BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 1344 OF 2024

IN THE MATTER OF:

RAJA MUZAFFAR BHAT ...APPLICANT

VERSUS

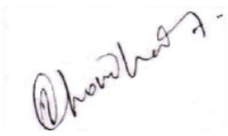
UNION TERRITORY OF JAMMU & KASHMIR & ORS. ...RESPONDENTS

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THROUGH





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PLACE: NEW DELHI

DATE: 13.11.2026

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REJOINDER ON BEHALF OF THE APPLICANT TO REPLIES BY RESPONDENT NO. 3 AND RESPONDENT NO. 6

MOST RESPECTFULLY SHOWETH:

1. That the above-titled Application has been filed raising substantial question relating to the environment arising out of the illegal diversion of a natural stream and felling of more than 1000 trees for setting up of a playground in village Sonium, Block Lalpora, Baramulla District, Jammu & Kashmir. The Respondent No. 6, Block Development Officer, Lalpora filed its Reply on 22.03.2025 (Pg 165-216), and the Respondent No. 3, Irrigation and Flood Control Department filed its Reply/Written Statement dated 03.08.2026 (Pg 217-236).

2. That the Applicant through this present common Rejoinder seeks to file its reply and objections to the contentions made by Respondent No. 3 and Respondent No. 6. At the outset, the Applicant denies all the contentions and averments made in the above-mentioned Replies unless expressly admitted or are a part of matter of record.

PRELIMINARY SUBMISSION/OBJECTION:

3. That the Reply of Respondent No. 6 is not supported by any affidavit.

4. That by Notification dated 10.01.2024 issued by the Government of Jammu and Kashmir (Annexure A-1 of Rejoinder to Reply of Respondent No. 5, Pg 147), the term of all Halqa Panchayats expired on 09.01.2024 and the Block Development Officers were appointed as Administrators of the Panchayat Halqas for six months w.e.f. 10.01.2024. Therefore, during the period from February to April, 2024 referred to in the Application, the affairs of Panchayat Halqa Sonium were being run by the Respondent No. 6 itself. It is submitted that the Respondent No. 6 cannot place the responsibility for the proposal on the Gram Sabha.

5. That the Reply of Respondent No. 3 and the documents annexed to it are records of the authority which controls the bed and banks of all water sources under Section 81(1) of the Jammu and Kashmir Water Resources (Regulation and Management) Act, 2010 (Annexure A-4 of the Application, Pg 42). These records, inter alia, show the following:
    a. The Respondent No. 6 sought an NOC for "*Development of Playfield at Sonium side, Halqa Sonium*" vide letter dated 27.01.2024 (Annexure R-I, Pg 227). The NOC was denied vide letter dated 23.02.2024 of the Assistant Executive Engineer, Tail Race Sub-Division, Kunzer, which recorded that the Respondent No. 6

        "*intends to divert the course of the nallah by realigning it to the right side of the existing nallah*" and had "***initiated certain activities at the designated spot without obtaining the necessary NOC***" (Annexure R-II, Pg 228; also Annexure A-3 of the Application, Pg 40).

    b. The Executive Engineer, Ferozpora Basin Irrigation Division, Tangmarg vide letter dated 09.03.2024 (Annexure R-III, Pg 229) recorded as under:

        "*…the mere approval of the GPDP does not suffice for the execution of work near water bodies, as it falls under the jurisdiction of the State Water Resource (Regulation and*

Management) Act 2010. It is pertinent to mention here that ***the BDO concerned changed proposal time and again*** *as per site plan proposed (Copy enclosed). … It is also worth to mention that some locals of the other side are totally opposing* ***the diversion of the Nallah as proposed by concerned Block Development Officer.*** *In addition to this,* ***it is not technically feasible to change the natural present course of Nallah as the same may lead to problems during floods.****"*

c. After the joint site visit, the Assistant Executive Engineer reported that execution of the proposal "*would result in diversion and alteration of the natural course of the Nallah, which could have adverse consequences on the flow regime and adjoining habitations*" (Para 5 of Reply of Respondent No. 3, Pg 224). The letter dated 20.03.2024 (Annexure R-V, Pg 231) records that "*the present course of nallah shall be changed once the concerned department executes the work*" and that any modification requires an NOC for a revised proposal.

d. No revised proposal was ever submitted, and the Respondent No. 3 has neither issued any NOC nor permitted the diversion (Para 6 to 8 of Reply of Respondent No. 3, Pg 224).

