

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 94 of 2013
(M.A. NO. 904 OF 2014)**

IN THE MATTER OF:

Vikrant Kumar Tongad Vs. Delhi Metro Rail Corporation Ltd.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:

Applicant in Main Application:	Mr. Rahul Choudhary, Adv.
Respondent No. 1:	Mr. Pawan Upadhyay, Adv
Respondent No. 2:	Mr. Yash Srivastava, Adv.
Respondent Nos. 3:	Mr. V.V. Vandhan, Adv.
Respondent No. 4:	Ms. Sakshi Popli & Ms. Manesha Meherwal, Adv. For NDMC
Respondent No. 5:	Mr. V.K. Tandon, Adv.
Respondent No. 6:	Ms. Reena Singh, AAG of UP and Ms. Bhakti Pasrija Sethi, Adv.
Respondent No.11:	Mr. Moni Cinmoy, Adv. For DSIIDC
	Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv.
	Ms. Puja Kalra, Adv. for South MCD
	Mr. Sunil Gupta, Adv. For IOCL
	Ms. Sumedha Dang, Adv. for National Institute for TB
	Ms. Garima Bharadwaj, Adv. for Jaipur Golden Hospital
	Mr. Ashish Kumar, Adv. For Metro Hospital
	Mr. Raj Kumar Gupta, Adv. For J.P.N. Trauma Centre
	Mr. Balendu Shekhar and Ms. Somya Rathore, Adv. For North MCD
	Mr. Sanjeev Ralli, Adv. And Mr. Dinesh Jindal, LO
	Mr. Simon Benjamin, Adv. For Hahentenary Hospital, Jamia Hamdard Noticee No.10
	Mr. K. Mohan Panikkar, Adv. For Shanti Mukand Hospital, MGF Metropolitan Mall, Saket and MGF Development Ltd.
	Mr. H.K. Chaturvedi, Adv.
	Ms. Mansi Bajaj, Adv. For Rajiv Gandhi Cancer Institute, Rohini
	Mr. B.V. Niren, Adv. For S. Hospital, VMMC
	Mr. Patel Chandlok, Adv. For City Hospital
	Mr. Ravikesh K. Sinha, Adv. For Saket City Hospital
	Ms. Vijaya Lakshmi, Adv. On behalf of Ms. Sujata Kashyap, Adv. for NECA
	Mr. Diwakar Singh, Adv. For Sanrom Hospital
	Mr. Aditya Chhibber, Adv. for Max and Foetis Hospital
	Mr. Pankul Nagpal, Adv. for Holy Family Hospital
	Mr. Bhupesh Narula, Adv. for ESK Hospital
	Mr. Ardhendumauli Kr. Prasad, Adv. for CPWD
	Mr. Ravinder Singh, Adv. for Primus Hospital
	Mr. Animesh Gaba, Adv. for Rockland Hospital

Mr. I.K. Kapila and Mr. I.K. Pabbi, Advs. for Apolo Hospital
 Mr. Sidharth Aggarwal, Adv. for J.W. Marriott Hotel
 Mr. Arun Aggarwal with Mr. Rajeev Aggarwal and Mr. Asif Tiewari, Advs. for Upaj Buildcon Pvt. Ltd.
 Mr. Dheeraj Sharma and Mr. Chandu Sharma, Advs. for Today Hotels, New Delhi and Crown Plaza, Okhla
 Mr. Pratyush Panjwani, Adv. for Shoppers Stop Ltd.
 Ms. Suruchi Mittal, Adv. for Divine Infracon Pvt. Ltd. Hotel
 Ms. Vanita Bhargava, Mr. Ankur Khandelwal and Ms. Suveni Bhagat, Advs. for EIH Hotels Ltd.(Oberoi Hotels)
 Mr. Pawan Upadhyay and Mr. Nishant Kumar, Advs. for J.P. Sidharth
 Mr. S.K. Verma with Mr. Rajeev Aggrawal, Adv. For Tirupati Infra projects Pvt. Ltd.
 Mr. Siddharth Bhamba and Ms. Ayiala Imti, Advs. for DD Properties

Date and Remarks	Orders of the Tribunal
<p>Item No. 12</p> <p>May 11, 2015 A</p>	<p>Order on Hospitals</p> <p>Vide our order dated 27th April, 2015, we had issued show cause notice to the defaulting Hospitals in NCT of Delhi. The DPCC has already filed its inspection report. In the inspection report, the rain water harvesting system was found to be totally unsatisfactory in the Hospitals.</p> <p>M.A. No. 453 of 2015 – B. M. Gupta Hospital Pvt. Ltd.</p> <p>The Rain Water Harvesting System in B.M. Gupta Hospital Pvt. Ltd. was found to be defunct and not functional.</p> <p>In addition Mr. Gupta concedes before us that the Hospital is also drawing water from the ground. In Reply to the show cause notice the only stand taken by the Hospital is that it was not aware of the law and the guidelines. We find this stand to be entirely untenable in law. Atleast from the year 2013, the Tribunal has been passing various orders requiring all Hospitals, Hotels, Government Buildings and even private buildings to install rain water harvesting system and to ensure that they work efficiently and effectively.</p>

These directions were issued keeping in view the depleting ground water level in Delhi.

