

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

**Appeal No. 30 of 2026
(IA No 216/2026)**

IN THE MATTER OF-

M/s Hotel Vikas

Appellant

Vs.

Uttarakhand Pollution Control Board & Ors.

Respondent(s)

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Date: 09.07.2026

Place: New Delhi

K. P. Gautam
Advocate
Supreme Court of India
Reg. No. D/119/98

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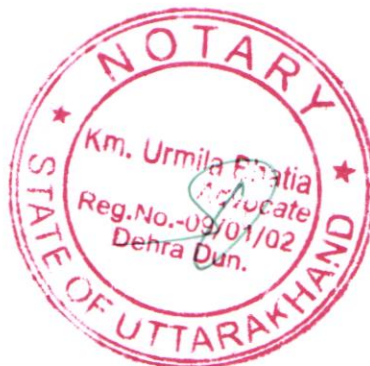
RESPONSE AFFIDAVIT ON BEHALF OF MEMBER SECRETARY,
UTTARAKHAND POLLUTION CONTROL BOARD
(RESPONDENT NO.1)

AFFIDAVIT of Dr. Parag Madhukar Dhakate,
aged about 51 years S/o MB Dhakate Presently
posted as Member Secretary, Uttarakhand
Pollution Control Board, Uttarakhand.

Deponent

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

[Handwritten signature]



1. That the deponent is presently posted as the Member Secretary, Uttarakhand Pollution Control Board and as such is fully conversant with the facts of the case and is competent to sign and swear the instant affidavit.
2. That the above-mentioned matter was listed for hearing on 30.03.2026 wherein the Hon'ble National Green Tribunal was pleased to issue the following directions: -

“ ...

3. Respondent is directed to file the reply affidavit within four weeks and also produce the original record leading to passing of the impugned order at the time of hearing of the appeal.

...”

3. That it is most respectfully submitted that on 09.05.2023, a Show Cause Direction was issued to 106 hotels, including the Appellant unit. Subsequently, the answering Respondent issued a demand notice dated 13.02.2024 to the Appellant unit for levy of Environmental Compensation amounting to Rs. 38,250/-. Thereafter, the Appellant hotel deposited the said amount of Rs. 38,250/- with the Board through Demand Draft vide its letter dated 21.03.2024. Upon deposit of the aforesaid amount and compliance by the Appellant unit, the Show Cause Notice dated 09.05.2023 was revoked, subject to strict compliance, vide letter dated 01.06.2024.
4. That thereafter, in compliance with the order dated 29.07.2024 passed by this Hon'ble Tribunal in Original Application No. 353 of 2022, the Environmental Compensation payable by the Appellant hotel was reassessed by the answering respondent. Upon such reassessment, it was found that Environmental Compensation amounting to Rs. 17,68,500/- was payable by the Appellant unit. After adjusting the amount of Rs. 38,250/- already

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deposited by the Appellant hotel, the Environmental Compensation payable was determined as Rs. 17,30,250/-. 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 thereof. The Appellant unit was also informed that in the event of failure to deposit the said amount within the stipulated period, further action would be taken in accordance with law.

5. That it is pertinent to submit that in Appeal No. 04 of 2025, the Uttarakhand Pollution Control Board had already placed on record the basis and manner in which the Environmental Compensation was reassessed. However, for the convenience of this Hon'ble Tribunal, the relevant facts are being reiterated herein-

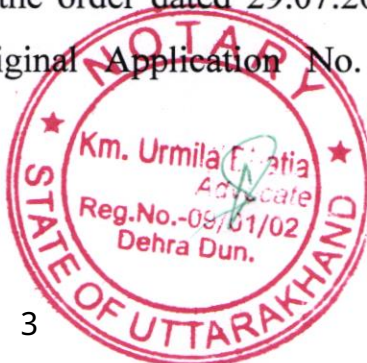
- i. That Original Application No. 353 of 2022, Kartik Sharma vs. State of Uttarakhand, was listed before this Hon'ble Tribunal on 29.07.2024, this Hon'ble Tribunal was pleased to pass the following directions:

“...