6. That therefore, the record of Respondent No. 3 shows that the proposal of Respondent No. 6 was for diversion of the Badyari stream. This is also the name under which the work was approved under MGNREGA, i.e. "*Diversion of Nalla near playfield at Sonium*" (Annexure A-2 and A-3 of Rejoinder to Reply of Respondent No. 5, Pg 148-149). The contention of Respondent No. 6 that no diversion was proposed is contrary to this record.

7. That the following matters, which have been pleaded by the Applicant or are revealed by the record, have not been answered by any of the Respondents, including Respondent No. 3 and Respondent No. 6:

   a. The felling of 10 walnut trees (Para 5 of the Application, Pg 12). Walnut is a specified tree under Section 2(e) of the Jammu and Kashmir Preservation of Specified Trees Act, 1969 (Pg 18). No Respondent has dealt with it, and the Joint Committee of Respondent No. 4 did not record a species-wise count of the trees felled (Pg 76-77).

   b. No Respondent has placed on record any permit under Section 3 of the said Act for the felling, or any action taken under Section 13 of the said Act.

   c. No Respondent has stated whether the original position of the stream has been restored, as directed in the letter dated 23.02.2024 (Pg 228). The Joint Committee witnessed no remedial action at the site (Pg 84).

   d. The Respondent No. 2 has not named any site, number of plants or time frame for the afforestation it refers to (Pg 153). The submission of the Applicant for plantation of ten times the number of trees felled, to be maintained for five years (Pg 160), has not been answered.

   e. No Respondent has explained the work titled "*Diversion of Nalla near playfield at Sonium*" under MGNREGA, shown as approved and later as closed (Pg 148-149), or the expenditure, if any, incurred on it.

   f. No Respondent has answered the submission that the Block Development Officers were the Administrators of the Panchayat Halqas from 10.01.2024 (Pg 140, 147).

   g. No Respondent has stated who carried out the excavation for diversion of the stream found by the Joint Committee (Pg 76, 81), or who cut the trees and under whose order. The Respondent No. 2 states only that the trees "*were required to be removed for execution of the work at the site*" (Pg 153).

h. The Respondent No. 4, which enforces the Water (Prevention and Control of Pollution) Act, 1974, has not dealt with the violation of Section 24(1)(b) of the said Act pleaded in the Application (Para 9 and 10, Pg 14-15).

PARA WISE REPLY TO THE REPLY OF RESPONDENT NO. 3:

8. That the contents of Para 1 and 2 of the Reply are a matter of record. However, the Reply describes the letter dated 23.02.2024 only as declining the NOC "*citing technical and environmental concerns*". The said letter also found that unauthorised work had already begun at the spot and posed a flood threat, and directed that "*the original position of the nallah be restored*" (Pg 228). The Reply is silent on whether the original position was restored, and on any step taken by Respondent No. 3 after 23.02.2024 to ensure it.

9. That the contents of Para 3 are a matter of record. The Respondent No. 3 itself describes the Badyari Nallah as the escape channel of the Nehalpora Canal. This supports the submission of the Applicant that the stream carries surplus and flood water, and that any obstruction of its course increases the risk of flooding of the adjacent agricultural land and houses (Para 29 and 30 of the Application, Pg 23-24).