We are unable to find any reason for such big 100 Bedded capacity hospital to not comply with the law and Orders of the Tribunal. Even after inspection by DPCC, no steps have been taken by this Hospital to remedy the wrong. The non-functional and defunct rain water harvesting system and presence of stagnant water would be a source of environmental degradation and injurious to public health.

In light of the above, we pass the following directions:-

1. B.M. Gupta Hospital Pvt. Ltd. shall pay a sum of Rs. 5 Lakhs as compensation for degrading the environment and not complying with the orders of the Tribunal. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.
2. The Hospital shall ensure that within one week from today the rain water harvesting system in the Hospital becomes operative and works effectively. After rectifying all the defects, the Hospital shall approach the CGWA, DPCC and DJB for necessary compliance.

With the above directions, M.A. No. 453 of 2015 stands disposed of.

Institute of Liver & Biliary Sciences

Learned counsel appearing for the Hospital submits that he would file the Reply to the show cause Notice within two days from today.

List this matter for hearing on 15th May, 2015.

Holy Family Hospital

Despite clear deficiencies having been found during the course of inspection by the team of DPCC and the Hospital having been duly informed, no corrective steps have been taken till today.

Learned counsel appearing for the Hospital submits that they have written to the Agency and Board and they are due to take steps. Such a approach can hardly be condoned. This Hospital was inspected and the rain water harvesting system was not in order. The inspection report mentions that 4 abandoned borewells are being used for recharge without desilting chamber and filter media. Surface water directly goes to wells as well as RWH structure.

1. Learned counsel appearing for Hospital submits that they have permission from the Central Ground Water Authority for ground water extraction. Let such permission be filed on record but for intentionally failing to comply with the directions of the Tribunal as well as not setting right the rain water harvesting system despite inspection by DPCC, we direct the Hospital to pay a sum of Rs. 3 Lakhs keeping in view that it is a charitable hospital as compensation for degrading the environment and not complying with the orders of the Tribunal. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

Sanjay Gandhi Hospital

The Dy. Medical Superintendent of hospital submits that after inspection of the DPCC they have carried out all the directions and they have informed the DPCC and DJB that their rain water harvesting system is fully operational and is effective.

He wishes to file a proper Affidavit. Let the needful be done within two weeks from today.

List this matter hearing on 09th July, 2015.

M.A. No. 454 of 2015

Indraprastha Medical Corporation Ltd. (Apollo Hospital Enterprises Ltd.)

This Hospital has filed its Reply to the show cause notice. It is stated that their rain water harvesting system is functional. However, DPCC inspection report reveals that at the time of inspection there was water stagnation and the RWHS was not operating. Even waste material was seen at the system and no disilting chamber was found.

Learned counsel submits that RWHS has become functional and is effective. All the deficiencies pointed out have been remedied. He further states that they have permission for operating the borewell.

In view of the above circumstance and the fact that despite the specific order dated 16th February, 2015 and 27th April, 2015, the Hospital was found to be non-compliant when the inspection was conducted by the DPCC. We do not expect from such a professionalized Hospital not to follow general public health issues.

Invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct the Hospital to pay compensation of Rs. 5 lakhs for degrading the environment

and not complying with the orders of the Tribunal. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

With the above directions, M.A. No. 454 of 2015 stands disposed of.

Lal Bahadur Shastri Hospital

The Medical Superintendent prays for time to file the Reply. Let the Reply be filed within two weeks from the today.

We direct the Executive Engineer, PWD in charge of this Hospital to be present before the Tribunal on the next date of hearing.

Santom Hospital

Learned counsel appearing for this Hospital submits that whatever deficiencies were pointed by the DPCC were cleared. The DPCC report however, reveals that infact there was no rain water harvesting structure in the hospital. In view of the fact that there were various orders directing to the hospitals provide rain water harvesting system, however, no heed was paid by the hospital. Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010. We direct the Santom Hospital to pay compensation of Rs. 5 lakhs for degrading the environment and not complying with the orders of the Tribunal. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

We direct the Hospital to furnish affidavit regarding complete and effective rain water harvesting system within four weeks from today as prayed.

National Institute of Tuberculosis & Respiratory Disease.

