

IN THE HON'BLE HIGH COURT, OF JUDICATURE AT ALLAHABAD

**CIVIL MISC. WRIT PETITION - C NO. 6049 OF 2020**

(Under Article 226 of the Constitution of India)

(District: Gautam Budh Nagar)

**IN THE MATTER OF:**

M/s Jai Prakash Associates Ltd.

.... Petitioner

Versus

State of Uttar Pradesh & Anr.

... Respondents

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1.	Short Rejoinder Affidavit on behalf Yamuna Expressway Industrial Development Authority/ Respondent Authority in response to the Reply filed by the Petitioner dated 13 January 2023 to the Compliance Affidavit filed by the Respondent Authority.	
2.	Letter of Authorization	

Through



ATTESTED  
Virendra Kr. Garg  
Notary Advocate  
R.No. 2874  
G.B. Nagar

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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SHORT REJOINDER AFFIDAVIT

*On behalf of*

*Respondent No.2/Respondent Authority*

IN

CIVIL MISC. WRIT PETITION - C NO. 6049 OF 2020  
(Under Article 226 of the Constitution of India)



ATTESTED  
Virendra Kr. Garg  
Notary Advocate  
R.No.-2874  
G.B. Nagar

**(DISTRICT- PRAYAGRAJ)**

M/s Jai Prakash Associates Ltd.

.... Petitioner

Versus

State of Uttar Pradesh &

Yamuna Expressway Industrial Development Authority

... Respondents

Affidavit of Brijesh Kumar Kashyap aged about 50 years son of Sri Munshi Lal and resident of 260-F, Pocket-1, Mayur Vihar Phase – 1, Delhi.

**(Deponent)**

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

1. That the deponent is the authorized representative of Yamuna Expressway Industrial Development Authority/ Respondent Authority. He is Hindu by religion and is an employee of the Respondent Authority.
2. The Respondent Authority is filing the present Short Rejoinder Affidavit in response to the Reply filed by M/s Jai Prakash Associates Ltd. / Petitioner dated 13 January 2023 (“**Reply**”) to the Compliance Affidavit filed by the Respondent Authority dated 14 December 2022 (“**Compliance Affidavit**”). At the outset Respondent Authority denies



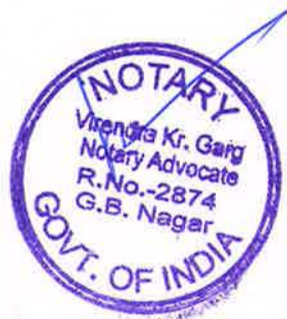
ATTESTED

Virendra Kr. Garg  
Notary Advocate  
R.No.-2874  
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and disputes the contentions raised, and averments made in the Reply except as is specifically admitted herein. Further, every allegation made in the Reply, unless specifically admitted, may kindly be deemed to have been denied.

3. That the Petitioner filed a Revised Composite Proposal dated 09 November 2022 with the Respondent Authority for its consideration (“**Revised Proposal**”). The Revised Proposal was in supersession of the earlier proposals submitted by the Petitioner dated 30 September 2022 and 27 October 2022.
4. That the Respondent Authority in compliance of the directions issued by this Hon’ble Court vide order dated 09 November 2022, placed the revised proposal before the Board of the Respondent Authority for its consideration at its meeting held on 02 December 2022.
5. Broadly, the decision of the Board on the Revised Proposal are as follows:



A. That the Revised Proposal submitted by M/s. J.P. International Sports Limited (a division of Petitioner) in Paragraph (c) stands rejected, as the outstanding dues have been wrongly calculated. Further, the Petitioner is offering land against the outstanding dues which has also wrongly been arrived at on the basis of FAR and the same is not acceptable.

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B. That the proposed sale of land will have to be undertaken by the Petitioner itself. To enable the sale of land, the Respondent Authority is agreeable to restore the lease in favour of the Petitioner in a phased manner on payment of proportionate restoration charges. On payment of the proportionate restoration charges, the lease in favour of the Petitioner will be restored

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and it can then sell the land and realise the value thereof. Thereafter the Petitioner will deposit the proceeds from the sale of land which shall be adjusted first against the 64.7% additional compensation (no litigation incentive) payable to the farmers, which, as on date, stands at Rs.714,37,20,836.00 (principal amount) (Excluding sub-lease land).

- C. The aforesaid will have to be paid by the Petitioner within 90 days. The Petitioner will also have to set up an escrow account with the Respondent Authority for payment of the outstanding amount.
- D. That the Petitioner shall be bound to deposit interest payable on the outstanding premium, lease rent and 64.7% additional compensation (No Litigation Incentive) and the same must be deposited by 31 December 2023.
- E. That the entire dues calculated upto 30 November 2022 are hereby frozen and time upto 31 December 2023 is being granted to the Petitioner to deposit the said amount.
- F. That the amount calculated (excluding additional compensation for the sub-leased lands) upto 30 November 2022, as detailed by the Respondent Authority, shall be taken as final and no discount/rebate of any type will be granted to the Petitioner against this amount.
- G. That the Petitioner shall submit an Affidavit in respect of lands for which restoration will be applied for, and in this affidavit the Petitioner will specifically undertake/declare that said lands have not been mortgaged with any bank or institution and are free from all encumbrances.