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.

...”

- ii. 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 from 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 environmental compensation shall be imposed on such hotels from 21.12.2019 or from the date of their operation, whichever is higher.

6. It is submitted that earlier Environmental Compensation amounting to Rs. 38,250/- was imposed upon the Appellant hotel for the period commencing from the date of Show Cause Direction, i.e., 09.05.2023, to date of compliance, i.e., 26.05.2023, for 17 days. The said amount has already been deposited by the Appellant hotel. That since the last CCA of the hotel was valid upto 31.03.2021 and again applied for renewal on 26.05.2023, therefore, the Environmental Compensation has been imposed for 786 days from 01.04.2021 to 26.05.2023 and reassessed as under:-

Total number of days of violation : 786 days

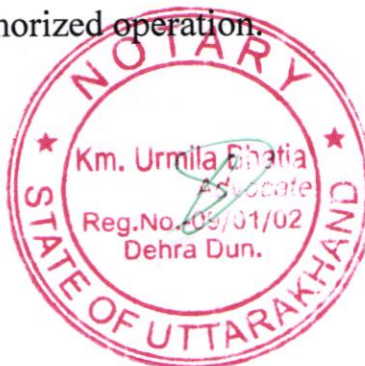
Rate of Environmental Compensation : Rs. 2,250/- per day

Total Environmental Compensation : $786 \times 2,250 = \text{Rs. } 17,68,500/-$

Previously imposed Environmental Compensation : Rs. 38,250/-

Environmental Compensation after assessment : Rs. 17,30,250/-

It is further submitted that subsequent compliance cannot retrospectively regularize the earlier period of unauthorized operation.



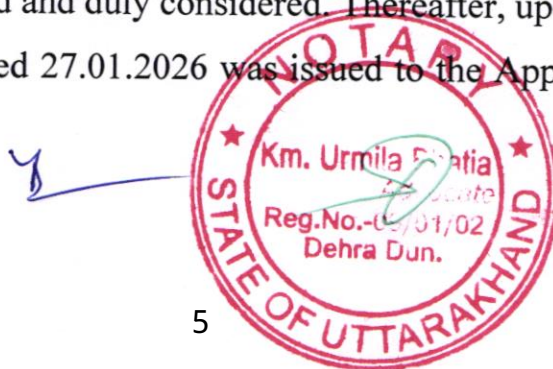
7. That subsequently, in Appeal No. 04 of 2025, this Hon'ble Tribunal, while passing the order dated 17.04.2025, was pleased to issue the following directions:

“ ...

13. We expect the Member Secretary, UKPCB, to follow the basic principles of natural justice while passing any order imposing the environmental compensation or reassessing the environmental compensation. While undertaking such an exercise, the Member Secretary, UKPCB is required to issue a clear show cause notice and give a reasonable opportunity of hearing and take into account the explanation furnished in the reply, if filed and deal with it in the order and pass a reasoned speaking order. We expect that the Member Secretary, UKPCB, will follow the above principles in future while imposing the environmental compensation.

...”

8. That in compliance with the aforesaid directions of this Hon'ble Tribunal and without prejudice to the submissions made hereinabove, the answering respondent, namely the Uttarakhand Pollution Control Board, proceeded in accordance with law and issued a Show Cause Notice dated 27.05.2025 to the Appellant unit in continuation of the statutory proceedings initiated earlier. In this connection, a copy of the show cause notice dated 27.05.2025 is hereby being marked and filed as **Annexure no.1** to this affidavit.
9. In response thereto, the Appellant hotel, namely Hotel Vikas, submitted its representation dated 18.08.2025, which was duly received and considered by the answering respondent.
10. That the representation dated 18.08.2025 submitted by the Appellant hotel was carefully examined and duly considered. Thereafter, upon consideration, the demand notice dated 27.01.2026 was issued to the Appellant hotel. It is

