BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 641 OF 2023

IN THE MATTER OF:

SUMAN CHAUHAN & ORS.…APPLICANT(S)

VERSUS

STATE OF UTTAR PRADESH & ORS.…RESPONDENT(S)

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Place: New Delhi Date: 09.10.2026

Air Commodore Abhay Gupta (VSM)
Authorised Representative
Mob. 9810832825

Sumit Mehta
(S/o Applicant No. 23)
Mob. 8879222114

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REJOINDER ON BEHALF OF THE APPLICANTS TO THE CORRECTED COUNTER AFFIDAVIT OF RESPONDENT NO. 7 (IRRIGATION & WATER RESOURCES DEPARTMENT, UTTAR PRADESH) SWORN ON 29.07.2026 AND FILED ON 03.10.2026

I, Sumit Mehta, S/o Sh. H.C. Mehta, aged about 34 years, R/o 22, Chak Mangraula, Plot No. 50 & 51, Phase 19, Chak Mangraula, Noida, District Gautam Budh Nagar, Uttar Pradesh – 201301, do hereby solemnly affirm and state as under:

1.That I am the son and authorised representative of Applicant No. 23, Smt. Rekha Mehta, and am conversant with the facts of the case. I have read the Corrected Counter Affidavit of Respondent No. 7 sworn on 29.07.2026 and filed on 03.10.2026 (Pages 1264–1369) ("the Counter"). Nothing in it is admitted save what is expressly admitted here. The earlier pleadings of the Applicants are reiterated.

2.That the Applicants fully respect the need to protect the flood plain of River Yamuna. The Original Application was filed only for the damage caused by the flood of July 2023. The Applicants have filed a Withdrawal Application dated 29.05.2024 (Pages 438–442). This Rejoinder only places the correct position on record, with utmost respect to the Respondent.

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A. MEANING OF "ACTIVE FLOOD PLAIN"

3.That the Ganga Order, 2016, which applies to River Yamuna (clause 3(1)(ze), Page 1346), has been amended by S.O. 4427(E) dated 07.08.2026:

(a)Clause 3(1)(aa): "'active flood plain' means such area … which comes under water due to floods corresponding to a one in five-year return period";

(b)Clause 3(1)(l): the flood plain (1 in 100-year) "includes active flood plain (From edge of river channel to the line of flood with one in five-year return period), regulatory zone (between one in five-year and one in twenty five-year return period) and warning zone (between the one in twenty five-year and one in one hundred-year return period)";

(c)Clause 4(ix): the words "construction free Zone" have been deleted.

4.That the test is therefore the 1 in 5-year flood. Land between the river and an embankment is not part of the definition. The Counter, sworn before the amendment, could not take note of it (Annexure R-7, Pages 1321–1368, has only the old rulings).

5.That the CWC Guidelines of July 2025 (Annexure R-1) divide the flood plain into three zones (Para 7.2.2, Table 4, Pages 1289–1290): **first – Protected Zone** (up to 1 in 5-year line); **second – Regulatory Zone** (1 in 5 to 1 in 25-year); **third – Warning Zone** (1 in 25 to 1 in 100-year).

6.That two embankments physically exist on the left bank in this reach:

(a)**The main left bund** (Yamuna Doab bund) relied upon by the Respondent, which it says the 2023 flood reached "only up to the Toe" (Pages 132–133, 135). It is 4–5 km from the river edge (Pages 4, 16).

(b)**An old kutcha (mud) embankment between the river and the Applicants' villages**, now broken and unmaintained: "a kutcha bund is available between the river and the petitioner's villages but it is broken at many places and no maintenance of the said kutcha bund is done by

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any Authority" (Page 144; also Page 147); "The signs of the said embankment still exist. No repairs were carried out" (Page 288, photographs Pages 348–350; reiterated at Page 1112).

7.That Para 7.2.3(I) of the Guidelines (Page 1291) reads: "For reaches where embankments exist within a protected or regulated zone, the outer boundary of the active flood plain will be up to the embankment, or the line corresponding to 1 in 5-year return period flood, whichever is more." With respect:

(a)The condition applies only to an embankment lying in the **first or second zone**, not the **third (Warning) zone**. The 1 in 5-year and 1 in 25-year lines have not been drawn; only the 100-year line has (Pages 1269, 1078). So it cannot be said in which zone either embankment lies.

(b)The Counter does not say why the distant main bund, and not the nearer kutcha embankment, is taken as the boundary. If an embankment is the reference, the Applicants' villages lie on the land side of the nearer one, which, if repaired, would itself protect the area.