Learned counsel appearing for the Hospital pray for time to file the Reply. Let the Reply to the show cause be filed within two weeks from the today.

Rajan Babu Institute for Pulmonary Medicine & Tuberculosis Hospital

Learned counsel appearing for the Hospital pray for time to file the Reply. Let the Reply to the show be filed within two weeks from the today.

Kasturba Hospital

Learned counsel appearing for the Hospital pray for time to file the Reply. Let the Reply to the show be filed within two weeks from the today.

Jai Prakash Narayan Apex Trauma Centre

Learned counsel appearing for the Hospital pray for time to file the Reply. Let the Reply to the show be filed within two weeks from the today.

Safdarjung Hospital & V.M.M.C.

Learned counsel appearing for the Hospital pray for time to file the Reply. Let the Reply to the show be filed within two weeks from the today.

Jaipur Golden Hospital

Learned counsel appearing for the Hospital submits that they have already cleared the deficiencies as pointed out by the DPCC. Their rain water harvesting system is effective and in order.

However, DPCC report points out that at the time of inspection the rain water harvesting system as constructed was not properly designed as per the standards, no regular maintenance is being done and it is not functional. Rain water harvesting structures are inadequate in terms of the area.

Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct the Jaipur Golden Hospital to pay compensation of Rs. 5 lakhs for degrading the environment and not complying with the orders of the Tribunal and direct to clear out remaining deficiencies within two weeks from today. This compensation amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

Nobody is present on behalf of the following Hospital:-

1. **Pushpawati Singhania Research Institute of Liver Renal and Digestive Diseases**
2. **Dharamshila Cancer Hospital & Research Centre**
3. **HAH Centenary Hospital (Majeedia Hospital)**
4. **E.S.I. Hospital**

Let the Bailable warrants be issued against the CEO/ Director/ Medical Superintendent of these Hospitals to be present before the Tribunal and show cause in terms of our order dated 27th April, 2015 be also issued.

Bailable warrant returnable on 25th May, 2015.

Let the matters related to rain water harvesting system in relation to Hospitals be listed on 09th July, 2015.

In the meanwhile, CWGA, DJB and DPCC shall submit the report before the Tribunal.

Let a general Notice be also issued by DPCC to all the Hospitals, Nursing Homes and small Hospital to ensure that they install effective and useful rain water harvesting system before monsoon sets in.

All the Hospitals who have complied with the directions and have paid compensation, if any, imposed upon them, need not to appear before the Tribunal on the coming dates. Their Applications shall stand finally disposed of.

We make it clear that if on any subsequent inspection by any of the Authorities that is DJB, CGWA, DPCC and CPCB, it comes to the Notice of the Tribunal that rain water harvesting system in these Hospital are not working effectively and/or are not maintained properly, we shall impose very heavy compensation upon them beside the respective Director/ CEO/ Medical Superintendent shall be personally held liable for penal consequences.

Order on Malls

Let the Item nos. 7, 8, 9, 10 and 18 of the inspection report dated 22.04.2015 be placed before Court No. 2 of Principal Bench on 25th May, 2015..

M/s Divine Infracon Pvt. Ltd.

List this matter on 09th July, 2015.

M/s Jasmine Projects Pvt. Ltd. (Bharti Reality Ltd.)

Learned counsel prays for time to file the Reply. Let the Reply be filed within four weeks from today with advance copy to all the Learned counsel appearing in the case.

List this matter on 09th July, 2015.

M/s Laxmi Buildtech Pvt. Ltd.

DPCC report reveals that RWHS is not working effectively. Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct the M/s Laxmi Buildtech Pvt. Ltd. them to pay compensation of Rs. 5 lakhs for degrading the environment and not complying with the orders of the Tribunal and direct to clear out remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

M/s MGF Development Limited Metropolitan Mall

Learned counsel appearing for the mall submits that he would file the Reply within three weeks from today with advance copy to all the Learned counsel appearing in the case.

List this matter on 09th July, 2015.

M/s Lifestyle Buildes Pvt. Ltd.

In terms of the inspection report of the DPCC the rain water harvesting system is totally unsatisfactory. Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct them to pay compensation of Rs. 5 lakhs for degrading the

environment and not complying with the orders of the Tribunal and to clear out remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

M/s Upaj Buildcon Pvt. Ltd.