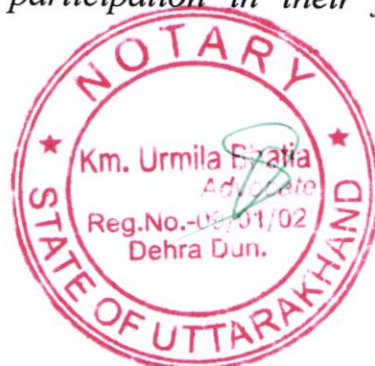


further submitted after the judgment dated 04.08.2025 of the Hon'ble Supreme Court in "**Delhi Pollution Control Committee vs Lodhi Property Co. Ltd.**" the State Pollution Control Boards are bound by the ratio of the judgment as such the Central Pollution Control Board **was directed to frame** guidelines for imposition of environmental compensation. **The relevant para of the judgment are being reiterated below-**

35. *To ensure that the Boards impose restitutionary and the compensatory environmental damages in a fair transparent, non arbitrary manner, with procedural certainty, necessary subordinate legislation in the form of rules and regulations must be notified. This shall include methods by which environmental damage is determined, and the consequent quantum of damages is assessed. They may also incorporate certain basic principles of natural justice for fairness in action. At present environmental damages are being levied by the Boards on the basis of certain guidelines issued by the Central Pollution Control Board in its document "General framework for imposing environmental damage compensation" issue in December, 2022. It is important that these guidelines are reviewed thoroughly and issued in the form of Rules and Regulations. This will enable declaration of a law that applies and ensures its recognition and easy implementation.*

36. *These Rules must also create enabling framework for citizens to file complaints about environmental damage. Public participation in environmental protection has assumed great importance with climate change threatening to drastically disrupt our way of living. Boards, being the first line of defence against polluting activities, must provide easy accessibility and encourage public participation in their function and decision making.*

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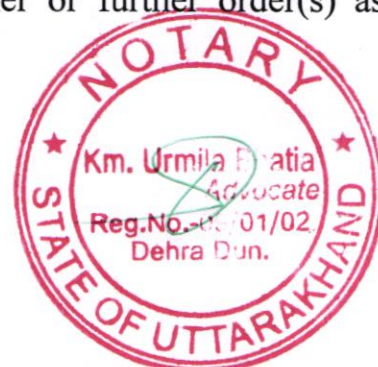
37. While we have reversed the decision of the High Court on the principle of law and hold that the environmental regulators, the Pollution Control Boards, can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage in exercise of powers under Section 33A and 31A of the Water and Air Acts, we issue the following consequential directions....

However, in the absence of any guidelines of CPCB, **the Uttarakhand Pollution Control Board has imposed the environmental compensation as per the formula adopted by them in 23rd board meeting.**

In this connection, a copy of the demand notice dated 27.01.2026 is hereby being marked and filed as **Annexure no.2** to this affidavit.

11. That it is respectfully submitted that the impugned demand notice dated 27.01.2026 does not impose any fresh or additional Environmental Compensation. The said notice merely communicates the Environmental Compensation already reassessed pursuant to the directions of this Hon'ble Tribunal and after giving due opportunity of hearing to the Appellant. Therefore, the challenge raised by the Appellant is wholly misconceived and liable to be rejected.
12. In view of the facts and circumstances stated hereinabove, it is respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the present Appeal with costs, uphold the Demand Notice dated 27.01.2026, affirm the reassessed Environmental Compensation imposed by the Uttarakhand Pollution Control Board, and pass such other or further order(s) as this

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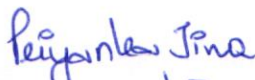
Hon'ble Tribunal may deem fit and proper in the interest of justice, equity and environmental protection.

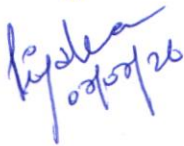
13. That the deponent is a responsible Government servant having the highest regard for the Hon'ble Tribunal and orders passed by them. The deponent has always made his sincerest efforts to carry out the orders passed by this Hon'ble Tribunal in its letter and spirit and shall continue to do so in the future.