(c) That the guidelines are for all the rivers in India but specifically for Ganga and its tributaries, the ganga order 2016 and its amendments override the guidelines.

(d)In any case, the amended Ganga Order is statutory, made under Section 3 of the Environment (Protection) Act, 1986 (Page 1344), whereas the Guidelines are advisory: demarcation "is to be undertaken by respective state governments/UTs" and the Guidelines "shall be reviewed" (Page 1285); Uttar Pradesh has no flood plain zoning law (Page 1285). The later amendment adopted the three zones but not the embankment condition. Administrative instructions cannot supersede statutory rules: Sant Ram Sharma v. State of Rajasthan, AIR 1967 SC 1910; Dhananjay Malik v. State of Uttaranchal, C.A. No. 1771 of 2008 (05.03.2008).



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B. THE 100-METRE STANDARD

8.That 100 metres from the river edge has consistently been treated as the no-construction belt pending demarcation:

(a)Rajiv Savara v. Darrameks Hotels (NGT, O.A. 315/2015), noting Sanjay Vyas v. State of Uttarakhand (WP (PIL) 25/2013), records the Hon'ble Supreme Court's 1995 ruling against construction within 100 metres of flowing rivers, and the U.P. Government Order of 2000 for River Ganga mandating 100 meters as construction free zone.

(b)M.C. Mehta v. Union of India (NGT, O.A. 200/2014), judgment dated 13.07.2017, para 142: "100 meters from the edge of the river was designated as no development / construction zone" (Page 491); order dated 15.12.2017: 100 m "Prohibitory Zone", 100–300 m "Regulatory Zone" (Page 1008).

(c)NMCG RTI reply dated 04.01.2023 (Page 624) and the Respondent's own Annexure R-1, Para 7.1.4(4) (Pages 1287–1288): no activity "within 100 meters from the edge of the river" till demarcation.

(d)MoEF&CC O.M. F. No. 22-39/2020-IA.III dated 14.02.2022 on siting of industries, reciting the NGT 100-metre direction: "Industries shall not be located within the river flood plain corresponding to one in 25 years flood".

(e)Hon'ble Supreme Court, order dated 24.08.2026, SMWP (C) No. 8 of 2025 (Jojari River, Rajasthan): "No construction or development activity of any nature whatsoever shall be permitted within a distance of 100 meters from the edge of the river".

9.That "The nearest property of the petitioners is located approximately 1.0 km from the edge of the river, while the farthest property is situated about 4.5 km" (Page 491; Google Earth, Pages 540–541). The Hon'ble Allahabad High Court (15.09.2015) recorded the farms as "near about 2.5 kilo meter away

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from Yamuna River bank" (Page 370). The nearest property is about ten times the 100-metre belt.

C. THE JULY 2023 FLOOD WAS EXCEPTIONAL

10. That Annexure R-2 records the "Ever Max'm Flood pass at Okhla 3,72,225 Cusecs Dt. 13.07.2023" (Pages 1293–1294). The petitioner's properties were not flooded in the previous 45 years (Pages 15, 21, 491). A single flood, the highest ever, is not a 1 in 5-year flood. Para 7.1.3(2) of Annexure R-1 calls for at least 30 years of data (Page 1287); no such analysis is on record.

11. That Annexure R-2 shows 3,65,573 cusecs in 2013 at a downstream gauge of 200.40 m and 3,72,225 cusecs in 2023 at 200.75 m (Page 1294). A higher level for nearly the same discharge supports the Applicants' point on siltation (Page 15).

D. OLD, TEMPORARY AND APPROVED CONSTRUCTIONS

12. That the second proviso to Para 6(3) of the Ganga Order (Page 1347) requires NMCG to review constructions completed before 07.10.2016 and remove them only if they cause "interruption in the continuous flow of water or pollution".

13. That the Applicants' constructions were made with the approval of the Zila Panchayat (Letter No. 769/Ji.Pan./03) and the no-objection letters of the Irrigation Department dated 03.02.2005, 19.09.2005 and 05.11.2005 (Page 485), as confirmed by the ADM report dated 08.05.2008 (Pages 352–353). The Noida Authority's orders deciding the residents' representations, passed in compliance of the Hon'ble Allahabad High Court's order dated 05.07.2022 in Writ Petition No. 18009 of 2022, also quote the letter of the Principal Secretary, Government of Uttar Pradesh, dated 19.09.2012: "कतिपय प्रकरणों में जिला पंचायत द्वारा मानचित्र स्वीकृत करने एवं सिंचाई विभाग की अनापत्ति भी जारी की गयी हैं" ("in certain cases, maps were sanctioned by the Zila Panchayat and no-objection certificates were also issued by the Irrigation Department") (Pages 716 and 1033). The constructions are visible in the Google Earth

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image of August 2016 (Pages 540–541). The Joint Committee recorded every structure as a "Temporary Structure" (Pages 656–670). No review under the said proviso has been made, and no interruption of flow or pollution is alleged.