10. That the contents of Para 4 and 5 are a matter of record and are relied upon by the Applicant. The Respondent No. 5 and Respondent No. 6 rely on the report of the Tehsildar, Kunzer dated 14.03.2024 (Pg 211) to contend that the course of the nallah was not changed. The said report only records that the original course was shown at the spot during demarcation and that it has not been changed. It does not examine whether the proposal of Respondent No. 6 would change it. After the same site visit, the Respondent No. 3, which is the competent authority under the Act of 2010, recorded that the course would change if the

work was executed, and asked for a new proposal with a fresh NOC (Annexure R-V, Pg 231). The said letter takes note of the report of the Tehsildar and still holds this view.

11. That the contents of Para 6 to 8 are a matter of record. Since no NOC was issued, any work undertaken at the site by Respondent No. 6 was without authorisation under Section 81(2) of the Act of 2010. The Joint Committee of Respondent No. 4, during its inspection on 11.01.2025, found that "*excavation work has been carried out for diversion of Nallah*" and that the artificial channel so formed was lying dry (Pg 76, 81). The photographs taken in September and November, 2024 show the stream partially filled with mud (Annexure A-2 of the Application, Pg 39).

12. That the statement of Respondent No. 3 that "*Presently the water is flowing in its original course and no diversion have taken place till date*" does not answer the issue of restoration. The Joint Committee found the excavated channel at the site, and recorded that "*No further action in the regard by irrigation and flood control department was witnessed on the spot*" and that no remedial action was witnessed (Pg 84). Section 83 of the Act of 2010 (Annexure A-4 of the Application, Pg 43) provides as under:

> *"83. Power to remove obstruction. - (1) No person shall encroach upon, or* ***cause any obstruction to****, an embankment or slope thereof* ***or the water way of any water source.***
> *(2) The prescribed authority, or any other person authorised by him in this behalf,* ***may issue an order to the person making encroachment or causing obstruction*** *or having control over any such encroachment or obstruction* ***to remove such encroachment or obstruction*** *within the time to be specified in the order."*

13. That the above-reproduced provision empowers the Respondent No. 3 to direct removal of any obstruction to the water way and, on non-

compliance, to remove it and recover the expenses from the person responsible as arrears of land revenue under sub-section (3). The Respondent No. 3 has not stated that any such step was taken after 23.02.2024. It is submitted that the Respondent No. 3 is therefore required to ensure that the site is restored to its original position, as directed in its own letter dated 23.02.2024.

14. That the contents of Para 9 and 10 are formal in nature and need no reply.

PARA WISE REPLY TO THE REPLY OF RESPONDENT NO. 6:

15. That the contents of the opening part of the Reply titled "*Role of Block Development Officer vs Tehsildar*" are denied except what is a matter of record. Approval of a work in the annual action plan by the Gram Sabha, the District Development Council or the District Programme Coordinator does not dispense with the authorisation required under Section 81(2) of the Act of 2010 for any work in the bed or on the banks of a water course. This is recorded in the letter of the Executive Engineer dated 09.03.2024 quoted in Para 5(b) above, which is annexed by the Respondent No. 6 itself (Pg 215).

16. That the contents of Para 1 and 3 are denied as false and misleading. The name of the work under MGNREGA has been dealt with in Para 6 above. As regards the felling of trees, it is submitted that:
    a. The Joint Committee of Respondent No. 4 observed stumps of approximately 300 trees of varying diameter and species, mostly willow and poplar, which "*indicate that trees have been cut down for setting of playground in the area by the Respondent No. 6*", and placed photographs of the stumps on record (Pg 76-77, 83).
    b. The Respondent No. 2, District Magistrate, Baramulla has stated that "*only approximately 300 poplar and willow trees of varying diameter*

were required to be removed for execution of the work at the site" (Pg 153).

17. That as stated by the Jammu & Kashmir Pollution Control Committee in its report dated 25.01.2024 in O.A. No. 911 of 2022, willow has been declared a specified tree under the Jammu and Kashmir Preservation of Specified Trees Act, 1969 (Annexure A-7 of the Application, Pg 52), and no permit for the felling has been placed on record (Para 7(b) above). The argument of Respondent No. 6 on the cost of felling is a conjecture and does not answer the findings of Respondent No. 4 or the statement of Respondent No. 2.