Deponent

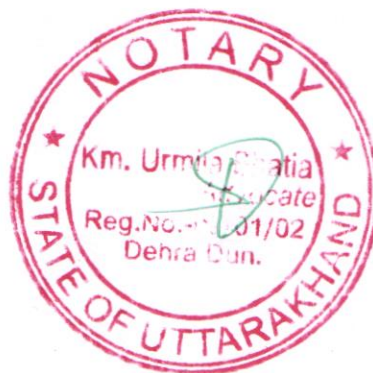
Verification: -

Verified at Dehradun on the 07 day of 07-2026, 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.

Identified by 
Advocate
Reg. No. Ue/1475/2022


07/07/26


Deponent



affidavit is sworn before me by
Dr. Naresh Kumar Bhatia
is identified by 
Dehradun on 07/7/2026
KM. URMILA BHATIA
Advocate & NOTARY, Dehradun

गौरा देवी पर्यावरण भवन

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



उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड
46-बी, सिडकुल, आईटी० पार्क,
सहस्रधारा रोड, देहरादून (उत्तराखण्ड)

UKPCB/HO/Gen-183-860/2025-370

Dated 27.05.2025

To,

M/s Hotel Vikas
The Mall Road
Mussorie, 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 stream 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 unit was issued direction to show cause for not having consent to operate from the Board on dated 09.05.2023; and

WHEREAS, the environment compensation of amount Rs 38250/- on dated 13.02.2024 vide letter number UKPCB/HO/Sahmati-183-568/2024/1537, which was

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subsequently the revised environment compensation of Rs 1768250/- was assessed and imposed amount of Rs 1730250/- deducting the previously deposited amount against the unit on dated 08.11.2024 vide letter no. UKPCB/HO/C&M-191 (Temp file)/2024/1222; and

WHEREAS, Hon'ble NGT in the Appeal no. 04/2025 has disposed the appeal on dated 17.04.2025 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 dated 08.11.2024 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 Vikas, The Mall Road, Mussorie, District Dehradun, is directed to show cause within 30 days from the issue of this direction as to why the additional environment compensation of Rs 1730250/- 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.

1
MEMBER SECRETARY

Copy to:

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



MEMBER SECRETARY



LIFE
Lifestyle For
Environment

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Annexure-2

11

मुख्यालय
उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड

"गौरा देवी पर्यावरण मवन"

46बी, आई.टी. पार्क, सहस्त्रधारा रोड, देहरादून

E-mail : msukpcb@yahoo.com, दूरभाष: 0135-2607092

पत्रांक-यूकेपीसीबी/एच.ओ./ **Gen-183-860/1206**

दिनांक **27** .01.2026

सेवा में,

M/s Hotel Vikas,

The Mall Road,

Mussoorie, Dist. Dehradun.

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

महोदय,

प्रकरण में मा0 राष्ट्रीय हरित अधिकरण में दायर अपील सं0 04/2025 में पारित निर्णय व तत्क्रम में अध्यक्ष महोदय के अनुमोदन के उपरांत होटल M/s Hotel Vikas, Mussoorie को पूर्व में निर्गत पर्यावरणीय क्षतिपूर्ति के आदेश को रद्द करते हुए उक्त पर्यावरणीय क्षतिपूर्ति हेतु कारण बताओ नोटिस दिनांक 27.05.2025 का संदर्भ लें। उक्त के क्रम में आपके द्वारा प्रेषित प्रत्यावेदन दिनांक 20.08.2025 में आपके द्वारा निम्न बिन्दु मुख्य रूप से उठाये गये हैं:-

1. Hotel has consent upto 30.09.2026
2. Hotel desires exemption for covid period from the calculation of violation days.
3. Connected with STP for treatment of the sewage.
4. Board has imposed environment compensation of Rs 1768250/- (Total amount payable Rs 1730250/- after deducting previously deposited amount Rs. 38250/-).
5. Unit requested for waive off the compensation amount.