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H. That so far as bank guarantee of the Petitioner is concerned, it was decided that the Planning Department of the Respondent Authority shall verify whether Petitioner has completed upto 40% of the core activities or not and if it is found that they have completed these core activities, only then an exemption from bank guarantee will be granted to the Petitioner.

I. The Petitioner has also sought rebate/exemption on SBI PLR rates. In this regard, it is stated that this issue was taken up in the 74th meeting of the Board of Respondent Authority and thereafter an offer of interest on MCLR rates to those allottees, to whom allotments have been made on SBI PLR Rates, was sent to the State Government, for their decision and decision of the Government is still awaited. Any further action in this regard can be taken only after decision taken by Government has been received by the Respondent Authority.



J. That the Respondent Authority specifically stated that the Sub-lessees of Petitioner are required to deposit 64.7% additional compensation (No Litigation Incentive) directly with the Respondent Authority.

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6. That the aforesaid decision of the Board has been arrived at by the Board of the Authority after considering the Revised Proposal submitted by the Petitioner and after deliberating upon the same in detail. It is evident that the terms as provided in the Revised Proposal were clearly not acceptable to the Respondent Authority and it has therefore by way of a decision of the Board of the Authority has laid out the terms stated herein above.

7. Further, it is submitted that each and every issue highlighted in the Revised Proposal have been considered by the Board of the Respondent

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Authority. It is only after a detailed deliberation upon the issues highlighted in the Revised Proposal that the Board of the Authority passed the decision dated 02 December 2022.

8. That any further alteration to the terms stated hereinabove is not acceptable to the Respondent Authority.
9. The Petitioner in its Reply, while agreeing to the decision taken by the Board by which it laid down the said terms, has at the same time challenged said decision of the Board of the Respondent Authority. The Petitioner in its Reply has *inter alia* raised the following objections:

A) The Petitioner has challenged the levy of restoration charges by the Respondent Authority alleging the same to be “*mala fide, illegal, and without any authority of law*”.

B) The petitioner has also challenged the rate levied by the Respondent Authority for recovering the no litigation incentive / additional compensation vide its letter dated 15 December 2014. The Petitioner has also challenged the levy of interest on the said no litigation incentive / additional compensation.

C) The Petitioner has also sought waiver of interest on account of covid-19 period w.e.f. 22 March 2020 to 30 September 2021.

D) The Petitioner has also challenged the levy penal interest claiming the same to be excessive, illegal and arbitrary.

In addition to the aforesaid objections, the Petitioner has undertaken to deposit total amount of Rs. 1295.67 Crores which as per the Petitioner would further stand reduced to Rs. 1016.99 Crores in case the interest is calculated @ SBI MCLR if the same is approved by the Respondent No.

1. The Petitioner has submitted that it will make the aforesaid deposit by



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disposing of its assets in the SDZ within 15 months form the date of final disposal of the present Writ Petition.

10. Without prejudice to the fact that aforesaid objections and contentions raised by the Petitioner are unsustainable in law and principle, at the outset, the Respondent Authority submits that the decision of the Board referred to hereinabove is a reasonable offer which has been arrived at after a detailed deliberation and in terms of said decision, the Board of the Respondent Authority has agreed to restore the lease in favour of the Petitioner subject to the aforesaid conditions. The terms as provided in the decision of the Board which is marked as ANNEXURE 1 to the Compliance Affidavit, are crystal clear and any deviation from the same is not acceptable to the Respondent Authority.
11. That the conditions as laid down in the decision of the Board, have been offered to the Petitioner in compliance of the directions issued by this Hon'ble Court by its Order dated 09 November 2022. Any decision taken by the Respondent Authority while considering the Revised Proposal is on a without prejudice basis. The terms as provided by the Board of the Respondent Authority can either be accepted by the Petitioner in toto or it may decide to reject the same. In a settlement process like in the present case, neither party can force the counter party to accept the terms that are not agreeable to it. In case of any disagreement in this regard, as it appears to be in this case, this Hon'ble Court ought to proceed to hear the present Writ Petition on merits.
12. The Respondent Authority therefore humbly submits that, the terms as provided by the Respondent Authority are "nonnegotiable" and the Petitioner cannot pick and choose the conditions it wants to comply with.



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13. That the Respondent Authority craves leave of this Hon'ble Court to file a detailed parawise response if this Hon'ble Court may direct the Respondent Authority to do so.
14. That the Respondent Authority therefore prays that the present Short Rejoinder Affidavit be taken on record and be made part of the pleadings of the present case.