18. That the contents of Para 2 are denied as misleading. It is submitted that:

    a. The interim order dated 16.02.2024 of the Ld. Sub Judge, Pattan directed only the private defendants No. 5 to 7 to maintain status quo. This was clarified by order dated 09.03.2024 on the application of Respondent No. 6 itself (Pg 198).

    b. In the said application, the Respondent No. 6 stated that it "*has undertaken certain works*" for "*cleaning and clearing the already squeezed nallah*", and that the allotted funds may lapse if not utilised (Pg 180-181). Its counsel argued that "*the said work is being carried out under MGNREGA scheme*" (Pg 187).

    c. Work had already begun at the spot by 23.02.2024, and the Joint Committee found excavation for diversion of the stream (Para 5(a) and 11 above).

    Therefore, the contention that no work was taken up at the site because the matter was sub judice is incorrect. The contention that the excavation in the photographs is only the retrieval of state land is also denied for the same reason.

19. That the contents of Para 4 are denied. It is submitted that:

    a. The plea of "*convergence*" and deemed approval through the GPDP is denied and answered by Para 5(b) and 5(d) above.

b. The direction of the Sub-Divisional Magistrate, Gulmarg to Respondent No. 6 to proceed with the work (Pg 212) was based only on the report of the Tehsildar, Kunzer, which has been dealt with in Para 10 above. Neither of them is the prescribed authority under Section 81(2) of the Act of 2010.

c. The letter of Respondent No. 6 dated 28.02.2024 (Pg 216), stating that the word "*diversion*" was "*mistakenly used*", is contrary to the name of the work under MGNREGA (Para 6 above).

d. The Respondent No. 6 states that no allotment or authorisation order was issued for the work. However, as recorded in the order dated 09.03.2024, the plaintiffs in the suit submitted that the Respondent No. 6, in its reply filed in that suit, had stated that the technical sanction and administrative approval had been obtained (Pg 182).

20. That the allegation that the Applicant is acting in collusion with the encroachers of state land is denied as baseless. The present Application raises only the diversion of the stream and the felling of trees, which are borne out by the Report of Respondent No. 4 and the record of Respondent No. 3. The dispute regarding encroachment of state land is not the subject matter of the present Application.

NEED FOR DIRECTIONS FOR RESTORATION AND PLANTATION:

21. That even on the Respondents' own showing, about 300 trees were cut to clear the land for the playground (Para 16(a) and (b) above). The Applicant has pleaded that more than 1000 trees, including willow, poplar, acacia, rubina and walnut trees, were felled (Para 5 of the Application, Pg 12). No steps have been taken so far to replace these trees. The afforestation referred to by Respondent No. 2 is without any details (Para 7(d) above).

22. That the restoration of the area sought in Prayer (i) of the Application (Pg 33) requires a plantation drive at the site. February and March are the plantation season in the area, and the present matter is next listed on 08.02.2027. It is submitted that it is therefore necessary that the Respondent No. 1, Respondent No. 2 and Respondent No. 6 **be**

directed to plant saplings of locally appropriate native species, at least ten times the number of trees felled, during the plantation season of February and March, 2027, on the land cleared for the playground and along the Badyari stream, and to maintain them for a minimum period of five years. The plantation along the stream may be carried out in consultation with Respondent No. 3 as required under Section 81(2) of the Act of 2010 (Pg 42), and a compliance report with the number of saplings, their location with geo-tagged photographs and survival rate may be placed on record. It is submitted that such directions may be issued under Section 15(1)(c) of the National Green Tribunal Act, 2010 for restitution of the environment, applying the polluter pays principle under Section 20 of the said Act, and in line with the submission made in Para 7 of the Rejoinder to the Reply of Respondent No. 2 (Pg 160).