कोविड-19 अवधि (दिनांक 15.03.2020 से 28.02.2022 तक) को पर्यावरणीय क्षतिपूर्ति के दिवसों की गणना से बाहर रखने हेतु मा0 सर्वोच्च न्यायालय के दिनांक 10.01.2022 में पारित आदेश "I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022. III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining with effect from 01.03.2022 is greater than 90 days, that longer period shall apply." का सन्दर्भ किया गया एवं पाया गया कि

In the absence of any express direction in the order dated 10.01.2022, it can not be presumed to be extended to exempt new establishment from mandatory statutory compliances during the period from 15.03.2022 to 28.02.2022.

The Hon'ble Supreme Court vide order dated 10.01.2022, directed that the period from 15.03.2020 to 28.02.2022 shall stand excluded for the purposes of limitation prescribed under general or special laws in respect of judicial or quasi-judicial proceedings. Accordingly, even where a hotel has submitted its application for consent during the COVID-19 exclusion period,

which amounts to a continuing offence and the filing of the application does not, by itself, legalize the operations during the pendency of such application.

For the sake of clarity, it deserves to be mentioned that only such hotels which were operating under a valid consent prior to the Covid period and whose consent exemption, that to only for the period i.e., 15.03.2020 to 28.02.2022."

होटल के प्रत्यावेदन व कार्यालय अभिलेखों में उपलब्ध प्रपत्रों के आधार पर निम्नानुसार अवगत कराना है:-

1. होटल को दिनांक 31.03.2021 तक की सहमति प्राप्त है।
2. होटल द्वारा सूचित किया गया है कि दिनांक 23.05.2023 में सहमति हेतु आवेदन किया गया है। 30.09.2024 तक की सहमति दी गयी है।
3. कार्यालय अभिलेखों के अनुसार पर्यावरणीय क्षतिपूर्ति का आंकलन होटल का संचालन दिनांक 01.04.2021 से दिनांक 26.05.2023 में उनके द्वारा सहमति हेतु आवेदन तक किया गया है उक्त अवधि कुल 786 दिन हेतु ही पर्यावरणीय क्षतिपूर्ति का आंकलन किया गया है।

होटल के संचालन हेतु दिनांक 31.03.2021 तक की सहमति प्राप्त थी, जो कि कोविड अवधि में समाप्त हुई है। होटल द्वारा सहमति नवीनीकरण हेतु आवेदन दिनांक 26.05.2023 में किया गया है। उक्त होटल को बोर्ड द्वारा दिनांक 01.04.2021 से दिनांक 26.05.2023 तक कुल 786 दिन, रु 2,250/- प्रतिदिन की दर से कुल पर्यावरणीय क्षतिपूर्ति रु 1768500/- आरोपित की गयी है। विधिक सलाहकार की टिप्पणी के क्रम में इस होटल पर कोविड अवधि के exemption लागू होगा, जो कि दिनांक 01.04.2021 से दिनांक 28.02.2022, कुल 334 दिन हैं। अतः पर्यावरणीय क्षतिपूर्ति हेतु उल्लंघन के दिवस 01.03.2022 से 26.05.2023 लागू होंगे, जिसके आधार पर रु 2,250/- प्रतिदिन की दर से कुल रु 1017000/- की पर्यावरणीय क्षतिपूर्ति बनती है। होटल द्वारा रु 38250/- जमा करा दिये गये हैं व शेष धनराशि रु 9,78,750/- बनती है।

अतः पर्यावरणीय क्षतिपूर्ति के कुल उल्लंघन के दिवस 01.03.2022 से 26.05.2023 तक के क्रम में पर्यावरणीय क्षतिपूर्ति की धनराशि को संशोधित करते हुए रु 2,250/- प्रति दिन की दर से रु 1017000/- किया जाता है। उक्त धनराशि में से पूर्व में जमा की गई धनराशि रु 38250/- को घटाते हुए अवशेष धनराशि रु 9,78,750/- को पर्यावरणीय क्षतिपूर्ति के रूप में बोर्ड में 30 दिनों में जमा कराना सुनिश्चित करें।

मवदीय



(डा० पराग मधुकर धकाते)

सदस्य सचिव

प्रतिलिपि:- निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, देहरादून।
2. गार्ड फाईल।



सदस्य सचिव