Learned counsel appearing for Mall submits that they would carry out the directions of the DPCC in relation to the installation and working of the rain water harvesting system and would ensure proper maintenance of the same. Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct them to pay compensation of Rs. 3 lakhs for degrading the environment and not complying with the orders of the Tribunal and to carry out remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

Nobody is present on behalf of the following Malls:-

- 1. M/s Aditya Infracon Pvt. Ltd.**
- 2. M/s Aggarwal Plaza Pvt. Ltd.**
- 3. M/s Anant Raj Projects Ltd.**
- 4. Brighways Housing and Land Development Pvt. Ltd.**
- 5. M/s GYS Real Estate Pvt. Ltd.**
- 6. G.P.S. Properties Pvt. Ltd.**

7. M/s Naman Builders Ltd.

8. M/s Triputi Building and Offices (P) Ltd.

9. M/s Pragya Products (P) Ltd.

10. M/s Suncity Project Pvt. Ltd.

11. M/s Ambience Towers Pvt. Ltd.

Let the Bailable warrants be issued against the Chief Executives of the above malls to be present before the Tribunal and show cause in terms of our order dated 27th April, 2015.

Bailable warrant returnable on 25th May, 2015.

Order on Hotels

Nobody is present on behalf of the following Hotels:-

- 1. Asian Hotels Ltd. (Hyatt regency Delhi)**
- 2. Aman Hospitality (Kempinski Ambience Hotel Delhi)**
- 3. Ibis Hotel**

Let the Bailable warrants be issued against the Chief Executives of above Hotels to be present before the Tribunal and show cause in terms of our order dated 27th April, 2015.

Bailable warrant returnable on 25th May, 2015.

Piccadily Hotel

As per the inspection report of DPCC. The Hotel was found to be partially un-satisfactory. It will be useful to refer the findings of the inspecting team which speaks a lot about this big Hotel – **“Stagnant water observed in rain water harvesting system No. 2&4. Advised to get clean filter media and make RWH systems functional. Surface drains also found connected with RWH systems. Advised**

to disconnect surface drains and only roof top rain water to be allow in RWH systems”

It is stated by the Learned counsel appearing for the Hotel that now they have complied with the directions and the system is operative. He further states that they have informed DPCC to re-conduct the inspection. We have to keep in mind that Orders of RWH were passed in years 2013 by NGT and vide publicity is given by DPCC for compliance of the Orders. Despite this, the Hotel has not taken steps to comply with the directions. After inspection, DPCC further issued notice to this Hotel and they have not bothered to rectify the defects and realize himself the need to install the proper system. Since there is persistence default on the part of the Hotel and they have no intention to rectify the defects.

Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct them to pay compensation of Rs. 7.5 lakhs for degrading the environment and not complying with the orders of the Tribunal and to carry out remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

Jaypee Siddharth Hotel

As per the inspection report of DPCC. The RWHS of the Hotel was found to be partially un-satisfactory.

It is stated by the Learned counsel appearing for the Hotel that now they have complied with the directions and the system is operative.

Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct them to pay compensation of Rs. 7.5 lakhs compensation for degrading the environment and not complying with the orders of the Tribunal and to rectify the remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

M/s Tirupati Infraprojects Pvt. Ltd.

Learned counsel appearing for the Hotel submits that they would carry out the directions of the DPCC in relation to the installation and working of the rain water harvesting system and would ensure proper maintenance of the same.

Consequently, invoking the jurisdiction under Section 20 of the National Green Tribunal, Act 2010, we direct them to pay compensation of Rs. 5 lakhs for degrading the environment and no complying with the orders of the Tribunal and to rectify the remaining deficiencies within two weeks from today. This amount shall be deposited with the DPCC which shall take effective steps for rejuvenation of ground water and benefiting the ground water levels in the area in question.

**Hotel Excelsior Ltd. (Hotel Shangri - la), Eros Resorts
Hotels Pvt. Ltd. (Double Tree by Hilton) and Eros Resorts
and Hotels Pvt. Ltd. (Hilton)**

Learned counsel appearing for these three Hotels submits that she wishes to file Reply. Let the Reply be filed within three days from.

The Learned Counsel appearing for the HSS Hotel submits that he does not wish to file Reply and pray for time to seek instructions.

Holiday Inn Hotel and Lemon Trees Red Fox Hotels

Issue notice to both the above hotels. Notice returnable on 9th July, 2015.

Consequently, we issue bailable warrants against the Chief Executives of the Hotels to the sum of Rs. 10,000/- to the satisfaction of the arresting Officer, in exercise of our powers and in terms of the provision of Section 19 (4) (a) of the National Green Tribunal Act, 2010 read with Order XVI Rule 10(3) and Section 151 of Code of Civil Procedure, 1908.

The Bailable warrants be executed through the SHO of the concerned area. In these cases bailable warrants returnable on 25th May, 2015.

The CGWA, DPCC, DJB shall execute these bailable warrants with the help of the police.

List this matter for final disposal on 15th May, 2015.

.....,CP
(Swatanter Kumar)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(B.S. Sajwan)