23. That the Badyari stream and its banks are also required to be restored. Under Section 81(1) of the Act of 2010 (Pg 42), all works that affect the bed and banks of the stream are under the control of Respondent No. 3. The Respondent No. 3 may therefore **be directed to carry out the restoration of the Badyari stream and its embankments, including filling up the artificially excavated channel and removing the earth filled in the stream, and to construct protection bunds made of local stone along its banks, without narrowing the natural course of the stream.** The cost of such restoration may be recovered from Respondent No. 6, which undertook the unauthorised work.

24. That therefore, this Hon'ble Tribunal may reject the Reply of Respondent No. 6 and consider the above-mentioned submissions on behalf of the Applicant for further adjudication of the matter.

25. That this Hon'ble Tribunal may:

Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

APPLICANT

THROUGH

RITWICK DUTTA **RAHUL CHOUDHARY**

COUNSELS FOR THE APPLICANT

N-73, Lower Ground Floor, Greater Kailash-1,

New Delhi-110048

Email:- litigation@dclawchambers.com

PLACE:- DELHI
DATED:- 07.11.2026

VERIFICATION

Verified by Raja Muzaffar Bhat, S/o Bashir Ahmed Bhat, aged about 50 years, R/o 64, Alamdar Colony, Gopalpura, District Budgam, Jammu & Kashmir - 191113, that the contents of Paragraphs 1 to 25 are true to my personal knowledge and that I have not suppressed any material fact.

Certified that statement in departed oath and solemn affirmation before me on this day of 07th Nov. 2026 By Raja Muzaffar Bhat S/o Bashir Ahmed Bhat R/o Gopalpura Budgam who is identified by Shehri Khurshid (Adv.)

APPLICANT

NOTARY PUBLIC Regd. No. Notary Public Distt. Budgam

BEFORE THE NATIONAL GREEN TRIBUNAL

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Versus

Union Territory of Jammu & Kashmir & Ors. ...Respondents

AFFIDAVIT

I, Raja Muzaffar Bhat, S/o Bashir Ahmed Bhat, aged about 50 years, R/o 64, Alamdar Colony, Gopalpura, District Budgam, Jammu & Kashmir - 191113, do hereby solemnly affirm and declare as under:-

1. That I am Applicant in the above titled Original Application and am well conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

Verified on this 07th day of November, 2026 that the contents of present Affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

Certified that the above statement was declare on solemn affirmation before me on 07/11/2026 by Raja Muzaffar Bhat S/o Bashir Ahmed Bhat R/o Gopalpura Budgam He is identified by Shahid Mushtaq (Adv)

DEPONENT

7/11/2026

Advocate
Reg. No. 04200
Notary Public

सत्यमेव जयते

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Government of Jammu and Kashmir

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Property Description	:	Not Applicable
Consideration Price (Rs.)	:	0 (Zero)
First Party	:	Raja Muzaffar Bhat
Second Party	:	Not Applicable
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Rejoinder to Reply Respondents no.3 on behalf of the Applicant in OA no. 1344 of 2024 RajaMuzaffar bhat Versus. Union Territory of Jammu & Kashmir & Ors.

1 message

Litigation . <litigation@dclawchambers.com> Fri, Nov 13, 2026 at 12:57 PM
To: Gautam Singh <gautamsinghh.ind@gmail.com>, cs-jandk@nic.in, pa.dcbla@gmail.com, kmrirrigation@rediffmail.com, membersecy.pcb@jk.gov.in, bdolalpora16@gmail.com, "ngt.dcbla@gmail.com" <ngt.dcbla@gmail.com>
Cc: gargaman1312@proton.me

Dear Sir/madam,

Please find attached- Rejoinder to Reply Respondents no.3 on behalf of the Applicant in OA no. 1344 of 2024 RajaMuzaffar bhat Versus. Union Territory of Jammu & Kashmir & Ors.

Thanks & Regards
Counsel for the Applicant

Rejoinder to Reply Respondent no.3 on behalf of the Applicant.pdf
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