I, the deponent abovenamed, do hereby solemnly affirm and swear on oath that the contents of paragraph nos. \_\_\_\_\_ of this affidavit are true to my personal knowledge, those contents of paragraph nos. \_\_\_\_\_ of this affidavit are based on information received and those contents of paragraph no. \_\_\_\_\_ of this affidavit are based on legal advice, which all I believe to be true that no part of this affidavit is false and nothing material has been concealed herein. So Help Me God.



  
DEPONENT

प्रत्यक्ष (सामने)  
यमुना एवाप्रेशन र जैविक संसाधन

श्री प्रमाणित करता हूँ कि श्री Dr. Deep Kumar Kohli  
पुत्र श्री Dr. D. D. Sharma निवासी \_\_\_\_\_  
जिनकी पहचान श्री Dr. D. D. Sharma  
से की आज दिनांक 17/3/23 जो 5:11 PM  
श्री Dr. D. D. Sharma मेरे सम्मुख इस शपथ पत्र  
को पुनः करत समय उपरोक्त स्वाकार किया

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# YAMUNA EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY

( U.P. GOVT. UNDERTAKING )

1st FLOOR, COMMERCIAL COMPLEX, P-2, SECTOR OMEGA-1, GREATER NOIDA  
DISTT. GAUTAM BUDH NAGAR. ( UTTAR PRADESH )  
PHONE : 0120-2395151, FAX 0120-2395150



**CODE NO.** : 177  
**NAME** : **BRIJESH KUMAR KASHYAP**  
**DESIGNATION** : MANAGER  
**ADDRESS** : 260-F, POCKET- 1, MAYUR  
VIHAR, PHASE- 1,  
DELHI-110091  
**VALID FROM** : 01.04.2022  
**VALID TILL** : 31.03.2023

*Brijesh*  
Sign. of Card Holder

*Brijesh*  
Issuing Authority



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*Virendra*  
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**SHORT REJOINDER AFFIDAVIT**

**ANNEXURE SCA-1**

*On behalf of*

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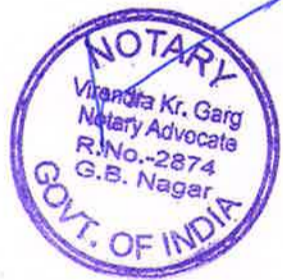
.... Petitioner

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# यमुना एक्सप्रेसवे औद्योगिक विकास प्राधिकरण

प्रथम तल, कॉमर्शियल कॉम्प्लेक्स, ब्लॉक-पी-2, सेक्टर ओमेगा-1, ग्रेटर नौएडा सिटी - 201308, गौतमबुद्धनगर (उ०प्र०)  
दूरभाष न०-0120 - 2395153, फैक्स न०-0120-2395150

पत्रांक : वाई.ई.आई.डी.ए./कार्मिक/ 5164 /2023

दिनांक: 03/03 /2023

## कार्यालय-आदेश

प्राधिकरण कार्यहित में कार्यालय आदेश संख्या: वाई०ई०ए०/कार्मिक/5023/2022 दिनांक 08.12.2022 में आंशिक संशोधन करते हुए Group Housing/Builders Plots (Residential Township) & LFD/SDZ से सम्बन्धित कार्यों की Line of Reporting निम्न प्रकार रहेगी :-

SL. NO	Department	Line of Reporting
1	Group Housing/Builders Plots (Residential Township)	AGM (B.K.)/DGM(F)/OSD(S.B.)/ACEO(M.)/CEO
2	LFD/SDZ	AGM (B.K.)/GM(F)/OSD(S.B.)/ACEO(M.)/CEO
3	Institutional Scheme	DGM (V.S.)/OSD(S.B.)/ACEO(M.)/CEO

यह आदेश तत्काल से प्रभावी होंगे।

(वीरेन्द्र सिंह)

उप महाप्रबन्धक (कार्मिक)

प्रतिलिपि:- निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु :-

1. स्टाफ आफिसर को मुख्य कार्यपालक अधिकारी महोदय के अवलोकनार्थ प्रेषित।
2. अपर मुख्य कार्यपालक अधिकारी (एम०) को सादर सूचनार्थ प्रेषित।
3. विशेष कार्यधिकारी (एस०बी०)/ (एस०के०एस०)/ (एस०एस०)/ (आर०एस०)/ (एम०)।
4. डिप्टी कलेक्टर (आर०डी०)।
5. महाप्रबन्धक (वित्त/कार्मिक/परियोजना/नियोजन)।
6. सभी सम्बन्धित अधिकारी/कर्मचारी।
7. गार्ड फाईल।



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(वीरेन्द्र सिंह)

उप महाप्रबन्धक (कार्मिक)

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