E. DEMARCATION PILLARS

14. That the Applicants respectfully maintain their earlier submissions on the demarcation pillars (Page 1116).

F. PARA-WISE REPLY

15. **Paras 1–2:** Formal. The report dated 18.02.2026 is answered in the Supplementary Affidavit dated 07.04.2026 (Pages 1110–1121).

16. **Paras 3–4:** Respectfully not admitted, for the reasons in paras 3 to 9 above.

17. **Paras 5–6:** Respectfully not admitted. Water remaining within the main bund in the highest flood ever does not establish a 1 in 5-year active flood plain (paras 6, 7 and 10 above).

18. **Paras 7–8:** Respectfully not admitted (paras 10–11 above). Desilting was sought only as a preventive measure (Page 1120).

19. **Paras 9–10:** CWC's expertise is respected; the Applicants' technical objections (Pages 1116–1120) are reiterated. These paras confirm only the 100-year line is notified.

20. **Paras 11–12:** Respectfully not admitted (para 14 above).

21. **Para 13:** The G.O. dated 16.03.2010 (Annexure R-6) concerns Master Plan zoning. The villages are not in any urbanisable area (Pages 486–487, 519–531), and no flood plain was demarcated here until 21.12.2024.

22. **Para 14:** Respectfully not admitted (paras 3–7, 12 and 13 above).

23. **Para 15:** Respectfully not admitted. The constructions are on the Applicants' own land with approvals (para 13 above).

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24. **Paras 16–17:** The letter dated 03.07.2026 (Annexure R-8) is not in Pages 1264–1369; the Applicants are unable to respond to it.

PRAYER

25. It is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

(a) take this Rejoinder on record and allow the Withdrawal Application dated 29.05.2024;

(b) pass any other order deemed fit.

Sumit

DEPONENT
Sumit Mehta

VERIFICATION

Verified at New Delhi on this 9th day of October, 2026 that the contents of paragraphs 1 to 25 of the above affidavit are true and correct to my knowledge and belief and are based on the records of the case; no part of it is false and nothing material has been concealed therefrom.

Sumit

DEPONENT
(Sumit Mehta)

Place: New Delhi Date: 09.10.2026

Filed through:

Air Commodore Abhay Gupta (VSM)	**Sumit Mehta**
Authorised Representative	Authorised Representative
Mob. 9810832825	(S/o Applicant No. 23)
	Mob. 8879222114

Solemnly affirmed before me on this
over & explained to the deponent
NOTARY PUBLIC DELHI

Commission Expiry
on 10 Feb 2030

NOTARY
SAURAJ SINGH
DELHI
REGN. No.-1566
GOVT. OF INDIA

PROOF OF SERVICE

Subject: Advance copy of Rejoinder – O.A. No. 641 of 2023, Suman Chauhan & Ors. vs State of U.P. & Ors. – NGT Principal Bench – listed on 12.10.2026

Friday 09 Oct, 2026, 05.56 PM
From: tony51aoc@rediffmail.com
To: csup@nic.in, ceodelhi.djb@nic.in, ceifcd@gmail.com, csdelhi@nic.in, fciwrd@gmail.com, ceo@noidaauthorityonline.com, eincididuplu-up@nic.in, contactdfccil@dfcc.co.in, dmgbn@nic.in

Respected Sir/Madam,

Please find attached an advance copy of the Rejoinder filed on behalf of the Applicants to the Corrected Counter Affidavit of Respondent No. 7 (Irrigation & Water Resources Department, Uttar Pradesh), sworn on 29.07.2026 and filed on 03.10.2026, in O.A. No. 641 of 2023, Suman Chauhan & Ors. vs State of Uttar Pradesh & Ors., pending before the Hon'ble National Green Tribunal, Principal Bench, New Delhi.

The matter is listed for hearing on 12.10.2026.

This copy is served for your kind information and record.

With regards,

Air Commodore Abhay Gupta (VSM)
Authorised Representative of the Applicants
Mob. 9810832825

Sumit Mehta
Authorised Representative of the Applicants (S/o Applicant No. 23)
Mob. 8879222114

Attachment: Rejoinder_OA641_2023.pdf