry/unit is required to obtain Consent to Establish and Consent to Operate from the **State Pollution Control Board**; and

WHEREAS, vide section 24 of the Water Act there is prohibition on use of a steam or well for disposal of polluting matter which elaborates that no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by Board to enter whether directly or indirectly into any stream or well or sewer or on land; and

WHEREAS, for the purposes of protecting and improving the quality of environment and preventing and abating environmental pollution, the standards for discharge of environmental pollutants from the industries, operations or processes, have been specified under the **Environment (Protection) Rules, 1986**; and it is mandatory to every industry, operations or processes of keep their effluent/emission quality within the specified norms all the time; and

WHEREAS, the environment compensation of amount Rs 1950000/- on dated was assessed and imposed on dated 08.11.2024 ; and

WHEREAS, Hon'ble NGT in the various Appeals file by the aggrieved persons who have been imposed Environment Compensation by the UKPPCB in compliance of the orders of the Hon'ble NGT in the present case no. OA 353/2022 which were disposed the with the following observation/orders:- "Since the impugned orders have been passed without complying with the principles of natural justice, therefore keeping in view the observations made above, the impugned order is hereby set aside. The Member Secretary, UKPCB, will be at liberty to pass a fresh order by duly following the principals of natural justice and keeping in view the above observations.";

AND NOW THEREFORE, in view of above observations; and in exercise of the power conferred under **Section-33(A) of the Water (Prevention and Control of Pollution) Act, 1974 as amended and section 31-A of the Air (Prevention & Control of Pollution), Act, 1981 as amended**, with approval of Competent Authority of Board, **M/s Hotel Garhwal Terries, Mussoorie, District Dehradun is directed to show cause within 30 days from the issue of this direction as to why the balance of additional environment compensation of Rs 1950000/- shall not be imposed against the unit. In case of default and not submitting reply in stipulated time period, further these directions shall be confirmed.**


MEMBER SECRETARY

Copy to:

1. **District Magistrate, Dehradun** for information.
2. **Regional Officer, UEPPCB, Regional Office, Dehradun** with a direction to arrange to for strict compliance of above direction.
3. **Respective C&M file**
4. **Guard file.**


MEMBER SECRETARY